



CFTC Announces Examination Priorities for 2019

This is the first time that the Commodity Futures Trading Commission ("CFTC") has published Examination Priorities, and Chairman Giancarlo indicated that they were designed to increase transparency and improve the relationship between the CFTC and its regulated entities.

On February 12, 2019, the CFTC announced Examination Priorities for registrants of the Division of Market Oversight ("DMO"), Division of Swap Dealer & Intermediary Oversight ("DSIO"), and Division of Clearing & Risk ("DCR"). This is the first time that the CFTC has published Examination Priorities, and Chairman Giancarlo indicated that they were designed to increase transparency and improve the relationship between the CFTC and its regulated entities.

The DMO, which oversees designated contract markets ("DCMs"), announced eight specific Examination Priorities for 2019: (i) "cryptocurrency surveillance practices"; (ii) "surveillance for disruptive trading"; (iii) "trade surveillance practices"; (iv) "block trade surveillance practices"; (v) "market surveillance practices"; (vi) "real-time market monitoring practices"; (vii) "practices around market maker and trading incentive programs"; and (viii) "DCMs' relationships with and services received from regulatory service providers." The DMO indicated that "most" DCMs will undergo at least one examination this year, and that it also intends to schedule quarterly or biannual calls with DCMs in 2019 to "foster effective two-way communication." Finally, the DMO announced that it would begin designing an examination program for swap execution facilities in 2019.

The DSIO, which oversees derivatives market intermediaries (including futures commission merchants ("FCMs"), swap dealers ("SDs"), and major swap participants ("MSPs"), among others), announced six specific Examination Priorities for 2019, with a "core focus" on the protection of customer funds: (i) "withdrawal of residual interest from customer accounts"; (ii) "accepted forms of non-cash margin"; (iii) "compliance with segregation requirements"; (iv) "FCM use of customer depositories"; (v) "FCM customer account documentation"; and (vi) "SD/MSP relationships with third-party vendors." The DSIO also indicated that it would primarily devote its resources to the oversight of FCMs in 2019.

Finally, the DCR, which oversees derivative clearing organizations, announced that its examinations in 2019 would focus on "activities that are critical to a safe and efficient clearing process." The DCR indicated that common examination topics would include risk management, system safeguards and cyber-security policies, practices, and procedures.

The CFTC indicated that it anticipates publishing Examination Priorities on an annual basis going forward. Market participants should be aware of these priorities, and consider applying additional legal and/or compliance resources to areas of interest to the CFTC.



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