

MEMO# 33004

December 22, 2020

SEC Division of Examinations Issues Statement on Recent and Upcoming Reg BI Exams

[33004]

December 22, 2020 TO: ICI Members
Bank, Trust and Retirement Advisory Committee
Broker/Dealer Advisory Committee
Internal Sales Managers Roundtable
Investment Adviser and Broker-Dealer Standards of Conduct Working Group
Investment Advisers Committee
Operations Committee
Pension Committee
Pension Operations Advisory Committee
Sales and Marketing Committee
SEC Rules Committee
Transfer Agent Advisory Committee
Variable Insurance Products Advisory Committee SUBJECTS: Compensation/Remuneration
Compliance
Disclosure
Distribution
Fees and Expenses
Investment Advisers
Operations
Pension
Recordkeeping RE: SEC Division of Examinations Issues Statement on Recent and Upcoming
Reg BI Exams

On December 21st, the staff of the Securities and Exchange Commission's Division of Examinations ("Division")[\[1\]](#) issued a statement ("Statement")[\[2\]](#) regarding the Division's plans to begin its next phase of examinations of broker-dealers for compliance with Regulation Best Interest ("Reg BI"), starting in January 2021.

The Statement summarizes the Division's efforts to date regarding its initial Reg BI examinations, and explains that, in its next phase of Reg BI examinations, the Division staff will expand the scope of its examinations to assess whether broker-dealers have written policies and procedures and systems in place to achieve compliance with Reg BI. The

Division's expanded focus will include those requirements of Reg BI that "go beyond suitability standards and require broker-dealers to have a reasonable basis to believe that recommendations are in retail customers' best interests." The Division staff will conduct enhanced transaction testing as part of these examinations to determine whether broker-dealers have implemented effectively their policies and procedures.

The Statement highlights several components of Reg BI that the Divisions staff may focus on during an examination of a broker-dealer, including evaluation of:

- Firm policies and procedures, including "alterations to firm product offerings, including the removal of higher cost products when lower cost products are available;"
- How firms have considered costs in making a recommendation;
- The processes firm personnel have used to make recommendations to new customers (the staff provides the example of a rollover from an employee benefit plan);
- The processes firm personnel have used to recommend complex products; and
- The processes that firms have used to identify and address conflicts related to recommendations.

The Division encourages broker-dealers to continue to evaluate their processes to assess whether the initial compliance programs they adopted in anticipation of the June 30, 2020 compliance date for Reg BI are "in practice" reasonably designed to achieve compliance with the rule.

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endnotes

[1] The Division was, until recently, known as the Office of Compliance Inspections and Examinations (OCIE). See *Statement on the Renaming of the Office of Compliance Inspections and Examinations to the Division of Examinations*, available at <https://www.sec.gov/news/public-statement/joint-statement-division-examinations>.

[2] The Statement is available at <https://www.sec.gov/news/public-statement/examinations-regulation-best-interest-2020-12-21>.