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Memorandum

SEC's 2027 Examination Priorities: Notable Developments, Emerging Themes, and Recent Examination Insights

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The SEC's Division of Examinations (the "Division") recently released its 2027 Examination Priorities, outlining the Division's stated focus areas for its new fiscal year. Like last year's priorities, the 2027 priorities cover many long-standing, core examination topics. Additionally, the release reflects several notable shifts from the 2026 priorities, including expanded attention to private credit (and associated touchpoints), the return of private fund-specific focus areas, a move from readiness to implementation steps for complying with the still-recent amendments to Regulation S-P ("Reg S-P"), a sharper focus on artificial intelligence ("AI," which the release refers to as "super intelligence" or "SI") and AI-related cyber risks, continued attention to economic conflicts of interest, and a new focus on advisers' reliance on proxy advisory firms.

Below we highlight certain notable differences between the 2027 and 2026 priorities, and we assess the Division's recent release alongside what we have continued to see in examinations and expect in future examinations in the near term.

1. Private credit remains a focus area, with added attention to valuation and exemptive relief.

Private credit is mentioned throughout this year's priorities, highlighting its importance to the SEC Staff and indicating that it will remain a focus in 2027. For registered investment companies and business development companies ("BDCs" and, together with registered investment companies, "Regulated Funds"), the Division noted that it will continue to monitor funds holding less liquid or illiquid investments, including private credit, flagging the associated risks of valuation, redemptions and liquidity, and disclosure of conflicts and risks. The Division will also focus on leveraged vehicles, including BDCs, and on funds that operate under exemptive orders, including how they implement and comply with those orders.

The Staff will also continue to focus on advisers that recommend products that are difficult to trade, have unusual features, or are illiquid, including loans provided by private funds or BDCs and investments in private companies through special purpose vehicles (which could signal a focus on adviser-sponsored pooled capital arrangements through which retail investors invest in private companies). The Division noted that adviser examinations will

assess the reasonableness of valuation processes and methodologies, and broker-dealer examinations will separately review the pricing and valuation of illiquid instruments such as private credit and private equity.[1]

APPLICATION TO EXAMINATIONS.

The release's focus on private credit is consistent with the Division's activity in 2026, which included a continued focus on Regulated Funds that invest in private credit and other illiquid assets. Numerous interval funds, BDCs, and their advisers have received similar examination letters from the Staff, requesting detailed information regarding valuation, including service provider details, policies and procedures, process by security type, and records supporting fair valuation determinations and valuation testing. These examinations have also focused on liquidity, investment allocation, and co-investment transactions, testing whether funds and their advisers were following the conditions of their existing co-investment exemptive relief orders. The discussion of private credit throughout the 2027 priorities indicates that we should expect to see similar examinations next year.[2]

2. Private fund specifics are back.

While last year's priorities did not explicitly include a set of private fund-specific focus areas (which may have just reflected the incorporation of private funds as a routine component of the Division's examination program), this year's release highlights certain private fund-specific priorities for 2027. Specifically, the Division will test whether investment-related risk disclosures are consistent with fiduciary standards, in addition to whether compliance policies, procedures, and controls are designed to address both fund-level and investment-level risks. Notably, the priorities call out investment allocations, use of debt and fund-level lines of credit, use of affiliated service providers, and the accuracy of fee and expense calculations at both the fund and investment levels as topics where the Staff will look for adequate disclosure and practices consistent with that disclosure.

APPLICATION TO EXAMINATIONS.

The focus areas that the Staff highlights, including investment allocations, use of affiliated service providers, and fee and expense calculations and practices, are core topics typically covered in private fund adviser examinations and are bread-and-butter topics for examiners looking to identify conflicted practices. Despite SEC enforcement activity being down an estimated 57% for fiscal year 2026,[3] private fund examinations remain active, and we expect private fund advisers to continue to be an area of focus for the Division over the next year.

These topics, particularly given they can involve financial conflicts, remain attractive in examinations and potential enforcement, as they could provide the Staff with a clear hook for alleging potential monetary harm. In addition, while some of the financial conflicts addressed in the 2027 priorities have a retail bend (*e.g.*, focus on fee

[1] For additional discussion of the SEC's recent statements regarding fair value measurements and disclosure considerations for private assets held by Regulated Funds and Exchange Act-reporting private funds, please see our alert, *SEC Joint Statement on Valuation of Private Assets* (Oct. 2, 2026), available here.

[2] For additional discussion of these examinations, please see our article, *Recent SEC Examinations Target Interval Funds and Business Development Companies*, The Investment Lawyer (October 2026), available here.

[3] *See Is the 'Cop Off the Beat'? SEC Enforcement Activity Is Down 57%, Report Finds*, Barron's (Oct. 27, 2026), available here.

rebates), such topics also have private fund corollaries (*e.g.*, management fee offsets for offsetable fees or calculation of investor management fee discounts or waivers) that will continue to receive attention in examinations. The focus on debt and credit facilities usage also has continued to play out in examinations, with the Staff continuing to look at the interplay of leverage with a number of fund mechanics and operations, including performance calculations and fee and expense matters.

Although not identified in the release as private fund-specific focus areas, many of the Division's general investment adviser and compliance program priorities are also relevant to private fund adviser examinations, including testing of topics such as the effectiveness of compliance policies and procedures (including that they are evolving with business changes, such as new product lines or organizational or merger activity), fiduciary obligations relating to economic conflicts of interest (*e.g.*, recent cases involving undisclosed adviser compensation arrangements), full and fair disclosure of all material facts relating to advisory relationships to clients, and the reasonableness, and consistent application, of valuation processes and methodologies. Examinations will also typically analyze an adviser's annual compliance review, which was the subject of a recent risk alert from the Division.[4]

3. The artificial intelligence focus matures.

While last year's priorities focused on recent advancements in AI and reviewing registrant representations for accuracy regarding their AI capabilities or use, this year's priorities recognize that registrants are increasingly using AI in core business operations and systems, including investment analysis, customer management, and code development. The Division will focus on registrants' assessment of and preparation for potential AI-driven cyberattacks that may affect their businesses or customers, including AI-generated phishing and deepfake voice and video. Similar to last year's priorities, the Division will also prioritize examining how firms monitor AI use for fraud prevention and detection, back-office operations, and trading functions, and this year's priorities add compliance with anti-money laundering and Regulation Best Interest obligations to that list. The Division will also continue to review whether representations regarding the use of automated AI tools are fair and accurate.

APPLICATION TO EXAMINATIONS.

In examinations, we have recently seen the Staff ask for details regarding advisers' use of AI in their day-to-day business activities, in addition to requests for AI-related policies and procedures and training. AI-related requests are becoming more frequent, with recent request lists seeking information on AI-related disclosures in marketing documents, data sources used by AI systems, data source providers used by the registrant, AI data security measures, AI-related governance and controls, and the personnel and training supporting AI use. The granularity

[4] *See* Risk Alert, *Examination Observations Regarding Investment Adviser Annual Compliance Reviews* (Sept. 14, 2026), available here. We have seen many advisers review or update their annual compliance review policies and procedures to address the Staff's observations in the risk alert. The publication of the 2027 examination priorities creates an opportune time for advisers who have not yet reviewed their annual compliance review policies and procedures to do so.

of these requests continues to deepen as the Staff's expertise and interest in this area grows, and the Division is also using AI to enhance its own examination capabilities, which we have seen in recent examinations.

For any advisers that use AI models in their investment process, recent requests have been detailed, seeking items such as descriptions of all distinct AI-based models and techniques used to manage client portfolios or make investment decisions, lists and descriptions of all algorithmic trading signals generated by AI models, reports on the AI models' performance over time and under various market conditions, and samples of reports detailing the validation process and performance of AI algorithms. In addition to ensuring their policies, procedures, and training are keeping abreast of their firm's (and its personnel's) use of AI and associated risks, compliance personnel should be in communication with their information technology and operations counterparts to assess their readiness to respond to these increasingly sophisticated requests around AI usage.

4. Regulation S-P moves from readiness to implementation.

When the 2026 priorities were published, the amended Reg S-P compliance dates were still ahead, and the Division's priorities discussed readiness, specifically noting that it would engage firms about their progress in preparing incident response programs reasonably designed to detect, respond to, and recover from unauthorized access to or use of customer information.[5] With the Reg S-P compliance dates now past for all covered institutions, the 2027 priorities drop the readiness approach, with the Division noting that it will focus on whether firms' policies and procedures are reasonably designed to address administrative, technical, and physical safeguards to protect customer information, as required by Reg S-P. The priorities note that the Staff will evaluate response program policies and procedures for addressing unauthorized access to or use of customer information, including customer notification procedures and oversight of service providers, as well as how firms address operational and technology risks as part of safeguarding customer information.

APPLICATION TO EXAMINATIONS.

We have not yet seen industry-wide examinations focused on Reg S-P, but we have seen examination request lists include privacy and Reg S-P-related requests, alongside broader cybersecurity requests that have been part of the examination request lists for years. For example, recent request lists have asked for policies and procedures addressing the administrative, technical, and physical safeguards for the protection of customer and client records and information. The Staff has also requested records of any non-compliance by employees, contractors, vendors, or other third parties with an adviser's policies and procedures relating to all applicable federal securities laws or cybersecurity policies and procedures. As we have seen an increasing number of sponsors and other firms experience cyberattacks, the Staff's focus on Reg S-P serves as a good reminder that advisers should be activating

[5] Larger covered institutions (including registered investment advisers with over $1.5 billion in AUM and investment companies with over $1 billion in AUM) were required to comply with the 2024 Reg S-P amendments by December 3, 2025, and smaller covered institutions were required to comply by June 3, 2026.

their incident response programs, as applicable, following situations in which suspected unauthorized access to or use of customer information has occurred.

Like the AI requests discussed above, the Staff's sophistication in, and focus on, cybersecurity and privacy matters continue to grow, and this attention aligns with the continued focus on investor protection animating many of the 2027 priorities. In 2027, we expect more examination requests that test Reg S-P implementation. Additionally, as part of its Compliance Outreach Program, the Staff has also posted materials summarizing examination testing relating to Reg S-P, and the SEC's upcoming national seminar for investment advisers may provide additional insights on this topic, particularly its panel on Information Security and Operational Resiliency.[6]

5. Economic conflicts of interest receive their own spotlight.

As noted above, this year's release highlights reviewing advisers' fiduciary obligations relating to economic conflicts, specifically assessing whether financial conflicts may affect the impartiality of advice in areas such as fee rebates, fee and expense calculations, cash management, quid pro quo arrangements, deposits, and withdrawals. The release points to the Division's risk alert published earlier this year, which describes economic conflicts of interest observed by the Staff that were undisclosed or incompletely disclosed to investors.[7] Regarding conflicts more broadly, the Division will continue to prioritize whether policies and procedures are reasonably designed to address conflicts of interest, and as in the 2026 priorities, examinations will focus on whether disclosures address fee-related conflicts of interest, particularly those arising from account and product compensation structures.

APPLICATION TO EXAMINATIONS.

Although many of the economic conflicts of interest themes included in the release are framed around products offered to retail investors, these concepts are readily portable to private fund advisers. As noted above, we continue to see the Staff focus on the accuracy of fee and expense calculations in examinations of private fund advisers, including management fee base calculations and calculations of any fee offsets, waivers, and discounts. In examinations, the Staff also typically scrutinizes the adviser's existing fee-related disclosures and tests whether the adviser's practices are consistent with those disclosures. As noted above, this topic may also interact with other fund mechanics and operations that the Division identified as examination priorities, such as use of borrowing or sub-line facilities, that impact fees and expenses payable by clients.

6. Proxy advisers are a new topic.

Proxy advisers are a new topic in the 2027 priorities. In the same discussion as advisers' use of third-party service providers to access clients' accounts, the Division states that it will also examine advisers that rely on proxy

[6] *See* SEC, Compliance Outreach Program, *Regulation S-P*, available here; SEC Meetings and Other Events, *2026 Compliance Outreach Program National Seminar for Investment Advisers*, available here.

[7] *See* Risk Alert, *Examinations Observations of Investment Adviser Obligations Related to Economic Conflicts of Interest* (June 9, 2026), available here.

advisory firms, assessing how those advisers evaluate such firms' recommendations, examine their bases, identify potential conflicts of interest, and determine whether that reliance satisfies applicable legal obligations.

APPLICATION TO EXAMINATIONS.

This new focus on proxy advisory firms as an examination priority mirrors other recent SEC statements, including remarks earlier this year by Brian Daly, Director of the SEC's Division of Investment Management, questioning the industry's "vote all proxies" approach.[8] While Director Daly noted that there is "nothing inherently wrong" with using a proxy advisor under a tailored mandate and subject to periodic review, he questioned whether advisers whose votes on non-routine matters are "nearly identical" to a proxy advisor's standard policies are acting in clients' best interests. Advisers should therefore expect examiners to test whether their proxy voting practices and related documentation reflect independent judgment, including how they evaluate proxy advisory firm recommendations and the bases for them, identify potential conflicts of interest (including on the part of such firms), and determine whether their reliance on those firms satisfies their fiduciary obligations. Given these statements, advisers' proxy policies and practices (and any associated testing and documentation) may warrant a review and refresh, and the Staff will likely be skeptical of a set-it-and-forget-it approach to relying on proxy firms.

Looking Ahead

As is typical, the 2027 priorities present a good opportunity for registrants to take stock of their compliance programs. The 2027 priorities underscore core topics, including a focus on fiduciary duties, compliance program effectiveness, and appropriately addressing (including through disclosure) conflicts of interest; these priorities also highlight, consistent with recent examinations, certain priorities directly relevant to private fund and Regulated Fund advisers. The 2027 priorities also underscore the Division's new theme of operating in a way that is both accessible and integrated,[9] and we will see how the Division delivers on its goals to operate in a more transparent and approachable manner. In the meantime, examinations remain active, and registrants are advised to review the 2027 priorities against their own compliance programs to confirm they remain prepared for a possible examination.

[8] *See* Brian Daly, Director, Division of Investment Management, *(Re)empowering Fiduciaries in Proxy Voting* (Jan. 8, 2026), available here.

[9] *See* Keith Cassidy, Director, Division of Examinations, *EXAMS accessible and integrated* (Sept. 16, 2026), available here; *SEC's Division of Examinations Announces New Exam Handbook* (Oct. 1, 2026), available here.

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