

Memorandum

SEC Division of Examinations Announces 2026 Examination Priorities

December 4, 2025

The SEC Division of Examinations released its [2026 Examination Priorities](#), providing a first look into the Division's stated focus areas for the new fiscal year.¹ The 2026 priorities are the first annual examination priorities published since SEC Chairman Paul Atkins began his tenure in April. The priorities include many long-standing, core SEC examination topics. However, consistent with the Division's stated goal that the publication of its annual priorities "encourage[s] firms to direct their compliance efforts on areas of potentially heightened risk," the 2026 priorities also highlight many of-the-moment risk areas such as private credit, Regulation S-P, and merger activity.

Below we highlight certain key takeaways from the published priorities before providing an overview of other areas discussed in the Division's report.

Key Takeaways

- 1. The Division identified private credit and other alternative investments as emerging focus areas.** The 2026 priorities identify key products the Division will focus on next year. These include alternative investments, including private credit and private funds with extended lock-up periods, in addition to complex investments with less-liquid holdings. The priorities also include registered investment companies (Registered Funds) that use complex strategies and/or have significant holdings of less liquid or illiquid assets and Registered Funds with novel strategies or investments as developing areas of interest. Given the continued growth and popularity of private credit across both institutional private credit and retail-focused alternative products, it is not surprising that the SEC has taken notice. This heightened focus by the SEC corresponds with its ongoing efforts to increase access to alternative investments for 401(k) plan participants, and it follows that the SEC would also have an increased examination focus in these areas. We already have observed a heightened focus on private credit and retail alternatives in recent examinations, as well as an increase in the volume of examinations targeting interval funds and their sponsors.² Advisers to both private funds and retail-alternative products should remain

¹ With the publication of the 2026 Examination Priorities in November (following the government shutdown in October), the Division continued its earlier publication schedule that began with the 2024 Examination Priorities to better align publication with the start of the new fiscal year instead of the new calendar year.

² Public reports explain that interval funds are subject to an examination sweep. *See SEC Reopens with Backlog of Fund Filings, Exams and Enforcement Cases, Fund Fire* (November 14, 2025), available [here](#).

focused on their compliance programs and pay particular attention to conflicts of interest, investment allocation, accuracy of disclosures, valuation, fund fees and expenses, and governance practices.

2. **Core and emerging areas for private fund and Registered Fund advisers.** The priorities include a number of topics that are particularly relevant to private fund advisers (discussed further below), including:

- adherence to an adviser's fiduciary duties;
- conflicts disclosures related to investment advice and the implementation of policies and procedures reasonably designed to address conflicts of interest; and
- the overall effectiveness of an adviser's compliance program.

Private fund fees and expenses were not specifically highlighted and notably, there was no separate "private funds" section in this year's priorities. Nonetheless, the foregoing core topics apply to private fund advisers and often serve as the basis of private fund enforcement actions. Under Atkins' leadership, the SEC already settled one private fund fee and expense case earlier this year,³ and private fund examinations remain active. As noted, the priorities also called out a few emerging areas applicable to private funds and their sponsors, including private credit and alternative investments. These topics can apply to private fund sponsors that also advise separately managed accounts and/or newly registered funds (with an emphasis on investment allocations and interfund transfers), advisers to newly launched private funds, and Registered Funds that invest in illiquid assets (like private equity). All these fund advisers should remain prepared for examination scrutiny on the topic of fees and expenses, in addition to other core examination topics, including marketing, valuation, trading, portfolio management, disclosure and filings, and custody.

3. **Examinations for compliance with the Regulation S-P amendments will likely be initiated soon.** 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 be in compliance with the amendments by December 3, 2025. (Smaller covered institutions have until June 3, 2026 to be in compliance with the amendments.) The 2026 priorities specifically name Regulation S-P as a 2026 risk area, noting that examinations will focus on firms' policies and procedures, internal controls, oversight of third-party vendors and governance practices.⁴ The priorities state that the Division will engage firms during examinations regarding whether their incident response programs are reasonably designed to detect, respond to, and recover from unauthorized access to or use of customer information. The Division will also examine whether firms have developed, implemented, and maintained policies and procedures in accordance with the rule's new provisions, which includes the establishment of an incident response program and vendor oversight procedures. Given the Regulation S-P compliance dates, as well as a recently

³ See Advisers Act [Rel. No. 6908](#) (Aug. 15, 2025).

⁴ It is common for the annual exam priorities to highlight new rules as focus areas. The 2023 priorities included compliance with the new Marketing Rule as an exam priority following the November 4, 2022 compliance date.

settled Regulation S-P enforcement action, advisers should confirm they have taken appropriate steps to comply with the amendments.⁵

4. **Elimination of crypto assets as a priority.** In a significant reversal from the last several years, the Division did not identify crypto assets as a 2026 examination priority and did not mention crypto or other digital assets in the report. This is consistent with the SEC's efforts to establish a regulatory framework for digital assets under Chairman Atkins, bring crypto into the mainstream financial services industry, and facilitate innovation in the space. While the absence of crypto as a standalone examination priority may signal a shift in tone from the SEC, advisers engaged in crypto and crypto-related activities should still remain prepared for examination questions on these topics, including, among other things, custody and disclosure.
5. **Merger activity highlighted as a 2026 priority.** The 2026 priorities specifically highlight certain types of merger activity as key areas of focus for the new fiscal year. With respect to advisers, the Division stated it will focus on advisers that have merged or consolidated with, or been acquired by, existing advisory practices. The priorities note that these activities may result in accompanying operational or compliance complexities, in addition to new conflicts of interest. With respect to Registered Funds, the Division stated that Registered Funds that participate in mergers or similar transactions are a developing area of interest, again highlighting the operational risks and compliance challenges resulting from such activities. In light of these stated priorities, any M&A activity with respect to either advisers or funds should be accompanied by an appropriate compliance review, including updating policies and procedures for any new compliance risks, conflicts or other topics that may result from the merger.

Overview of 2026 Priorities

The 2026 priorities focus on expected themes that are core to the Commission's investor protection mission.

INVESTMENT ADVISERS

Similar to last year, the Division has highlighted (i) adherence to fiduciary standards of conduct and (ii) effectiveness of advisers' compliance programs as key priorities of the Division.

Adherence to Fiduciary Standards of Conduct

The 2026 priorities highlight advisers' adherence to their duty of care and duty of loyalty obligations as a key priority, particularly with respect to retail customers. The Division will review investment advice and related disclosures provided to clients for consistency with an adviser's fiduciary obligations, including:

⁵ On November 25, 2025, the SEC announced a settled order regarding a firm's failure to adopt written policies and procedures designed to protect customer records and information, in violation of Regulation S-P. See Advisers Act [Rel. No. 6928](#) (Nov. 25, 2025). For Simpson Thacher's most recent discussion of the Regulation S-P amendments and upcoming compliance dates, please see our article: *Regulation S-P Amendments: Practical Points for Private Fund Advisers* (Aug. 25, 2025), available [here](#).

- The impact of an adviser's financial conflicts of interest on providing impartial advice;
- An adviser's consideration of the various factors associated with investment advice, including cost, the investment product or strategy's investment objectives, characteristics (including any special or unusual features), liquidity, risks and potential benefits, volatility, likely performance in a variety of market and economic conditions, time horizon, and cost of exit; and
- An adviser's obligation to seek best execution with the goal of maximizing value for clients under the particular circumstances occurring at the time of the transaction.

As noted above, the Division also stated that it would focus on investment products such as:

- Alternative investments (*e.g.*, private credit and private funds with investment lock-up for extended periods);
- Complex investments (*e.g.*, ETF wrappers on less liquid underlying strategies, option-based ETFs, and leveraged and/or inverse ETFs); and
- Products that have higher costs associated with investing (*e.g.*, high commissions and higher investment expenses than similar products or investments).

Examinations will also focus on investment recommendations for consistency with product disclosures and the clients' investment objectives, risk tolerance and financial or personal backgrounds, with particular emphasis on: (1) recommendations to older investors and those saving for retirement; (2) advisers to private funds that are also advising separately managed accounts and/or newly registered funds (*e.g.*, reviewing for favoritism in investment allocations and interfund transfers); (3) advisers to newly launched private funds; (4) recommendations of certain products that may be particularly sensitive to market volatility; and (5) advisers that have not previously advised private funds (*e.g.*, reviewing for regulatory awareness, liquidity, valuation, fees, disclosures, and differential treatment of investors, including use of side letters).

Finally, the Division noted that it will focus on particular types of advisers and advisory services or business practices that may create additional risks and potential conflicts of interests, including (i) advisers that are dually registered as broker-dealers; (2) advisers utilizing third parties to access clients' accounts; and (iii) advisers that have merged, consolidated with, or been acquired by existing advisory practices. The Division will also prioritize examinations of advisers that have never been examined, including an emphasis on recently registered advisers.

Effectiveness of Advisers' Compliance Programs

Similar to last year, the Division acknowledged that assessments regarding the effectiveness of advisers' compliance programs are a fundamental part of the examinations process. Examinations on this topic typically include core areas of adviser's compliance program, which, may include marketing, valuation, trading, portfolio management, disclosure and filings and custody, as well as an analysis of an adviser's annual reviews of the effectiveness of its compliance program. The focus on core compliance areas, including custody, is consistent with

a recently settled custody-related enforcement action.⁶ The Division also noted that it continues to focus broadly on whether advisers' policies and procedures address compliance with the Advisers Act and the rules thereunder, and whether policies and procedures are reasonably designed to address conflicts of interest in light of a firm's particular operations and to prevent advisers from place their own interests ahead of client interests. Accordingly, examinations may focus on: (i) whether an adviser's policies and procedures are implemented and enforced; and (ii) whether disclosures address fee-related conflicts, with a focus on conflicts that arise from account and product compensation structures.

The Division also noted that its focus may shift depending on an adviser's practice or products, such as for advisers with activist engagement practices (*e.g.*, whether they these advisers are making late or inaccurate filings on Schedule 13D and 13G, among other forms) or for advisers who change their business models or are new to advising particular types of assets, clients, or services.

REGISTERED FUNDS / INVESTMENT COMPANIES

The Division will continue to prioritize examinations of Registered Funds, including ETFs and mutual funds due to their importance to retail investors, and as mentioned above, it has highlighted certain new developing areas of interests, including:

- Registered Funds that participate in mergers or similar transactions, including any associated operational and compliance challenges;
- Registered Funds that use complex strategies and/or have significant holdings of less liquid or illiquid investments (*e.g.*, closed-end funds), including valuation and conflicts of interest; and
- Registered Funds with novel strategies or investments, including funds with leverage vulnerabilities.

With respect to the examinations of Registered Funds, the Division noted that examinations will generally focus on compliance programs, disclosures, filings (*e.g.*, summary prospectus) and governance practices. Operational areas of focus include (i) fund fees and expenses, and any associated waivers and reimbursements; and (ii) portfolio management practices and disclosures, for consistency with statements about investment strategies or approaches with fund filings, and marketing materials, and the amended "Names Rule" (after the compliance date).⁷

The priorities also discuss anti-money laundering (AML) programs for certain Registered Funds that are required to establish AML programs under the Bank Secrecy Act (BSA), noting that the Division will focus on whether Registered Funds are (1) appropriately tailoring and updating their AML program to their business model and associated AML risks, including accounting for risks associated with omnibus accounts maintained for foreign financial institutions; (2) adequately conducting independent testing; (3) establishing an adequate customer identification program, including for beneficial owners of legal entity customers; and (4) meeting their Suspicious

⁶ See Advisers Act [Rel. No. 6901](#) (Aug. 1, 2025).

⁷ For Simpson Thacher's discussions of the Names Rule amendments, please see our articles: *SEC Adopts Amendments to Fund "Names" Rule* (Oct. 26, 2023), available [here](#) and *SEC Issues Names rules FAQs and Extends Compliance Dates* (Apr. 8, 2025), available [here](#).

Activity Report filing obligations. The priorities note that the examinations of certain Registered Funds will also review policies and procedures for oversight of applicable financial intermediaries.

As with adviser examinations, the Division will prioritize never-before-examined Registered Funds, with an emphasis on Registered Funds that have recently registered to help empower and encourage building robust compliance programs.

INFORMATION SECURITY AND OPERATIONAL RESILIENCY

The Division noted that it will continue to review registrant practices to prevent interruptions to mission-critical services and to protect investor information, records and assets. This includes compliance with Regulation S-P and the recent amendments, discussed above in the Key Takeaways section. The priorities also state that particular attention will be on firms' policies and procedures pertaining to governance practices, data loss prevention, access controls, account management and responses and recovery to cyber-related incidents. Additionally, examinations will focus on training and security controls that firms are employing to identify and mitigate new risks associated with artificial intelligence (AI) and polymorphic malware attacks, including how firms are operationalizing information from threat intelligence sources.

EMERGING FINANCIAL TECHNOLOGY

The Division noted that it remains focused on advisers' use of certain financial technology products and services, including automated investment tools, AI technologies, and trading algorithms or platforms, and signaled that it will examine firms that engage in activities such as automated investment advisory services (*i.e.*, "robo-advisory" platforms), recommendations and related tools and methods. It noted that assessments will generally include whether:

- Representations are fair and accurate;
- Operations and controls in place are consistent with disclosures made to investors;
- Algorithms lead to advice or recommendations consistent with investors' investment profiles or stated strategies; and
- Controls to confirm that advice or recommendations resulting from automated tools are consistent with regulatory obligations to investors, including retail and older investors.

The Division also specifically noted that it will focus on recent advancements in AI and will review registrant representations regarding their AI capabilities for accuracy. Representations regarding an adviser's use of AI has been an increasing priority of the SEC in recent years, with the first "AI-Washing" enforcement actions settled in 2024.⁸ The Division noted that examinations will also assess whether firms have implemented adequate policies and procedures to monitor and/or supervise their use of AI technologies, including for tasks related to fraud prevention and detection, back-office operations, anti-money laundering, and trading functions, as applicable.

⁸ See Advisers Act [Rel. No. 6573](#) (Mar. 18, 2024) and Advisers Act [Rel. No. 6574](#) (Mar. 18, 2024).

Examinations will also consider firm integration of regulatory technology to automate internal processes and optimize efficiencies.

BROKER-DEALERS

The Division stated that it will continue to examine broker-dealer sales practices, including those related to Regulation Best Interest, noting a particular focus on:

- Recommendations of products and investment strategies (including, among others, ETFs that invest in illiquid assets such as private equity or private credit; alternative investments; and other products that have complex fee structures or return calculations, are based on exotic benchmarks, are illiquid, or represent a growth area for retail investment);
- Conflict identification and mitigation practices, in particular with respect to recommendations of accounts, rollovers, and recommendations involving limited product menus;
- Processes for reviewing reasonably available alternatives; and
- Processes for satisfying the Care Obligation, including consideration of particular factors in a customer's investment profile and the product and account type characteristics considered.

The Division also stated that examinations will focus on dual registrants, including reviews of processes for identifying, mitigating and eliminating conflicts of interest where dual registrants receive compensation or other financial incentives that may create conflicts of interest that must be addressed; account allocation practices (*e.g.*, allocation of investments where an investor has more than one type of account); and account selection practices (*e.g.*, brokerage versus advisory, including when rolling over employer plan assets to an IRA or transferring an existing brokerage account to an advisory account, and recommendations to open wrap fee accounts).

Finally, as with certain Registered Funds, the Division highlighted that it would focus on broker-dealers' AML programs and review whether broker-dealers are: (1) appropriately tailoring and updating their AML program to their business model and associated AML risks, including accounting for risks associated with omnibus accounts maintained for foreign financial institutions; (2) adequately conducting independent testing; (3) establishing an adequate customer identification program, including for beneficial owners of legal entity customers; and (4) meeting their Suspicious Activity Report filing obligations. The priorities note that AML programs should be tailored to address the risks associated with a firm's location, size, and activities, including the customers served, the types of products and services offered, and how those products and services are offered.

Conclusion

Overall, the Division's priorities are consistent with the "back-to-basics" messaging the SEC has emphasized under Chairman Atkins and highlight several perennial examination topics and focus areas you would typically expect to see from the SEC. At the same time, the 2026 priorities also call out certain headline topics like private credit and alternative investments that the market is currently focused on. As examinations remain active,

registrants are advised to review the 2026 priorities against their own compliance programs to confirm they remain prepared for a possible exam.

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