



2023 Common Areas of Focus for Broker-Dealers sourced from:

- Report on FINRA Examination and Risk Monitoring Program¹
- SEC Examination Priorities²

For 2023, the SEC and FINRA share several common areas of focus for their examination teams, and there are questions that broker-dealers can consider with determining if they comply with related rules and regulations.

Not surprisingly, **Regulation Best Interest (Reg BI)** and **Form CRS** are areas of focus for both regulators. When making a recommendation, broker-dealers and associated persons have an obligation to act in a retail investor's best interest. For Reg BI reviews, examination teams may focus on (i) recommendations regarding products, investment strategies, and account types, (ii) disclosure of all material facts relating to conflicts of interest associated with the recommendations, (iii) the process for making best interest evaluations, and/or (iv) the factors considered in light of the investor's profile.

- Does your firm have reasonably designed procedures to prevent it or its associated persons from placing their interests ahead of the interests of a retail customer?
- Does your firm have tailored procedures to address its business lines, products and services, and customer base?
- Does your firm test its policies and procedures to determine if they are adequate and properly implemented?
- Does your firm evaluate changes to its business mix, products, or services to determine if Form CRS needed to be updated?

Whether your firm calls it **Information Security and Operational Resiliency or Cybersecurity and Technology Governance**, prevention of interruptions to mission-critical services, including cybersecurity attacks, and Regulation S-ID (Identify Theft Red Flags) are a focus for this year. Regulation S-ID (Identity Theft Red Flags) requires member firms to develop and implement a written program to detect, prevent and mitigate identity theft in connection with the opening or maintenance of "covered accounts" as defined by 17 CFR 248.201(b)(3).

- Does your firm take steps to prevent a cybersecurity intrusion?
- How does your firm protect sensitive customer data and confidential information?
- How does your firm vet and onboard a new third-party service provider?
- Are the controls implemented at a branch office location consistent with the firm's written policies and procedures?

Examination teams may focus on the supervision, retention, and content of firm **Communications**.

- How does your firm retain electronic communications?
- Does your firm have procedures that address the principles-based content standards designed to apply to ongoing developments in communications technology and practices?
- Are firm communications free from false, misleading, or promissory claims?
- Are firm communications fair and balanced?

Examination teams may focus on **Fair Pricing** for municipal securities and other fixed income securities, compliance with confirmation disclosure requirements, and municipal securities dealer and municipal underwriter compliance with obligations related to municipal issuer disclosure.

Compliance with **Anti-Money Laundering** obligations is another common topic for the regulators.

- Does your firm have a tailored AML Program reasonably designed to address the risk associated with its business model, activities, products, and customer base?
- Does your firm conduct ongoing customer due diligence, comply with beneficial ownership requirements, and conduct robust and timely independent tests of its AML Program?

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¹ <https://www.finra.org/sites/default/files/2023-01/2023-report-finras-examination-risk-monitoring-program.pdf>

² <https://www.sec.gov/files/2023-exam-priorities.pdf>