

>>> FAIRVIEW FLASH REPORT <<<
 SEC Evaluates Advisers and Funds That Outsource Their
 Chief Compliance Officers

WHAT HAPPENED?	<p>On November 9th, the OCIE released a new Risk Alert summarizing the findings of the sweep exams it recently conducted as part of the Outsourced CCO Initiative. The exams were prompted by the increase in reliance on third party compliance service providers. However, the exams specifically targeted outsourced CCOs, a practice often viewed to increase compliance risk due to the lack of internal compliance personnel to oversee the day-to-day activities of the firm.</p>
WHAT WAS EVALUATED DURING THE EXAMS?	<p>During the sweep exams, the OCIE staff assessed the effectiveness of the compliance programs led by outsourced CCOs, evaluating factors such as whether:</p> <ul style="list-style-type: none"> • The CCO was implementing a compliance environment consistent with the goals of the Advisers Act and other federal securities laws; • The compliance program was reasonably designed to prevent, detect and address violations of the Advisers Act and other applicable laws; • Individuals with outsourced compliance oversight responsibilities were able to communicate openly with service providers; • The adviser’s compliance program took a proactive approach, rather than reactive; and • The external CCO had sufficient authority and resources to oversee the compliance policies and procedures.
WHAT WERE THE EXAM FINDINGS?	<ul style="list-style-type: none"> • Risk assessments Some outsourced CCOs relied on generic checklists to assess the adviser and gather information. While generic checklists may be a helpful guide to identify risks, it is important for the questions to garner responses that accurately reflect the firm’s practices to ensure the outsourced CCO gains sufficient knowledge of an adviser’s unique risks. Further, the outsourced CCO should tailor the checklist to fully address the practices of the adviser as more information becomes available. • Compliance Policies and Procedures Several of the examinees used compliance manuals that were created based on generic templates that did not account for the actual practices of the examinees. The OCIE staff noted situations in which the compliance policies were not followed or were inaccurately described in the compliance manual. Caution should be taken to ensure that relevant risks are addressed and that control procedures are performed. • Annual Review Most of the examinees engaged the outsourced CCO to conduct and document the annual review. The staff noted a general “lack of documentation evidencing the testing”. Finally, in some situations, the outsourced CCOs’ visits and access to the advisers’ offices were limited to conducting a single compliance review and training while onsite.

TAKEAWAY

Typically, internal personnel are better suited to serve as CCO. While some of the outsourced CCOs were able to effectively administer the compliance program, such arrangements may result in disconnect between the actual practices of the firm and the compliance program. Back-office compliance support provides a good solution to this issue. In back-office compliance programs, such as those offered by Fairview, experienced compliance professionals assist and collaborate with a dedicated, internal CCO as opposed to trying to fill the position.

The OCIE guidance discussed above is nevertheless relevant and has been incorporated into Fairview's service model since the firm's inception. Through frequent communication, our firm assists the internal CCO in:

- Tailoring risk assessments to the specific needs of the adviser;
- Customizing the firm's policies and procedures; and
- Conducting a thorough, well-documented annual review.

If you are interested in hearing more about Fairview's services, please contact us at info@fairviewinvest.com.

Sources: [OCIE Risk Alert Released 11.9.2015](#)

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