

# Regulatory Musical Chairs for Money

SECURITIES TRANSACTIONS AND COMPLIANCE

| SECURITIES AND DERIVATIVE LITIGATION

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The SEC and FINRA continue to play musical chairs with staff resources allocated to examinations of investment advisers and broker-dealers.

According to SEC Chair Mary Jo White's remarks at an April 16 SEC Compliance Outreach Program, the SEC now has approximately 530 dedicated staffers tasked with examining nearly 12,000 registered investment advisers, up from 467 in 2015.

The SEC wants to increase staffing levels in the investment adviser/investment company examination area by 20 percent. To help accomplish this goal, the SEC decided to transition some staff resources from its broker-dealer examination program to the investment adviser/investment company examination program. In this regard, the SEC intends to rely on FINRA's examination program to take up the slack in broker-dealer examinations. And, as a result, the SEC announced it will enhance its oversight of FINRA to ensure no gaps develop in the examination of broker-dealers.

This development interests both investment advisers and broker-dealers: more investment advisers are likely to be examined by the SEC, and broker-dealers are likely to get more attention from FINRA. It also **raises the questions of whether and how FINRA will get more staff and/or monetary resources to conduct additional broker-dealer examinations**. Typically, FINRA's resources come from the fines it imposes and the fees it assesses against member firms. But this latest switching of regulatory chairs might cause some broker-dealers to wonder if they are, in effect, bearing part of the cost of additional investment adviser examinations.

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