

Expect Focus Life Insurance, December 2017

SEC Exam Staff: “Surprise, We’re Back”

FINANCIAL SERVICES REGULATORY | LIFE, ANNUITY, AND RETIREMENT SOLUTIONS | SECURITIES & INVESTMENT COMPANIES | DECEMBER 29, 2017

In August, Kevin Kelcourse, the associate director for examinations at the SEC’s Boston Regional Office, confirmed that his office has been making “surprise” examination visits to registered advisers in the region. This departs from the typical way in which SEC staff initiate exams – by sending firms a document request list and specifying a time, usually a few weeks later, for an onsite inspection. For many years, surprise examinations have usually occurred only if the staff believed that malfeasance had occurred or was ongoing at a firm.

Recently, however, reports of surprise visits have revealed that while onsite, the SEC has requested to speak with chief compliance officers and, in some instances, made document requests. Kelcourse, whose remarks were delivered to an industry news outlet, stated that by catching firms off guard, the SEC hoped to gain a better perspective on how firms operate when they think nobody is watching.

Although these visits have created some concern throughout the industry, out of the 220 exams initiated by the Boston office in 2017, only about a dozen were unannounced. Kelcourse reportedly clarified that no particular type of advisory firm is being targeted as part of this surprise exam initiative. Nor is it apparent that the surprise examinations focus on any particular type of adviser activities about which the staff may be especially suspicious.

Accordingly, it is unclear how the Boston regional office is deciding which advisory firms to surprise or whether other regional offices will follow suit.

©2022 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.