

SEC Scrutinizes Multi-Manager Arrangements

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Many mutual funds implement their investment strategies through "multi-manager" (also called "manager of manager") arrangements, particularly funds used to support variable life insurance and annuity products. Among other things, these arrangements allow a fund's primary investment adviser to efficiently replace underperforming sub-advisers without shareholder approval.

The SEC's Office of Compliance Inspections and Examinations (OCIE) appears to have recently commenced examinations of the multi-manager activities of a number of fund advisers. For example, the information request OCIE sent to at least one fund group suggests the examination staff intends to closely scrutinize a range of issues, such as:

- compliance with applicable exemptive and no-action relief, including whether the overall arrangement and any material changes to the primary investment advisory contract were properly approved by fund shareholders
- the rationale for hiring and firing sub-advisers, including related fund board materials
- whether fund shareholders were properly notified when new sub-advisers are hired
- potential conflicts, including in relation to the use of sub-advisers affiliated with the primary adviser and fee renegotiations with existing sub-advisers
- the rationale and process for reallocating assets between sub-advisers
- the effectiveness of the oversight of the primary adviser and sub-advisers
- the fund board's process for determining if fund counsel is "independent"
- the impact of the hiring or firing of sub-advisers on the primary adviser's profitability

While most of these issues will not surprise those familiar with the compliance aspects of multi-manager arrangements, they suggest the SEC staff will be especially focused on potential conflicts in this round of examinations. Take, for instance, the staff's interest in the primary adviser's profitability in relation to the hiring and firing of sub-advisers. All the same, now may be a good time for funds and fund advisers to review their multi-manager arrangements for compliance with applicable federal securities laws.