



SEC Considers Need for SRO Examinations of Investment Advisers

January 21, 2011 -- SEC Commissioners this week approved the release of a study (available [here](#).) conducted by the staff of the SEC's Division of Investment Management concerning the need for enhanced resources for examinations of registered investment advisers. The study, mandated by the Dodd-Frank Act, discusses the significant growth over the past five years in the number of registered investment advisers. This growth, combined with a decline in the number of SEC staff dedicated to examinations, has led to a substantial decrease in the frequency with which investment advisers are examined.

The Division staff expects a significant near-term decrease in the number of SEC-registered investment advisers as the Dodd-Frank Act generally increases the statutory minimum threshold to qualify for SEC registration from \$25 million to \$100 million in assets under management. However, this decrease is expected to be offset by a variety of factors, including future growth in the number, size and complexity of registered investment advisers. The study indicates that, without changes, the SEC likely will not have sufficient capacity over time to conduct frequent and effective examinations of registered investment advisers.

The Division staff recommends that Congress consider the following three alternatives to strengthen the SEC's investment adviser examination program:

- Impose user fees on SEC-registered investment advisers that could be retained by the SEC to fund its examination program. The study notes that the stable resources provided by user fees could achieve an acceptable frequency of examinations without the need for additional appropriations from Congress.
- Authorize one or more SROs to examine all SEC-registered investment advisers. While potentially freeing up SEC resources currently dedicated to examinations, the study states that the SEC would still be required to oversee the operations of any SRO. Additionally, issues such as the number of SROs, the scope of their authority, and the nature of their governance and funding would have to be resolved.
- Authorize FINRA, where a registered broker-dealer firm is also a registered investment adviser, to examine that firm for compliance with the Investment Advisers Act. This would give FINRA a more "holistic"

view of dual registrants' client activities and could lead to more efficient examinations.

The study reflects only the views of the Division staff, and the Commissioners made clear that they are expressing no view regarding the staff's analysis, findings or conclusions. SEC Chairperson Mary Schapiro did not participate in the vote. Commissioner Elisse Walter, although voting to release the study, took the somewhat unusual step of publishing a separate statement (available [here](#)).

Specifically, Commissioner Walter criticized the study for lacking precise and objective recommendations and for not being sufficiently clear about the challenges that the Commission is facing in examining investment advisers. She emphasized that the frequency of examinations has declined 50% in the last five years and that the challenges will likely become exacerbated as a result of the Dodd-Frank Act. Commissioner Walter expressed a strong preference for the SRO model as the most effective and efficient way to meet the challenges faced by the SEC in this area.

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