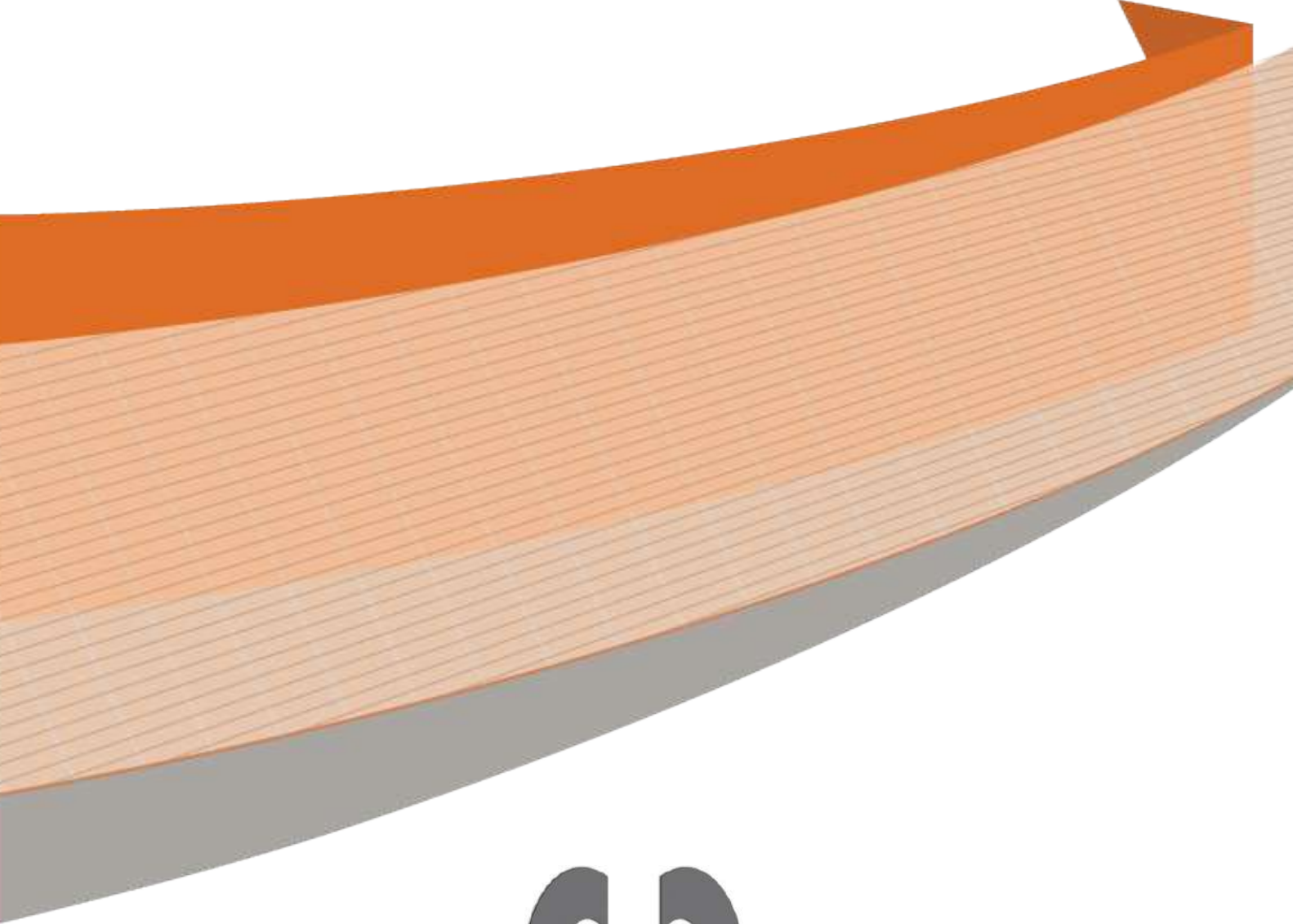


Part 2: It's 2017, What Are the SEC's Priorities?

Risks specific to Senior Investors and Retirement Investments

Spotlight On Talent: Portia Amato



Part 2: It's 2017, What Are the SEC's Priorities? (3-Part Series)

Risks Specific To Senior Investors And Retirement Investments

By Portia Amato

Now that we have examined the SECs' focus on Retail Investors ([Part 1: It's 2017, What Are the SEC's Priorities?](#)), it is time to turn our attention to the OCIE's 2nd focus area: Risks specific to Senior Investors and Retirement Investments as well as a few other initiatives on the 2017 Priority List ¹.

The aging population, along with a shift towards self-dependency for retirement savings, led the OCIE to begin focused exams called ReTIRE (Retirement-Targeted Industry Reviews and Examinations) in 2015². The ReTIRE exams, through the National Examination Program (NEP), will conduct examinations of SEC-registered investment advisers and broker-dealers focusing on higher-risk areas of registrants' sales, investment, and oversight processes, with particular emphasis on select areas where retail investors saving for retirement is most vulnerable.

Under Rule 3a-4 (Safe Harbor) for Registered Investment Advisors (RIA's)³ and Rule 2111 (Suitability) for Broker Dealers(BD's)⁴, both have legal obligations when making recommendations to clients with regards to not only transactional decisions, but account type decisions. The Examiners will be taking a close look at the entire life cycle, from initial account type recommendation and initial investments, all the way to on-going account maintenance. Having a thorough suitability checklist and application form, with signatures from both the client and the Representative, as well as a list of investment options and signed statement that the client has been provided with comprehensive literature of all the various investment vehicles including risk rating analytics, disclosures and responses to all questions is a well-documented start for a focus exam. Periodic review of client's investment strategy and an updated suitability checklist (annually should suffice) to ensure the investment vehicles remain in line with the client's needs ensures ongoing due diligence.

¹ SEC's Examination Priorities for 2017 <https://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2017.pdf>

² <https://www.sec.gov/about/offices/ocie/retirement-targeted-industry-reviews-and-examinations-initiative.pdf>

³ <https://www.sec.gov/rules/final/ic-22579.txt>

⁴ http://finra.complinet.com/en/display/display.html?rbid=2403&record_id=15663&element_id=9859&highlight=2111#r15663

RIA's that manage pension plans, it's time to re-assess your Conflicts of Interest and Pay-to-Play Compliance Programs, because the OCIE is very interested in what they say and how you are enforcing them as they relate to your management of Pension Plans. According to Peter Driscoll, chief of the SEC exam unit Office of Risk and Strategy, in 2016, Public Pension Plans accounted for \$3.7 Trillion in assets with 19 million current and future beneficiaries, including police officers and firefighters. With the high level of corruption in Washington and the assets at stake, it is no wonder the OCIE is interested in making sure that these fund managers are conforming with pay-to-play rules and being mindful of conflicts of interest. For pension fund managers, these aspects of compliance must be at the forefront of your compliance program. Employee training, attestations, enforcement, and on-going policy updates, along with being a focus area during the Annual Compliance Review under Rule 206(4)-7 of the Advisors Act for RIA's and part of FINRA's 3120/3130 annual testing of supervisory controls for BD's are all a must. CCO's should be looking for lavish and recurring entertainment, extraordinary tips, outlandish gifts, all political contributions, and any other outliers to the firm's policies. Mandatory, focused training for your firm's sales, marketing and portfolio management team are a best practice your firm cannot afford to do without. A robust reporting, tracking and certification tool for gifts and entertainment and political contributions is ideal from a technology standpoint of compliance.

Taking advantage of Seniors...we have all heard at least one story on the news or in the papers of how an elder man, woman or couple were swindled out of their life savings. Most of the time it's a caretaker or family member, a sad but almost always unavoidable situation for the elder who must rely on others to take care of them. However, not so for their managed investments. RIA's and BD's are accountable for our most vulnerable population and the OCIE is going to ensure that you are doing your job to protect them and their life savings. Examiners will be looking closely at your firm's interactions with Senior Investors, your ability to identify exploitations, your supervisory

⁵ <http://www.fa-mag.com/news/sec--advisors-to-public-pension-plans-to-be-scrutinized-25664.html>

program and controls relating to products and services directed at senior investors. Are you accepting calls from “relatives” for financial instructions? Are you allowing high risk investments for seniors who cannot afford the risk based on their suitability paperwork? Are you helping them get their financial matters in order should they end up in long-term care facilities? These are just a few of the questions you must be prepared to answer (and prove) to the Examiners, when they are sitting in your conference room reviewing the process management of your senior clients.



Other initiatives for 2017 include evaluating municipal compliance with SEC and Municipal Securities Rulemaking Board rules, including outreach and education⁶. The SEC will exam transfer agents that service microcap issuers, focusing on detecting issuers that may be engaging in unregistered, non-exempt offerings of securities. In 2017 they will continue to examine private fund advisers, focusing on conflicts of interest and disclosure of conflicts as well as actions that appear to benefit the adviser at the expense of investors. These are all carry over initiatives from prior years, as they continue to be the weaker areas of compliance programs.

(RIA's) and (BD's) alike can tackle these matters should the SEC pay a visit. Compliance Risk Concepts can help your firm strengthen your policies and procedures, identify if your specific business may fall under scope of the SEC's focused exams, such as the ReTIRE exam, and help you prepare for such exams. We can also help you resolve your technology issues. Please give us a call or send us an email for more information on how we can be of service to your firm today.

Stay tuned for the 3rd article in the three-part series to the “It's 2017, What are the SEC's Priorities?”, where we will examine the SEC's final focus area, Assessing Market-Wide Risk.

⁶ <https://www.sec.gov/about/offices/ocie/muni-advisor-letter-081914.pdf>

SPOTLIGHT ON TALENT: PORTIA AMATO



PORTIA AMATO
Compliance Consultant, CRC

Portia is a seasoned Compliance Officer, having over 18 years of investment management experience. Over the course of her career, Portia has specialized in compliance, operations and client services for investment advisors and top tier investment banks. Portia also successfully helped to launch two wrap-fee programs for New York Life Investment Management and US Trust.

As a Compliance Officer at Epoch Investment Management, LLC, Portia did extensive work involving Personal Trade Auditing, SEC Exam preparation work, FED Audit, Volcker Rule Conformance, AML, Vendor Due Diligence, various Regulatory filings such as Form PF, Form D, 13H Large Trader, Form ADV, international regulatory filings, Compliance Procedures and Manuals, Employee Compliance Training, as well as many other aspects of Legal and Compliance.

At DRA Advisors, LLC, Portia was hired as the firm's first Compliance Officer to implement a firm-wide compliance program and to address the SEC's focus of real estate investment firms. Additionally, Portia instituted a multitude of compliance policies and procedures, completed all required regulatory filings, worked with outside counsel to complete a prior SEC audit, established marketing and website review procedures, liaised with IT to create and launch a cybersecurity policy and conducted compliance training for all employees including targeted training.

Portia is enrolled at Western International University, attended Saint Peter's University, has a Diploma from Dover Business College in Computer Information Specialist and is scheduled to take her Series 65. Portia's volunteer work includes Commissioner of American Youth Soccer Organization (AYSO) Region 1089 and coaches' boys and girls ages 4-10. She is also a 4th Grade Catechist at Saint John's Parish in her hometown and cooks for a local soup kitchen.



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