

Alert

CFTC 2020 Examination Initiative – Guidance for Private Fund Managers

November 8, 2019

On Oct. 30, 2019, Joshua B. Sterling, the Director of the U.S. Commodity Futures Trading Commission's Division of Swap Dealer and Intermediary Oversight ("DSIO"), spoke about DSIO's new "thematic review" initiative, which is slated to commence in 2020.¹ The discussion was held at Schulte Roth & Zabel and was cohosted by the firm and the Alternative Investment Management Association.

Director Sterling summarized several aspects of the examination initiative that will be applicable to private fund managers registered with the CFTC. The director emphasized that the examinations are intended to allow DSIO staff and the CFTC to better understand the environment in which their registrants operate. He stated that, "We are looking to gather information from individual firms, assess that information on an individual basis and compare our assessments across firms to identify potential better ways of doing things." As a corollary to that point, he emphasized that "we will not be issuing deficiency letters."

The director discussed how "thematic reviews" will be focused on a small number of issues DSIO may consider recommending to the CFTC for rulemaking or other action. In other words, they should be shorter and more focused than examinations carried out by other regulators and self-regulatory organizations.

At some point, the results of the 2020 examination effort will be summarized in a general report that will disclose:

- The scope of the review initiative;
- The types of firms selected; and
- A summary of different ways firms address certain compliance issues.

Although the examinations, in general, will remain confidential, DSIO also intends to share findings about "good practices" to serve as guidance for all registrants. The director noted that they "will be unlikely to fit every firm because firms have different businesses and structures ... firms will have flexibility to decide whether or how to implement our guidance as [a] result. To insist otherwise would not promote smart, effective and practical regulation of our registrants."

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¹ The full text of Director Sterling's comments are [here](#).

If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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