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SEC Announces 2019 Examination Priorities

On December 20, 2018, the Securities and Exchange Commission's Office of Compliance Inspections and Examinations ("OCIE") announced its examination priorities for 2019.¹ Below are certain highlights of the examination priorities particularly relevant to investment advisers to private equity, credit and hedge funds.

Never-Before or Not Recently-Examined Investment Advisers. OCIE will continue to conduct risk-based examinations of selected investment advisers that have never been examined, as well as those that have not been examined for a number of years and may have substantially grown or changed business models.

Conflicts of Interest. OCIE will continue to examine conflicts of interests that may impact clients and the related disclosures, *e.g.*, using affiliated service providers and borrowing funds from clients.

Digital Assets. OCIE's examinations will focus on portfolio management of digital assets, including trading, safety of client funds and assets, pricing of client portfolios, compliance, and internal controls relating to digital assets.

Cybersecurity. OCIE's examinations relating to cybersecurity will focus on proper configuration of network storage devices, information security governance and risk assessment, access rights and controls, data loss prevention, vendor management, training, incident response, and policies and procedures. OCIE will give particular emphasis to cybersecurity practices at investment advisers with multiple branch offices, including those that have recently merged with other investment advisers.

Portfolio Management and Trading. OCIE will review investment advisers' practices for executing investment transactions on behalf of clients, allocating investment opportunities among clients (including among both registered investment companies and private funds with similar investment strategies), and ensuring consistency of investments with disclosures, objectives and legal restrictions.

Key Takeaways. While these enforcement priorities drive many of OCIE's examinations, the scope of any examination by OCIE uses a risk-based approach that analyzes a myriad of factors, including an investment adviser's operations and the products it offers. Investment advisers should consider reviewing their existing practices, policies and procedures regarding the above-mentioned enforcement priorities.

¹ For a complete list of OCIE's Examination Priorities for 2019, see <https://www.sec.gov/files/OCIE%202019%20Priorities.pdf>.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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