

OCIE Releases 2013 Examination Priorities – Custody Of Assets Tops List

On February 21, 2013, the SEC's Office of Compliance Inspections and Examinations ("OCIE") released its National Examination Program's ("NEP") 2013 examination priorities (the "OCIE Memo"). This memorandum highlights those priorities of particular concern to SEC-registered investment advisers ("RIAs"). State registered advisers should also be aware of these priorities as state regulators frequently focus on the same issues in connection with their examination procedures.

Safety of Assets — Custody

As stated in the OCIE Memo, a main concern of the staff is the safety of client assets and compliance with custody requirements. The principal rule applicable to RIAs is Rule 206(4)-2 (the "Custody Rule") under the Investment Advisers Act of 1940 (the "Advisers Act"). The Custody Rule imposes certain obligations on RIAs that have custody or possession of any funds or securities in which any client has any beneficial interest. An RIA is deemed to have custody or possession of client funds or securities if the RIA directly or indirectly holds client funds or securities or has the authority to obtain possession of them.

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