

Possible Examination by SEC of Exempt Reporting Advisers

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Marc Wyatt, Acting Director of the Securities and Exchange Commission's ("SEC") Office of Compliance Inspections and Examinations ("OCIE"), recently took part in a meeting of the ABA Hedge Fund Sub-Committee on November 20, 2015, during which it is reported that Director Wyatt remarked that his office is or will be routinely examining exempt reporting advisers ("ERAs"). This may mark a significant shift in OCIE practices from that detailed in prior statements by SEC officials, which noted that, although the law permits the SEC to examine ERAs, the SEC did not intend to routinely examine them, instead focused its efforts in this area on registered investment advisers.

It should be noted that Mr. Wyatt's remarks have not been made publicly available by the SEC, nor has the Commission confirmed or denied whether these statements do indeed reflect a change in policy. However, ERAs should be aware that they may now be included in the pool of advisers that OCIE will consider for routine examinations, potentially including risk-based examinations based on OCIE's analysis of information reported by ERAs on Part 1A of Form ADV. In light of the above, ERAs may wish to evaluate their compliance policies and procedures to ensure their conformity with current legal and regulatory requirements.

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