

>>>FAIRVIEW FLASH REPORT <<<  
SEC PRESENCE EXAMS FOR NEWLY REGISTERED ADVISERS

<p style="text-align: center;"><b>WHAT HAPPENED?</b></p>	<p>Andrew Bowden, the new Deputy Director of the SEC Office of Compliance and Examinations (“OCIE”), announced his division’s goal to conduct presence exams through the National Exam Program (“NEP”) covering approximately 15% of newly registered advisers to private funds in the next 12-24 months. It is anticipated that the SEC may be able to examine all newly registered advisers in the less concentrated regions of the country.</p>
<p style="text-align: center;"><b>WHAT ARE PRESENCE EXAMS?</b></p>	<p>Presence Exams will have three primary phases: engagement, examination, and reporting.</p> <ul style="list-style-type: none"><li>➤ The NEP is conducting an outreach program to newly registered advisers to inform them of their obligations under the Advisers Act and related rules, the Presence Exams initiative and OCIE’s practice of interacting directly with adviser’s senior management.</li><li>➤ One or more of the following areas are likely to be examined:<ul style="list-style-type: none"><li>• Marketing and advertising.</li><li>• Portfolio management decision making practices, including the allocation of investments and whether they are consistent with disclosures to investors.</li><li>• Conflicts of interest within the firm.</li><li>• Safety of client assets.</li><li>• Valuation of client holdings and assessment of fees based on those valuations.</li><li>• Other exam topics may include selling away when an adviser has multiple entities, including a broker-dealer, distribution fees and alternative investment companies.</li></ul></li></ul> <p>After the on-site examination, NEP staff may send a letter to the firm indicating the exam has concluded without findings or a letter that identifies deficiencies and requests corrective action. If serious deficiencies are found, NEP staff may refer their findings to the SEC’s Division of Enforcement or other regulatory agencies.</p> <ul style="list-style-type: none"><li>➤ At the end of the examination phase, the NEP will report its overall observations to the SEC and the public. These observations will likely include common practices found in higher-risk areas, industry trends, and significant issues.</li></ul>