

## SEC exams of advisers get tougher and meaner

Though less frequent, they are costly and disruptive

By Jed Horowitz

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The SEC may be examining fewer investment advisers than ever, but when it does pay a visit, even routine exams are more demanding, according to lawyers, consultants, advisers and the agency itself.

The Securities and Exchange Commission has been forced to cut back on exams of advisers because of budget constraints, a rapid increase in new advisers and shifting priorities. However, industry officials say the examiners who are on the job have been more demanding, more focused on inconsistencies and more likely to write up lengthy deficiency reports.

Under attack by legislators and its own inspector general for failing to catch Bernard Madoff's infamous Ponzi scheme, the SEC in recent weeks has taken to the road to warn that it is a less kind and gentle organization than it was during the deregulatory atmosphere of the Bush administration.

"To put it bluntly, the world of compliance of 2008 is dead," John Walsh, acting director of the SEC's Office of Compliance, Inspection and Examinations, said at the National Society of Compliance Professionals' national meeting this month in Philadelphia.


"I can assure you, the examination program is changing, and it will continue to change," he said.

The SEC is hiring more people with experience in trading and other investment areas to coordinate specialized sweeps and exams, breaking down internal barriers.

This allows experts from previously siloed SEC divisions such as asset management, trading and markets and enforcement to get a cross-disciplinary view of a firm's practices and reach out to clients and third-party custodians to verify that assets reported by advisers to clients are accurate, Mr. Walsh said.

Although some of the talk may be regulatory bluster, lawyers say it is translating to very real time and cost burdens for all advisers.

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“The SEC is trying to recover from several black eyes so they aren't giving anybody a free pass anymore,” said Jeffrey Blumberg, a partner at Drinker Biddle & Reath LLP.

*For the complete version of this story, please see the Monday, Oct. 26 issue of InvestmentNews*



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