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Trump Can't Make Regulation Pressure on RIAs Go Away

By Brian O'Connell

A new U.S. government report shows that Uncle Sam is focusing more on registered investment advisor investigations, even as a key watchdog regulatory agency is cutting its budget.

Here's the deal. The U.S. Office of Compliance Inspections and Examinations said it's hiking efforts to investigate RIAs this year, even as OCIE is seeing its next fiscal year budget curbed by 1.5 percent, or $5.4 million (down from $340.8 million.)

Despite the proposed budget cut, the agency upped investment firm-focused staffing by 20 percent. In particular, OCIE is focusing on new RIAs who have never been the targets of regulatory investigations.

"We are expanding our Never-Before Examined Adviser initiative to include focused, risk-based examinations of newly registered advisers as well as of selected advisers that have been registered for a longer period, but have never been examined by OCIE," the agency stated in a recent report.

The U.S. Security Exchange Commission is taking a similar stance. In the SEC's 2018 Annual Performance Plan, the agency said that it's "continuing a risk-based focus on examinations of investment advisers and other key entities who interact with retail and institutional investors."

More Regulatory Scrutiny

Investment advisors who hire staffers that have been previously investigated, or who have been barred from associating with broker-dealers will be a unique target, the SEC said.

In addition, advisors who set up shop in multiple locations can expect more regulatory scrutiny, as the SEC cites the "unique risks" associated with investment firms who run branch offices.

Investment advisors might be wondering why the Trump administration, which was touted as Wall-Street friendly by financial pundits, is looking to ramp up investigative pressures on the industry.

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> **- Mark Opila, CEO**
> **Patrina Corporation**

But maybe it's not Trump, but previously drawn regulations that are driving increased investigations against advisors by Uncle Sam. The Department of Labor fiduciary rule for retirement accounts, for example.

"The Department of Labor ruling has definitely put a target on the backs of RIAs," said Sean Hughes, a financial advisor and founder of Hughes & Dern Financial Group in Rolling Meadows, Ill. "The best thing RIAs can do is keep detailed notes on why an investment was recommended to the client."

The unfortunate part for advisors is there is "now more administrative work for the advisor and staff and less time available to actually help clients," Hughes said. But there is a silver lining, too.

"The DOL rule was made to deter the so-called advisors who were making transactions on behalf of the client that benefit them more than the client," he added.

"Going forward, the regulation will kick some of the part-timers out of the business and, with an aging advisor population, it's always good to have a millennial advisor on staff to help clients over the long term."

No Dissatisfaction With Trump

Other advisors say talk of any dissatisfaction from the Trump White House is overblown.

"It's safe to say that with a Trump presidency and a Republican-controlled Congress that, going forward, we will see more deregulation in the financial sectors," said **Mark Opila, chief executive officer at Patrina Corporation in New York City.** "Trump has made it clear that he plans to ease some of the regulations associated with Dodd-Frank."

However, because of the DOL fiduciary rule, "smaller" RIAs and independent broker-dealers need to prepare for higher compliance costs and adopt new technologies to lessen the burden, Opila said.

"While I think the larger firms, and even some mid-sized firms will chalk this rule up as another cost of doing business; the smaller RIAs and independent broker-dealers will feel the brunt of the pain," he said. "The added cost of DOL rule compliance will lead to some of these firms to merge or be bought out, or close up shop."

That said, Opila doesn't believe advisors are being unfairly targeted in the era of Trump.

"For the most part, I don't think they feel like they are being overly targeted, but they aren't happy about having to disclose all of the fees and commission that they earn selling a product," he said.

Brian O'Connell is a former Wall Street bond trader, and author of the best-selling books, The 401k Millionaire and CNBC's Guide to Creating Wealth. He's a regular contributor to major media business platforms, including CBS News, The Street.com, and Bloomberg. Brian may be contacted at brian.oconnell@innfeedback.com.