

## Gavel to Gavel: Focusing on FINRA priorities letter

By: Robert J. Carlson Guest Columnist February 15, 2017

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The Financial Industry Regulatory Authority is an independent self-regulatory organization authorized by Congress and overseen by the Securities Exchange Commission. Its mission is to protect America's investors by making sure the broker-dealer industry operates fairly and honestly.

FINRA's Annual Regulatory and Examination Priorities Letter is a guidepost for financial firms to consider when reviewing their hiring, internal training, communications, compliance and supervisory programs. By telegraphing its regulatory priorities, FINRA offers firms and individual brokers an opportunity to identify and address potential issues before they become enforcement actions.

It is important to note that FINRA does not limit itself to the priorities set out in this letter, particularly when it comes to new and evolving technology. For example, in the last couple of weeks FINRA has provided position papers on potential issues arising from distributed ledger technology, or blockchain. Blockchain involves the use of a database distributed over a network of computers connected in a manner that allows participants to share and retain cryptographically secured records in a decentralized manner. This technology is in its nascent stages but will receive significant and continued attention from FINRA even though it is not listed as a priority this year. Nevertheless, the annual letter gives critical insight to financial firms into FINRA's regulatory playbook. The priorities letter points to several topics that FINRA will be focusing on in 2017. Financial firms should take this opportunity to minimize any risks created by these priorities. These include evaluating, at a minimum, potential exposure to these areas:

- Employment of high-risk/recidivist brokers, including how they are hired, how they are monitored and how both branch and non-branch offices are inspected.
- Sales practices for senior investors, including how firms assure they are protected from fraud, abuse and improper advice.
- Suitability and concentration reviews, including how firms detect and monitor recommendations that may result in excess concentration in customer accounts.
- Excessive trading of long-term product such as open and closed-end mutual funds, variable annuities and unit investment trusts.

- Compliance with laws with respect to a firm's use of social media and e-communications, including cybersecurity.
  - Registered representatives' outside business activities and the impacts of such activities on clients.
- FINRA further indicated in its annual letter that it will be expanding its examinations of firms by initiating electronic, off-site reviews in 2017, in addition to its traditional on-site examinations.

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