Swap Dealer Examinations Overview
Program background

- Swap dealer regulatory program covers both U.S. and non-U.S. swap dealers
- NFA Members are required to comply with NFA Rules and CFTC Regulations
- NFA both monitors firms on an ongoing basis and conducts periodic examinations to monitor compliance
- NFA encourages swap dealers to report violations of NFA Rules or CFTC Regulations to NFA and the CFTC immediately
Scheduled exams vs. ad hoc exams

- Scheduled exams:
  - Periodic examinations of swap dealers on a subset of regulations
  - Advance notification of on-site fieldwork

- Ad hoc exams:
  - Major market event or an event at the swap dealer
  - Short notice or unannounced
Examination Scope

- Risk-based prioritization
  - NFA uses a risk-based approach where each examination is tailored to the firm based on:
    - Previous exam findings
    - Swap valuation dispute notices
    - Risk data filings
    - Self-reported non-compliance issues
    - Other filings including CCO Annual Reports and Risk Exposure Reports

- Additional considerations
  - Prudential regulation
  - Substituted compliance
EXAMINATION PROCESS OVERVIEW
Examination Announcement

- NFA notifies the CFTC and local regulators of a planned examination including scope and duration

- NFA contacts the Member firm with advanced notification prior to fieldwork to announce the upcoming examination

- A formal announcement, known as the First Day Letter, is sent to the firm containing:
  - Examination scope
  - Preliminary document and meeting requests
  - Proposed meeting schedules and agendas for on-site fieldwork
  - Management Representation Letter to be signed by a principal of the firm prior to issuance of the examination report
  - Data Transfer Agreement (non-U.S. firms only) to be signed by a principal of the firm prior to the start of the examination
Fieldwork and Exit Meeting

- Fieldwork
  - On-site average 2 to 4 weeks
  - Interviews of key personnel
  - Review of policies and procedures and key processes and controls
  - Substantive and control testing
  - Document requests
  - Ongoing communication of examination findings
- Exit meeting
  - Discuss observations and findings from fieldwork

Note: NFA aims to conduct as much work as possible prior to on-site fieldwork, including making document requests, conducting interviews, and performing testing.
Exam Closing Meeting and Exam Report

- Exam closing meeting
  - In-person meeting at the firm's office or via teleconference or videoconference
  - Discussion of examination findings
- Exam report
  - Sent to the firm shortly after the closing meeting
Firm to provide a written response within 35 calendar days after the issuance of the examination report as to the corrective action(s) the firm has taken or will take to address exam findings, including:
- Remediation plan
- Name of individual responsible for the remediation
- Target date for completion

Review of the firm's remediation plan

Verification of remediation actions
ADDITIONAL EXAMINATION INFORMATION
Document Submissions

- **Document security**
  - Document requests and submissions are made via NFA’s secure, web-based EasyFile Regulatory Filing System (RFS)
  - RFS uses existing security protocols from NFA's Online Registration System (ORS)

- **Redacted documents and claim of privilege**
  - The firm may not withhold documents or provide documents with redacted information without NFA's prior consent
  - NFA's policy is to not accept a claim of privilege (including attorney-client privilege) as a proper basis for withholding documents or redacting information from them
NFA Expectations

• A liaison to work with the NFA team
• A conference room to accommodate NFA examiners which has a telephone with conference capabilities
• Security passes for NFA staff for the duration of exam
• Access to a locked storage area
• Availability for meetings either in-person or via teleconference or video conference throughout the exam