

# Exam Prep and Common Findings: CPOs, CTAs, IBs, FCMs and FDMs

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Member Workshop



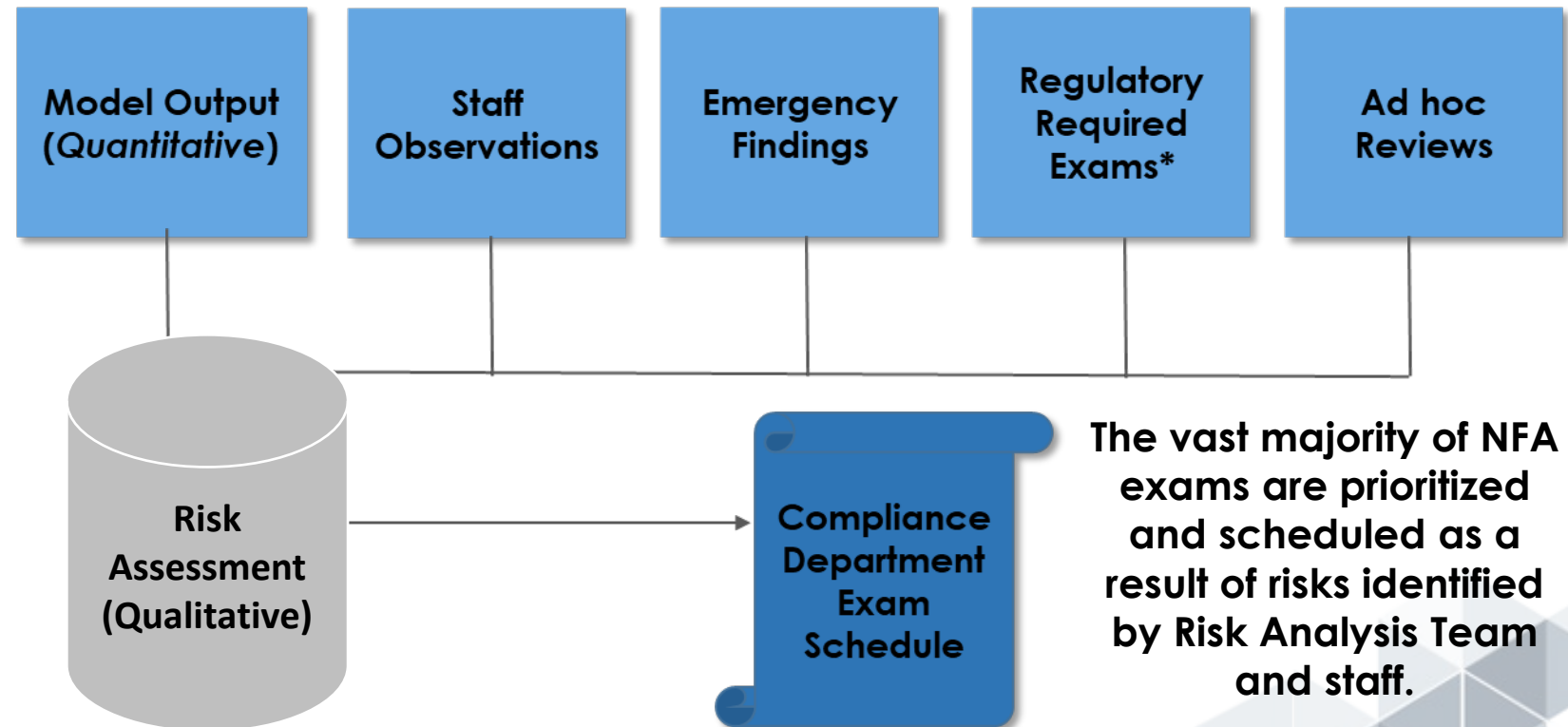
# Exam Process

# Risk-Based Examination Approach



1. Prioritize list of candidate firms
2. Schedule based on prioritized firms, available resources, and logistical constraints
3. Relay pertinent risk information to exam teams

Approach to scheduling is influenced by the following sources:



The vast majority of NFA exams are prioritized and scheduled as a result of risks identified by Risk Analysis Team and staff.

\* Regulatory Required covers registration categories routinely examined in accordance with CFTC regulations

# Pre-Exam Work



- Exam announced
  - Preliminary exam questionnaire
  - Internal controls questionnaire
- Operations call
  - Engagement letter (document request list)—prioritized
- Regulatory Filing System (RFS)
  - Secure file-sharing site
  - Tracking requests and due dates

# Exam Approach



- Initial exam meetings
  - Virtually via Microsoft Teams
- On-site fieldwork
  - Interviewing key personnel
  - Observing internal control and supervisory processes
  - Reviewing firm records
  - Discussing findings throughout
- Use of screen sharing, email and RFS



# End of Exam Process



- Exit interview
  - Summarize exam findings
  - Discuss status of corrective action
- Exam report
- Firm response
  - Circumstances that led to each finding
  - Corrective action implemented
  - Changes to internal controls

# Tips for an Efficient Examination



- Availability of firm personnel and resources
  - Relevant stakeholders
- Questions and requests
  - Document and exception log in RFS
- Communication
  - Frequent touchpoints and transparency
- Post-fieldwork engagement
  - Remain responsive throughout the full exam lifecycle

# Common Exam Findings

# Procedures Commonly Reviewed



- Cybersecurity/ISSP/Identity theft
- Promotional material
- Broker communications
- Registration of APs
- Bylaw 1101
- Supervision of branch offices
- Business continuity plan (BCP)
- AORS/Electronic trading systems
- Customer complaints
- Third-party service providers
- Internal controls
- Order placement
- Trade activity, transfers and errors
- Ethics training
- AML



# Third-Party Service Providers

- All registration categories must have written procedures.
  - Initial risk assessment
  - Onboarding due diligence includes executing a written agreement
  - Ongoing monitoring
  - Termination
  - Documentation to evidence the process

# Registration

- **Associated Persons:** Individuals who supervise APs must also be registered as APs.
- **Branch Office:** Any location, other than the main business address that employs one or more persons engaged in activities requiring registration as an AP (exception to this definition).
- **Bylaw 1101:** Re-review customers, clients or pool participants that have claimed an exemption from registration (exemptions must be re-affirmed each year).

# Promotional Material

- Balanced presentation required
- Include proper disclaimers
- Statements of fact must be supported
- Hypothetical performance requirements
  - Clearly identified as hypothetical
  - Disclose material assumptions
  - Include hypothetical disclaimer

# CPO and CTA Disclosure

- Performance calculations
- Rates of return must be net of fees
- CTA proprietary performance—present separately

# Notice Filing Requirements of CPOs



Rule 2-50 notice filings **must file by 5:00 p.m. following business day:**

- Pool cannot meet its margin call(s);
- Pool that is unable to satisfy redemption requests in accordance with its subscription agreements;
- Pool has halted redemptions (not related to existing gates or lockups); and/or
- CPO receives notice from a swap counterparty that a pool it operates is in default.

# Exemptions

Maintain support to demonstrate compliance with the criteria for any pool exemption:

- Qualifications of investors
  - Reminder: CFTC increased the portfolio requirement thresholds in Regulation 4.7 effective March 26, 2025.
- Trading limitations

# Pool Financial Reporting

- Account statement requirements
  - Pool in its entirety
  - Series/class information
  - Timely distribution
  - CFTC Regulation 4.7 update for fund of funds
- Incomplete or missing oath/affirmation
  - Signature of someone duly authorized to bind the CPO
  - Signatory's name and capacity
  - CPO's name
  - Pool name

# Net Capital



- Current vs non-current assets
  - Secured receivables—affiliate transactions
  - Commissions received from FCMs
  - Aging receivables re-classified from a current asset to a non-current asset
  - Prepaid assets
  - Restricted balances are non-current

# Net Capital

- Liabilities not properly accrued
  - Legal fees
- Proper charges
  - Securities Haircuts
  - Foreign Currency Position Charges

# FCM/FDM Filings



- Reporting requirements
  - Daily FCM statements and forex reports are due at noon locally
    - FORTRESS reporting due EOD
  - Notice filings are typically due within 24 hours (sometimes 48 hours), but oftentimes immediately or same day depending on the notification type (review CFTC Regulation 1.12 for deadlines).
- Firms dealing in cleared swaps (including fully collateralized cleared swaps such as event contracts) must perform an LSOC calculation daily.

# Public Disclosure Document

- FCMs must post material disclosure on their website
- Specific requirements outlined in CFTC Regulation 1.55(k)
- Areas of focus
  - General business information and activities
  - Material risks and enforcement actions
  - Financial disclosures

# Common Overdue Items

- Cybersecurity training
- ISSP annual review
- Ethics training
- Annual AML training
- Annual independent AML audit
- Annual branch office audits
- Financial statement filings
- Self-examination checklist

# How to Avoid Common Deficiencies



Completing the Self-Examination Questionnaire annually will assist in creating:

- AML
- BCDR
- Ethics
- Privacy policy
- Third-party service providers



# Q&A

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