NFA Swap Dealer Examinations Webinar
January 18, 2018
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Christie Hillsman: Hello, everyone. Welcome to NFA's webinar, NFA Swap Dealer Regulatory Examination Update.

My name Christie Hillsman, and I'm a Communications Specialist at NFA. With me today are Sudhir Jain, Director of OTC Derivatives; Shuna Awong, Director of OTC Derivatives; Dan Dan Liu, Associate Director of OTC Derivatives; and Mei Ng, Manager of OTC Derivatives.

Before we begin our webinar, I want to share a few notes. First, although you are able to hear us today, you will not be able to ask questions verbally. To ask a question, locate the box labeled 'Ask a Question' on the left side of your webinar screen. Please type the question you would like to ask into the box and press the 'Send' button. We are able to see questions as they are submitted. You can submit your questions now or at any time during this webinar. We will answer questions at the end of our presentation. For questions that are firm-specific, we will reach out to you individually.

In addition, a recording of this webinar, along with a written transcript, will be on NFA's website in the coming weeks, so no need to take detailed notes throughout this presentation.

As you may know, NFA is in its fourth year of onsite swap dealer examinations and has provided a number of workshops on examination results. We intend to continue our workshops, but wanted to further help swap dealer Members understand the examination process and common deficiencies by offering additional education in the form of this webinar. Throughout the course of this webinar, we will recap deficiencies from past examinations, discuss potential deficiencies from current exams and provide an update on future exams.

And now, I will turn it over to Shuna, who will provide background on swap dealer exams.

Shuna Awong: Thanks, Christie. NFA began its first onsite examinations in July of 2014. These exams focused on the role and function of the Chief Compliance Officer. The second set of exams started September 2015 and covered the swap dealers' risk management program, daily trading records, and prohibition on fraud, manipulation, and other abusive practices.

Like we mentioned in our May workshop last year, our exam program has grown and has now entered a more mature phase. In the current cycle and any upcoming cycles of exams, NFA will examine any and all requirements under Part 23 using a risk-based approach where each firm's exam is tailored to the range of issues that are important to that firm. Given this, the current exam cycle, which includes both U.S. and non-U.S. swap dealers, covers a number of regulations including margin, segregation, cybersecurity, business conduct standards, and SDR reporting.

I'll begin by first briefly reviewing examples of deficiencies we have seen across the industry, which we have discussed in detail during previous Member workshops. You can access audio recordings and materials from these workshops by visiting NFA's website. Look in the 'Swap Dealer' section for SD Education and Training.

I'll start with the general deficiencies noted during the Chief Compliance Officer exams in relation to CFTC Regulation 3.3. During these exams, some common deficiencies NFA noted pertained to the insufficient monitoring of the swap dealers' compliance with the Regulations performed either by the CCO or the compliance function. NFA noted that at some firms the compliance testing program coverage was not robust. Either there was insufficient testing of rules, for example at some firms testing was limited to e-communication surveillance and did not include other rule areas, or testing was not performed for all applicable regions, or the testing documentation was weak and it was unclear how and what was tested.

In addition, in some instances, NFA noted that the CCO was too removed from the monitoring of the firm's compliance with regulations. The CCO did not receive regular compliance reports, was not a member of key committees, and quite often the CCO was not sufficiently aware of non-compliance issues with respect to the firm's risk management program. For example, a CCO may not have been aware that a risk management was not reviewed and tested annually as required by the rules or may not have been made aware of non-compliance issues that were identified from these reviews.

The Regulations also require the firm to monitor the remediation of non-compliance issues. Common deficiencies from examinations include gaps in tracking of non-compliance issues, inadequate documentation, and inadequate remediation of non-compliance issues. For example, we noted that while the non-compliance issues could be identified through different sources such as internal audit reports and operational risk reports, these may not be included in the compliance department's list of non-compliance issues. In some cases, NFA noted that compliance would log non-compliance issues only after remediation and did not include details such as the extent of the deficiency and remediation target dates.

NFA also identified a number of common deficiencies related to training. In some instances, the training had limited subject matter coverage and did not cover any of the relevant rule areas pertaining to swap dealers. In other instances, not all relevant sales and trading personnel were included in training. Another common deficiency was that compliance did not track attendance of training, and it wasn't clear if all relevant employees took the training.

Now, Mei will discuss the deficiencies in the swap dealers' risk management programs.

Mei Ng: Thanks, Shuna. In examining each swap dealer's risk management program, which is outlined under CFTC Regulation 23.600, there are a number of areas where NFA noted common deficiencies across swap dealers. NFA noted that the firms could not evidence the governing body or senior management approval of the written policies and procedures related to the risk management program, risk tolerance limits, et cetera.

With respect to risk governance, NFA noted in some instances that the governing body or senior management was not performing duties required by the regulation. Examples include the firm's governing body did not review and approve risk tolerance limits on an annual basis or the risk tolerance limits were approved by a risk committee instead.

With respect to risk monitoring, NFA noted that not all models were reviewed in accordance with some swap dealers' own policies, the limits used in risk monitoring reports were not consistent with approved limits, limit breaches were not documented to show proper escalation and resolution, and certain swap activities were excluded from e-communication and trade surveillance.

NFA also noted that some firms did not define what constitutes a material change in risk exposure, which would require them to submit an interim risk exposure report in addition to those submitted at each quarter end.

Another deficiency commonly found was insufficient annual testing of the risk management program. Firms did not define what constitutes a material change in business, which would require a review and testing of the risk management program.

Finally, NFA noted that the results of this testing were not reported to the CCO, governing body, and senior management as required by the Regulations.

As Shuna mentioned, the second cycle of exams also included daily trading records. With respect to daily trading records, NFA noted that some firms did not maintain certain pre-execution trade information and deficiencies related to phone recording of swap-associated persons.

Now, I'll turn it over to Dan Dan, who will discuss the requirements for segregation of assets held as collateral in uncleared swap transactions.

Dan Dan Liu: Thank you, Mei. Like Shuna mentioned, NFA currently uses a risk-based approach for its examinations, tailoring each firm's exam to the range of issues that are important to the firm. NFA's current exam scope covers numerous rule areas including margin, cybersecurity, and business conduct standards, amongst others.

For purposes of today's discussion, to help firms prepare for future exams, I would like to focus on CFTC Regulation 23.700 through 23.704, which address segregations of assets held as collateral in uncleared swap transactions. I will begin by reviewing the requirements surrounding segregation.

CFTC Regulation 23.701 requires that, prior to the executions of each uncleared swap, swap dealers must notify each counterparty of the right to require segregation of initial margin posted for uncleared swaps. The timing of this requirement is further explained in the adopted release of the final segregation rule, which states that protection of initial margin is best achieved by requiring customer segregation to become effective upon election, not upon completion of custodian documentation. The initial and annual segregation notice must identify one or more independent custodians, one of which must be a creditworthy non-affiliate and include pricing information, to the extent that the swap dealer has such information, for each custodian identified.

CFTC Regulation 23.702 requires these segregated margins to be held by a custodian that is independent of both the swap dealer and the counterparty in a designated segregated account for and on behalf of the counterparty. The written custodial agreement must, at a minimum, meet the requirements for withdrawal of margins and turnover of control of such margins as outlined in the Regulations.

CFTC Regulation 23.703 states that segregated margin may only be invested pursuant to CFTC Regulation 1.25. CFTC Regulation 1.25 outlines a list of permitted investments for customer funds such as money market mutual funds, U.S. government securities, and U.S. agency obligations.

For initial margin assets collected from a counterparty that elects not to segregate, CFTC Regulation 23.704 requires the CCO to report on whether or not the back office procedure of the swap dealer relating to margin and collateral requirements were at any point during the previous calendar quarter not in compliance with the agreements of the counterparties. This report must be distributed no later than the 15th business day after

each quarter end. The quarterly reporting requirement begins the next calendar day after the first transaction date between the swap dealer and counterparty.

On October 31, 2014 the CFTC's Divisions of Swap Dealer and Intermediary Oversight issued an interpretative notice on Regulations 23.701 and 23.704. With respect to the annual segregation notice, their interpretative notice explained that swap dealers must continue to provide annual notification to each counterparty in any calendar year in which the swap dealer enters into a new uncleared swap with the counterparty.

With respect to confirmations of receipt, the letter clarified that the swap dealers are allowed to rely on negative consent to satisfy the requirements to obtain from its counterparty confirmations of receipt of the annual notice as long as the notice included a prominent and unambiguous statement that failure to respond within a reasonable time period will be deemed by the swap dealer as confirmation of receipt of the notice. If a swap dealer relies on negative consent, then it must presume the counterparty is choosing to continue segregation in cases where a counterparty previously elected segregations. A counterparty might change its segregation elections at its own discretion through written notice delivered to the swap dealer.

With these requirements in mind, now Sudhir will go over some potential deficiencies and good practices in this area to help swap dealers prepare for future examinations.

Sudhir Jain: Thank you, Dan Dan. I will start with the notification of the right to segregation. As Dan Dan mentioned, there are both initial and annual notification requirements. NFA would note a deficiency if a swap dealer fails to send an initial segregation notice to a counterparty once the counterparty has been onboarded and is required to post initial margin.

NFA would also note a deficiency if a firm does not provide an annual segregation notice to counterparties that had previously elected to segregate, or if a counterparty does not send an annual segregation notice to counterparties in accordance with the timeline specified in the written procedures. This annual segregation notice should include the required information such as custodian or pricing information as outlined in CFTC Regulation 23.701.

Another potential deficiency would arise if a firm failed to segregate initial margin after the election by a counterparty. One example would be that a swap dealer does not have an adequate process to ensure that appropriate custodial accounts are set up to segregate initial margin following the election by a counterparty. This also could include a swap dealer not having adequate controls to prevent the execution of uncleared swaps that require initial margin prior to the completion of segregation documentation.

In relation to the requirements for segregated margin as outlined in CFTC Regulation 23.702, the provisions for the withdrawal and turnover of control of margin must be included in the segregation agreements with counterparties who have elected to segregate initial margin.

With respect to CFTC Regulation 23.703, which covers investment of segregated margin, a deficiency would be a lack of controls around proper investment of segregated margin pursuant to Regulation 1.25. An example of lack of controls is if a firm is not performing adequate monitoring to ensure that the segregated margin is being invested in the permitted investments as defined under Regulation 1.25.

Finally, under CFTC Regulation 23.704, which covers requirement for non-segregated margin, deficiencies would include the lack of a process for the CCO's review of back office issues related to margin and collateral requirements for compliance with the

agreement of the counterparties. Back office issues are any operational issues that impact the firm's margin and collateral processes which may prohibit the firm from complying with the agreement of the counterparties. Another deficiency would be the failure to distribute, or late distribution of, quarterly notification to the counterparties, or if the swap dealer was unable to provide evidence that the quarterly notices were distributed to counterparties.

To support compliance with these CFTC Regulations, I will now outline some good practices we have seen during our examinations.

For notification of the right to segregation, a good practice is for swap dealers to have a process in place to follow up with the counterparties that have elected to segregate initial margin to confirm this election. In the event that a counterparty did not intend to segregate, any change of election is at the counterparty's discretion and should be made through a written notice delivered to the swap dealer. Swap dealers must maintain a copy of the counterparty's written notice.

Swap dealers should also have a process to ensure an appropriate custodial account is set up to segregate funds prior to trading uncleared swaps requiring initial margin with the counterparties who elect to segregate their initial margin.

Once a counterparty elects to segregate initial margin, a swap dealer must not execute any uncleared swap with that counterparty that would require collection of the initial margin until all required documentation, such as the account control agreement forms, are in place. One of the controls some swap dealers have implemented to prevent trades from being executed with a counterparty that has elected to segregate but whose required documentation is not in place is to place that counterparty on a do not trade list until all required documentation is completed.

A few more good practices include creating a process to monitor counterparties that elected to segregate initial margin but are not yet required to post initial margin and forming a robust process to identify counterparties that should receive the initial and annual segregation notices to ensure timely distribution. Finally, swap dealers should have a process to review the operational incidents for inclusion in the CCO's quarterly reporting to counterparties that have not elected to segregate their initial margin.

Before we begin answering questions, I have two quick reminders. First, NFA determines a swap dealer's examination scope by using information and results from previous examinations, regulatory filings and market events. NFA's risk monitoring function allows NFA to identify the firms that might pose heightened risk and allocate NFA's regulatory oversight resources accordingly.

Second, NFA encourages swap dealers to report violations of any NFA Rules or CFTC Regulations to NFA and the CFTC immediately. It is important and critical for swap dealers to be proactive in managing and remediating non-compliance matters and keeping NFA and the CFTC abreast of these matters.

Now I'll turn this over to Christie.

Christie Hillsman: Thanks, Sudhir. This concludes the prepared portion of our webinar. Throughout this discussion, you've asked some great questions. We will answer as many questions as we can in the time remaining and should we not get to your question, or if you've submitted a firm-specific question, an NFA staff member will respond to you via email.

Our first question is whether a transcript of today's webinar will be available on NFA's website. And I could actually answer that question.

	Yes, a transcript of today's webinar will be posted to NFA's website in the coming weeks. Our next question is: does a swap dealer need to send a notice of right to segregation prior to each swaps transaction? Mei, can you answer that question for us please?
Mei Ng:	Yes. Thanks, Christie. The answer is no. CFTC Regulations require a swap dealer to provide a notice of right to segregation to counterparties from whom the firm has the contractual right to collect initial margin. So once the initial segregation notice is provided, an annual segregation notice is sufficient and a transaction-by-transaction notice is not needed.
Christie Hillsman:	Perfect. Thanks, Mei. Our next question is: what is NFA's expectation regarding the use of negative consent as confirmation of receipt for the annual segregation notice? Dan Dan, can you answer that question for us please?
Dan Dan Liu:	Thanks, Christie. The CFTC's interpretative notice allows swap dealers to rely on negative consent to satisfy the requirements to obtain confirmations of receipt for its counterparties. However, the disclosures of reliance of negative consent must be clearly documented in the notice and should include the terms for the negative consent.
Christie Hillsman:	Perfect. Thanks, Dan Dan. And Mei, I'm going to pose our next question to you, and that is: can a swap dealer consolidate the annual segregation notice and the quarterly notification into one process?
Mei Ng:	Yes. The swap dealers can consolidate the two notifications into one notice as long as the notice includes all the provisions required by the quarterly CCO notification and the annual segregation notice. Just to be clear, this also means sending the annual notice on a quarterly basis.
Sudhir Jain:	Just to add to that, before a firm decides to consolidate their annual and quarterly notices, one thing to keep in mind is that the annual segregation notice should be provided to all counterparties, both who have elected to segregate and those who have not elected to segregate, while the quarterly CCO notice is only required to be provided to counterparties who have not elected to segregate.
Christy Hillsman:	Perfect. Thank you both. Our next question is: what specifically must be reported to each counterparty to satisfy CFTC Regulation 23.704? How are swap dealers determining whether their back office procedures were in compliance with the agreement of the counterparties? Dan Dan, can you take that question?
Dan Dan Liu:	Sure, Christie. Swap dealers should have a process in place to identify all margin- and collateral-related operational (inaudible). These (inaudible) should then be analyzed to determine whether any terms of the margin and collateral agreement of the counterparties were violated. If any terms were violated, that information must be included in the quarterly report for the impacted counterparty.
Christie Hillsman:	Perfect. Thanks, Dan Dan. Our next question is: we understand NFA's current exam cycle also covers other rule areas in addition to segregation. Would you be able to share NFA's observations on some other rule areas examined, such as margin or SDR reporting? Sudhir, can you handle that for us, please?
Sudhir Jain:	Sure, I can. As Shuna previously mentioned, NFA uses a risk-based approach for its examinations. And our current exam cycle covers a number of rule areas such as margin, segregation, BCDR, cybersecurity, SDR reporting, business conduct standards, among others.

Starting with margin, a couple of common deficiencies we have noted are that swap dealers are trading with counterparties without required uncleared margin documentation or setting internal operational results at an unreasonably high level to determine whether initial margin or variation margin calls should be disputed.

On the real-time and SDR reporting side, we noted deficiencies related to inaccurate or delayed reporting of data. For example, we noted some swap dealers are underreporting certain transactions due to misclassification of a conduit affiliate or guaranteed affiliate of a U.S. person as a non-U.S, person. We also noted deficiencies for delayed reporting where firms are using batch reporting for Part 43 purposes while the Regulation requires as soon as technologically practicable reporting.

Moving on to business conduct standards, we noted a deficiency if the firm failed to provide pre-trade mid-market mark or other transaction-level disclosures. A deficiency would also be noted if the relationship documentation is missing information, such as ECP special entity status or a cross-border representation letter.

Christie Hillsman: Great. Thanks, Sudhir. And Shuna, I'm going to pose our next question to you. And that is: what is NFA's plan for the next round of exams?

Shuna Awong: Because we now have a full risk-based approach, the examination scope will be tailored to each swap dealer based on their risk profile. We will identify the scope for the next round of exams using information results from previous examinations, regulatory filings, as well as market events.

Christie Hillsman: Great. Thanks, Shuna. Our next question is: what is the plan for examining non-U.S. swap dealers? Shuna, can you answer that for us as well, please?

Shuna Awong: Yes. We have started examining non-U.S. swap dealers that have affiliated U.S. swap dealers in their corporate families, as well as standalone non-U.S. swap dealers. As mentioned earlier, NFA has transitioned into a full risk-based approach, so non-U.S. swap dealers' exams will be based on each firm's risk profile and on rule areas where substituted compliance is not available.

Christie Hillsman: Perfect. Thanks, Shuna. And I am actually going to pose our next question to you as well. And that question is: how far in advance does NFA notify a registrant of an upcoming examination?

Shuna Awong: Once we have identified a firm for an examination, we will contact the firm through a phone call and advise them of the upcoming examination. The firm will have about 30 days before we go onsite. However, shortly after we contact the firm, we will issue a first-day letter, which will list a number of documents we will request in advance of going onsite.

Christie Hillsman: Perfect. Thanks, Shuna. Our next question is: is there a best practice for the timing of the annual notification? Sudhir, can you answer that question for us?

Sudhir Jain: Sure, I can. I would hit on a couple of things on that. There are some firms where we noticed that they send the annual notice alongside the quarterly notice, which kind of means that they would never extend the 12-month mark, which makes sense. However, there are other firms who do it in a specific month every year. We think both the practices work. However, if you are only doing it in one month every year, we suggest you make sure that you don't extend that 12-month timeline.

Christie Hillsman: Great. Thanks, Sudhir. Our next question is: when is the next examination around RER? And Shuna, can you take that question for us, please?

Shuna Awong: Our next -- as we just mentioned, we are utilizing a risk-based approach to examinations. So the scope of the work will depend on what we have observed from prior examinations, what we have observed from any sort of reports we receive, which could include the quarterly risk exposure reports, or what we determine from events that we become aware of. So there is no plan at this time to say we will do a review of the risk management program across all firms. It will depend on a firm-by-firm basis.

Christie Hillsman: Perfect. Thanks, Shuna. Our next question is: if a customer posts initial margin but is not required to post initial margin under the margin rules, is the swap dealer required to provide the segregation notice? Dan Dan, can you answer that question for us, please?

Dan Dan Liu: Sure, Christie. So the annual segregation notice of segregation requirements is actually pertaining to the group who are required -- who have the contractual right to post initial margin that are not subject to the regulatory IM requirements. So the answer to that question is yes.

Christie Hillsman: Awesome. Thank you, Dan Dan. Our next question I'm going to pose back to you, Shuna. And that is: how often does an office have to be formally visited by compliance? Is it annually, as in just once per year?

Shuna Awong: When NFA first started its examinations, we targeted to review a firm approximately every 18 months. Now, as we have transitioned into a fully risk-based approach, our prioritization of firms will depend on how we view the risk profile of a firm. So there is not, like previously, a target of doing an exam every 18 months. It will depend on the riskiness we have determined for the firm. However, at the same time, we do look at the last time a firm has last been examined and consider that a factor for an examination.

Christie Hillsman: Great. Thanks, Shuna. Our next question is: does the PTMMM have to be in writing? Sudhir, can you take that question for us, please?

Sudhir Jain: It does not have to be in writing, but ideally it should be confirmed in writing afterwards, and if you agree with the counterparty subject to one of the CFTC's no-action relief you can get a waiver on providing the PTMM for certain kind of transactions for certain kinds of products.

Christie Hillsman: Great. Thanks, Sudhir. And I'm actually going to pose our next question to you as well, and that's kind of a two-fold question. So first: when does NFA expect the next round of exams to begin? And then additionally: do we have a sense yet as to what the anticipated areas of coverage in that next exam cycle will be?

Sudhir Jain: Sure, I can take that. As Shuna has mentioned that we are now in a risk-based examination -- we plan our examination based on the risk profile of the firms and we are moving away from the previous 18-month cycle. So to say there would not be a next round of exams and it would be continuous examination. And the rule areas would be decided based on that firm and would be tailored to that firm. So again, in the past we may have done CCO examination for all the firms, risk examination for all the firms, but going forward the scope would be tailored for each of the firms separately. Just one note out there, for non-U.S. firms, if the area is covered under substituted compliance, our initial plan is to not look at those rule areas, at least for now.

Christie Hillsman: Great. Thanks, Sudhir. Our next question is: are there any plans to issue formal guidance to swap dealers based on the findings of recent exams or based on particular areas of ambiguity? Shuna, can you take that question for us, please?

Shuna Awong: If there is going to be formal guidance, NFA will work with the CFTC to ensure that this guidance is appropriate. In the past, we have strived to provide guidance in our Member workshops where we have shared best practices, and that provides a form of guidance. With respect to more formal written guidance, yes, NFA will always strive to provide as much guidance as possible, and we foresee that in the future, through working with the CFTC, that we hope to do such coming in the future.

Christie Hillsman: Great. Thanks, Shuna. Our next question is: does NFA take into account the timing of annual leave for firm subject-matter experts and key compliance contacts who might be involved in preparing for the exam? Dan Dan, can you answer that question for us?

Dan Dan Liu: Sure. Obviously, we will work with our firms on the timing of the exams to the extent that's possible. However, I think it's important to keep in mind that we also have an internal timeline that we need to follow.

Christie Hillsman: Great. Thanks, Dan Dan. And Sudhir, I am going to move back to you with our next question. And that question is: the back office procedure notification applies only to initial margin, correct? Additionally, what are some examples of items that would be inconsistent with the agreement of the counterparties? Potentially under- or over-transfer from funds or something else?

Sudhir Jain: Yes. I think those two examples are good. The first part of the question was, does the back office procedure only applies to initial margin? That's correct.

In terms of the next question; are there examples we have seen, as if the firm is applying wrong haircut on the collateral they have collected—that may not be in compliance with the agreement with the counterparty. So that's one thing which we have seen a few times. The other example would be moving the collateral from one counterparty wrongly to another account. Even if you correct it later, it should be reported to the counterparty who got impacted. So those are a couple of other examples we have seen.

Christie Hillsman: Great. Thanks, Sudhir. Our next question is: when performing NFA exams, do you expect procedures to be produced in English, such as, for example, desk-level procedures? Shuna, can you answer that question for us, please?

Shuna Awong: Yes, it would be helpful for us to have procedures in English. Not having procedures in English would make the exam much more difficult or challenging. So I would recommend that if you do not have your policies and procedures in English, to consider doing so.

Christie Hillsman: Great. Thanks, Shuna. Our next question is: what is the average duration of the swap dealer examination, for example for U.S. swap dealers and for foreign swap dealers? Dan Dan, can you answer that for us, please?

Dan Dan Liu: Sure. The duration of our examination is really determined by the scope and the size of the firm as well as their operations. However, in the past, our onsite durations -- the onsite durations of our examinations has been between three to five weeks.

Christie Hillsman: Great. Thanks, Dan Dan. Our next question -- I'm going to pose to Sudhir because this is kind of a follow-up to a question that we answered earlier. And that question is: can you be more specific in terms of the timing of exams for non-U.S. swap dealers? So should all non-U.S. swap dealers expect to be examined this year or perhaps should only some non-U.S. swap dealers expect to be examined?

Sudhir Jain: It would be hard to be specific on the timing of all the examinations. I think it is easy for us to say that not all non-U.S. examinations would be done this year. Some of them will be done. We don't know which ones.

Christie Hillsman: Great. Thanks, Sudhir. Our next question is: how frequently does the swap dealer have to conduct a compliance audit of its offices? Perhaps annually, the same way as other regulatory entities view office audits? Shuna, can you answer that question for us, please?

Shuna Awong: There is no regulation that requires a swap dealer to perform an examination of the office. However, the CCO regulations do require the firm to continuously monitor its compliance with regulations. And this includes all activities pertaining to swap dealing. So we highly recommend -- and this monitoring, of course, could use a risk-based approach.

Christie Hillsman: Great. Thanks, Shuna. And I'm actually going to pose our next question to you as well. And that is: you mentioned that firms should notify NFA of any violations of NFA or CFTC rules. However, should firms be applying a materiality requirement to this?

Shuna Awong: If there is a violation of the rule, we do recommend that you report it to NFA and the CFTC. Now, materiality, you have to make some assessment of that in order to do a proper reporting. For example, if you have a situation where you have one exception in one of your testing, you may want to consider the materiality of that versus something that is prolonged and also where it is more extensive. So -- in -- where you have doubt, I would always recommend to err on the side of caution.

Christie Hillsman: Great. Thanks, Shuna. Our next question I'm going to pose to you, Sudhir. And that is: based on your prior statements that exams will now be risk-based and tailored to the specific firm, do you expect that firms you have been reviewing annually should expect another examination in 2018?

Sudhir Jain: I think it is, again, hard to answer that in a yes or no. There are some firms who we have done an examination and we may have to revisit just because of their risk profile, and it may be the same set of topic areas or it may be some new topic areas. However, we do not expect to visit all the firms who we have visited last year again this year. So there would obviously be some firms who would not get an examination this year.

Christie Hillsman: Great. Thanks, Sudhir. And I'm actually going to pose our next question to you as well. And that is: are there any plans to work with foreign regulators on areas of substituted compliance? So for example, if you see a deficiency in an area of substituted compliance, would you look into that area further or would you refer the deficiency to a foreign regulator potentially?

Sudhir Jain: Generally speaking, we would refer it to the regulator who has jurisdiction in that area. However, depending on the circumstance we may have to do a little bit more work to see, how does it comply with the CFTC regulations and the NFA rules. But generally, it would be a deference.

Christie Hillsman: Great. Thanks, Sudhir. Our next question I'm going to pose back to Shuna. And that is: does every member of senior management need to approve all RTLs collectively? Or is it acceptable for an individual member of senior management to approve RTLs that fall under their specific purview? So in other words, is it acceptable to consider RTLs to have been approved if each RTL was approved by the risk owner or senior manager for that particular area?

Shuna Awong: So for those who are not sure, RTLs are risk tolerance limits. And the regulations are very clear. The regulations require senior management to approve risk tolerance limits.

So what we look at is first determine who the firm has defined as senior management and then we look to determine whether that body or those individuals have approved the limits.

Christie Hillsman: Great. Thanks, Shuna. And our next question is: shall we expect that the next exam will most likely focus on the segregation, among other issues, based on the risk-based assessment? Dan Dan, can you answer that question for us, please?

Dan Dan Liu: Sure, Christie. As we have mentioned in our presentation today that we are -- it's moving toward a full risk-based approach with respect to our swap dealer examinations. So the scope will vary depending on the firm's risk profile.

Christie Hillsman: Great. Thanks, Dan Dan. And this next question looks like it may be our last unless another trickles in here. And that question is: can a firm use a risk-based approach for the annual swap dealer risk management program review conducted by internal audit and tailor the review where the greater risks exist? Shuna, can you answer that question, please?

Shuna Awong: Yes, you can do a risk-based approach, but NFA will also need to get comfortable on that risk-based approach. There are various elements in the risk management program and we do know it covers quite an expansive area of risk management processes. We would recommend that the firm pay sufficient attention using a risk-based approach to each of the different elements of the risk management program and be able to explain to NFA, for example, if you have not reviewed a particular area in the past year or two, why the firm has elected not to review that particular area. As long as you can justify the risk to the firm and it's reasonable to NFA, that should not pose a problem.

Christie Hillsman: Great. Thanks, Shuna. And I think at this point we'd like to wrap up. So I'd like to thank all of you for your participation today. We hope that you found the information we provided to you to be helpful. I'd also like to thank our presenters for contributing so much to today's webinar.

To close, I would like to remind you that, again, you'll be able to access a recording and a transcript of today's webinar on NFA's website by the end of the month, and additionally, if we did not get to your question today, an NFA staff member will respond to you with an answer via email. Please note as well that you may also contact us at any time using the information on your screen. Thanks again for participating in today's webinar.