

Common Exam Findings and How to Prepare for an NFA Exam

Member Regulatory Workshop



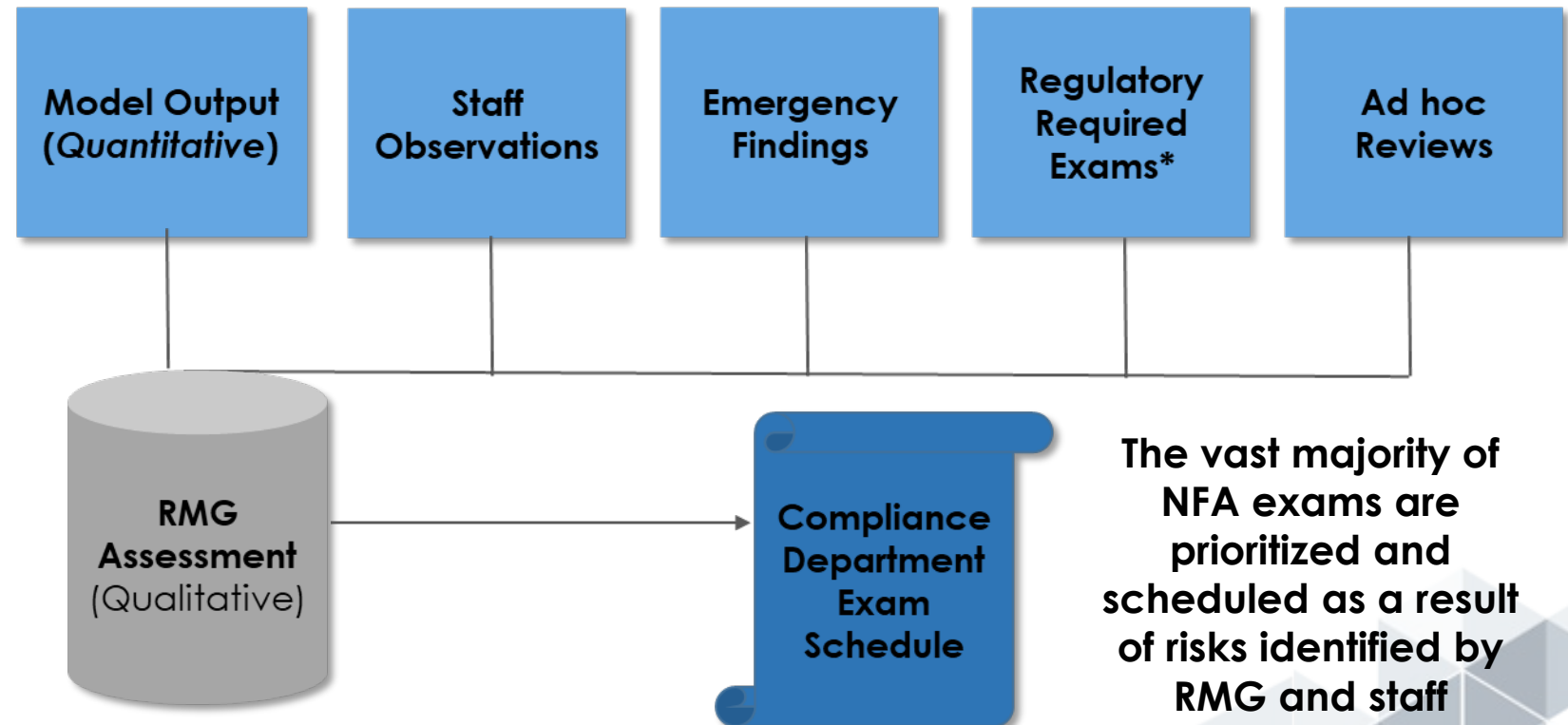
Exam Process

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 RMG and staff

Pre-Exam Work



- Exam Announced
 - Pre-Exam Questionnaire
 - Internal Controls Questionnaire
- Operations Call
 - Document Request List - prioritized
- Regulatory Filing System (RFS)
 - Secure File-Sharing Site
 - Tracking Requests and Due Dates

Exam Approach



- Initial Exam Meetings
 - Virtually via Teams
- On-Site Fieldwork
 - Interviewing key personnel
 - Observing internal control and supervisory processes
 - Reviewing firm records
 - Discussing findings throughout
- Use of screen sharing and email



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

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Common Exam Findings

Procedures Commonly Reviewed



- Cybersecurity/ISSP
- Promotional material
- Broker communications
- Registration of APs
- Bylaw 1101
- Supervision
- Customer complaints
- Third Party Service Providers
- Internal Controls
- Trade communications
- Order placement
- Trade Transfers

AP Supervision

- NFA Compliance Rules place the responsibility on each of its member firms to diligently supervise its employees and agents in all aspects of their commodity interest activities.
- Tailor supervisory procedures for your operations.
- Minimum components for an AP Supervisory Framework:
 - *Written Supervisory Procedures*
 - *Qualified AP Supervisory Personnel*
 - *Pre-Hiring Due Diligence of Prospective APs*
 - *Pre-Trade Communications and related Internal Communications*
 - *Order Handling and Trading Activities*
 - *Training*

Written Supervisory Procedures

Reasonably designed to ensure its APs' activities comply with applicable NFA/CFTC Requirements:

- Identify potential areas of non-compliance;
- Define frequency and scope of supervisory tasks performed;
- Define supervisory records maintained; and
- Procedures to escalate/resolve issues.

Qualifications and Hiring



Qualified AP Supervisory Personnel

- Define areas of supervision and identify by title or position the person(s) responsible for performing each supervisory function.
- Ensure supervisory personnel are appropriately qualified.

Pre-Hiring Due Diligence of Prospective APs

- To determine qualification and eligibility to engage in AP activity, member firms should consider:
 - Background Checks;
 - AP educational and employment information; and
 - Pending and/or prior disciplinary matters (involving derivatives or other regulators).
- Member firms should require APs to notify employer of any new disciplinary, criminal, or other matters that may require disclosure

Pre-Trade Communications

Maintain records of all oral/written pre-trade communications with Customers/Counterparties and Internal Brokers that lead to the execution of a commodity interest.

- Capturing/Retaining AP Communications
- Review of Required Communications
 - Risk-based methodology
 - Identify who will conduct review
 - Documentation of the review
 - Manner (automated or manual)
 - Escalation
 - Evaluate the effectiveness of supervisory measures

Order Handling and Trading Activities



- Supervisory measures in place to review and monitor its APs' order handling and trading activities to identify potential trading misconduct and market abuses.
 - Outline frequency and scope of review
 - Manner (automated or manual)
 - Documentation of the review and any investigation
 - Escalation
 - Evaluate the effectiveness of supervisory measures



Order Handling and Trading Activities



Some supervisory measures to consider:

- Review error accounts and suspense accounts;
- Monitor post trade activities (i.e., bunched order allocations, position transfers);
- Review trade discrepancies and trade data;
- Monitor firm and/or trading desk risk limits;
- Review complaints by customers and/or counterparties;
- Review Firm/AP Discretionary Trading Activity;
- Review Commission to equity ratios (i.e., churning); and
- Review for significant losses, commission charges or large volumes of trade.

Training

APs should be properly trained:

- NFA/CFTC Requirements
- Firm policies/procedures
- Training at regular intervals
- Documentation of training content and AP completion

Third-Party Service Providers

- All registration categories must have written procedures, effective September 2021.
- Written Supervisory Procedures:
 - Initial risk assessment
 - Onboarding due diligence
 - 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).



CPO and CTA Financial Ratios

- Ratios based on firm itself
- 12-month time frame for revenues and expenses
- Accrual accounting
- Maintain ratio support

Notice Filing Requirements of CPOs



Member Filings

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)
- 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
 - 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
 - Prepaid assets
- Liabilities not properly accrued
- Proper charges

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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