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

## London Member Workshop

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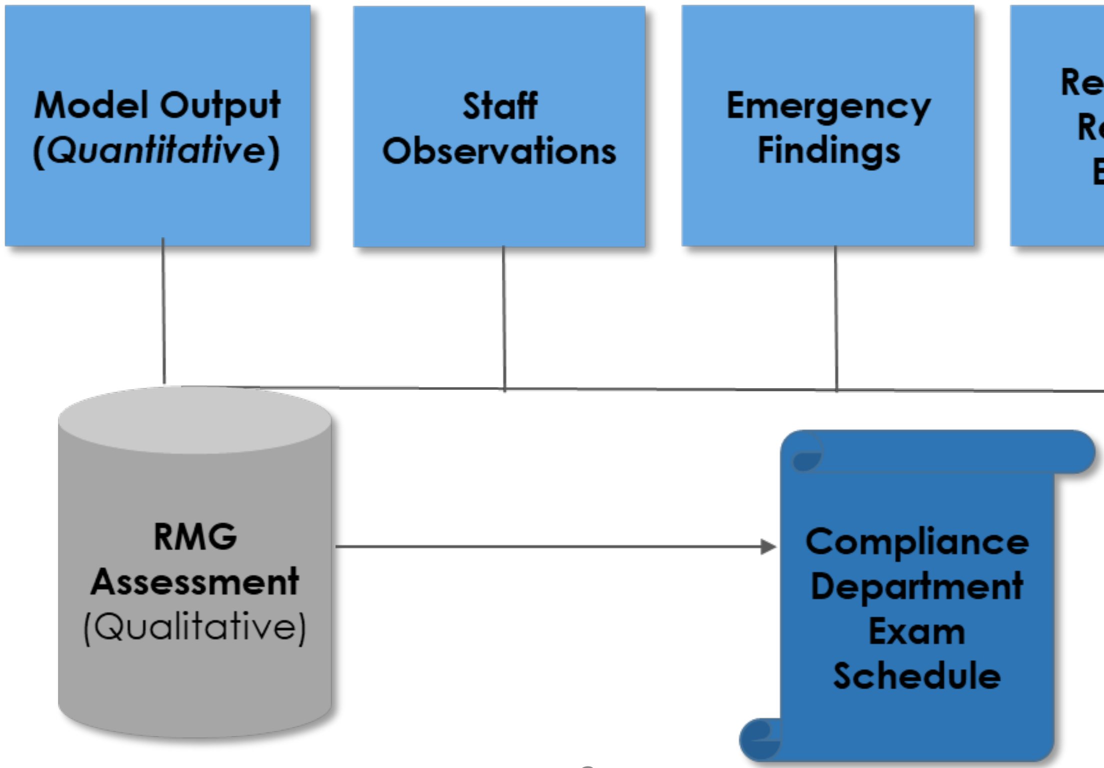
# Exam Process

# 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.**

** Regulatory Required Exams cover registration categories routinely examined in accordance with CFTC regulations.*

# Pre-Exam Work

- Exam announced
  - Firm 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

# Common Exam Findings

# Procedures Commonly Reviewed

- Cybersecurity/ISSP
- Promotional material
- Broker communications
- Registration of APs
- Bylaw 1101
- Supervision of branch offices
- Business continuity plan
- Customer complaints
- Third-party service providers
- Internal controls
- Order placement
- Trade activity, transfers and errors
- Ethics training
- Anti-money laundering

# Third-Party Service Providers

- All registration categories must have written procedures, effective September 2021.
- Written supervisory 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 facts must be supported
- Hypothetical performance requirements:
  - Clearly identified as hypothetical
  - Disclose material assumptions
  - Include hypothetical disclaimer

# Promotional Material Trends

- Finfluencers and third-party advertising agencies
- Referral programs
- Application of NFA requirements on microblogging sites
- Claims regarding the interbank forex market

# CPO and CTA Disclosure

- Performance calculations
- Rates-of-return must be net of fees

# Notice Filing Requirements of CPOs

**Member Filings**

Rule 2-50 Notice Filings must file by 5:00 p.m. following business day if:

- Pool cannot meet its margin call(s);
- Pool 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
  - 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

Common Exam Findings and How to Prepare for an NFA Exam