

# Investment Management Alert

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## NFA Inspects Hong Kong Based Investment Managers

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The U.S. National Futures Association (NFA) has confirmed that it has commenced its first-ever, on-site inspection program of NFA member firms located in Hong Kong. Prior to this current initiative, the NFA's inspections of Hong Kong-based firms have been conducted remotely from the NFA's U.S. offices. The on-site inspections program in Hong Kong is only the NFA's second foray outside of the United States and follows a similar on-site program previously conducted in London.

Consistent with prior NFA global initiatives, one can expect that the on-site inspections will cover a number of NFA member firms in various registration categories, including commodity trading advisors, commodity pool operators and certain brokers. It is important to point out that the NFA inspects only firms that are registered with the U.S. Commodity Futures Trading Commission (CFTC) and are members of the NFA, and not firms that have claimed, or rely on, exemptions from registration with the CFTC.

Topics that firms may see as hot buttons from NFA inspectors include cybersecurity, compliance with NFA By-Law 1101 (the prohibition against doing business with non-NFA-member firms required to be members of the NFA), registration of associated persons and branch offices, transactions that may appear to be loans by pools to their commodity pool operators, performance presentation and reporting, allocation of bunched orders, investor reporting and other topics.

In the absence of any customer complaints or other warning flags, asset management firms reporting either unusually positive or negative performance, firms experiencing significant growth in assets under management, or firms trading in cryptocurrencies or cryptocurrency derivatives may be at higher risk of being subject to an on-site inspection, all other things being equal.

The NFA audit process usually begins with an email outreach, including a multi-tabbed Excel spreadsheet requesting basic data about the recipient firm, followed by an initial meeting and subsequent on-site presence of NFA audit staff producing multiple document requests.

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