

Adviser Settles SEC Administrative Proceeding Regarding Alleged Failure to Safeguard Retail Investor Assets

Tuesday, September 25, 2018

On August 15, 2018, the SEC announced that it had settled an enforcement action against a dually-registered investment adviser and broker-dealer alleging that the firm failed to adopt and implement policies and procedures reasonably designed to safeguard retail investor assets against misappropriation by the firm's representatives.

According to the SEC, the firm used certain automated surveillance tools to review large quantities of data to identify, using pre-set criteria and thresholds, suspicious or unusual transactions or events that could be indicative of fraud or misconduct by firm representatives. Nevertheless, according to the SEC, between 2011 and 2014, these automated tools failed to operate effectively, preventing the firm from detecting the misappropriation of over \$1 million in client funds by five representatives. For example, a transaction-based analysis tool intended to identify attempted direct disbursements from client accounts to accounts controlled by firm representatives required an exact match between the information associated with the disbursement request and information about firm representatives included in an internal database. The SEC alleged that because of the exact match requirement this tool was not reasonably designed to identify suspicious money movement transactions.

Without admitting or denying the foregoing, the firm agreed to be censured, to cease and desist from violating relevant provisions of the Investment Advisers Act of 1940 and to pay a \$4.5 million civil monetary penalty. The firm reimbursed all impacted clients, retained a compliance consultant to assess its policies, procedures and controls regarding the safeguarding of client assets and took steps to implement the consultant's recommendations.

The SEC order is available [here](#).

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