

## A Publication of Seward & Kissel Regulatory Compliance

### Adviser Sanctioned for Mispricing of Cross Trades

An investment adviser [settled](#) charges by the SEC related to the pricing of securities in connection with cross trades between clients. The SEC found that the adviser disadvantaged its selling clients in cross trades by using the securities' bid price in cross trades rather than the midpoint between the bid and the ask price. Further, the SEC found that the adviser disadvantaged certain of its buying clients in cross trades when it arranged for executions at prices based on broker quotations that the adviser had challenged upward. According to the SEC, these cross trade practices were inconsistent with the adviser's policies and procedures and Form ADV disclosures.

### Adviser Settled Charges Related to Misappropriation of Client Assets

The SEC [settled](#) charges against a dually-registered investment adviser and broker-dealer for failing to adopt and implement policies and procedures reasonably designed to safeguard client assets against misappropriation by the firm's representatives and failing to supervise its representatives who misappropriated client assets. The SEC identified the failure of two of the firm's automated surveillance tools designed to detect whether the firm's representatives may be attempting to misappropriate funds from client accounts by changing the address associated with a client's account or directing a cash disbursement to an account controlled by a representative of the firm.

### Private Fund Adviser Sanctioned for Undisclosed and Inconsistent Redemption Policies

An investment adviser [settled](#) charges brought by the SEC for, among other violations, failing to disclose to all investors in its private fund all of their redemption options. According to the SEC, the fund's limited partnership agreement stated that investors may redeem on 90 days' written notice, yet the adviser maintained an informal policy, which was not disclosed to all fund investors, of accommodating partial redemptions on significantly less notice. In addition, the SEC found that the adviser granted full redemptions to a limited number of investors on 60 days' notice, while similarly situated investors were held to the 90 day notice period.

### SEC Agrees to Significant Settlement with Quantitative Manager

The SEC [settled](#) an enforcement proceeding against affiliated investment advisers for launching investment products that used quantitative investment models without first confirming that the

models worked as intended or disclosing the risks associated with using the models. The SEC stated that the advisers' marketing claims that the products are "managed using a proprietary quant model," and the investment management process is "emotionless," "model-driven," or "model-supported" necessarily implied that the models worked as intended. Further, the SEC stated that the advisers failed to disclose to investors the subsequent discovery of numerous errors in the models; the decision to discontinue using one of the models as a result of the errors; or the fact that the models were developed and maintained by an inexperienced research analyst. The advisers were collectively ordered to pay \$97.6 million in disgorgement, interest and civil monetary penalties.

### Adviser Sanctioned for Undisclosed Hypothetical Back Tested Quantitative Ratings

The SEC [settled](#) an enforcement proceeding against an investment adviser for failing to disclose the use of retroactive, back-tested, quantitative stock ratings rather than actual historical ratings in generating advertised performance returns. The SEC concluded that the adviser failed to adopt and implement policies and procedures to prevent false and misleading advertisements, including procedures to ensure that the methodology of calculating returns was clearly and consistently communicated to personnel responsible for preparing and reviewing advertisements and compliance personnel.

### Key Upcoming Compliance Dates

- Quarterly Form 13H Amendment (10/10)
- TIC Form S (10/15)
- TIC Form SLT (10/23)
- Quarterly Code of Ethics Transaction Reports; Periodic Report for CPOs (10/30)
- Form 13F; BE-185; Form CTA-PR (11/14)
- TIC Form S (11/15)
- TIC Form SLT (11/23)
- Quarterly Form PF update for large hedge fund advisers; Form CPO-PQR for CPOs (11/29)
- Periodic Report for CPOs (11/30)

### Online Compliance Subscription Service

SKRC's 2018 Compliance Calendar and other compliance tools and resources are available on our [Online Compliance Subscription Service](#), which is free to our investment adviser clients.

[Seward & Kissel Regulatory Compliance](#) (SKRC) is a service provided by Seward & Kissel LLP.

The information contained in this report is for informational purposes only and is not intended and should not be considered to be legal advice on any subject matter. As such, recipients of this report, whether clients or otherwise, should not act or refrain from acting on the basis of any information included in this report without seeking appropriate legal or other professional advice. This is presented without any warranty or representation as to its accuracy or completeness, or whether it reflects the most current legal developments. This report may contain attorney advertising. Prior results do not guarantee a similar outcome.