

SEC Issues Risk Alert on Investment Advisers' Fee Calculations

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November 15, 2021

On November 10, 2021, the Division of Examinations of the Securities and Exchange Commission (the Staff) issued a [risk alert](#) setting forth notable fee calculation-related deficiencies and related industry best practices observed by the Staff in a recently completed national examination initiative of investment advisers. Through the examination initiative, the Staff identified deficiencies with a majority of advisers examined. In the alert, the Staff noted that fee calculation-related deficiencies often result in financial harm to clients, and may involve violations of an adviser's fiduciary duty to clients and requirements under the Investment Advisers Act of 1940. Fee calculations and related disclosure have been a continued focus of the Staff in recent years.¹ Advisers would be well-served to take note of the Staff's observations regarding industry best practices:

- *Adopt and implement written policies and procedures addressing advisory fee billing processes and validating fee calculations.* Advisers should have written policies and procedures addressing (a) advisory fee computing, billing and testing, and (b) monitoring of fee calculations. Advisory fee computing should include all critical components relevant to an adviser's business. Examples of such critical components identified by the Staff include: (i) valuation of illiquid or difficult-to-value assets, (ii) fee offsets, (iii) pre-paid fee reimbursements for terminated accounts, (iv) prorating fees for additions or subtractions to accounts, (v) family account aggregation (householding) and (vi) the application of breakpoints for fee calculations.
- *Centralize the fee billing process and validate that the fees charged to clients are consistent with compliance procedures, advisory contracts, and disclosures.* The Staff noted that advisers with a centralized process for advisory fee calculation and invoicing had more consistent fee billing practices.
- *Ensure resources and tools established for reviewing fee calculations are utilized.* The Staff observed that advisers utilizing checklists and similar resources to reconcile fee calculations with advisory agreements had more consistently accurate fee calculations.
- *Properly record all advisory expenses and fees assessed to and received from clients.*

If you have any questions regarding the topics discussed in this article, please contact **Jeff VonDruska** at +1 (312) 609 7563, **Rachel Behar** at +1 (212) 407 7641 or any Vedder Price attorney with whom you have worked.

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¹ Overview of the Most Frequent Advisory Fee and Expense Compliance Issues Identified in Examinations of Investment Advisers (Apr. 12, 2018); Division of Examinations, Examination Priorities, 2018-2021.