



September 11, 2024

## CCO Alert: More Marketing Rule Violations

Dear CCOs,

The SEC has continued to hone in on investment advisers' compliance with Rule 206(4)-1 of the Advisers Act (the "Marketing Rule"). Among other things, the SEC is actively reviewing publicly available information on advisers' websites for compliance with (i) the Marketing Rule and (ii) requisite policies and procedures of the firm. Earlier this week, the SEC [settled charges](#) with nine registered investment advisers for disseminating advertisements that included untrue or unsubstantiated statements of material fact, as well as testimonials, endorsements, or third-party ratings that lacked required disclosures. The nine firms paid \$1,240,000 in combined penalties.

These settlements follow the SEC's charging of (i) [nine registered investment advisers](#) last September, with combined penalties totaling \$850,000, and (ii) [five investment advisers](#) in the spring, with combined penalties totaling \$200,000 for advertising hypothetical performance to the general public on their websites without adopting and implementing policies and procedures reasonably designed to ensure that the hypothetical performance was relevant to the likely financial situation and investment objectives of each advertisement's intended audience, as required by the Marketing Rule.

Accordingly, we urge advisers to review all marketing materials, including publicly available content on their (and their supervised persons') websites and social media pages for compliance with the Marketing Rule and internal policies and procedures. If you would like Orical's assistance in conducting this review in light of SEC guidance and our recent examination experience, please contact the Orical team and we would be happy to assist.

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Please contact Orical to discuss any of your regulatory, operational, or compliance concerns, at [info@orical.org](mailto:info@orical.org) or (212) 257-5790.