SEC Enforcement Case Summary
Marketing Rule Violations Sweep

In April 2024, the Securities and Exchange Commission (***SEC***) charged five investment advisers with Marketing Rule violations.

The five advisory firms are:

- GeaSphere LLC
- Bradesco Global Advisors Inc.
- Credicorp Capital Advisors LLC
- InSight Securities Inc.
- Monex Asset Management Inc.

This is the second group of cases in an ongoing enforcement sweep following a continued theme in which the firms were charged with 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.

In a particularly instructive case, one firm, GaeSphere, was also charged with making false and misleading statements in advertisements, advertising misleading model performance, being unable to substantiate performance shown in its advertisements, and failing to enter into written agreements with people it compensated for endorsements. GaeSphere further committed recordkeeping and compliance violations and made misleading statements about its performance to a registered investment company client which were subsequently included in the investment company's prospectus filed with the SEC. Among specific violations noted in the case, GaeSphere posted a promotional video in which it claimed that, unlike other advisers whose clients invest in mutual funds and pay the fund's management fee as well as an advisory fee, it does not "charge clients twice." However, the SEC's order alleged that GaeSphere did charge its clients an advisory fee in addition to fund management fees. GaeSphere was charged with reporting gross performance without net performance, and the SEC noted that the firm's performance calculations were consistently inaccurate, sometimes overstated and sometimes understated. GaeSphere was further faulted for comparing its model portfolio performance to the S&P 500 Index but using the benchmark's price returns rather than total returns with dividends reinvested, which was how the model portfolio performance was calculated.

The five firms settled the cases with combined penalties of $200,000.

See Press Release – https://www.sec.gov/news/press-release/2024-46