

Solutions and Success Stories

Marketing Rule



The changes to the SEC's Marketing Rule have far-reaching implications that require advisers to review and revise their Form ADV, compliance manual, disclosures, policies, recordkeeping procedures, and how performance data is calculated and presented in marketing and advertising materials.

The deadline to comply is **November 4, 2022**. Whether you are 80% of the way there and have a few remaining questions or are just starting to look at the new rule, ACA can help.

Below are just a few examples.

Story #1

Resource Constrained CCO/Compliance Team Looking at the Rule for the First Time in September



The Challenge

An Adviser's CCO was overwhelmed with the 400+ page new rule and needed assistance identifying which areas within the adviser's marketing practices had gaps when compared to the new rule. Once identified, the adviser needed ACA's help in implementing changes to address those gaps.



Our Solution

ACA assigned both an experienced compliance expert and a performance expert to this engagement. ACA conducted a comprehensive gap analysis of the adviser's existing marketing practices. The analysis included a policies and procedures review and marketing material review to identify impacted disclosures and the performance metrics (understanding of hypothetical, extracted, related and predecessor performance) included in marketing materials.



Results

The CCO was provided with a written report assessing the gaps to the new rule that was used as a project plan for implementation. This exercise saved the CCO 40 to 60 hours in conducting the gap analysis internally. The CCO created a working group based on the impacted areas identified in the gap and ACA joined those meetings as a resource on the rule, industry insights, and practical applications. The CCO also greatly benefited from ACA's view of how their peers had tackled similar challenges.

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Story #2

Private Fund Manager Currently Only Showing Gross of Fees Performance for Their Extracted and Hypothetical Track Records



The Challenge

A private fund manager only shows gross returns for their extracted and hypothetical track records in their marketing deck. The new marketing rule requires the manager to also show net performance for “portions of a portfolio that are included in extracted performance.” The adviser needed ACA’s assistance in calculating the track records and including the appropriate disclosures.



Our Solution

A team of ACA performance experts conducted a thorough review of the existing track record spreadsheets and consulted with the adviser as they decided whether model or actual fees was the best choice based on the specific facts and circumstances of the adviser. ACA then built a calculation template for the adviser that they could use to populate to calculate the new track records.



Results

The adviser was provided with the calculation template to calculate the each new net of fees track record. This saved the adviser 100+ hours of work by the CFO and the accounting team in calculating the new track records.

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Story #3

Retail Manager Currently Marketing Rep Accounts (Related Performance)



The Challenge

A retail manager currently markets “rep accounts” in their pitch books and marketing materials. The new Marketing Rule states that related portfolios may only be excluded if the exclusion of any related portfolios would not result in materially higher performance nor alter the presentation of applicable prescribed time periods. This essentially requires an adviser to show all accounts managed to that strategy or to create a composite). The adviser needed ACA’s assistance in creating a project plan to meet this new requirement.



Our Solution

A team of ACA performance experts provided consulting on interpreting the new rule and provided consulting around composite construction. ACA then assisted the adviser in calculating the composites using the adviser’s existing accounting system.



Results

The adviser was able to include the composite performance in their marketing materials and continue to market performance after the November deadline. This saved the adviser 200+ hours in constructing the composites using internal resources.