

>>>FAIRVIEW FLASH REPORT <<<

Investment Manager Settles with SEC for \$35 Million while Former CEO Remains under Investigation

WHAT HAPPENED?	<p>The Securities Exchange Commission (“SEC”) filed an Enforcement Action against Investment Manager F-Squared for “defrauding investors through false performance advertising.” F-Squared allegedly used backward-looking data to illustrate how the firm’s flagship portfolio, AlphaSector, could have hypothetically performed.</p> <p>The SEC filed separate civil charges against Howard Present, the firm’s co-founder and former CEO, who was responsible for the advertising materials displayed on the firm’s website and circulated to clients and prospective clients.</p>
WHAT WERE THE ISSUES?	<p>The investment strategy was specifically advertised by F-Squared and its former CEO as “not backtested” despite the data including dates prior to the portfolio’s existence. Further, the hypothetical performance data was inflated approximately 350 percent due to a substantial miscalculation.</p>
WHAT WAS THE SETTLEMENT?	<p>To settle the claim, F-Squared admitted to violating federal securities laws and agreed to:</p> <ul style="list-style-type: none">• Hire an independent compliance consultant;• Pay disgorgement of \$30 million and a \$5 million penalty; and• Cease and desist from committing or causing violations of securities law. <p>Mr. Present is still under investigation.</p>
TAKEAWAY	<p>“Investors must be able to trust that performance advertisements are accurate,” said Andrew Ceresney, Director of the SEC’s Division of Enforcement.”</p> <p>The separate charge against the firm’s former CEO may indicate an increase in willingness by the SEC to bring personal liability charges against the senior-level managers of Investment Management firms in order to maintain investors’ trust.</p>