

Kit Addleman in InvestmentNews: SEC Share-Class Crackdown Could Spell the End for 12b-1 Fees

August 20, 2020 Kit Addleman

PRACTICES Litigation

Haynes Boone Partner [Kit Addleman](#) talked with *InvestmentNews* about how the Securities and Exchange Commission's aggressive crackdown on fund disclosures to financial advisers has some wondering if the agency is really trying to eliminate the practice.

Here is an excerpt:

The latest SEC salvo came last week when it ordered SCF Investment Advisors of Fresno, California, to pay \$767,192 for allegedly selecting high-fee share classes of mutual fund and money market funds for clients without disclosing that less expensive classes of the same funds were available.

The firm took 12b-1 fees on mutual funds and revenue sharing on the money market funds. SCF did not admit nor deny the charges.

As was the situation with SCF and in the SEC's recently concluded share-class selection initiative, the violations involve investment advisers also registered as brokers who select funds with 12b-1 fees for clients in advisory accounts and then send the 12b-1 revenue to a brokerage affiliate.

The SEC enforcement cases have not said it's inappropriate for investment advisers to pay 12b-1 fees to brokers. The problem is that the advisers are violating their fiduciary duty by not telling their clients about the conflict of interest created by the 12b-1 fee revenue.

But Kit Addleman, a partner at Haynes Boone, said the SEC is setting the disclosure bar so high on 12b-1 fees, there are limited instances in which receiving such payments would be okay.

"The SEC is essentially saying 12b-1 fees are a thing of the past," said Addleman, former director of the SEC's Atlanta office. "There is no amount of disclosure that allows you to keep the fees."

To read the full article, click [here](#).