

Cetera Preps Advisors to Reap Benefits of New SEC Marketing Rule

The firm will be training its advisors on the rule beginning in September, according to director of regulatory affairs Mark Quinn.

By Sam Del Rowe | August 11, 2022

Cetera Financial Group has been ramping up preparations for the **Securities and Exchange Commission's** new marketing rule to ensure that advisors comply with it by the November 4 deadline and reap its benefits.

The rule allows advisors to use testimonials and endorsements, as well as third-party ratings and hypothetical performance, while establishing some prohibitions such as bans on discussing potential benefits without doing so for risks and making misleading statements, as reported.

Cetera has been doing "general education awareness" around the rule since spring of this year, according to director of regulatory affairs **Mark Quinn**.

Beginning in September, the firm will be giving "more specific advisor-focused training," Quinn said.

That training will focus on the "big changes" in the rule, namely the use of paid endorsements, the use of testimonials and advertising, and performance advertising, he added.

What Does the Marketing Rule Do?

Expands the scope of communications that are considered "advertisements" for purposes of the rule.

Allows the use of testimonials, endorsements, third-party ratings and hypothetical performance in advertisements, subject to the rule's principles-based regime.

Expands the scope of solicitation activities, including solicitation of investors or prospective investors in private funds. Further, it applies to solicitations in exchange for compensation which includes both cash and non-cash compensation.

Cetera will not immediately allow advisors to use paid endorsements, according to Quinn.

"The new rule permits compensated endorsements but we're not going to allow that, at least for a while until we figure out exactly how it works," he said.

"The primary problem from our perspective is if you have a paid endorser, the statements that the promoter makes can be attributed to you. We're a bit concerned that we can't control what paid endorsers say in the way that we can control what our advisors say," he added.

Cetera will, however, allow its advisors to make use of testimonials and reviews while warning them about the risks of doing so.

Expressly applies to communications by advisors of private funds.

Source: Wagner Law Group

might even come from competitors.

“For example, 10 of my clients go online and say I’m a wonderful advisor, my service is great, and I’ve done everything they asked and then you get a negative comment that says, ‘I had a bad experience with this guy,’ and it may be anonymous. You don’t know if that’s really a client who had a bad experience or if it’s a competitor or just somebody who doesn’t like you,” he said.

With regard to performance advertising, Quinn said “[t]here were narrowly tailored no-action letters that talked about very specific practices for that prior to the new rule.”

“[N]ow, it’s more principles-based and basically says in general, you can use material so long as it isn’t misleading when taken in context,” he noted.

“Our advisors are interested in this, but I haven’t heard that too many of them have come up with a framework for what they’re going to do,” Quinn said, referring to performance advertising.

In the past, advertisements addressing

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“If you’re going to offer clients or others the ability to comment on your services and give you positive testimonials, you always have to be aware of the fact that you can get negative commentary as well,” Quinn said, noting that negative comments could be anonymous and

Definitions of Testimonials and Endorsements

A testimonial is any statement by a current client or investor in a private fund advised by the advisor: (i) about his or her experience with the advisor or its supervised persons, (ii) that directly or indirectly solicits another to be a client of the advisor or invest in a private fund the advisor advises, or (iii) that refers any client or investor to be a client of the advisor or invest in a private fund the advisor advises.

An endorsement is any statement by a person other than a current client investor in a private fund advised by the advisor that: (i) indicates approval, support or recommendation of the advisor or its supervised persons or describes his or her experience with them, (ii) directly or indirectly solicits any current or prospective client of the investment advisor or investor of a fund the advisor advises, or (iii) refers any current or prospective client or investor to be a client of, or an investor in a private fund advised by, the advisor.

Source: Wagner Law Group

performance were required to include one-, five- and 10-year comparisons. “That’s very hard to do — mutual fund companies can do it because they have a whole apparatus. [For] individual advisors, it’s very hard to monitor performance over that long a period of time,” he added.

The new marketing rule gives advisors a new way of packaging performance advertising.



Mark Quinn

“Now that you don’t necessarily have to do that,” Quinn said, referring to the previous requirements and limitations, “you can speak in terms of shorter time periods or specific recommendations without giving

all of the context that you used to have to give. That’s where I think you’ll get usage.”

Requirements and Prohibitions for Presenting Performance Information

Gross and Net Performance — Gross performance may not be used in any advertisement unless the advertisement also presents net performance.

Prescribed Time Periods — Other than for private funds, performance results in advertisements are required to cover one-, five- and 10-year periods (or life of the portfolio, if shorter).

Statements about SEC Approval — Advertisements cannot include performance results that include any statement, express or implied, that the calculation or presentation of performance results has been approved or reviewed by the SEC.

Related Performance — Performance results of one or more related portfolios may only be used if the presentation includes all related portfolios with substantially similar investment policies, objectives, and strategies as those being offered in the advertisement, with limited exceptions if the excluded related performance would not result in materially higher performance and does not alter the presentation over the one-, five-, and 10-year periods, if applicable.

Extracted Performance — Advisors are prohibited from presenting results of a subset of investments.

Hypothetical Performance — Presenting hypothetical performance (excluding interactive analysis tools and predecessor performance), that were not actually achieved by any portfolio of the advisor are allowed.

Predecessor Performance — Predecessor performance may only be used under certain circumstances.

Source: Wagner Law Group

Video

Young Advisors Want Freedom, Not Schedules

By Emily Dattilo August 11, 2022

Hamilton Capital Partners compliance chief says the registered investment advisor channel offers the freedom that younger advisors want.

The following text is a transcript of a portion of a speaker's presentation made at an industry conference or during an interview. This transcript solely represents the view of the individual who spoke, and not the view of *Financial Advisor IQ* or any other group.

Source: FA-IQ, Jul. 7, 2022

EMILY DATTILO, REPORTER, FINANCIAL ADVISOR IQ: Joining me today is **Blake Fortune** from **Hamilton Capital Partners**. In your opinion, why should younger people join the RIA industry right now?

BLAKE FORTUNE, PARTNER & CHIEF COMPLIANCE OFFICER, HAMILTON CAPITAL PARTNERS:

The freedom in the RIA space, as you know, it's very independent. You can really mold what you want your business to be any way you want. If you go to a traditional wirehouse or brokerage, it's going to be, you serve your time and maybe you'll make it to the top, maybe you won't.

I think it's going to be very difficult in the next few years, five, 10 years down the line, for a big brokerage to go and recruit people, especially those that may have familial books of business or some kind of generational wealth that they're being handed down in the form of a business, simply because they're immediately giving up all the freedom they could have in the RIA space. Now, on the flip side, if I'm playing devil's advocate, it's near impossible to break into the RIA space if you don't have something like that, right? So going to a bigger brokerage house or wirehouse is necessary for you to learn the ins and outs. To learn how to communicate, to learn how to put emails together.

I think the younger generation really wants to be independent. They don't like being told what to do. They don't like being told when to wake up, when to be in the office. You're going to work till five, you're going to work till six. In investment banking, you're going to work till 9:00 p.m. Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, Sunday. This space is rapidly changing. All I can say is I'm excited for the next 10 years.

Now, I also think at the same point, the RIA space is becoming pretty saturated. You're seeing some big-time RIA firms, independent firms that are managing billions and billions of dollars, hundreds of billions of dollars, and it's kind of like oh, well, this team came from a big wirehouse or a big brokerage, and now you pitch to your clients that you're going to be a smaller, maybe a family office-style team, and you're just this enormous, you're sucking up different smaller firms. So I think over the next five or 10 years, you're going to see a lot of smaller firms that of kind of reject that, hey, let's go get a paycheck just to join another firm, and we're going to remain really independent so we can do our own thing.

EMILY DATTILO: Well, thank you for joining us today, Blake.

BLAKE FORTUNE: Yeah. Thank you, guys.

Tags: Staffing and recruiting

Booming Alt Demand Triggers New SEC Reporting Rules

The proposed changes are aimed at making a better assessment of systemic risk among alts managers and giving the commission data to shape regulatory and policy proposals.

August 11, 2022

The **Securities and Exchange Commission** has proposed changes to reporting requirements on private equity, hedge funds and other private fund managers, according to news reports.

The commission's proposal takes aim at Form PF, a confidential filing that's not publicly available launched about a decade ago in the wake of increased SEC scrutiny of the alts investment management industry, FA-IQ sister publication FundFire writes. Current SEC chair **Gary Gensler**, meanwhile, has indicated that the commission should be paying closer attention to the alts industry amid growth in both the market and investor demand, according to the publication.

Between 2013 and the end of the third quarter of 2021, the SEC notes, the private fund market has swelled from \$5 trillion to \$12 trillion.

"I believe that these proposed amendments would bring greater visibility for regulators into an important part of our capital markets," Gensler said, according to the publication.

The proposal aims to "enhance" hedge fund managers' reporting on critical exposures within their portfolios related to investments, borrowing, counterparties, currency and more, as well as amend reporting rules on holdings turnover, risk metrics, investment performance, correlations and other measurements, FundFire writes.

In addition, the SEC wants to ensure it gets more details about hedge fund investment strategies, trading and clearing mechanisms, assets under management, inflows and outflows, fund performance and more, according to the publication.

Advisors with \$150 million or more in private fund assets under management would be subject to the reporting, the proposal states.

The changes put forth by the Commission Wednesday, aim primarily at hedge funds and expand on a proposal the SEC put out in January. The also aim at aligning the securities regulator's standards with **Commodity Futures Trading Commission** regulations, Gensler said, according to FundFire. The proposal also purports to strengthening systemic risk monitoring by the **Financial Stability Oversight Committee**, or FSOC.

"We expect that FSOC would use the new information collected on Form PF, together with market data from other sources, to assist in determining whether and how to deploy its regulatory tools.¹² This may include, for instance, identifying private fund advisers that merit further analysis or deciding whether to recommend to a primary financial regulator, like the SEC or CFTC, more stringent regulation of the financial activities that FSOC determines may create or increase systemic risk. This revised information also would improve our ability to protect investors," text of the document states.

The SEC will seek public comment on the proposal for 60 days after they're formally published, which is expected in the next few days, FundFire writes.

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By Alex Padalka

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Ex-Morgan Stanley FA Ordered to Forfeit \$3.2M by Federal Judge

Shawn Good, accused by the SEC of running a \$4.8 million Ponzi scheme, was barred from selling securities earlier this month by federal judge in North Carolina.

August 11, 2022

A former **Morgan Stanley** financial advisor in North Carolina accused by the **Securities and Exchange Commission** of running a \$4.8 million Ponzi scheme now faces two felony charges, according to news reports.

Shawn Good of Wilmington, North Carolina, was charged with wire fraud and money laundering in connection to an alleged Ponzi scheme involving Morgan Stanley clients, the Triangle Business Journal writes, citing a filing signed by U.S. Attorney **Michael Easley** for the Eastern District of North Carolina.

Prosecutors allege that Good promised investors 6% to 10% returns within months but then used the money from new investors to repay earlier investors as well as concerted funds for personal use, the Business Journal reports.

Prosecutors want Good to forfeit at least \$3.2 million that they say be made from the scheme as well as homes Wrightsville Beach and Broward County, Florida, the Business Journal writes.

The federal criminal case makes allegations similar to the SEC's civil case, which provided more detail about how Good allegedly used the misappropriated funds. According to the commission, Good spent the money to pay for his **Tesla** and **Alfa Romeo Stelvio**, cover more than \$800,000 in personal credit card bills. The SEC also claims that he sent \$110,000 via the payment platform Venmo, with transfers accompanied by messages including "because you're sexy" and "Hotel for Destiny."

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August 8, 2022

Judge Bars Ex-Morgan Stanley FA Charged in \$4.8M Ponzi Scheme

April 19, 2022

SEC Accuses Ex-Morgan Stanley FA of Running Ponzi Scheme

In July, a federal judge in North Carolina barred Good from selling securities, granting the SEC's request for a permanent injunction.

Good was registered at Morgan Stanley from December 2012 until March 10, 2022, according to BrokerCheck. The **Financial Industry Regulatory Authority** barred Good in April over his refusal to appear for testimony into its investigation of his termination from Morgan Stanley, according to his record. The firm said it terminated Good over his

refusal to cooperate with an internal review arising from client accusations, according to BrokerCheck.

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By Alex Padalka

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Fed Help Isn't Coming

Focus' Connectus Wealth Advisers Creates CEO Role

Molly Bennard has assumed the new role after seven years with Focus Financial Partners.

By Sam Del Rowe | August 11, 2022

Focus Financial Partners says its partner firm **Connectus Wealth Advisers** has named **Molly Bennard** in the newly created role of chief executive officer at the firm.

Bennard will join Connectus' global leadership team, which is responsible for executing on its global growth strategy, Focus says.

Prior to joining Connectus, Bennard spent more than seven years with Focus, according to her **LinkedIn** profile. She most recently served as a managing director and co-head of Focus' northeast mergers and acquisitions team and was also responsible for Focus' Australia expansion and Connectus' development and launch, according to Focus.

"Molly has been instrumental in formulating and executing on Connectus' successful expansion strategy since its launch in late 2020. Her history and connectivity with the Focus team and the value-added services Focus offers will provide unique benefits to Connectus," Focus chief operating officer **Rajini Kodialam** said in a statement.

"Her passion for Connectus, its mission and its people makes her the right leader to take the business forward," he added.

Connectus' global leadership team also includes **Amy DeTolla** – who previously spent more than five years with Focus – who leads Connectus' operations team and developed its technology suite and client engagement platform.

The team is supported by **Samuel Jack**, who spent more than eight years at Focus, according to his LinkedIn profile, and **Luke Robinson; Kathleen Alcorn**, who leads marketing and branding for Connectus and its partners with the support of **Jordan Rosen; Andrew Waldren, Shane Hermann, Josh Davison** and **Daniel Rickard**, who support business strategy and portfolio management; **John Stelley** and **Kristen Bell**, who oversee regulatory and compliance matters and **Souvik Paul**, who supports financial reporting, according to Focus.

Focus has three different acquisition models: a partner firm model, a merger model and Connectus.

With the partner firm model, Focus acquires registered investment advisor and management firms. In this model, Focus owns 100% of the assets and acquires on average about 50% of the firm's earnings while the firm owns the other half. Focus gives the firms it acquires access to growth capital and value-added services.

With the merger model, Focus facilitates its current partner firms to acquire wealth management practices and additional customer relationships.

Connectus, itself a partner firm, acquires wealth management practices whose founders are primarily interested in focusing on managing their client relationships.

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Commonwealth Lures \$165M Team from Securities America

The team operates as Censia Wealth Advisors in Santa Rosa, California.

By Sam Del Rowe | August 11, 2022

Commonwealth Financial Network says that a Santa Rosa, California-based advisor team has joined its network of independent advisors from **Securities America**.

Advisors **Janet Hart**, **Kelly Soria** and **Alex Clark** operate as **Censia Wealth Advisors** and have \$165 million in client assets, according to Commonwealth. The team previously operated as **The Hart Group**, Commonwealth says.

Censia is a fiduciary and mainly a fee-based business, according to Commonwealth. It provides investment management and retirement planning guidance, specializing in serving clients who are nearing or already in retirement, Commonwealth adds.

“We were looking for a partner who treats us like we treat our clients, and we’ve found that in Commonwealth,” Hart said in a statement about the move, adding that having access to Commonwealth’s chief investment officer **Brad McMillan** and its in-house planning and research team “was a game changer.”

Hart has been in the industry since 1996, when she registered with **Foothill Securities**, and has also been registered with **Securities America** and **Arbor Point Advisors**, according to her BrokerCheck record.

Soria has been in the industry since 2008, when she registered with Foothill Securities, and has also been registered with Securities America and Arbor Point Advisors, according to her BrokerCheck record.

Clark has been in the industry since 2018, when he registered with **Edward Jones**, and has also been registered with Securities America and Arbor Point Advisors, according to his BrokerCheck record.

Fieldpoint Private FA Flees for Snowden Lane

Al Jacobi has teamed up with Tom Hakala, who joined the firm last month, to form a \$360 million advisor practice.

By Alex Padalka | August 11, 2022

Snowden Lane Partners says it has lured an experienced financial advisor from **Fieldpoint Private**.

Al Jacobi has joined Snowden as senior partner and managing director in the firm’s New York City headquarters, according to the firm. He’s teamed with **Tom Hakala**, who came to Snowden Lane in July, to form **The Jacobi-Hakala Group**, the company says. The team oversees \$360 million in client assets, according to **Snowden Lane**.

“I’m thrilled to be joining Snowden Lane alongside Tom, as the firm has built a great reputation across the wealth management industry,” Jacobi said in the announcement. “I know their established platform will allow me to continue offering clients the customizable financial solutions they deserve, while Snowden Lane’s culture and values align with my ultimate goal of providing objective, conflict-free wealth management advice.”

Before joining Snowden Lane, Jacobi and Hakala served as managing directors at Fieldpoint as well as at **Wilmington Trust**, the company says.

Related Content

July 19, 2022

Fieldpoint Private FA Bolts for Snowden Lane

The Jacobi-Hakala Group is the fifth wealth management practice to join Snowden Lane since mid-April, according to the firm.

Founded in 2011, Snowden Lane has also poached advisors from **Morgan Stanley, Merrill Lynch, UBS, JPMorgan, Raymond James** and **Wells Fargo**, among other firms, and now has 72 advisors working from 12 offices around the country, the company says.

LPL Hires Wells Fargo Alum for Corp Strategy Role

Katelyn Shackleton is expected to lead strategic planning and help accelerate growth.

By Sam Del Rowe | August 11, 2022

LPL Financial says it has hired **Katelyn Shackleton** as executive vice president of corporate strategy and new ventures.

Shackleton is expected to lead strategic planning and help accelerate LPL's growth. She will report to managing director and divisional president of business development **Rich Steinmeier**, LPL says.

"Katelyn is a veteran leader and strategist with a focus on expanding market share, maintaining client retention and developing multi-year business strategies. She has a profound understanding of our industry and its key stakeholders, and experience managing multiple global teams," Steinmeier said in a statement.

The role was previously held by **Aneri Jambusaria**, who has been named executive vice president of LPL's planning and services group.

Before Shackleton joined LPL, she was senior vice president and head of business management, policy office and risk program execution for the chief operating office and chief administrative office at **Wells Fargo**, according to her **LinkedIn** profile. She also served as senior vice president and head of strategy for high-net-worth and wealth management at Wells Fargo.

She had also served as chief of staff and global head of project management and strategy for **Goldman Sachs** Asset Management Operations and as vice president of asset management strategy and business development at **JPMorgan**, according to her LinkedIn profile.

Ex-Goldman Exec Joins Deutsche Bank's Americas Wealth Unit

Rod Colburn built out Goldman Sachs' private bank lending business.

August 11, 2022

Deutsche Bank has added a former **Goldman Sachs** executive to the firm's Wealth Management Americas unit, according to news reports.

Rod Colburn has joined Deutsche Bank as managing director and senior relationship manager, Reuters writes. He's tasked with overseeing lending offerings for ultra high net worth clients, according to the newswire.

Colburn reports to **Anthony Valvo**, Deutsche Bank market head for New York and South East, Reuters writes.

At Goldman, Colburn was a key force in the firm's private bank lending business, originating over \$10 billion of loan transactions, according to the newswire

Colburn joined Goldman in 2008 from **US Trust**, where he held a similar role, according to his **LinkedIn** profile and Reuters.

Prior to Goldman Sachs, Colburn served as a director at **Citigroup Private Bank** from 1990 to 2006, according to LinkedIn.

By Alex Padalka

- To read the Reuters article cited in this story [click here](#).

Focus Financial to Boost Presence in Canada

Calgary, Alberta-based RT Mosaic Wealth Management has joined Focus partner firm Cardinal Point Capital Management.

By Alex Padalka | August 11, 2022

Focus Financial Partners says it's expanding its presence in Canada with a new acquisition.

RT Mosaic Wealth Management, based in Calgary, Alberta, is joining Focus partner firm **Cardinal Point Capital Management**, according to the firm.

Founded in 2010 by **Chris Rawles** and **Spencer Tilley**, RT Mosaic serves high-net-worth individuals and families, Focus says. As part of the deal, Rawles and Tilley are joining Cardinal Point's leadership team, **Jeff Sheldon**, founder and chief executive officer of Cardinal Point, said in the announcement.

"This transaction allows us to continue providing our clients with excellent service, while also being able to leverage Cardinal Point's platform and expertise to further enhance the experience for our clients," Tilley said in the announcement.

Focus didn't disclose the financial terms of the deal, which is scheduled to close in the third quarter.

The addition of RT Mosaic is the second deal for Cardinal Point since joining Focus, according to the company.

Focus chief executive officer and chairman **Rudy Adolf** told analysts during the company's second quarter earnings call last week that "2022 will be one of our best years for M&A."

Focus had closed or announced 14 deals so far this year, which includes 11 mergers from partner firms and three new partner firms, the firm disclosed last week in a regulatory filing.

In 2021, Focus reported 38 deals, which was a **record year of M&A activity** for the firm.

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