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Advisory Firms Fined for Disseminating Misleading Performance Claims Made by Another Firm

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On August 25, the U.S. Securities and Exchange Commission announced fines against 13 investment advisory firms for distributing false claims originally made by F-Squared Investments. In a prior SEC enforcement case, F-Squared admitted that it substantially inflated the performance of a strategy it used for investing in exchange-traded funds. As a result, F-Squared agreed to pay $35 million in penalties to settle the charges in December of 2014.

In this latest set of enforcement actions, the SEC found that 13 advisory firms had "accepted and negligently relied upon" F-Squared's claims about its investment performance. According to the SEC, the firms never substantiated F-Squared's claims, but rather passed on the misleading information to their own clients, who then relied on the inflated data in making investment decisions. The fines, which ranged from $100,000-$500,000, were based on the fees each firm earned from F-Squared's AlphaSector-related strategies.

This enforcement action should be a reminder to advisory firms of the importance of conducting due diligence before advising clients on any investment decisions. As Andrew J. Ceresney, Director of the Enforcement Division of the SEC, cautioned in the SEC's official statement, "When an investment adviser echoes another firm's performance claims in its own advertisements, it must verify the information first rather than merely accept it as fact." Taking statements from other firms at face-value can lead to hefty fines from the SEC, not to mention a loss of clients' trust.