SEC cracking down on investment advisers

Agency files record number of cases in fiscal 2012; more of the same coming

By Mark Schoeff Jr. InvestmentNews   November 14, 2012

The Securities and Exchange Commission is cracking down on investment advisers at a record level, the agency announced on Wednesday.

The SEC took 147 enforcement actions against advisers and investment companies in fiscal year 2012, which ended on Sept. 30. That number is one more than the previous record of 146 set in fiscal year 2011. The agency also took 134 enforcement actions against brokers, a 19% increase over the last fiscal year.

The SEC highlighted cases against UBS Financial Services of Puerto Rico and two of its executives for disclosure violations related to closed-end mutual funds. It also touted a case against Oppenheimer Funds “for misleading investors in two funds suffering significant losses during the financial crisis.”

UBS and Oppenheimer paid more than $26 million and $35 million, respectively, to settle the charges.

Overall, the SEC filed 734 enforcement actions in fiscal year 2012, which fell one short of its fiscal 2011 record of 735. In 2012, the agency obtained more than $3 billion in penalties and disgorgements for harmed investors, an 11% increase over last year. Over the last two years, the SEC has obtained $5.9 billion in disgorgements and penalties.

The agency said that the enforcement productivity is the result of the “most significant reorganization [of the division] since it was established in the early 1970s.” Among other reforms, the division has streamlined its structure, set up specialized units, including the Asset Management Unit, strengthened training, bolstered its tips and complaints process and hired industry experts with experience in complicated financial products and transactions.

“The record of performance is a testament to the professionalism and perseverance of the staff and the innovative reforms put in place over the past few years,” SEC chairman Mary Schapiro said in a statement. “We've now brought more enforcement actions in each of the last two years than ever before, including some of the most complex cases we've ever seen.”

Earlier this week the SEC was mostly dealt a setback in its case against Bruce Bent and his son, Bruce Bent II, who were cleared of fraud in a federal civil trial on Monday. The SEC had charged the pair with misleading investors about the safety of the $62-billion Reserve Primary Fund, a money market fund that “broke the buck” in 2008, when Lehman Brothers Holdings Inc. went bankrupt.

The jury did rule that the company was liable for fraud and that Bruce Bent II was guilty of negligence.

The SEC has been criticized for not punishing Wall Street executives allegedly responsible for the 2008 market collapse. In its announcement on Wednesday, the agency said that it filed “29 separate actions naming 38 individuals, including 24 CEOs, CFOs and other senior corporate officers, regarding wrongdoing related to the financial crisis.”