

Disadvantages of not having a Marketing/Distribution Compliance Team

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This blog discusses how an asset management firm **without** a Marketing/Distribution Compliance Team may be exposed to regulatory risks and subject to scrutiny.

We list below a few points that asset managers should consider:

Unfair and unbalanced content - Sales teams or sales managers could present false and misleading information in marketing documents to attract interest in a particular product. This would, however, be wrong from a regulatory standpoint because the material is neither fair nor balanced. This is where a Marketing Compliance Team could play a crucial role in terms of ascertaining whether the content is true and factual before it is distributed. This would prevent reputational and financial losses for a firm.

Showing the best performance figures - A sales manager or salesperson may select only the best performance figures to present to prospective clients, influencing their decision to invest. For example, while a strategy may have been executed from 1 January 2010, the sales manager may show figures from the company's best performance period since inception - from 1 January 2019 to 31 March 2019. Regulators do not permit such action, as it could persuade a potential investor to invest.

Promissory language - There is a high possibility of promissory language being used when marketing material is created. If a Marketing Compliance reviewer reviews the content, they would ask the author to substantiate a particular claim with sources and relevant back-up references. An example is the claim that a particular strategy "will" provide exceptional returns. From an investment perspective, no firm can guarantee a specific return from a strategy/product. Such promissory language, particularly targeting the general public, can expose a firm to high risk in the absence of a Marketing Compliance Team.

Misleading language - Marketing content provided by a portfolio manager or sales team should be based on facts; otherwise, it could mislead readers. This is where a Marketing Compliance Team could play a crucial role in terms of identifying misleading statements and questioning the portfolio manager or sales team. For example, a statement to the effect that a firm is the best [asset manager](#) in the industry needs to be substantiated with proper references/evidence; otherwise, the Marketing Compliance Team would not approve the content for release.

Not providing balanced content by not mentioning both contributors and detractors - When

top contributors that helped a portfolio perform well are discussed, it is tantamount to an indirect endorsement of those stocks. Material that discusses top contributors needs to be balanced by also mentioning the top detractors (e.g., the top five contributors and the top five detractors). The Marketing Compliance Team will ensure that this is done before signing off on the material.

All asset management firms need a Marketing/[Distribution Compliance Team](#) to ensure all do's and don'ts from a regulatory perspective are adhered to, as safeguarding the reputation of the firm they support is their top priority.

One such instance were SEC fined an investment adviser for failing to supervise one of its employees who engaged in unauthorised in cherry picking scheme

An investment adviser registered with the US Securities and Exchange Commission (SEC). From March 2013 to June 2015 (the "relevant time period"), an investment adviser representative ("IAR") favourably allocated profitable trades to his personal account at the expense of advisor's clients account.

The firm failed reasonably to supervise the IAR who engaged in cherry-picking and failed to implement policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules.

Acuity Knowledge Partners is an influential player in the global financial services market, providing compliance expertise and a wide array of other services. We have a pool of talented staff experienced in reviewing marketing material (such as presentations, website content and brochures) in addition to [social media](#) incidents reported on social media platforms, and identifying risks. They are also knowledgeable in mitigating such risks as per SEC guidelines and regulations (please refer to our [compliance](#) offerings in details).

Please refer to <https://www.sec.gov/enforce/34-86761-s> for detailed information.

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