

May 22, 2025

# SEC MARKETING RULE

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**How the Direction of the New Administration  
Will Impact the Industry**





**Moderator**



**Matt Deatherage, CFA, CIPM**  
**Partner**



**Panelist**



**Lance C. Dial**  
**Partner**

**K&L GATES**

**Panelist**

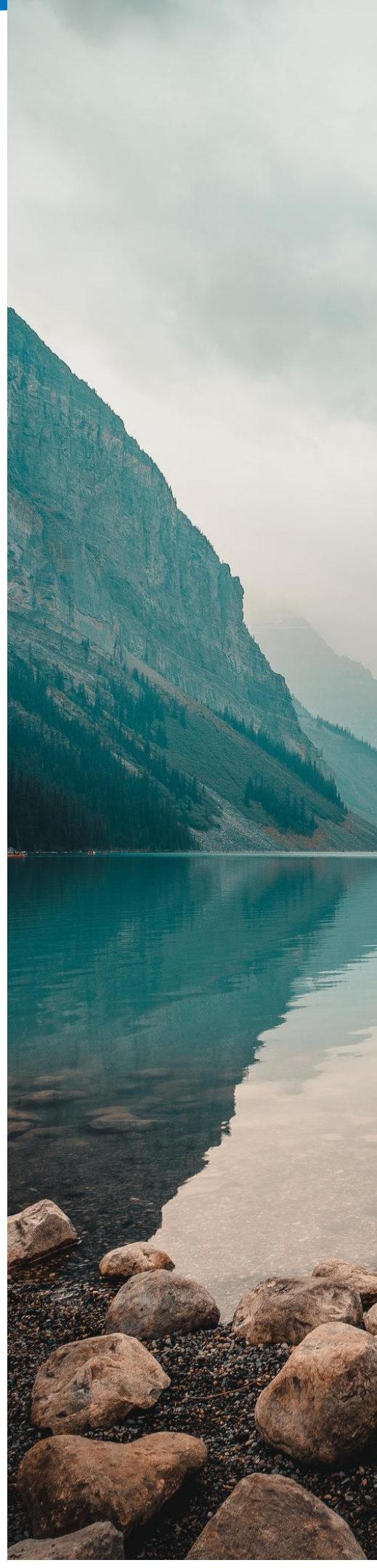


**Thayne E. Gould, MBA**  
**Director**



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# Agenda Overview

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- Enforcements Since Last Year
- FAQ Updates
- Looking Ahead: What's Next?



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# Enforcements

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- Hypothetical Performance
- Testimonials and Endorsements
- Substantiation of Material Claims
- Third Party Ratings
- Required Disclosures



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# FAQ Updates

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- **Considerations for Extracted Performance**
- **Risk Statistics: What is “Performance”?**



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# Looking Ahead: What's Next?

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- Other interpretative guidance
  - Portable track records
  - Model Fees
  - Hypothetical Performance
- Future focal areas for enforcement



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# Appendix

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- **What is an Advertisement?**
  - Any direct or indirect communication made by an investment adviser that is registered, or required to be registered, with the SEC.
  - The definition is intentionally broad to capture communication that is commonly considered an advertisement.
  - Definitions include compensated testimonies and endorsements



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# Appendix

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- **Performance**
  - **Related Performance** – Aggregation of similarly managed accounts
  - **Net of fee performance** (model fee applied is typically preferred)
  - **Prescribed Time Periods** – 1, 5, 10 year or (since inception)
  - **Benchmark** should also be presented in most cases



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# Appendix

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- **Disclosures**
  - **Substantiation – Must be able to substantiate claims made**
  - **Describe and support ratings, endorsements, testimonies**
  - **Fair and balanced presentation or information (holdings, case studies, asset level performance)**



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# Appendix

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- Hypothetical Performance
  - Extracted Performance
  - Model Performance
  - Can only be shown to appropriate recipients
  - Firms must have strong internal controls for the distribution of such information



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# Questions?

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Moderator



**Matt Deatherage, CFA, CIPM**

[matt@longspeakadvisory.com](mailto:matt@longspeakadvisory.com)



Panelist



**Lance C. Dial**

[Lance.Dial@klgates.com](mailto:Lance.Dial@klgates.com)

**K&L GATES**

Panelist



**Thayne E. Gould, MBA**

[TGould@vigilantLLC.com](mailto:TGould@vigilantLLC.com)



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