SEC Charges Voya Advisers for Failure to Disclose Securities Lending Conflict

The Securities and Exchange Commission has charged two investment adviser subsidiaries of Voya Holdings Inc. with failing to disclose conflicts of interest and making misleading disclosures in connection with their practice of recalling securities on loan so that their affiliates could receive tax benefits.

The advisers agreed to pay approximately $3.6 million to settle the charges, including more than $2 million directly to the affected mutual funds for the benefit of their investors.

According to the SEC, Voya Investments LLC and Directed Services LLC served as investment advisers to certain insurance-dedicated mutual funds offered to annuity and life insurance customers through insurance companies affiliated with the advisers.

In order to generate additional income for the mutual funds and their investors, the Voya advisers lent securities held by the funds to parties looking to borrow the securities.

The Voya advisers recalled loaned securities before their dividend record dates so that the advisers' insurance company affiliates, who were the record shareholders of the funds' shares, could receive a tax benefit based on the dividends received, the SEC alleges.

However, the recall practice caused the funds and their investors to lose securities lending income without receiving any offsetting tax benefit. The order found that the Voya advisers failed to disclose the conflict of interest to the funds' board of directors or in the funds' prospectuses.

“These funds and those investing in them weren’t told that they were losing income so that the Voya advisers could provide a tax benefit to their affiliates. Now money will be heading back to the funds to help investors,” said Anthony Kelly, co-chief of the SEC enforcement division’s asset management unit. “Investment advisers must not place the interests of their affiliates over those of clients, depriving them of information necessary to make informed investment decisions.”

The Voya adviser affiliates agreed to be censured and consented to the SEC’s order that they violated certain sections of the Investment Advisers Act of 1940. The Voya advisers agreed to cease and desist from committing any further violations, and neither admitted nor denied the findings.

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