

[Securities Regulation Daily Wrap Up, ENFORCEMENT—SEC charges robo-adviser with misleading investors, \(Feb. 11, 2022\)](#)

Securities Regulation Daily Wrap Up

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By [Anne Sherry, J.D.](#)

The adviser had no policies and procedures in place to ensure it invested clients' assets in Shari'ah-compliant investments, and it used client assets to seed its new ETF without prior disclosure.

The SEC charged robo-adviser Wahed Invest LLC with making misleading statements, failing to disclose conflicts, and failing to adopt policies and procedures to ensure it complied with Shari'ah law as promised. Wahed Invest agreed to pay a \$300,000 penalty for the alleged violations and will hire an independent compliance consultant, among other undertakings (*In the Matter of Wahed Invest LLC*, [Release No. IA-5959](#), February 10, 2022).

Wahed Invest operates a Shari'ah-compliant robo-adviser business marketed to individual investors. Its platform provides an automated investment service that aims to purchase only Shari'ah-compliant securities for clients based on their self-identified risk tolerance. Wahed Invest also uses a Shari'ah compliance firm to assess whether the selected securities are compliant with Shari'ah law.

The Commission charged that Wahed Invest posted on its website and on social media that it had launched several "funds"; in fact, no such funds existed and Wahed Invest placed its clients in individual equity stocks. Wahed Invest also allegedly represented to clients that it periodically rebalanced client accounts, when in fact it had no rebalancing policy and did not conduct any type of rebalancing from at least September 2018 to July 2019.

In July 2019, Wahed Invest launched an ETF to replicate the FTSE USA Shariah Index. Without prior disclosure to clients, the firm sold clients out of their individual stocks and used those assets, totaling over \$13 million, as the initial capital for the new ETF. Going forward, Wahed Invest used those funds and new investments for the portion of each client account allocated to equities. It only disclosed its conflicts related to the ETF in a Form ADV filed after the initial transfer of client assets to the ETF.

Finally, the SEC's order alleges that Wahed Invest failed to adopt and implement policies and procedures to prevent violations of the Advisers Act, specifically concerning marketing materials and the inclusion of the ETF in investment portfolios. Wahed Invest also failed to adopt policies and procedures concerning its Shari'ah decision-making processes, compliance reviews, and oversight. For example, while Wahed Invest marketed its income purification process and promised an annual purification report for each client, it had no policies and procedures addressing Shari'ah compliance and did not provide purification reports.

When Commission staff identified certain issues, Wahed Invest relocated its marketing department to the United States for closer oversight by its U.S.-based CCO, replaced its prior Shari'ah advisory firm, and took certain additional actions to improve its compliance policies and procedures. Throughout the investigation, Wahed Invest voluntarily met with staff on multiple occasions and provided factual summaries of relevant information. Without admitting or denying the Commission's findings, Wahed Invest agreed to settle the matter by paying a \$300,000 civil penalty and complying with undertakings, including retaining an independent consultant.

Adam S. Aderton, co-chief of the SEC Enforcement Division's Asset Management Unit, stressed that "Robo-advisers, like other advisers, must ensure that their marketing materials are not misleading and that conflicts are disclosed to investors."

The release is [No. IA-5959](#).

Companies: Wahed Invest LLC

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