

Calvert's SEC Settlement: A 'Road Map' for Fixing Distribution-Fee Problems

By Beagan Wilcox Volz, *Ignites*, November 4, 2016 [subscription required]

http://www.ignites.com/c/1492013/171783/calvert_settlement_road_fixing_distribution_problem?s?referrer_module=issueHeadline&module_order=0

After agreeing last month to pay \$3.9 million to settle SEC claims that it mispriced bonds held by some of its mutual funds, Calvert is now dealing with another regulatory issue that could spur enforcement action.

On the same day the SEC announced its settlement with Calvert over the valuation problems, the firm disclosed that it had also discovered that its funds had misused about \$18 million of shareholder assets to pay for “distribution-related” services prior to 2015. Such payments for so-called distribution in guise are a violation, and have been a focus of SEC examiners in recent years.

Calvert uncovered the problem in late May and reported it to the regulator in early June, according to its Oct. 18 statement.

“Calvert intends to reimburse affected shareholders for inappropriately charged fees,” the firm stated. Two days later, Eaton Vance announced plans to acquire Calvert’s assets — but not liabilities connected to compliance matters — and a Calvert spokesman disclosed that the firm “has taken the first step in this [reimbursement] process by submitting a plan to the SEC for its review.”

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[In its reimbursement plan], Calvert must ... determine the impact on each account holder — both those who bought fund shares directly from Calvert and those who purchased them through brokerages that bundle clients into omnibus accounts — and reimburse them.

“[T]he SEC is expressing concern about uniform treatment of shareholders,” says Niels Holch, partner at Holch & Erickson and executive director of the Coalition of Mutual Fund Investors. “If you’re writing a check to a bunch of intermediaries and hoping it all works out, you’re treating the underlying customers [in omnibus accounts] differently than direct customers.”

In order to avoid issues like the ones the SEC highlighted in the bond-repricing settlement, Calvert likely will follow the process outlined in that settlement to also rectify the distribution-fee snafu, says Holch.