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Fund Analyst Update

Alger Settles with the SEC

By Katherine Yang | 02-02-07 | 06:00 PM

We're lifting our consider selling recommendation on Alger Funds following the firm's settlement of market-timing and late-trading charges with the SEC.

We've met with Alger officials a number of times to discuss improvements to the firm's compliance efforts and are satisfied that the firm has made significant progress on this front. In addition, the SEC settlement commits the firm to a number of key compliance efforts.

The settlement also makes clear that those involved in facilitating the improper trading activity no longer work for the firm. The settlement documents lay much of the blame at the feet of former vice chairman James Connelly, who left the firm in 2003 and pleaded guilty to tampering with evidence related to the case. In addition, Alger's small marketing and sales staffs have had nearly complete turnover since news of the scandal broke.

### Settlement Details

On Jan. 18, 2007, Fred Alger Management and Fred Alger & Company Inc. finalized a settlement in which they agreed to pay \$45 million. Alger will pay \$30 million to investors hurt by Alger's actions and \$10 million in penalties. Alger will also pay \$5 million in management fee reductions over a five-year period. As part of the settlement, Alger must retain an independent compliance consultant and an independent distribution consultant, and undergo a compliance review in 2008 by a non-interested third party (Click [here](#) for Alger's settlement and [here](#) for the press release.)

Alger hired Barry Mullen as chief compliance officer in 2006 to monitor compliance, sales, trading, and distribution. In addition, the

firm improved board independence. There is now only one interested director on its boards, following the resignations of others. There is also a new independent chairman, Roger Cheever, who has accepted the firm's offer and is currently awaiting official appointment. Alger also plans to provide a fee calculator on its Web site by March 2007.

The SEC found that Connelly had allowed select investors to market-time Alger funds from the mid-1990s to 2003 in order to raise asset levels. Market-timing isn't illegal, but Connelly's actions violated the company's prospectuses (which limited investors to six trades per year) and its stated objective of long-term investing. Connelly negotiated commitments with various entities to buy and hold in some portfolios in exchange for being able to market-time others, according to the documents. Connelly also let hedge fund Veras Capital Partners participate in late trading, in which investors can trade shares at that day's NAV after the markets close.

After these actions came to light in 2003, Alger suspended other employees who were involved.

According to the SEC, the violations harmed long-term shareholders since the portfolio managers held larger cash stakes than necessary in order to meet market-timer redemption requests.

### Our Recommendation

In the wake of the settlement, we recommend that investors now consider each Alger fund on its own merits. However, this change of opinion is not an endorsement of the fund family. The Alger funds have generated uneven investment results, and we don't see a lot of compelling options even now that the scandal cloud has blown over.

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