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SEC Charges Silver Point Capital with Policy Failures Regarding Receipt of Material Nonpublic Information About Bonds Issued by Puerto Rico

Washington D.C., Dec. 20, 2024 —

The Securities and Exchange Commission today charged registered investment adviser Silver Point Capital L.P. with failing to establish, implement, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information (MNPI) relating to its participation on creditors' committees.

According to the SEC's complaint, one of Silver Point's core strategies was to invest in distressed companies. As part of this strategy, and because of the nature of its business, a long-time Silver Point consultant, a now-deceased lawyer, participated on creditors' committees of those distressed companies on Silver Point's behalf. However, the SEC alleges, the firm failed to enforce policies and procedures that were reasonably designed to address the specific risks associated with the consultant's receipt of MNPI as a result of his participation on creditors' committees.

Specifically, the SEC alleges that, from September 2019 through February 2020, the consultant sat on an ad hoc creditors' committee in connection with the restructuring of Puerto Rico's defaulted municipal bonds and received MNPI from a related confidential mediation. According to the complaint, the consultant had extensive communications with Silver Point's public trading desk, without involving the firm's compliance department, at times when he had MNPI from the mediation and while Silver Point continued to buy Puerto Rico bonds. According to the SEC, this created a substantial risk that Silver Point may have misused information from the mediation in connection with its trading of Puerto Rico bonds.

"Silver Point is alleged to have purchased over $260 million of Puerto Rico bonds during the same period that a Silver Point consultant, who possessed MNPI about the same Puerto Rico bonds, had more than five hundred calls with firm employees, including those who actively traded such debt, without involving the firm's compliance department," said Sanjay Wadhwa, Acting Director of the SEC's Division of Enforcement. "Allowing individuals who possess MNPI to have unfettered access to those making trading decisions presents an enhanced risk of misuse of MNPI, and the resulting risks to market integrity and investors are compounded when investment advisers fail to enforce their compliance policies and procedures to prevent the misuse of MNPI."

The SEC's complaint, filed in the U.S. District Court for the District of Connecticut, charges Silver Point with violating provisions of the Investment Advisers Act of 1940 related to establishing and enforcing reasonably designed compliance policies and procedures.

The SEC's investigation was conducted by Sally Hewitt, Heidi M. Mitza, and Jonathan Wilcox of the Public Finance Abuse Unit and Annie Hancock of the Asset Management Unit and supervised by Kevin B. Currid. The SEC's litigation will be led by Susan Cooke and Michael Moran of the Boston Regional Office.

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