ETHICS IN PRACTICE:
Comment on Facebook
Your Responsibility?

CASE STUDY
Wieters runs an investment advisory firm that specializes in equity only asset management. For clients and prospective clients seeking to follow a balanced or fixed-income strategy, Wieters posts on her firm's Facebook page the names of a number of firms that she is familiar with that provide these services. One of the firms replies in the comment section of the post, providing basic performance history information and claiming compliance with the GIPS® standards. Unknown to Wieters, the performance history is misleading and the claim of compliance with the GIPS standards is inaccurate. Has Wieters violated the CFA Institute Code of Ethics and Standards of Professional Conduct?

A. Yes because Wieters must exercise diligence and have a reasonable and adequate basis for every statement made on her firm's Facebook page.

B. No, as long as Wieters does not receive referral fees from the adviser for including the adviser's information in the original post.

C. Yes, if Wieters "likes" the post by the adviser containing the erroneous information.

D. No because Wieters is not responsible for any information posted by third parties in the comment sections of her firm's Facebook page.
ETHICS IN PRACTICE: Raising Capital with Digital Assets?

ANALYSIS
This case involves Standard I(A): Knowledge of the Law, which requires CFA Institute members to "comply with all applicable laws, rules, and regulations ... governing their professional activities." The fact that the tokens are a virtual currency, highly speculative, and thus unsuitable for many investors does not make it unethical for Munchee to offer them as investments. Munchee is not an investment adviser but an investment issuer. It would be up to investors and their advisers to determine whether an investment was suitable for their portfolio. Similarly, from an ethical standpoint, Munchee is free to promote the tokens in a variety of ways as long as the company provides full and complete information about the investment, responds to inquiries from potential investors, and does not provide any fraudulent or misleading information about the tokens. Munchee can direct those who see brief promotional material about the tokens on social media or Twitter to the company's white paper that presumably contains full and complete information about the tokens. Again, it would be up to an investment adviser, not the issuer, to describe the significant limitations and risks associated with buying the tokens from an investor's perspective.

This case turns on whether the tokens are a security and thus need to be registered according to the US securities laws (US law would applicable because Munchee is a US-based company selling the products in the United States). In its 11 December 2017 cease-and-desist order against Munchee, the US Securities and Exchange Commission (SEC) found that the tokens were securities as defined by Section 2(a)(1) of the Securities Act and must be registered. According to the test applied by the SEC, a product is a security if it involves the investment of money in a common enterprise with a reasonable expectation of profits that are derived from the entrepreneurial or managerial efforts of others. Upon being contacted by the SEC, the company immediately canceled the sale and refunded the money of buyers who had bought tokens. Because of this prompt action and Munchee's cooperation, the SEC imposed no additional sanctions. In this case, the best answer is C because Munchee is a US company that violated US Securities laws. The laws of another jurisdiction may not require registration of this type of virtual currency as a security. In that case, Answer A could be appropriate.