

**XI. *Holiday Blues: What FINRA's \$14.4 Million, December 2016 Fines Mean for Firms' Cybersecurity Programs***

In December of 2016, the Financial Industry Regulatory Authority (FINRA) fined twelve firms<sup>1123</sup> (the Firms) for a combined \$14.4 million for “deficiencies relating to the preservation of broker-dealer and customer records” in “write-once, read many” (WORM) format, a system for electronically maintaining records that prevents variation.<sup>1124</sup> In the years leading up to the fines, the Securities Exchange Commission (SEC), together with FINRA, observed that maintaining electronic documents in an unalterable format was an imperative instrument for promoting cybersecurity and keeping track of firms’ compliance with anti-fraud provisions and financial responsibility standards.<sup>1125</sup> Accordingly, the WORM system was implemented through SEC Rules 17a-3 and 17a-4, and FINRA Rules 3110 and 4511, as a means to ensure that various electronic records reflecting broker-dealer deals and trades are complete and accurate and to prevent anyone from altering the records.<sup>1126</sup> FINRA has been particularly aggressive in enforcing these rules, even levying significant fines in the past against other firms for violations in maintaining documents in WORM format.<sup>1127</sup>

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<sup>1123</sup> See *FINRA Fines 12 Firms a Total of \$14.4 Million for Failing to Protect Records from Alteration*, FINRA (Dec. 21, 2016), <http://www.finra.org/newsroom/2016/finra-fines-12-firms-total-144-million-failing-protect-records-alteration> [<https://perma.cc/Z6VU-894K>] [hereinafter *FINRA Dec. 2016 Fines*].

<sup>1124</sup> *Id.*

<sup>1125</sup> Greg Iacurci, *FINRA Slaps 12 Firms with \$14.4 Million Fine for Cybersecurity Issues*, INV. NEWS (Dec. 21, 2016), <http://www.investmentnews.com/article/20161221/FREE/161229984/finra-slaps-12-firms-with-14-4-million-fine-for-cybersecurity-issues> [<https://perma.cc/M9LN-932X>].

<sup>1126</sup> See 17 C.F.R. § 240.17a-3 (2017); § 240.17a-4; FINRA, RULE 3110 (2015); FINRA, RULE 4511 (2014).

<sup>1127</sup> See *FINRA Fines Scottrade \$2.6 Million for Significant Failures in Required Electronic Records and Email Retention*, FINRA (Nov. 16, 2015), <http://www.finra.org/newsroom/2015/finra-fines-scottrade-26-million-significant-failures-required-electronic-records-and> [<https://perma.cc/65C8-DKV5>] [hereinafter *FINRA 2015 Scottrade Fine*]; *FINRA Fines Barclays \$3.75 Million for Systemic Record and Email Retention Failures*, FINRA (Dec. 26, 2013), <http://www.finra.org/newsroom/2013/finra-fines-barclays-375-million-systemic-record-and-email-retention-failures> [<https://perma.cc/M627-B7RD>] [hereinafter *FINRA 2013 Barclays Fine*].

Recently, FINRA has focused even more on combatting cybersecurity problems.<sup>1128</sup> As such, in an attempt to apply a consistent approach to identifying and addressing cybersecurity issues, FINRA fined each of the Firms for multiple deficiencies in their retention policies relating to WORM format.<sup>1129</sup> “FINRA also found that each of the firms had related procedural and supervisory deficiencies affecting their ability to adequately retain and preserve broker-dealer records stored electronically.”<sup>1130</sup> Finally, FINRA found that several of the companies failed to preserve certain broker-dealer records as required under SEC and FINRA rules.<sup>1131</sup>

Each of the Firms settled their respective matters with FINRA, and although they consented to the entry of FINRA’s findings, the Firms neither admitted nor denied the various charges.<sup>1132</sup> The impact these fines will have on the financial market has yet to be seen, but these twelve fines show not only that FINRA is prioritizing cybersecurity and conducting aggressive cybersecurity investigations, but also that all companies need to take comprehensive actions to protect investors and counter potential cybersecurity problems.<sup>1133</sup>

This article examines the history of WORM format, including the importance and necessity of keeping records in such a format, as well as the penalties and facts surrounding the fines imposed against the Firms, and what the fines suggest about FINRA’s cybersecurity concerns. First, Section A discusses the background of WORM format, including various SEC and FINRA rules that established the requirements for keeping records in an unaltered format, and provides previous examples of fines against firms for WORM deficiencies. Section B explores the reasoning behind FINRA’s investigations into the Firms, and the various consent orders and settlements FINRA reached with the Firms. Next, Section C examines the various reactions to the fines, including those from authorities at FINRA,

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<sup>1128</sup> See Jason Schwent & Melissa Ventrone, *FINRA Fines Again Target Financial Firms for Failure to Follow Regs*, THOMPSON COBURN (Jan. 4, 2017), <http://thompsoncoburn.com/insights/blogs/cybersecurity-bits-and-bytes/post/2017-01-04/finra-fines-again-target-financial-firms-for-failure-to-follow-regs> [<https://perma.cc/UH84-VKQU>].

<sup>1129</sup> *Id.*

<sup>1130</sup> See *FINRA Dec. 2016 Fines*, *supra* note 1.

<sup>1131</sup> *Id.*

<sup>1132</sup> *Id.*

<sup>1133</sup> See Iacurci, *supra* note 3.

spokespeople from the Firms, and industry members and participants. Finally, Section D analyzes how these fines reflect ongoing concerns with cybersecurity, and suggests it will continue to be a prominent regulatory focal point.

### A. Background

FINRA is an independent authority “charged by Congress with protecting investors and market integrity by writing and enforcing regulations governing securities firms.”<sup>1134</sup> FINRA relies on security laws implemented by the SEC, such as Rule 17a-3 and Rule 17a-4, to require firms to preserve records in WORM format.<sup>1135</sup>

Specifically, SEC Rule 17a-3 requires brokers and dealers to keep electronic records of blotters, ledgers, customer accounts, and other documents, showing all purchases and sales of securities.<sup>1136</sup> Additionally, SEC Rule 17a-4 requires that such records and documents be kept for a certain amount of time, even after the account transactions have been completed.<sup>1137</sup> Rule 17a-4 also mandates that documents on electronic storage have to be kept in a non-re-writeable, non-erasable format (i.e., WORM).<sup>1138</sup> Further, under FINRA Rule 4511, firms are required to make and preserve records as required, in a format that conforms to SEC Rule 17a-4.<sup>1139</sup>

The central idea behind these rules, and by extension, WORM format, is to prevent tampering of records.<sup>1140</sup> A recent “increase in the amount of sensitive information stored by FINRA members coincides with increasingly aggressive attempts to hack into electronic depositories.”<sup>1141</sup> Accordingly, “[t]his combination of large caches of sensitive information stored by members and aggressive attempts to gain unauthorized access to that information mandates that such information be stored in a manner that preserves the information even

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<sup>1134</sup>Nicholas Drew, *FINRA Cracks Down on Financial Firms for Cybersecurity Deficiencies*, LENDERLAW WATCH (Jan. 12, 2017), <http://www.lenderlaw-watch.com/2017/01/12/finra-cracks-down-on-financial-firms-for-cybersecurity-deficiencies/> [<https://perma.cc/W29D-FT7E>].

<sup>1135</sup>*Id.*

<sup>1136</sup>See 17 C.F.R. § 240.17a-3.

<sup>1137</sup>See § 240.17a-4.

<sup>1138</sup>See Drew, *supra* note 12.

<sup>1139</sup>FINRA, RULE 4511 (2014).

<sup>1140</sup>Drew, *supra* note 12.

<sup>1141</sup>See Schwent & Ventrone, *supra* note 6.

if improperly accessed.”<sup>1142</sup> Finally, the WORM system allows for the preservation of key financial documents in an uncorrupted state, which is a necessary component of FINRA’s auditing and investigative obligations.<sup>1143</sup>

Compliance with these rules is essential to combatting cyberattacks and promoting cybersecurity of financial documents, which are key responsibilities for all firms.<sup>1144</sup> Thus, requiring that records be kept in WORM format is imperative for FINRA’s enforcement duties, as a means to not only protect an ever-increasing amount of electronically stored financial data, but also to combat the growing number of attempts to hack such information.<sup>1145</sup>

In the past, however, various financial firms have not followed these rules.<sup>1146</sup> Two previous FINRA fines—against Barclays and Scottrade—serve as examples of WORM violations.<sup>1147</sup> In December of 2013, FINRA fined Barclays \$3.75 million for “systemic failures to preserve electronic records and certain emails and instant messages in the manner required for a period of at least 10 years.”<sup>1148</sup> These issues were present within all of Barclays’ various business areas, and Barclays was, “unable to determine whether all of its electronic books and records were maintained in an unaltered condition.”<sup>1149</sup> FINRA also found that Barclays failed to “establish and maintain an adequate system and written procedures reasonably designed to achieve compliance” with SEC, National Association of Securities Dealers, and FINRA rules and regulations, or “to timely detect and remedy deficiencies related to those requirements.”<sup>1150</sup> As such, FINRA fined Barclays \$3.75 million, with Barclays agreeing to the findings without admitting to the charges.<sup>1151</sup>

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<sup>1142</sup> *Id.*

<sup>1143</sup> See Schwent & Ventrone, *supra* note 6.

<sup>1144</sup> Cynthia J. Larose, *The FINRA WORM Turns*, NAT’L L. REV. (Jan. 6, 2017), <http://www.natlawreview.com/article/finra-worm-turns> [https://perma.cc/L6Y8-HCHA].

<sup>1145</sup> *Id.*

<sup>1146</sup> See *FINRA 2013 Barclays Fine*, *supra* note 5; *FINRA 2015 Scottrade Fine*, *supra* note 5.

<sup>1147</sup> See *FINRA 2013 Barclays Fine*, *supra* note 5; *FINRA 2015 Scottrade Fine*, *supra* note 5.

<sup>1148</sup> See *FINRA 2013 Barclays Fine*, *supra* note 5.

<sup>1149</sup> *Id.*

<sup>1150</sup> *Id.*

<sup>1151</sup> *Id.*

Approximately two years later, in November of 2015, FINRA fined Scottrade \$2.6 million for WORM violations, specifically for Scottrade “failing to retain a large number of securities-related electronic records in the required format, and for failing to retain certain categories of outgoing emails.”<sup>1152</sup> FINRA determined that “from January 2011 to January 2014, Scottrade did not have centralized document-retention processes or procedures for all firm departments to follow.”<sup>1153</sup> Additionally, Scottrade did not have anyone responsible “for ensuring a consistent document-retention process, fully compliant with the record-retention rules, including the requirement that all records be retained in WORM format.”<sup>1154</sup> Scottrade also failed to keep a large amount of electronic business records in WORM format, and failed to “copy more than 168 million outgoing emails to the firm’s WORM storage device, resulting in the deletion of those emails.”<sup>1155</sup> These violations led FINRA to fine Scottrade \$2.6 million, a settlement in which Scottrade consented to the findings, but did not admit to the charges.<sup>1156</sup>

Although the investigations and subsequent fines against Barclays and Scottrade occurred several years ago, these WORM violations are examples of the types of conduct FINRA has investigated.<sup>1157</sup> Failing to preserve records in required WORM format, and failing to maintain an adequate system of procedures for keeping such records, led to major cybersecurity problems at Barclays and Scottrade.<sup>1158</sup> These failures were precisely the problems that FINRA focused on in its investigations into the Firms.<sup>1159</sup>

## B. FINRA’S December 2016 Fines

In the years leading up to the fines against the Firms, FINRA had named cybersecurity as one of its most important and serious regulatory issues, due in part to the steady increase of electronically stored financial information met by more frequent attempts by hackers

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<sup>1152</sup> See *FINRA 2015 Scottrade Fine*, *supra* note 5.

<sup>1153</sup> *Id.*

<sup>1154</sup> *Id.*

<sup>1155</sup> *Id.*

<sup>1156</sup> *Id.*

<sup>1157</sup> See Larose, *supra* note 22.

<sup>1158</sup> See *FINRA 2013 Barclays Fine*, *supra* note 5; *FINRA 2015 Scottrade Fine*, *supra* note 5.

<sup>1159</sup> See *FINRA Dec. 2016 Fines*, *supra* note 1.

to access such information.<sup>1160</sup> Additionally, FINRA observed firms being lax in following the required document retention rules, and in maintaining records in WORM format.<sup>1161</sup> Accordingly, FINRA decided to engage in a crackdown on cybersecurity lapses by conducting more aggressive investigations into firms' cybersecurity measures.<sup>1162</sup>

Symbolic of its enhanced focus on cybersecurity issues, at the end of December 2016, FINRA fined Wells Fargo Securities, Wells Fargo Prime Services, RBC Capital Markets, RBC Capital Markets Arbitrage, RBS Securities, Wells Fargo Advisors, Wells Fargo Advisors Financial Network, First Clearing, SunTrust Robinson Humphrey, LPL Financial, Georgeson Securities Corporation, and PNC Capital Markets, for a combined sum of \$14.4 million for their failures to keep electronic records in WORM format.<sup>1163</sup> The fines varied from \$500,000 to as high as \$4 million, depending on the number of records involved and the seriousness of each firm's violations.<sup>1164</sup>

Regarding the heavier fines, Wells Fargo Securities and Wells Fargo Prime Services were together fined \$4 million for failing to keep "approximately 350 million records in WORM format," to maintain an audit system suited for inputting records onto electronic storage, and to impose written supervisory procedures regarding WORM requirements, among other violations.<sup>1165</sup> Similarly, FINRA fined RBC Capital Markets and RBC Capital Markets Arbitrage for \$3.5 million for their failures to maintain a large number of electronic brokerage records in WORM format, including "broker-dealer records relating to

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<sup>1160</sup> See Schwent & Ventrone, *supra* note 6.

<sup>1161</sup> See Ann Began Furman, *United States: FINRA Fines Firms for WORM Problems*, CARLTON FIELDS (Apr. 11, 2017), [www.mondaq.com/united-states/x/584982/Securities/FINRA+Fines+Firms+For+WORM+Problems](http://www.mondaq.com/united-states/x/584982/Securities/FINRA+Fines+Firms+For+WORM+Problems) [<https://perma.cc/X5FL-F4YZ>] ("The recent fines levied by FINRA suggest more than isolated instances of non-compliance with the broker-dealer community . . .").

<sup>1162</sup> See Iacurci, *supra* note 3.

<sup>1163</sup> See *FINRA Dec. 2016 Fines*, *supra* note 1.

<sup>1164</sup> Jon Eisenberg & Michael T. Dyson, *FINRA'S Most Significant 2016 Enforcement Actions*, NAT'L L. REV. (Jan. 13, 2017), <http://www.natlawreview.com/article/finra-s-most-significant-2016-enforcement-actions> [<https://perma.cc/Q7U6-3QKZ>].

<sup>1165</sup> FINRA, Letter of Acceptance, Waiver, and Consent No. 2016049784101 (Dec. 21, 2016), <http://disciplinaryactions.finra.org/Search/ViewDocument/67052> [<https://perma.cc/Y2HT-J6SF>].

approximately 172 million trades . . . records of bills payable, records of derivative trades and positions, broker-dealer agreements, ledgers and records relating to policies, procedures and internal control systems.”<sup>1166</sup> FINRA also fined the RBC entities for failing to establish an audit system for recording business records into electronic storage, to “obtain an attestation from their third-party vendor,” and to have a “reasonably designed” supervisory system.<sup>1167</sup>

FINRA’s fines against several of the other firms, such as RBS Securities for \$2 million; Wells Fargo Advisors, Wells Fargo Advisors Financial Network, and First Clearing, for \$1.5 million each; Sun Trust Robinson Humphrey for \$1.5 million; Georgeson Securities Corporation for \$650,000; and PNC Capital Markets for \$500,000, all involved similar failures to maintain millions of electronic records in WORM format, and to retain electronic communications, implement a proper audit system, have adequate supervisory systems.<sup>1168</sup> Additionally, FINRA levied a fine against LPL Financial for \$900,000 for failing to send account notices, ranging from 10 percent of the required notices in 2010, to 42 percent in 2012.<sup>1169</sup> FINRA also fined LPL for failing to keep adequately designed supervisory systems in place to “ensure compliance with its books and records obligations.”<sup>1170</sup>

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<sup>1166</sup> FINRA, Letter of Acceptance, Waiver, and Consent No. 2016049821601 (Dec. 21, 2016), <http://disciplinaryactions.finra.org/Search/ViewDocument/67058> [<https://perma.cc/BQ7N-8XLT>].

<sup>1167</sup> *Id.*

<sup>1168</sup> FINRA, Letter of Acceptance, Waiver, and Consent No. 2016048685301 (Dec. 21, 2016), <http://disciplinaryactions.finra.org/Search/ViewDocument/67063> [<https://perma.cc/A3NS-GZDP>]; FINRA, Letter of Acceptance, Waiver, and Consent No. 2016050274801 (Dec. 21, 2016), <http://disciplinaryactions.finra.org/Search/ViewDocument/67070> [<https://perma.cc/QBQ8-PNL5>]; FINRA, Letter of Acceptance, Waiver, and Consent No. 2016050194501 (Dec. 21, 2016), <http://disciplinaryactions.finra.org/Search/ViewDocument/67059> [<https://perma.cc/KUE9-HRB5>]; FINRA, Letter of Acceptance, Waiver, and Consent No. 2016050194001 (Dec. 21, 2016), <http://disciplinaryactions.finra.org/Search/ViewDocument/67055> [<https://perma.cc/Y46F-CFDX>]; FINRA, Letter of Acceptance, Waiver, and Consent No. 2016050445901 (Dec. 21, 2016), <http://disciplinaryactions.finra.org/Search/ViewDocument/67057> [<https://perma.cc/V6C9-68SA>].

<sup>1169</sup> FINRA, Letter of Acceptance, Waiver, and Consent No. 2015045887301 (Dec. 21, 2016), <http://disciplinaryactions.finra.org/Search/ViewDocument/67053> [<https://perma.cc/VR4F-CTHJ>].

<sup>1170</sup> *Id.*



All twelve of the Firms consented to the findings while not admitting to the charges, and each of the firms settled with the agency.<sup>1171</sup> There is no clear definition of what these “no admit, no deny” settlements mean.<sup>1172</sup> However, “[w]hat FINRA might suggest it means is that the [firm] has agreed to the sanctions imposed and to the technical ‘entry’ of the findings against him or her – but that neither FINRA nor the [firm] are requiring an admission or denial of the regulator’s findings” as a condition of the settlement.<sup>1173</sup> Still, the consent orders are made public, sometimes unbeknownst to the settling entity.<sup>1174</sup> As such, these various fines caused widespread reactions not among the companies involved and at FINRA and within the financial industry, with an ultimate recognition that all market participants must take cybersecurity compliance seriously.<sup>1175</sup>

### C. Reactions and Implications to FINRA’s Fines

News of the December 2016 fines was met with approval by authorities at FINRA.<sup>1176</sup> FINRA’s Executive Vice President and Chief of Enforcement, Brad Bennett, stated that the disciplinary actions were “a result of FINRA’s focus on ensuring that firms maintain accurate, complete, and adequately protected electronic records” and that “[e]nsuring the integrity of these records is critical to the investor protection function because they are a primary means by which regulators examine for misconduct in the securities industry.”<sup>1177</sup>

FINRA also used the fines to show its commitment to combatting cybersecurity issues.<sup>1178</sup> Highlighting the investigation results as examples of the shortcomings it observed, FINRA published

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<sup>1171</sup> See *FINRA Dec. 2016 Fines*, *supra* note 1.

<sup>1172</sup> Bill Singer, *The Four Warnings That Most Brokers Miss When Settling With FINRA*, FORBES (Apr. 12, 2012), <https://www.forbes.com/sites/billsinger/2012/04/12/the-four-warnings-that-most-brokers-miss-when-settling-with-finra/#45481d6e7986> [<https://perma.cc/3HYW-YTK5>].

<sup>1173</sup> *Id.*

<sup>1174</sup> *Id.*

<sup>1175</sup> See Larose, *supra* note 22.

<sup>1176</sup> See *FINRA Dec. 2016 Fines*, *supra* note 1.

<sup>1177</sup> *Id.*

<sup>1178</sup> See *2017 Regulatory and Examination Priorities Letter*, FINRA (Jan. 4, 2017), <http://www.finra.org/industry/2017-regulatory-and-examination-priorities-letter> [<https://perma.cc/9974-P9K5>].



its 2017 Regulatory and Examination Priorities Letter,<sup>1179</sup> listing cybersecurity as one of its most important operational risks.<sup>1180</sup> The letter pointedly remarked that “in multiple instances, firms have failed to fulfill one or more of their obligations under Securities Exchange Act (SEA) Rule 17a-4(f) . . . .”<sup>1181</sup> Suggesting that FINRA targeted the Firms for their lax cybersecurity procedures, the letter explicitly describes the enforcement actions against the Firms for their failures to preserve broker-dealer and customer records in WORM format.<sup>1182</sup> By applying a uniform, consistent approach to combatting cybersecurity issues and by conducting more aggressive investigations, FINRA has shown its willingness to be more assertive in promoting various cybersecurity measures.<sup>1183</sup>

On the other hand, the reactions from the various firms were mixed.<sup>1184</sup> For example, a PNC spokesman stated that there was no proof of any documents being altered or missing, and specifically argued that PNC had already addressed FINRA’s concerns about its electronic storage program.<sup>1185</sup> Further, a spokeswoman for SunTrust Robinson Humphrey stated that the company “self-identified this matter and [was] already taking remedial actions” and that the settlement did not include proof that any client assets or records were misplaced.<sup>1186</sup> Other firms, such as RBC, RBS, and LPL did not comment on the fines.<sup>1187</sup>

Several firms, such as Wells Fargo and Georeson Securities Corporation, took responsibility for these violations.<sup>1188</sup> Wells Fargo spokeswoman Elise Wilkinson stated that the firm takes “compliance with the records storage requirements very seriously” and had not only reported the problems to FINRA, but continued to take corrective action.<sup>1189</sup> Further, a Georeson spokeswoman said “the firm was

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<sup>1179</sup> FINRA publishes a letter towards the beginning of every year, in which it specifies certain topics it will focus on in its annual investigations. *See, e.g., id.*

<sup>1180</sup> *Id.*

<sup>1181</sup> *Id.*

<sup>1182</sup> *Id.*

<sup>1183</sup> *See Larose, supra* note 22.

<sup>1184</sup> *See Iacurci, supra* note 3.

<sup>1185</sup> *Id.*

<sup>1186</sup> *Id.*

<sup>1187</sup> *Id.*

<sup>1188</sup> *Id.*

<sup>1189</sup> *Id.*

already addressing its WORM storage issue at the time FINRA began its examination” and that it was sorry for its error in not maintaining records in WORM format.<sup>1190</sup>

Some firms specifically asserted that FINRA’s findings did not include findings of consumer harm or that client assets were misplaced,<sup>1191</sup> and some professionals thought the fines were excessive in light of the absence of such findings.<sup>1192</sup> Others saw these fines as a reflection of FINRA’s plan to be more assertive in enforcing its cybersecurity rules.<sup>1193</sup>

Accordingly, these fines serve as a wake-up call to industry members to ensure they are compliant with all applicable cybersecurity requirements, which include maintaining all business-related records in WORM format.<sup>1194</sup> FINRA has sent a “clear message” that firms must comply with its cybersecurity regulations relating to WORM.<sup>1195</sup>

#### D. Conclusion

These twelve fines of December 2016 symbolize FINRA’s priority of ensuring compliance with its cybersecurity regulations.<sup>1196</sup> These particular enforcement actions were aimed not only at enhancing firms’ electronic record retention practices, but also strengthening cybersecurity and ensuring that firms take these issues seriously.<sup>1197</sup> What remains to be seen is whether these firms will follow through with their remediation requirements,<sup>1198</sup> whether the Trump Administration will establish any policies that could affect FINRA’s enforcement and investigative powers, and whether FINRA will continue its aggressive

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<sup>1190</sup> *Id.*

<sup>1191</sup> *Id.* (reporting that officials from Wells Fargo and SunTrust Robinson Humphrey stated that no direct harm to customers occurred).

<sup>1192</sup> *See, e.g., FINRA Fines 12 Firms for \$14.4 Million for Failing to Maintain Data in Proper Electronic Format*, CIPPERMAN COMPLIANCE SERV. (Dec. 23, 2016), <http://cipperman.com/2016/12/23/finra-fines-12-firms-14-4-million-failing-maintain-data-proper-electronic-format/> [<https://perma.cc/WN54-7WAM>] (“These are significant fines for IT breakdown in the absence of further allegations of customer harm or a specific hacking incident.”).

<sup>1193</sup> *See* Drew, *supra* note 12.

<sup>1194</sup> *Id.*

<sup>1195</sup> Schwent & Ventrone, *supra* note 6.

<sup>1196</sup> *Id.*

<sup>1197</sup> *Id.*

<sup>1198</sup> *See* Iacurci, *supra* note 3.

investigations into cybersecurity violations.<sup>1199</sup> What remains clear, however, is that FINRA will continue to prioritize cybersecurity compliance and to scrutinize firms' programs to mitigate such risks, including ensuring that firms preserve records in WORM format.<sup>1200</sup>

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<sup>1199</sup> Schwent & Ventrone, *supra* note 6.

<sup>1200</sup> See *2017 Regulatory and Examination Priorities Letter*, FINRA (Jan. 4, 2017), <http://www.finra.org/industry/2017-regulatory-and-examination-priorities-letter> [<https://perma.cc/9974-P9K5>] (“Cybersecurity threats remain one of the most significant risks many firms face, and, in 2017, FINRA will continue to assess firms’ programs to mitigate those risks.”).

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