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Call to action:

The next chapter in CAT (Consolidated Audit Trail) compliance and enforcement

Center for
**Regulatory
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US**

Following years of preparation, development, testing, and implementation, Financial Industry Regulatory Authority CAT LLC (FINRA CAT) has delivered its obligations and the CAT environment is operational. As the industry adoption of CAT reporting has matured, FINRA is focused on **compliance with the rule and the accuracy and completeness** of CAT data submissions.

FINRA recently announced its first CAT enforcement action resulting in a **\$3.8 million fine**. The enforcement action highlights a need to maintain traceability documentation back to the regulation, with a focus on **supervision and controls** to proactively monitor timely, complete, and accurate reporting.



1. What is CAT:¹ In 2012, the Securities and Exchange Commission (SEC) adopted CAT Rule 613 to create the CAT, intended to allow regulators to monitor activity in the National Market System (NMS) securities throughout the US markets. The industry members have been submitting transaction-level reporting to the CAT repository since December 2021. The Customer and Account Information System (CAIS) reporting for CAT will be subject to full compliance in May 2024. CAT collects information on quotes, orders, routes, and trade execution for exchange-listed equities and options, including related events such as cancellations, modifications, and acceptances of an order or route; and customer and account information. It allows for the prompt and accurate recording of information about reportable orders in NMS securities, including the identity of customers, as these orders are generated and then routed throughout the US markets until execution, cancellation, or modification. This information is readily available to regulators in a uniform electronic format. The industry has been focused on the ever-changing technical specifications, development, testing, and production of the reporting programs; however, a risk and control framework are a regulatory imperative.

2. FINRA levies its first fine related to CAT reporting:²

On August 16, 2023, FINRA levied the first fine related to the quality and accuracy of an Industry Member's CAT reporting. An Industry Member "failed to timely and accurately report data for tens of billions of order events."³ The industry member was fined \$3.8 million for deficiencies both in CAT reporting and reasonable supervisory procedures. The depth of investigation indicates FINRA's current and future areas of interest when reviewing firms' CAT programs.

A. The focus on timely and accurate reporting – In its letter of acceptance, waiver, and consent (AWC), FINRA cited the Industry Member's inadequate technical specifications for its order data and supervision of the Industry Member's CAT Reporting Agent. FINRA outlines the necessity for Industry Members to have oversight over reporting agents and vendors.

B. Demonstrate reasonable supervision – In the AWC, FINRA stated the expectation for an effective CAT supervision program includes frequent review of the accuracy of data reported to the CAT Central Repository and reasonable responses to "red flags." Industry Members should verify the data is (1) sent to CAT timely; (2) complete with no missing events; and (3) accurate with all the appropriate data fields reported correctly. It will not be sufficient for firms to only review rejected data.⁴ The comments in the AWC around supervision echo the considerations outlined in the *2023 FINRA Examination and Risk Monitoring Program Report*.⁵

C. Consent Order – As a result of the findings, FINRA issued the following sanctions:

- A censure
- A \$3.8 million fine

- Undertaking of an independent consultant The sanctions imposed by FINRA highlight the significance of not only producing timely, complete, and accurate CAT reports, but also having an effective risk and control framework to identify and address reporting gaps.

3. The call to action: Industry Members to mature their CAT reporting program:

The takeaway from the AWC is how FINRA thinks about trade reporting and what firms need to solve for. "FINRA's Rapid Remediation review process enables FINRA to identify reporting deficiencies early and to alert firms quickly. FINRA expects firms to respond to a Rapid Remediation inquiry by quickly addressing and correcting the identified issues."⁶ This is important for the quality of FINRA's surveillance patterns as well as FINRA's ability to accurately reconstruct market events. While Industry Members, participants, and FINRA alike have worked toward producing timely, accurate, and complete CAT reports, the recent AWC indicates FINRA is also looking beyond simply adhering to CAT specifications. Firms are expected to have a CAT operating model to facilitate timely, complete, and accurate reporting and to proactively resolve issues. In *2023, FINRA published its Examination and Risk Monitoring Program Report*, which includes a list of 12 considerations outlining areas of focus for an effective CAT operating model.⁷ Industry Members are required to implement a sufficient supervisory model including Written Supervisory Procedures (WSPs); error management; and timely, accurate, and complete reporting, in addition—but not limited—to the following focus areas:

- Regulatory change management
- Detailed business requirements
- Data lineage
- Data quality checks
- Proactive data quality controls
- Metrics and reporting
- Effective error correction management
- CAT Reporter Portal Reviews
- Governance and program health monitoring

FINRA continues to send out inquiries to investigate inconsistencies in CAT data submissions and expects firms to exercise supervision and oversight routines to proactively resolve issues in their business-as-usual (BAU) models.

Firms can take proactive steps to review their CAT reporting programs including conducting mock exams, control reviews, and objective framework testing.

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Endnotes

1. Securities and Commission Exchange (SEC) Rule 613, [Consolidated Audit Trail](#), updated January 11, 2023.
2. Instinet, LLC, "[FINRA Letter of Acceptance, Waiver, and Consent, No. 2020067139101](#)," signed August 3, 2023.
3. Ibid.
4. Ibid.
5. [Financial Industry Regulatory Authority \(FINRA\), 2023 Report on FINRA's Examination and Risk Monitoring Program, January 2023](#).
6. Ibid.
7. Ibid.

Center for Regulatory Strategy US

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