



September 30, 2024

Surveying the Waves: A Data-Oriented Study of the SEC's Electronic Communications Recordkeeping Enforcement Actions

EXECUTIVE SUMMARY

- Notwithstanding persistent consternation in our industry over the SEC's electronic communication recordkeeping enforcement actions, data shows that fine amounts have trended downward overall from when the SEC first began its sweeps in September of 2022. Maximum fines have trended downward 72% overall, and the average fine amount has trended downward 91.2% overall.
- The size and complexity of the registrants in the earlier enforcement waves have generally been greater than those of registrants in subsequent waves, which is likely a contributing factor to the lowering of fine amounts. However, other data and information embedded within these enforcement actions suggests that registrant size and complexity is not the only factor that has contributed to seeing less severe outcomes.
- Other factors – such as the egregiousness of the conduct and deficiencies involved, as well as the timing of when an action was brought – appear impactful as well. For example, in over 80% of its enforcement Orders, the SEC cites examples of problematic practices and conduct that predate December 2021, which was when the first of these enforcement actions was issued. This suggests the SEC may be finding fewer issues with registrants as time goes on.
- Based upon this data and information, it appears possible for registrants to design and implement electronic communications recordkeeping practices that can result in improved regulatory outcomes, at least on a go-forward basis. Registrants should consider addressing the following elements in their electronic communications recordkeeping programs: approved electronic communications platforms, corporate issued devices, quarterly compliance self-attestations, surveillance & monitoring, disciplinary frameworks, Compliance oversight & testing, internal audit testing, third-party assessments, and policies & procedures.

INTRODUCTION

Sheer curiosity sparked this month's essay. Last month, as all of you are aware, the SEC announced and settled more charges against 26 investment firms amounting to more than \$390 million in combined fines for failing to adequately preserve electronic communications. The August '24 wave of actions represented the then fifth and then-most recent wave of the SEC's sweep and initiative to hold firms accountable for failing to preserve electronic communications pertaining to their business. This effort dates back to December 2021 and has consisted of six waves since (September '22, August '23, September '23, February '24, August '24, and September '24). As of the August '24 wave, the SEC's efforts had resulted in approximately \$2.1 billion in fines covering 80 investment firms. Then, just this past week, the sixth wave arrived wherein the SEC invited 11 more reluctant guests to the electronic communications enforcement "party." This September '24 wave brought the current grand total to 91 registrants impacted, with total fines amounting to just shy of \$3 billion since 2021. In response to these enforcement waves, industry colleagues and certain SEC Commissioners alike appear exasperated. Many have begun wondering whether it will ever be possible to get things right, or whether this will always be a sore spot and topic we see consistent and widespread fines on as a matter of

course. Some even maintain that once the SEC begins examining a registrant with this topic in focus, a fine is inevitable.

Over the past several weeks, I decided to explore all of the actions (62 in total) comprising these waves. I sought to understand whether it's possible for registrants to achieve improved regulatory outcomes on this topic, and if so, the contributing factors. As part of this undertaking, I employed the following approaches:

- ❖ Reviewing the data regarding fine amounts generally over the several waves of these actions to identify any notable trends (p. 2)
- ❖ Reviewing the particulars of each enforcement action in all of the waves to discern what factors most likely impact fine amounts (pp. 2-4)
- ❖ Reviewing the particulars of each action to elucidate common deficiencies and emerging regulatory expectations (p. 5)

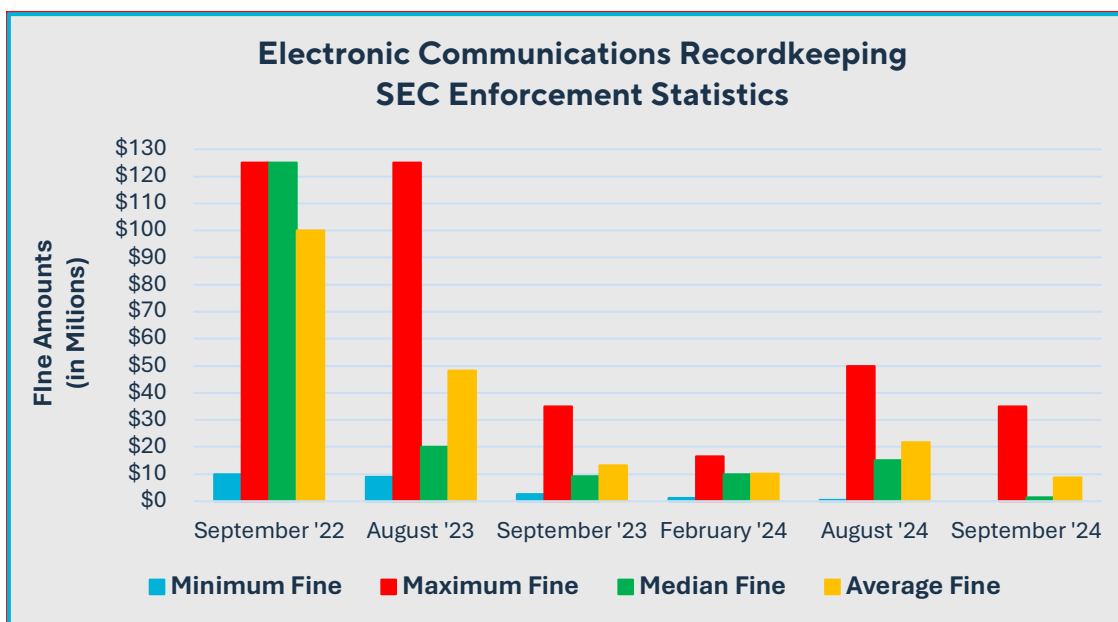
Based upon the aforementioned research and reviews, it does appear possible for registrants to realize improved regulatory outcomes relative to what has occurred in the industry to-date. With the adoption of certain practices and also simply the passage of time, the odds of registrants' electronic communications recordkeeping programs passing regulatory muster will likely increase, notwithstanding inevitable imperfections in the application and execution of those programs by registrants' personnel.

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THE MACRO DATA

Across the six enforcement waves, the data suggests that with respect to fine amounts being levied in each enforcement action, regulatory outcomes appear to be improving. Fine levels have generally trended downward since the first wave of such actions in September '22.

The below table illustrates the trends of fines over the course of the six enforcement waves across the following vantage points: minimum fine, maximum fine, median fine, and average fine.



Although there are nuances embedded within this data that will be addressed in the sections that follows, this macro-level view of the enforcement waves is worth a few moments. As the above table illustrates, overall,

the fine amounts in enforcement actions seem to be tempering. The median fine for registrants in each wave has seen a 98.99% decrease overall (with median fine for the September '22 enforcement wave being \$125 million, and the median fine for the September '24 enforcement wave being \$1.38 million). Similarly, the average fine has seen a 91.2% overall decrease (with the average fine for the September '22 enforcement wave being \$100 million, and the average fine for the September '24 enforcement wave being \$8.8 million). Maximum fines have also trended downward, down 72% overall since September '22, and recognizing as much as an 86.8% decrease in the February wave earlier this year. Last, unlike the maximum fines (which experienced an uptick in the August '24 wave and which now seem to be trending back downward), minimum fines have consistently trended downward during each enforcement wave, experiencing a modest but consistent decrease of 100% (with the minimum fine for the September '22 wave being \$10 million, and the minimum fine for the September '24 enforcement wave being \$0). This macro data suggests that, although all but one registrant complex ensnared in these enforcement waves received a fine, fines themselves appear to be decreasing, which would seem to constitute an improved outcome type.

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CONTRIBUTING FACTORS

Recognizably, certain factors appear to be contributing to fine amounts that are beyond the control of registrants (such as the size and complexity of the registrant that is subject to an action). However, when closely examining the particulars of these actions, other factors emerge that appear within the control of registrants, suggesting registrants are better positioned to improve regulatory outcomes going forward.

Deterrence. Without question, the need to deter future violations appears to be a factor in why we see an overall downward trend in fine amounts since the first wave of these actions in 2022. From the perspective of deterrence, certainly the SEC is going to want to calibrate its level of fine commensurate with the size of a registrant involved. After all, if a registrant doesn't "feel it," what deterrence will come of it? The fine data seems to suggest the downward trend is attributable in part to this factor, and that smaller firms simply do not require the same fine amounts as larger peers to be deterred effectively. For example, large firms like UBS, Credit Suisse, and Wells Fargo (among other) each received a \$125 million fine, whereas mid-large firms such as LPL, Ameriprise, and Raymond James each received a \$50 million fine, and even less large firms such as Cambridge, Key Investment Services, and William Blair each received a \$10 million fine.

In addition to deterrence, however, the particulars of the actions suggest there are two other factors that account for decreased fines: egregiousness and time.

Egregiousness. In all of the actions, the SEC consistently cites examples of the conduct and deficiencies it observed for the applicable registrant. A comparison between the types of conduct and deficiencies observed in the top fining actions compared to actions involving lower fines is informative. For example, in one action involving a \$125 million fine, the SEC notes that for 30 personnel sampled at the registrant, such personnel sent and received tens of thousands of off channel communications. Within this registrant, one Managing Director alone sent thousands of messages off-channel. By comparison, in one action involving a \$25 million fine, the SEC notes as one example for such registrant that a Managing Director exchanged hundreds of text messages or WhatsApp messages. By way of one final comparison involving a \$9 million fine, the SEC notes as one example that a senior leader exchanged simply "numerous" off-channel business communications with other employees during period of review. In each of these actions, the egregiousness of the exemplary conduct – marked by what the SEC observed from singular individuals at each firm – seems to correlate directly to the size of the fines involved.

In terms of the conditions that allowed this type of conduct to persist, the below represents problem themes that appear to have served as fertile ground for such violations. Additionally, in [Appendix A](#), I have

provided a table that more specifically identifies not just all of the registrant complexes who have been ensnared in these actions and their corresponding fine amounts, but also includes the examples of the conduct the SEC calls out specifically in the Order for the corresponding registrant. My hope is that this information is also useful and allows you to assess actions against your peers as you as you think about where risks may lie in your own organization.

PROBLEM THEMES

- Messages being sent through unapproved communication methods, such as text messaging, and those sent from unapproved applications on personal devices, not being monitored, subject to review, or archived
- Failure to implement a system of follow-up and review reasonably expected to determine that all personnel were following firm policies
- Failure to have policies & procedures
- Failure to follow stated policies & procedures
- Self-attestations of compliance that occur less frequently than quarterly
- Lack of employment action/discipline for policy violations
- Senior personnel engaging in problematic communication practices that entangled junior personnel that reported to them
- Failure to preserve off-channel communications

Temporality. In addition to egregiousness, a slightly closer look at one aspect of these actions suggests one more factor that likely accounts for the downward fine trend: time. When reviewing the particulars of the various Orders, one notices that registrants are primarily being held to account for deficiencies that pre-dated the SEC’s inaugural enforcement action on this topic against JP Morgan in December 2021. Indeed, within the terms of the Orders for the 62 enforcement actions that comprise the above table, the SEC provides examples in each Order of the nature of each registrant’s deficiencies, including the time period for each example. For all of the examples cited, in only 11 out the 62 actions does the SEC include deficiencies that occurred since December 2021. In other words, over 80% of the time the SEC is citing as examples deficiencies and conduct that predated the learnings the industry began gleaning from the SEC’s first enforcement Order in this realm with JP Morgan. Moreover, due to the Advisers Act’s relatively standard five-year retention period for most records, a greater proportion of registrants’ electronic communications have creation dates after December 2021 and have had the opportunity to be subject to retention practices adopted in light of the inaugural JP Morgan action. Viewed through this lens, the overall lowering of fine amounts suggests registrants may well be improving and learning. Otherwise, we would see the SEC citing examples of problematic conduct and practices that existed with registrants post-December 2021.

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FROM WAVES TO CALMER WATERS

While one can never have a crystal ball when it comes to the SEC, between the themes mentioned above and looking at examples of conduct cited by the SEC, it does seem that the contours of a reasonably designed Compliance program that could withstand SEC muster have begun to emerge. While one cannot necessarily account for what’s happened in the past, it seems as if there may be hope for mitigating the risk of egregious electronic recordkeeping violations and corresponding regulatory actions going forward.

The following table is meant to illustrate those practices and elements of an electronic communication recordkeeping program that registrants should consider adopting in some shape or form. Such elements will

likely increase the chances of achieving improved outcomes with regulators compared to registrants who have been subject to fines thus far.

ELECTRONIC COMMUNICATIONS RECORDKEEPING PROGRAM BLUEPRINT

Electronic Communications Platforms	<ul style="list-style-type: none"> Introducing proprietary or other third-party on-channel texting platforms, both amongst supervised persons and between supervised persons and clients who enroll in such applications
Corporate Devices	<ul style="list-style-type: none"> Issuing corporate devices to firm personnel with approved communication methods to facilitate firm business communications
Compliance Attestations	<ul style="list-style-type: none"> Quarterly (not annual) self-attestation of compliance by employees
Surveillance & Monitoring	<ul style="list-style-type: none"> Measures to monitor, review, and archive communications sent on approved platforms Implementation of surveillance programs designed to prevent and detect whether employees are communicating off-channel (e.g. key word or phrase searches in on-channel platforms that may suggest off-channel communications may be occurring) Processes for curing breaches and bringing off-channel communications on-channel
Disciplinary Framework	<ul style="list-style-type: none"> The establishment of a disciplinary framework to handle instances of non-compliance, including financial penalties for employees and standards designed to ensure discipline and penalties are administered consistently
Training	<ul style="list-style-type: none"> Training for firm personnel on electronic communication recordkeeping obligations
Compliance Oversight	<ul style="list-style-type: none"> Periodically and systematically assessing the design and operating effectiveness of the above
Internal Audit	<ul style="list-style-type: none"> Electronic communication recordkeeping practices monitored periodically by internal audit, including formal inclusion in annual audit planning
3rd Party Assessments	<ul style="list-style-type: none"> Electronic communication recordkeeping practices periodically assessed by an independent consultant
Policies & Procedures	<ul style="list-style-type: none"> Policies & procedures addressing the above Policies & procedures that state use of unapproved electronic communication methods are prohibited, and which also identify prohibited uses Policies & procedures that clearly state the types of information that constitutes a regulatorily required record and therefore must adhere to approved electronic communication methods

PARTING THOUGHTS

Admittedly, one could spend the better part of a year analyzing the more microscopic nature of all of these Orders, and also look at it from different angles than what I have done. Additionally, as with any set of data, there are outliers in what I've examined that serve as counterpoints to the general themes and trends I've noted, or that at least continue to confound and puzzle. Last, I think the SEC itself has not yet decided on what would be a reasonable approach they want to regulate to, but which I think will emerge after they have had the chance to digest the information received from all of the independent consultants who will be required to be engaged in the vast majority of these actions. However, notwithstanding how there are still many variables and even some unknowns to a degree, the types of practices and conduct the SEC identified as problematic in these Orders, as well as the types of practices it gave credit for and acknowledged, are relatively consistent throughout all of the waves. Given that fine levels overall appear to be trending downward, it would appear industry participants are learning from the past, even if there are wrinkles and things that may puzzle us here and there. While I don't know that firms are out of the woods yet, I do think the amount of bramble and thorns are lessening overall, and that, with the right practices, we will see – or perhaps hear about – more firms emerging from SEC inquiries on this topic unscathed.

Thanks for reading.

APPENDIX A – ELECTRONIC RECORKEEPING ENFORCEMENT DATA & EXAMPLES

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
September 2024	Stifel	\$35M	<ul style="list-style-type: none"> • Desk head exchanged numerous off-channel business-related text messages with at least 15 colleagues and about 10 brokerage customers, investors, or other market participants – within firm, desk head communicated with Managing Directors, global heads, and a junior employee under their supervision • Executive exchanged numerous off-channel business-related text messages with six colleagues and one brokerage customer, investor, or other market participants – within firm, executive communicated with financial advisors and a global head • In several off-channel text message exchanges, different investment adviser representatives communicated with colleagues concerning receipt of client funds
September 2024	Invesco	\$35M	<ul style="list-style-type: none"> • Senior employee of distribution team exchanged multiple text messages with several colleagues concerning strategy regarding platform partnerships – same employee exchanged multiple text messages with personnel at other financial services firms concerning operations of certain alternative investment products • Senior member of global liquidity team exchanged multiple text messages with several colleagues and personnel at other financial services firms discussing certain issues related to, among other things, previously executed trades for the account of advisory clients • Senior employee exchanged multiple off-channel text messages with colleagues, including other senior employees as well as more junior employee, related to, among other things, potential impact of macroeconomic and regulatory developments on certain client funds’ holdings and investment advice proposed to be given as a result
September 2024	CIBC	\$12M	<ul style="list-style-type: none"> • Managing Director and group head who held senior leadership role at the firm exchanged numerous off-channel business-related messages with at least 26 colleagues, four of whom Managing Director and group head supervised; at least five customers, investors, or other market participants; and at least one individual at another financial firm • Another Managing Director and group head exchanged numerous off-channel business-related messages with at least 13 colleagues, 12 of whom they supervised; at least 10 customers, investors, or other market participants; and at least one individual at another financial firm • In off-channel text message exchange, an advisory client asked for and received employee’s advice about securities investment
September 2024	Glazer	\$2M	<ul style="list-style-type: none"> • Personnel exchanged text messages on unapproved electronic platform discussing and operationalizing firm’s investment strategy with respect to certain securities and trades • Personnel texted about buying and selling securities, as well as making of offers and bids for securities
September 2024	Intesa	\$1.5M	<ul style="list-style-type: none"> • Senior executive exchanged numerous off-channel business-related messages with at least five other colleagues • Managing Director exchanged numerous off-channel business-related messages with at least 15 other colleagues • Another Managing Director exchanged numerous off-channel business-related messages with at least five other colleagues
September 2024	Canaccord	\$1.25M	<ul style="list-style-type: none"> • Managing Director exchanged numerous off-channel business-related messages with at least 13 colleagues, including exchanging text messages with Managing Directors and junior personnel under their supervision, and 165 customers, investors, or other market participants

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> Another Managing Director exchanged numerous off-channel business-related messages with at least 26 colleagues, including exchanging text messages with executives, heads of desks, and junior personnel under their supervision, and 69 customers, investors, or other market participants Another Managing Director exchanged numerous off-channel business-related messages with at least 24 colleagues, including exchanging text and WhatsApp messages with Managing Directors and one senior Managing Director, one individual at another financial services firm, and 32 customers, investors, or other market participants
September 2024	Regions	\$750K	<ul style="list-style-type: none"> Personnel exchanged off-channel messages with customer regarding the strategy and terms for potential merger and acquisition transition
September 2024	Focused Wealth	\$325k	<ul style="list-style-type: none"> Employee emailed client list of recommended stocks from personal email account – email further stated employee could be reached on either firm or personal email account Another employee used his personal email account to send client list of individual securities purchased for client, along with recommendation to move money into separate account
September 2024	Alpaca	\$400k	<ul style="list-style-type: none"> Executive officer exchanged numerous off-channel business-related messages with at least five colleagues, including another executive, two other officers, and two vice presidents Director exchanged numerous off-channel business-related messages with at least five colleagues, three of whom were under the director’s supervision Registered representative exchanged numerous off-channel business-related messages with at least three colleagues and five other market participants
September 2024	Qatalyst	\$0	<ul style="list-style-type: none"> Over last decade, firm issued censure letters and fines to at least 17 personnel at all levels of seniority for violations of its policies, both for sending off-channel communications or for failing to timely forward off-channel communications received from outside the firm
August 2024	Ameriprise	\$50M	<ul style="list-style-type: none"> Private wealth adviser exchanged multiple text messages on unapproved platform concerning trade correction in customer’s account Another private wealth adviser and colleague exchanged text messages on unapproved platform concerning customer brokerage account documents Another private wealth adviser sent text message on unapproved platform to client with recommendations to sell and/or buy securities of several specific companies Another private wealth adviser and colleagues exchanged multiple text messages on unapproved platform regarding receipt and deposit of funds from client Another private wealth adviser and colleague exchanged text messages on unapproved platform regarding the performance of three securities recommendations
August 2024	Edward Jones	\$50M	<ul style="list-style-type: none"> Financial advisor exchanged multiple text messages on unapproved platform with customers concerning fund transfers from accounts Another financial advisor and colleague exchanged texts on unapproved platform regarding executing trade in customer’s account Another financial advisor texted on unapproved platform with client concerning investment recommendations Another financial advisor sent text on unapproved platform to client with recommendations about client’s portfolio

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> • Another financial advisor exchanged multiple text messages on unapproved platform with clients concerning placing or executing trades in their accounts • Another financial advisor and client exchanged multiple text messages on unapproved platform regarding portfolio performance
August 2024	LPL	\$50M	<ul style="list-style-type: none"> • Registered representative texted colleague concerning execution of multiple trades in brokerage account • Multiple examples of investment adviser representatives exchanging texts relating to investment advice • Investment adviser representative and client exchanged multiple text messages concerning receipt of additional funds by investment adviser from client • Another investment adviser representative exchanged multiple texts regarding placement of securities trades in client account
August 2024	Raymond James	\$50M	<ul style="list-style-type: none"> • Senior Managing Director and colleague exchanged multiple text messages on unapproved platform concerning possible trade correction in customer's account • Financial advisor exchanged texts on unapproved platform with colleague concerning investment recommendations • Another financial advisor and colleague exchanged multiple text messages on unapproved platform concerning investment advice given to a client • Another financial advisor and client exchanged texts on unapproved platform regarding the receipt and deposit of funds • Another financial advisor sent Senior Vice President text on unapproved platform concerning placing or executing trades in client account
August 2024	RBC	\$45M	<ul style="list-style-type: none"> • Financial advisor wrote to colleague on unapproved platform asking him to execute unsolicited trade requested by customer • Another financial advisor exchanged messages on unapproved platform with client concerning investment advice regarding whether to sell and/or buy securities or specific companies on multiple occasions • Another financial advisor exchanged messages with multiple subordinates on unapproved platform concerning when and how to exercise firm's discretionary authority to transact in advisory clients' accounts • Another financial advisor requested and received written updates on unapproved platform from multiple colleagues concerning placing or executing trades in advisory clients' accounts • Off-channel communications between another financial advisor and his team that related to presentation in which performance of firm-managed portfolio had been discussed
August 2024	BNY	\$40M	<ul style="list-style-type: none"> • Before SEC investigation, senior executive enabled autodelete on personal phone but retained messages on his personal iPad - exchanged off-channel business-related messages on iMessage with at least seven colleagues, including five he supervised (including officers and Senior Vice President) • Before SEC investigation, desk head deleted messages from personal phone - still-extant records reflect he exchanged numerous off-channel business-related text messages on iMessage and WhatsApp with at least 40 colleagues
August 2024	TD	\$30M	<ul style="list-style-type: none"> • Director exchanged numerous off-channel business-related messages with at least 18 colleagues; about 20 customers, investors, or other market participants; and with at least 28 individuals at other firms - within TD, director communicated with executive Managing Directors, directors, vice presidents, and junior employee under their supervise on WhatsApp and LinkedIn

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> Managing Director exchanged numerous off-channel business-related texts with at least 30 colleagues, and with 5 customers, investors or other market participants – individual communicated with Managing Directors, director, and analysts Head of business desk exchanged numerous off-channel communications with 9 colleagues – communicated with heads of desk, VP, and junior employees under their supervision Employees discussed status of execution of an order to purchase or sell securities for advisory client Employees discussed advice given about securities transaction
August 2024	Osaic	\$18M	<ul style="list-style-type: none"> Vice President exchanged numerous off-channel communications with at least 21 colleagues and at least one external contact in the securities industry – also communicated off-channel with junior employees under their supervision Department head exchanged numerous off-channel communications with at least six colleagues, including junior employees under their supervision Investment adviser personnel exchanged off-channel communications related to advice about investment recommendations made or proposed to be made for advisory client accounts
August 2024	Cowen	\$16.5M	<ul style="list-style-type: none"> Senior executive enabled autodelete function on personal phone, meaning that iMessage and SMS messages before October 2022 were lost; however, still-extant messages reflect that executive used iMessage, SMS, and WhatsApp to communicate with at least five firm personnel and two employees of other broker-dealers or investment advisers Managing Director and head of group exchanged numerous off-channel business-related text messages with at least 38 colleagues, three employees of other broker-dealers or investment advisers, and 13 customers, investors, other market participants In one off-channel text exchange between personnel at firm, they discussed receipt of funds into client accounts In another off-channel text exchange between personnel at firm, they discussed advice given to advisory client about securities transaction
August 2024	Piper Sandler	\$14M	<ul style="list-style-type: none"> Department head exchanged numerous off-channel communications with at least 20 colleagues and at least 9 external contacts in securities industry Personnel exchanged off-channel communications regarding investment advice given or proposed to be given to investment advisory clients
August 2024	First Trust	\$8M	<ul style="list-style-type: none"> Managing Director exchanged numerous off-channel messages with at least six colleagues and at least one external contact in the securities industry; also communicated off-channel with junior employees under the manager’s supervision Senior manager exchanged numerous off-channel messages with at least eight colleagues and at least six external contacts in the securities industry; also communicated off-channel with junior employees under the manager’s supervision
August 2024	Apex Clearing	\$6M	<ul style="list-style-type: none"> Senior officer exchanged numerous business-related off-channel messages with at least 32 colleagues and four external contacts in securities industry – also communicated with junior employees under their supervision Department head exchanged numerous business-related off-channel messages with at least 46 colleagues and 21 external contacts in securities industry – also communicated with junior employees under their supervision

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> Department head exchanged business-related off-channel messages with at least six colleagues and 15 external contacts in securities industry – also communicated with junior employees under their supervision
August 2024	Truist	\$5.5M	<ul style="list-style-type: none"> Member senior management had off-channel communications with numerous other employees, including those he supervised, and numerous customers and other industry participants Another senior manager communicated by text with approximately 24 other employees, including those he supervised Personnel exchanged off-channel communications with third-party by providing investment advice
August 2024	Cetera	\$4.5M	<ul style="list-style-type: none"> Senior leader exchanged numerous off-channel communications with external contacts in securities industry Investment adviser personnel exchanged off-channel communications related to advice about investment recommendations made or proposed to be made for investment advisory clients
August 2024	Great Point	\$2M	<ul style="list-style-type: none"> Manager exchanged off channel messages with registered representative regarding securities-related order and trading
August 2024	Hilltop	\$1.6M	<ul style="list-style-type: none"> Department head exchanged text messages with Managing Director regarding terms and pricing of certain transactions Another department head exchanged off-channel communications with potential advisory client regarding proposed roll-over investment
August 2024	Schoenfeld	\$1.25M	<ul style="list-style-type: none"> Employee exchanged text messages on unapproved platform with client concerning investment strategy
August 2024	Haitong	\$400k	<ul style="list-style-type: none"> Executive officer exchanged numerous off-channel business-related messages with at least three colleagues, including another executive and junior personnel under their supervision, one individual at another financial services firm, and eight other market participants Managing Director exchanged numerous off-channel business-related messages with at least three colleagues, all of whom under their supervision; three individuals at another financial services firm; and three other market participants Executive director exchanged numerous off-channel business-related messages with at least three colleagues, one of whom they supervised, and two other market participants
February 2024	Northwestern Mutual	\$16.5M	<ul style="list-style-type: none"> Vice President exchanged off-channel messages with another colleague and with junior employee under their supervision Managing Partner exchanged off-channel messages with colleagues and other external contacts in securities industry Senior officer exchanged off-channel messages with another employee regarding investment advice proposed to be given to advisory clients
February 2024	Guggenheim	\$15M	<ul style="list-style-type: none"> Senior Managing Director exchanged numerous off-channel business-related messages with at least 10 colleagues, over 50 customers, investors, or other market participants, and with six individuals at other financial firms – within firm, individual communicated with senior Managing Directors, Managing Directors, and junior employees under their supervision. Another senior Managing Director exchanged numerous off-channel business-related text messages and WhatsApp messages with at least 10 colleagues and with over 25 customers investors, or other market participants – within firm, individual communicated with senior Managing Directors and vice presidents, and junior employees under their supervision. Another senior Managing Director exchanged numerous off-channel business-related messages with at least 10 colleagues and with over 20 customers, investors, or other market participants – within firm, individual communicated with senior Managing Directors, and junior employees under their supervision

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> In one off-channel text exchange between employees, employees discussed placement of various orders to purchase or sell securities
February 2024	Oppenheimer	\$12M	<ul style="list-style-type: none"> Senior executive exchanged numerous off-channel business-related messages with at least 60 colleagues, including over 12 he supervised, and registered representative of an investment adviser – senior executive’s off-channel communications included over 100 communications related to firm’s business as broker-dealer Managing Director exchanged over 100 off-channel text messages related to firm’s business as a broker-dealer over a roughly one-year period – exchanged messages with at least 15 colleagues, three employees of other broker-dealers or investment advisers, and five customers Another Managing Director used iMessage to communicate with other employees in over 100 messages over a roughly one-year period – in at least two instances, Managing Director also used WhatsApp to communicate with third party regarding securities transaction they were both facilitating
February 2024	Cambridge	\$10M	<ul style="list-style-type: none"> Vice President exchanged numerous off-channel messages with at least six colleagues, including with junior employees under their supervision Division head exchanged numerous off-channel messages with at least four colleagues. Another Vice President exchanged numerous off-channel messages with at least three colleagues and at least one external contact in securities industry Another Vice President exchanged off-channel messages with colleague related to, among other things, investment advice provided to clients
February 2024	Key Investment Services	\$10M	<ul style="list-style-type: none"> Managing Director in investment banking group exchanged numerous off-channel business-related messages with several colleagues, including other Managing Directors, as well as personnel at other financial services firms and market participants Regional Executive and Wealth Market Leader exchanged a number of off-channel messages with several colleagues relating to among other things, firm’s broker-dealer business and investment advice provided to advisory clients
February 2024	Lincoln	\$8.5M	<ul style="list-style-type: none"> Vice President exchanged numerous off-channel messages with at least 55 colleagues, including with junior employees under their supervision Another Vice President exchanged numerous off-channel messages with at least 45 colleagues and at least one external contact in the securities industry – also communicated off-channel with junior employees under their supervision Investment advisory personnel exchanged off-channel messages discussing investment trading strategy for an advisory client’s account
February 2024	US Bancorp	\$8M	<ul style="list-style-type: none"> Senior executive exchanged multiple off-channel business-related messages with at least three colleagues, including a Senior Vice President and senior leader Managing Director exchanged numerous off-channel business-related messages with at least nine colleagues, an individual at another financial services firm, and one customer – within firm, individual communicated with Managing Directors, Senior Vice President, and junior employees under their supervision

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> Senior Vice President exchanged numerous off-channel business-related messages with at least six colleagues, four individuals at another financial services firm, one of which was also customer, and one other market participant – within firm, individual communicated with Managing Director, Director, and junior employees under their supervision
February 2024	Huntington	\$1.25M	<ul style="list-style-type: none"> Director exchanged off-channel messages on at least 68 occasions, including with junior employees under their supervision Officer communicated via text message with regional manager – messages related to, among other things, investment advice given or proposed to be given to investment advisory clients Employees exchanged numerous off-channel messages with each other Employee exchanged off-channel messages with customer
September 2023	Interactive Brokers	\$35M	<ul style="list-style-type: none"> Group head in a US leadership role had off-channel business-related communications via text messaging and WhatsApp with at least 32 other Interactive employees during the period of review, including at least 13 employees they supervised Manager engaged in off-channel business-related text messages and GroupMe messages with at least 20 other employees, including 18 whom they supervised Trader exchanged off-channel business-related text messages with at least 15 other employees, nine individuals who worked at other broker-dealers, and one other participants in securities industry
September 2023	Baird	\$15M	<ul style="list-style-type: none"> Managing Director exchanged numerous off-channel business-related messages with at least seven colleagues and at least four external contacts – same Managing Director also communicated off-channel with junior employees under their supervision Managing Director exchanged numerous off-channel business-related messages with at least five colleagues and at least two external contact – same director communicated off-channel with junior employees under their supervision
September 2023	William Blair	\$10M	<ul style="list-style-type: none"> Partner in investment banking group exchanged numerous off-channel business-related messages with several colleagues and personnel at other financial services firms and market participants - also exchanged off-channel business communications with other partners and more junior employees Partner in private wealth management group exchanged numerous off-channel business-related messages with several colleagues and personnel at other financial services firms relating to, among other things, investment advice provided to clients Partner exchanged numerous off-channel business-related messages with several colleagues and personnel at other financial services firms and market participants, and certain communications related to, among other things, investment advice provided to clients
September 2023	Nuveen	\$8.5M	<ul style="list-style-type: none"> Managing Director in institutional business development group exchanged numerous off-channel business related messages with at least 35 colleagues and at least five external contacts – also communicated with junior employees under their supervision Managing Director in alternative investments group exchanged numerous off-channel business-related messages with at least 36 colleagues and at least four external contacts – also communicated with junior employees under their supervision Registered representative in wealth sales group exchanged numerous off-channel business-related messages with at least 19 colleagues and at least 45 external contacts

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
September 2023	Fifth Third	\$8M	<ul style="list-style-type: none"> Managing Director in institutional fixed income sales group exchanged numerous off-channel business-related messages with at least 63 colleagues and at least 18 customers and investors – also communicated with junior employees under their supervision Managing Director in equity capital markets group exchanged numerous off-channel business-related messages with at least 34 colleagues and at least four customers and investors – also communicated off-channel with junior employees under their supervision
September 2023	Perella Weinberg	\$2.5M	<ul style="list-style-type: none"> Member of senior management had off-channel communications with numerous employees, including employees he supervised, and numerous customers Partner communicated by text message with approximately 12 other employees, including employees he supervised, and several dozen customers Managing Director exchanged texts in group chats with other employees, including some he supervised – also texted numerous firm customers and several dozen employees of other broker-dealers In one exchange between employees, employees discussed recent performance of certain accounts and a recommendation they intended to provide to an advisory client
August 2023	Wells Fargo	\$125M	<ul style="list-style-type: none"> Head of investment banking unit and lead trader in investment banking sent and received more than 1,000 off-channel business related messages to colleagues, investment banking clients, and personnel at other financial services firms Other executives similarly sent 100's of text messages
August 2023	BNP Paribas	\$35M	<ul style="list-style-type: none"> Managing Director in FX business exchanged numerous off-channel business related messages with at least 24 colleagues, as well as personnel at other financial services firms – also communicated with other senior employees and junior employees under their supervision Managing Director in equity derivatives group exchanged numerous off channel business-related messages with at least 19 colleagues, as well as personnel at other financial services firms and market participants – also communicated with other senior employees and junior employees under their supervision Manager in equity derivatives business exchanged numerous off-channel business related messages with colleagues
August 2023	BMO	\$25M	<ul style="list-style-type: none"> Managing Director and co-head of desk exchanged numerous off-channel business-related messages with at least 30 colleagues, with an individual at another financial services firm, and a customer – also communicated with firm’s heads of desks, Managing Directors, and junior employees Managing Director of one of trading desks exchanged numerous of-channel business-related messages with at least 34 colleagues, as well as personnel at other financial services firms and a customer – Managing Director communicated with Managing Directors and junior employee under their supervision Managing Director and head of trading desk exchanged numerous off-channel business-related messages with at least 20 colleagues and at least three customers – within firm, communicated with Managing Directors, Directors, and junior employees under their supervision
August 2023	Houlihan Lokey	\$15M	<ul style="list-style-type: none"> Senior leader exchanged numerous off-channel business-related messages with colleagues over whom he had authority – text messages covered internal firm business, financials, status updates, and workplace dynamics, and included conversations with other senior leadership

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> Managing Director who was head of business group exchanged messages with employees who reported to him in US and abroad – employee texted business communications with at least one employee of another broker-dealer, and with a number of customers
August 2023	Moelis	\$10M	<ul style="list-style-type: none"> Senior executives exchanged numerous off-channel business-related messages with about 30 colleagues, as well as additional investment banking clients, and personnel at other financial services firms – senior executive communicated off-channel with other senior executives and junior employees under his supervision Another senior executive exchanged numerous off-channel business-related messages with colleagues, about 28 clients and other market participants, and personnel at other financial services firms – within firm, senior executive communicated off-channel with over 30 employees, including junior employees under his supervision
August 2023	SMBC Nikko	\$9M	<ul style="list-style-type: none"> Senior leader exchanged numerous off-channel business communications with at least 29 other employees during period of review, including at least two employees he supervised – also communicated off-channel with at least three individuals who worked at other broker-dealers about firm’s business Managing Director and head of trading communicated via text and WhatsApp with at least 14 other employees, including at least five whom he supervised Managing Director and head of one of trading desks exchanged text and WhatsApp messages with at least 27 other employees, including three whom he supervised – Managing Director also had off-channel communications with at least four individuals who worked at other broker-dealers
August 2023	SG Americas	\$35M	<ul style="list-style-type: none"> Senior executive exchanged text messages with over 24 employees, including superiors and at least five employees who reported to him – also communicated with other market participants by text Managing Director who was head of capital markets desk exchanged text, WhatsApp, and LinkedIn messages with at least six other employees – Managing Director also exchanged text messages with at least one non-market participant – Managing Director deleted text messages related to business from personal device Another Managing Director who was head of business group exchanged texts or WhatsApp messages with at least 17 employees, including at least 10 he supervised – also routinely exchanged texts with employees of other broker-dealers or investment advisors, customers, or other market participants – recalled texting roughly 20 such individuals during relevant period
August 2023	Mizuho	\$25M	<ul style="list-style-type: none"> Managing Director exchanged text messages with dozens of employees, some of whom reported to him, in US and abroad – this employee also had business communications by text or WhatsApp with at least four customers or securities-market participants external to firm Managing Director who was head of trading desk exchanged text messages with almost 10 other employees, including four employees who reported to him, about firm’s business – also communicated with two market participants by WhatsApp message Managing Director who was head of business group exchanged 100’s of text messages or WhatsApp messages with at least 24 employees, including at least two he supervised – messages covered variety of topics related to his work in securities markets, including work on existing transactions and potential new transactions, and in at least four instances involved communications external to firm – until late 2022, this

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			Managing Director had practice of deleting WhatsApp messages, so it is likely that some business records held by this Managing Director no longer exist
August 2023	Wedbush	\$10M	<ul style="list-style-type: none"> Executive Vice President in securities lending and fixed income departments exchanged numerous off-channel business-related messages with at least 32 colleagues and personnel at other financial services firms – within firm, this senior member communicated off-channel with other division heads, as well as more junior employee Executive Vice President in wealth management division exchanged numerous off-channel business-related messages with at least nine colleagues, personnel at other financial services firms, and market participants – this senior member communicated off-channel with other division heads, as well as more junior employees
September 2022	Barclays	\$125M	<ul style="list-style-type: none"> 30 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry Managing Director in investment bank sent and received 1000's of off-channel business-related messages to colleagues, investment banking clients, and personnel at other financial services firms – also routinely communicated with other Managing Directors and junior employees under his supervision – Managing Director received 1000's of off-channel text messages – messages concerned, among other things, broker-dealer's business, including investment strategy, discussion of meetings, and communications about market color, analysis, activity trends, or industry events Another Managing Director and trading desk head who supervised fixed income trading desk texted with more than 29 colleagues in various areas of firm, including with product and desk heads, junior members of trading desks, and senior and junior personnel in sales and trading programs – Managing Director also texted with numerous third parties, who were market participants at other broker-dealers and investment advisers
September 2022	BofA Securities	\$125M	<ul style="list-style-type: none"> 30 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry Managing Director who held a US-wide leadership role in investment bank sent and received 1000's of off-channel business-related messages to colleagues, investment banking clients, and personnel at other financial services firms –sent and received substantial number of text messages that concerned, among other things, firm's securities business, including investment strategy, discussions of investment banking client meetings, and communications about market color, analysis, activity trends or events in equity capital markets across the US Managing Director and trading desk head who supervised an equity markets trading desk texted with more than 50 colleagues, including with product and desk heads, junior members of trading desks, and senior and junior personnel in sales and trading programs – also texted with numerous third parties, including other market participants
September 2022	Citigroup	\$125M	<ul style="list-style-type: none"> 30 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> A now former Managing Director who held a global firm-wide leadership role in investment bank sent and received 1000's of off-channel business-related messages to colleagues, investment banking clients, and personnel at other financial services firms – this senior investment banker sent and received a substantial number of text messages that concerned, among other things, firm's securities business, including investment strategy, discussions of investment banking client meetings, and communications about market color, analysis, activity trends or events in technology industry Managing Director and trading desk head who supervised fixed income trading desk texted with more than 70 colleagues in different areas of the firm, including with product and desk heads, junior members of trading desks, and senior and junior personnel in sales and trading – also texted with numerous third parties, who were financial industry participants at other broker-dealers and investment advisers
September 2022	Deutsche Bank	\$125M	<ul style="list-style-type: none"> 30 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry Managing Director in US leadership role investment bank exchanged 100's of off-channel business related messages with colleagues, investment banking clients, and personnel at other financial services firms – also routinely communicated with other Managing Directors and junior employees under his supervision; this Managing Director received 1000's of off-channel text messages – messages concerned, among other things, the broker-dealer's business, including investment strategy, discussion of meetings, and communications about market color, analysis, activity trends, or events in the technology industry Managing Director with oversight over fixed income, trading, and financing personnel exchanged 100's of messages with colleagues, including several Managing Directors – also texted with a third-party financial industry participants
September 2022	Goldman Sachs	\$125M	<ul style="list-style-type: none"> 30 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry Managing Director who held global firm-wide leadership role in investment bank sent and received 1000's of off-channel business-related messages to colleagues, investment banking clients, and personnel at other financial services firms – this senior investment banker sent and received tens of thousands of off-channel text messages that concerned, among other things, broker-dealer's business, including investment strategy, discussions of investment banking client meetings, and communications about market color, analysis, activity trends or events in equity capital markets across the US Managing Director and trading desk head texted with more than 90 business contacts, including colleagues in different areas of the broker-dealer including product and desk heads, junior members of trading desks, and senior and junior personnel in sales and trading programs; also texted with numerous third-parties who were financial industry participants at other broker-dealers and investment advisers
September 2022	Morgan Stanley	\$125M	<ul style="list-style-type: none"> 30 persons sampled, and overall sent and received 1000's of off-channel communications involving other personnel, banking clients, and other participants in the securities industry Managing Director in US leadership role in institutional securities business exchanged more than 1,400 off-channel business related messages with colleagues, investment banking clients, and personnel at other financial services firms – also routinely communicated with other Managing Directors and junior employees under his supervision; this Managing Director sent and received a substantial number of

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<p>off-channel text messages, which concerned, among other things, firm’s securities business, including investment strategy, discussion of meetings, and communications about market color, analysis, activity trends, or events in the technology industry</p> <ul style="list-style-type: none"> • Associate on derivatives trading desk exchange more than 2,500 messages with colleagues, including several Managing Directors – also texted with number of third parties who were market participants at other broker-dealers and investment advisers
September 2022	UBS	\$125M	<ul style="list-style-type: none"> • 30 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry • One of the three Group Managing Directors, and another Managing Director responsible for a lucrative banking unit, communicated with more than 50 colleagues, including with product heads, and of these 50, over 30 had roles that required them to communicate frequently with customers
September 2022	Jefferies	\$50M	<ul style="list-style-type: none"> • 30 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry • Managing Director with global firm-wide leadership role in investment bank sent and received 1000’s of off-channel business-related messages to colleagues, investment banking clients, and personnel at other financial services firms – also routinely communicated with other Managing Directors and junior employees under his supervision – this Managing Director received 1000’s of off-channel text messages, which concerned, among other things, firm’s business, including investment strategy, discussion of meetings, and communications about market color, analysis, activity trends, or industry events • Managing Director and trading desk head who supervised fixed income trading desk texted, including the use of WhatsApp and Signal messaging platforms, with at least 90 colleagues in various areas of firm including with product and desk heads, junior members of trading desks, and senior and junior personnel in sales and trading programs – Managing Director also texted with numerous third parties, who were market participants at other broker-dealers and investment advisers
September 2022	Nomura	\$50M	<ul style="list-style-type: none"> • 30 persons sampled, and overall sent and received 1000’s of off-channel communications involving other personnel, banking clients, and other participants in the securities industry • Managing Director in US leadership role in investment bank sent and received 1000’s of off-channel business-related messages to colleagues, investment banking clients, and personnel at other financial services firms – also routinely communicated with other Managing Directors and junior employees under his supervision – this Managing Director received substantial number of off-channel text messages – messages concerned, among other things, firm’s business, including investment strategy, discussion of meetings, and communications about market color, analysis, activity trends, or events in equity capital markets across US • Managing Director with global leadership role in fixed income trading exchanged more than 1,000 messages with colleagues, including several Managing Directors; on certain occasions – this Managing Director also received messages from financial industry participants
September 2022	Cantor Fitzgerald	\$10M	<ul style="list-style-type: none"> • 20 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry

WAVE	FIRM	FINE	EXAMPLE CONDUCT CITED BY SEC
			<ul style="list-style-type: none"> Managing Director in investment bank exchanged approximately 3,000 off-channel business-related messages to colleagues, investment banking clients, and personnel at other financial services firms – also routinely communicated with other Managing Directors and junior employees under his supervision – this Managing Director received substantial number of off-channel text messages – messages concerned, among other things, the broker-dealer’s business, including investment strategy, discussion of meetings, and communications about market color, analysis, activity trends, or events in equity capital markets across the US Senior Managing Director with leadership role in equities trading exchanged approximately 1,000 messages with colleagues, including several Managing Directors
September 2022	Credit Suisse	\$125M	<ul style="list-style-type: none"> 30 persons sampled, and overall sent and received tens of thousands of off-channel communications involving other personnel, banking clients, and other participants in the securities industry Managing Director in investment bank sent and received 1000’s of off-channel business-related messages to colleagues, investment banking clients, and personnel at other financial services firms – also routinely communicated with other Managing Directors, and junior employees under his supervision – this Managing Director sent and received a substantial number of off-channel text messages – messages concerned, among other things, firm’s business, including investment strategy, discussion of meetings, and communications about market color, analysis, activity trends, or events in equity capital markets across the US Senior Managing Director with leadership role in equities trading exchanged approximately 1,000 messages with colleagues, including several Managing Directors