

August 28, 2024

Mr. Robert Cook  
President and CEO  
Financial Industry Regulatory Authority  
1700 K St NW  
Washington, DC 20006

Dear Mr. Cook,

I write today to seek an explanation for a June 2024 report indicating that “the number of enforcement actions brought by the brokerage industry’s self-funded regulator [the Financial Industry Regulatory Authority (FINRA)] slid to the lowest level in its history” and that FINRA’s “[t]otal fines ... are down by about half since a peak in 2016.”<sup>1</sup> This is a deeply troubling report.

FINRA was established in 2007 to ensure that broker-dealers and their representatives operate fairly and honestly, and is responsible for regulating approximately 3,500 firms and 620,000 brokers.<sup>2</sup> The organization has a unique role as a self-regulatory, non-governmental entity that can create and enforce regulations within its industry. FINRA writes rules and examines broker-dealers and their representatives, who act as financial advisers and traders for the investing public. The Securities and Exchange Commission oversees FINRA and holds FINRA responsible for fulfilling its regulatory responsibility. The agency’s mission is “to protect investors and promote market integrity.”<sup>3</sup> But financial crimes cannot be prevented if you take the cop off the beat.

The new report appears to indicate that the decline in enforcement is part of a deliberate deregulatory effort. Seven years ago, FINRA embarked on an organization-wide transformation called FINRA360, an initiative designed to make FINRA as “effective and efficient” as possible.<sup>4</sup> In the time since FINRA launched FINRA360, the number of enforcement actions brought and fines levied against brokers and dealers that break the rules have dramatically decreased.

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<sup>1</sup> Bloomberg, “Wall Street Cop Finra Goes Quiet on the Beat as Its Caseload Plunges,” Austin Weinstein, June 28, 2024, <https://www.bloomberg.com/news/articles/2024-06-28/wall-street-cop-finra-goes-quiet-on-the-beat-as-its-caseload-plunges>.

<sup>2</sup> FINRA, “On the Front Lines of Investor Protection,” <https://www.finra.org/rules-guidance/enforcement/customer-cooperation>.

<sup>3</sup> *Id.*

<sup>4</sup> FINRA, “FINRA360 Progress Report,” <https://www.finra.org/about/finra-360/progress-report>.

Bloomberg reported that FINRA’s caseload has plummeted over two-fold since its peak in 2015.<sup>5</sup> There were 426 enforcement actions in 2023, the lowest since FINRA’s inception in 2007. Similarly, the value of fines imposed by FINRA for brokers or dealers that break the rules has declined from \$173.8 million in 2016 to \$88.4 million in 2023. And to make matters worse, the agency has appeared to limit transparency about its enforcement actions: according to Bloomberg, “[i]n multiple instances in recent years, employees drafted press releases to promote cases, only for managers to spike their publication... Last year, the regulator issued press releases on just 10 of 426 enforcement actions, compared with 63 in 2015. Finding details on cases ... can require digging into a cumbersome Finra database.”<sup>6</sup>

It is unclear how this represents an improvement in investor protections. When asked about the decline and record-low numbers, a FINRA spokesperson said “any suggestion that we have let up on our regulatory focus is just dead wrong” and claimed that the decline is due to “reduc[ing] the number of bad actors.”<sup>7</sup> There is no evidence to that effect: the SEC’s enforcement numbers stayed relatively steady even as FINRA’s fell, and an ex-FINRA senior counsel expressed his skepticism that there are fewer bad actors today, saying: “to the contrary, with the growth of so many more financial platforms...there is far more opportunity for abuse that is harder to detect.”<sup>8</sup>

My concerns about FINRA’s effectiveness are not new. In May 2016, I wrote to FINRA seeking to understand why its “efforts to date have not been enough to address the incidence of misconduct among financial advisers.”<sup>9</sup> In March 2019, I wrote regarding concerns that FINRA was allowing brokers to scrub customer complaint records, preventing consumers from having complete and accurate information about their brokers.<sup>10</sup> In February 2021, in the wake of the GameStop controversy, I wrote to you with a series of questions about FINRA’s ability to protect consumers caught in forced arbitration policies.<sup>11</sup> Most recently, I wrote to you once again questioning FINRA’s oversight of its arbitration system.<sup>12</sup> This new report raises fresh alarms about FINRA’s ability to protect investors.

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<sup>5</sup> Bloomberg, “Wall Street Cop Finra Goes Quiet on the Beat as Its Caseload Plunges,” Austin Weinstein, June 28, 2024, <https://www.bloomberg.com/news/articles/2024-06-28/wall-street-cop-finra-goes-quiet-on-the-beat-as-its-caseload-plunges>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Letter from Sen. Elizabeth Warren and Sen. Tom Cotton, May 11, 2016, <https://www.warren.senate.gov/oversight/letters/warren-and-cotton-raise-bipartisan-concerns-about-financial-adviser-misconduct-ask-finra-to-protect-investors>.

<sup>10</sup> Letter from Sen. Elizabeth Warren to Mr. Robert Cook, FINRA CEO, March 21, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.03.21%20Letter%20to%20FINRA%20re%200Broker%20Expungement%20Data.pdf>.

<sup>11</sup> Letter from Sen. Elizabeth Warren to Mr. Robert Cook, FINRA CEO, February 16, 2021, <https://www.warren.senate.gov/imo/media/doc/02.16.2021%20Letter%20from%20Senator%20Warren%20to%20Mr.%20Cook.pdf>.

<sup>12</sup> Letter from Sen. Elizabeth Warren and Rep. Katie Porter to Mr. Robert Cook, FINRA CEO, February 9, 2022, [https://www.warren.senate.gov/imo/media/doc/2022.02.09%20Letter%20to%20FINRA%20on%20Wells%20 Fargo%20Scandal%20\(1\).pdf](https://www.warren.senate.gov/imo/media/doc/2022.02.09%20Letter%20to%20FINRA%20on%20Wells%20 Fargo%20Scandal%20(1).pdf).

The new reports of declining enforcement appear to indicate that FINRA has lost sight of its mission: protecting investors and promoting market integrity.<sup>13</sup> Given my concerns about this matter, I ask that you please respond to the following questions by September 13, 2024:

1. Please provide, for each year since 2016:
  - a. The number of investigations opened by FINRA.
  - b. The impetus for opening these investigations (e.g. referrals from examination reports, anonymous tips, etc.).
  - c. The number of investigations that resulted in enforcement actions, broken down by the category of rule(s) violated.
  - d. The number of investigations that resulted in fines and the average fine amount.
  - e. The number of investigations that resulted in expulsions.
  - f. The number of investigations that resulted in broker suspensions.
  
2. The Bloomberg report indicates that the number of press releases put out by FINRA regarding enforcement actions has declined since 2016.<sup>14</sup>
  - a. For each year since 2016, how many press releases announcing enforcement actions has FINRA released?
  - b. What are the agency criteria for determining when to put out a press release regarding an enforcement action?
  - c. Absent a press release, how can members of the public learn about whether FINRA-regulated brokers and dealers have been subject to enforcement actions?
  
3. The Bloomberg report indicated that the number of FINRA enforcement began to decline following the launch of FINRA360, which was designed in part for FINRA to “engage more with brokers.” and which you described as a “comprehensive self-evaluation and organizational improvement initiative.”<sup>15</sup>
  - a. How did FINRA implement FINRA 360? What entities did FINRA engage with to conduct this initiative?
  - b. What specific changes in FINRA enforcement policies were made as a result of this initiative?
  - c. Were any changes—either formal or informal—made to the criteria by which brokers or dealers were subject to fines, expulsion, or suspension?

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<sup>13</sup> FINRA, “On the Front Lines of Investor Protection,” <https://www.finra.org/rules-guidance/enforcement/customer-cooperation>.

<sup>14</sup> Bloomberg, “Wall Street Cop Finra Goes Quiet on the Beat as Its Caseload Plunges,” Austin Weinstein, June 28, 2024, <https://www.bloomberg.com/news/articles/2024-06-28/wall-street-cop-finra-goes-quiet-on-the-beat-as-its-caseload-plunges>.


<sup>15</sup> *Id.*

d. Please provide a copy of FINRA’s written enforcement policies as of August 1, 2024, and as of January 1, 2016.

4. A FINRA spokesperson indicated that the decline in enforcement was due to FINRA “reduc[ing] the number of bad actor firms and individuals over time.” What evidence does FINRA have of this reduction?

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren  
United States Senator

CC: Chair Gary Gensler, Securities and Exchange Commission