Finra Fines Cantor Fitzgerald $2 Million For Short-Sale And Supervisory Failures

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Finra announced today that it has fined Cantor Fitzgerald & Co. $2 million for broad-based short sale and supervisory violations spanning a period of at least five years.

Despite skyrocketing trading volume, two prior Finra enforcements and numerous reports from its own compliance staff regarding violations of the federal short-sale rule, which allows firms to “sell” securities they don’t at the time own, New York-based Cantor continued to engage in abusive short sales practices without adequate supervision, Finra found.

Specifically, as Cantor’s volume ballooned—from 35 billion shares in 2013 to 79 billion shares by 2014 -- Cantor failed to identify “fails-to-deliver” securities in accounts that were not adequately supervised, Finra found.

In addition, Cantor continued to route or execute “thousands of shorts sales in securities” for which it hadn’t borrowed or arranged to borrow, as required by law. Firms are prohibited from trading in those securities it has “fails-to-deliver” in. Those securities should be placed in a penalty box, which Cantor failed to do, Finra said.

“As a result, Cantor did not timely close-out at least 4,879 fails-to-deliver and routed and/or executed thousands of short orders in those securities without first borrowing (or arranging to borrow) the security.” Finra found.

While law allows investors to short-sell stock, broker-dealers are required to obtain the stock from their own inventory, the margin account of other brokerage firm clients or another lender. Cantor wasn’t doing that, Finra said. Nor did the firm heed calls from its own compliance staff for the need to ramp up adequate supervision or safeguards.

"Firms need to ensure that their supervisory systems are reasonably tailored to their business and once they become aware of deficiencies in their supervisory systems, they must promptly remediate them," said Susan Schroeder, Executive Vice President, Finra Enforcement. "As our Annual Examination Priorities letters make clear, firms' compliance with Regulation SHO is a continued focus for Finra when evaluating operational risk and is necessary to preserve investor confidence."

Cantor Fitzgerald did not respond to a request for comment by deadline.

This is not the first time Cantor has settled and been censured by Finra for short-sale and supervisory violations. In

both 2011 and 2012, the firm paid $150,000 in fines for failing to close out “fails-to-deliver” short sale positions and supervisory violations.

Those violations had significant bearing in the $2 million fine, Finra announced today. “In determining the sanctions imposed, FINRA considered Cantor's prior disciplinary history relating, that the misconduct occurred over approximately a five-year period, the firm's failure to address red flags in a timely manner, the continuing supervision deficiencies, as well as the firm's efforts to improve its supervisory systems,” the regulator said.