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Securities Regulation Daily Wrap Up, BROKER-DEALERS—Broker-dealer to pay $1.5 million for failing to file SARS, (May 12, 2021)

Securities Regulation Daily Wrap Up

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The firm knew that account takeovers were required to be reported but either failed to report these incidents or left out key details.

GWFS Equities, Inc. has settled SEC charges related to its failure to file Suspicious Activity Reports. According to the Commission, between late 2015 and late 2018, the registered broker-dealer, which provides services to employer-sponsored retirement plans, became aware of external attempts to gain unauthorized access to plan participants' accounts and funds. GWFS failed to implement its anti-money laundering program and, as a result, failed to file SARs when it detected the bad actors, and omitted from filed SARs required information about the suspicious activity. In addition to a cease and desist order, the firm agreed to censure and to paying a $1.5 million civil penalty (*In the Matter of GWFS Equities, Inc.*, Release No. 34-91853, May 12, 2021).

GWFS. GWFS Equities, Inc. is a Colorado-based registered broker-dealer focusing on the retirement services market, and its core business emphasizes defined contribution plans (e.g., 401(k) and 403(b) plans). GWFS is an affiliate of Great-West Life & Annuity Insurance Company and buys and sells securities on behalf of its parent company's s retirement plan participants, individual retirement accounts, and brokerage accounts. The firm is the second largest record-keeping retirement service provider in the U.S., with approximately 9.4 million participant accounts holding over $700 billion in assets.

Suspicious activity. From September 2015 through October 2018, GWFS became aware of an increasing number of attempts by external bad actors to gain unauthorized access to the retirement accounts and funds of individual plan participants. The bad actors generally used improperly obtained—but not via a breach of GWFS' systems—personal identifying information of the plan participants. While there were some successful attempts, GWFS was able to detect most of the efforts before the bad actors could request a distribution from the accounts. In response, GWFS improved its ability to detect and prevent these account takeovers.

Not reported. The Bank Secrecy Act (BSA), and FinCEN's regulations and guidance require the reporting of suspicious transaction in a Suspicious Activity Report (SAR). The Commission found that GWFS failed to file approximately 130 SARs after fraudulent transactions were identified. In addition, GWFS filed approximately 297 SARs that were deficient due to the omission of key details in GFWS' possession; these SARs disclosed only that unauthorized access had occurred but omitted known details about the bad actor and its activity. During the relevant period, GWFS had an anti-money laundering program, including a BSA Officer and SAR Committee, that recognized the importance of SAR reporting obligations.

"Across the financial services industry, we have seen a large increase in attempts by outside bad actors to gain unauthorized access to client accounts," said Kurt L. Gottschall, Director of the SEC's Denver Regional Office. "By failing to file SARs and by omitting information it knew about the suspicious activity it did report, GWFS deprived law enforcement of critical information relating to the threat that outside bad actors pose to retirees' accounts, particularly when the unauthorized account access has been cyber-enabled."

Sanctions. The Commission found that GWFS violated Exchange Act 17(a) and Rule 17a-8, which require broker-dealers to comply with the reporting, record-keeping, and record retention requirements of the BSA. GWFS agreed to a settlement imposing a cease and desist order, censure, and a $1.5 million civil penalty. The order notes that GWFS' cooperation with the investigation and remedial efforts were taken into account.

The release is No. 34-91853.

LitigationEnforcement: BrokerDealers CyberPrivacyFeed DataSecurity Enforcement