

FINRA Dangles Cooperation Carrot With Fine-Free Settlements

By Ed Beeson, Law360 [subscription required]

Law360, New York (July 6, 2015, 8:16 PM ET) -- The [Financial Industry Regulatory Authority's](#) decision Monday to not levy fines against three broker-dealers that allegedly overcharged certain mutual fund customers shows there can be extraordinary rewards for extraordinary cooperation, attorneys say, and that could entice others to come clean to the regulator about internal compliance problems they have discovered.

In a series of settlements, Wall Street's self-regulatory organization ordered [Wells Fargo Advisors LLC](#), [LPL Financial LLC](#) and two units of [Raymond James Financial Inc.](#) to reimburse tens of thousands retirement accounts and charities for the sales charges and other expenses they were improperly levied over the past six years for the purchase of certain mutual fund shares. The firms had pledged to waive the charges in certain instances, but didn't always, FINRA said.

The cost of settlements was not insignificant — more than [\\$30 million in restitution and interest](#) was ordered repaid to the affected customers. But in a highly unusual move, FINRA did not demand any penalties from the firms themselves, even though the alleged violations were widespread and impacted two sympathetic classes of investors.

The reason why FINRA passed on the penalty emerges from its settlement documents. The firms were given credit for their extraordinary cooperation, meaning they investigated the problems on their own, developed plans to pay remediation to affected customers, beefed up their internal policies and procedures, and alerted FINRA about what they were doing — all before any regulator detected any wrongdoing or intervened.

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Attorneys say they expect such outcomes will encourage more self-reporting to FINRA, which in turn may look to ease up penalties to keep the spigot of self-reported violations open.

"If they assess large fines for self-reporting, in addition to restitution, they are going to have a hard time to get firms to self-report," said Niels Holch, the executive director of the Coalition of Mutual Fund Investors.