

July 14, 2025

Jennifer Piorko Mitchell  
Office of the Corporate Secretary  
FINRA  
1700 K Street, NW  
Washington, DC 20006

*Submitted electronically via the FINRA website*

Re: Theta Lake, Inc.'s Response to FINRA Regulatory Notice 25-07

Dear Ms. Mitchell:

Theta Lake, Inc. ("Theta Lake") submits this letter in response to the Financial Industry Regulatory Authority's ("FINRA") Regulatory Notice 25-07 request for comment on modernizing FINRA rules, guidance, and processes for the organization and operation of member workplaces.

In this letter, Theta Lake responds to questions A.1 relating to branch offices and hybrid work, and E.1, E.2, E.3 and E.5 relating to recordkeeping and digital communications. Our perspectives are based on experience supporting hundreds of financial services firms globally, including FINRA-regulated members. Our goal is to provide expertise that aids FINRA's understanding of how it can further evolve its rules, guidance and processes to reflect modern business practices and markets, as well as highlight the emerging technologies and business practices it should anticipate. We provide an overview of our compliance platform as supporting context.

### **Theta Lake Background**

Theta Lake's multi-patented, AI-enabled, Digital Communications Governance and Archiving ("DCGA") platform assists FINRA members to meet obligations for the capture, retention, search, and supervision of electronic communications. Theta Lake was named as a Visionary in the [2025 Gartner® Magic Quadrant™](#) for Digital Communications Governance and Archiving Solutions. Theta Lake was ranked first in three of Gartner's [Critical Capabilities for Digital Communications Governance and Archiving Solutions](#): regulatory compliance, internal analytics and insights, and investigations.

Theta Lake's DCGA platform facilitates compliance with FINRA Rules 2210, 3310, and 4511, as well as the SEC's Exchange Act Rule 17a-4, among others. We support firms subject to equivalent financial services regulatory regimes in the UK, EU, Australia, Singapore, and other locations.

Theta Lake integrates with over 100+ communications platforms including Zoom for meetings, chat, AI Companion, SMS, and voice; Slack; Webex; Bloomberg; several Microsoft products like Teams, Copilot, and SharePoint as well as LinkedIn, NICE, RingCentral, WhatsApp, and more, providing compliance and security controls to support modern, hybrid workforces. Theta Lake counts Cisco, RingCentral, Salesforce/Slack, Zoom, and senior executives from Microsoft as strategic investors. These industry

accolades, direct investments, and seamless product integrations demonstrate a meaningful validation of our approach and set us apart in the market.

Below please find our responses to several questions posed in Notice 25-07.

## **Branch Offices and Hybrid Work**

### **A.1. What are the impacts of modern technologies and compliance tools on the effective supervision of decentralized workplaces and evolving hybrid work arrangements?**

The dynamic communication capabilities of modern technologies, ranging from enterprise collaboration tools like Microsoft Teams and Zoom to consumer apps like WhatsApp and Generative AI (“GAI”) applications like Zoom AI Companion and Microsoft Copilot, have transformed the way organizations work. The routine use of multiple platforms with screensharing, summarization, whiteboards, video, chat, file transfers, and integrated voice calling facilitate effective and productive interactions between colleagues and customers in decentralized and hybrid work environments.

The shift to new communication applications has necessitated a fundamental change to compliance oversight, which as reflected in the Notice, finds firms using modern technologies to supervise employees. To be effective, compliance tools must be flexible and support firms using selected modern communication technologies, providing simple and practical solutions that save time and serve as the backbone for hybrid offices.

#### **Cross-Platform Communication Views**

[According to our research](#), over 80% of firms are using four or more collaboration platforms. As a result, employees often conduct conversations across a variety of platforms in and out of the office—starting a thread on chat and moving to email, social media, mobile, and beyond. Compliance tools must be adaptable—capturing and displaying conversations in context across multiple communication platforms in one place. Theta Lake’s unified conversation replay provides a “single pane of glass” for the review and analysis of cross-platform communications—enabling compliance teams to supervise interactions in a manner that mirrors the multi-platform reality of the modern workplace.

#### **Artificial Intelligence Enhances Compliance**

Through the use of Theta Lake’s machine learning and natural language processing models, firms can analyze text, voice, and video content to identify regulatory compliance, privacy, and cybersecurity risks in what was spoken, shown, and shared during conversations. So, for example, firms can detect when a Form CRS is displayed on a screenshare, discussed in a chat thread, or mentioned during a voice call. Theta Lake’s intuitive review interface points directly to the portion of a meeting, chat, or call where Form CRS was discussed to focus compliance teams on the sections of an interaction that require attention.

Theta Lake’s [AI Governance and Inspection Suite](#) incorporates key features that support explainability and transparency when analyzing dynamic conversation data. For example, Theta Lake’s enhanced GAI features summarize weeks- or months-long cross-channel conversations into digestible snippets to

increase the speed of supervision. GAI also powers enhanced explainability capabilities, which provide necessary context about the decision-making process of Theta Lake's models, injecting explainability directly into the compliance supervisory process.

Together, features for capturing communications across physical, regional, and technical boundaries, displaying multi-threaded conversations in a simple and intuitive view, and the detection and explanation of risks across video, voice, chat, and GAI are the foundations of modern compliance technologies. Compliance tools must match the pace of innovation and rich feature sets of the applications used in the modern workplace.

## **Recordkeeping and Digital Communications**

### **E.1. The phrase *business as such* under Exchange Act Rule 17a-4(b)(4) is not defined. What questions, concerns or challenges, if any, does this raise with respect to ensuring compliance with the recordkeeping requirements? Are there categories of records that are especially costly or difficult to capture or retain, and which may provide no appreciable regulatory benefit?**

In our experience “business as such” is an adequate term for compliance with recordkeeping requirements. It provides flexibility—allowing firms to focus precisely on the communications that are relevant for compliance and oversight. The phrase has proven adequate and adaptable in the midst of meaningful technological change such as the advent of social media and the evolution of collaboration platforms.

Supporting guidance—including FINRA’s Regulatory Notices 11-39 and 17-18 regarding the use of social media—provide clear interpretation that for record retention purposes, the “content of the communication determines what must be retained.” This is borne out by Question 2 of Regulatory Notice 17-18, which notes that the applicability of Rule 2210 depends on “whether the content relates to the products or services of the firm.” The examples of interactions excluded from the regulatory requirement such as communications relating to the firm's sponsorship of a charitable event or an employment opportunity, provide useful clarification that only relevant communications need to be retained and supervised.

Given that business communications can take place on any platform, it is imperative that compliance solutions are flexible to capture and retain all communication types. As the SEC’s, (formerly Acting) Chairman M. Uyeda & Commissioner H. Peirce, stated in September 2024: “If business is being conducted using communications means that are outside of the reach of firm compliance personnel and Commission staff, both will be hampered in their ability to foster compliance with the rules.”

Collaboration platforms such as Zoom, Teams, Slack, Webex, etc. utilize cloud computing and API architectures that enable similarly built compliance technologies like Theta Lake’s to capture communications seamlessly. By way of background, a shortlist of Theta Lake’s capture capabilities includes in-meeting chat, SMS, AI prompts and responses, voice, screen sharing, whiteboards, video, file transfers, polling, and Q&A functions. Cloud-hosted storage solutions support scalable, SEC Rule 17a-4 WORM- and audit trail-compliant storage.

Given the sophistication and flexibility of modern communication and compliance tools, maintenance of the correspondingly technology-neutral and principles based “business as such” definition seems preferable, in our view.

**E.2. What standards for the supervision of various digital communication channels have proved effective, including with respect to off-channel communications? What are some examples of such workable standards?**

We have found that the supervisory practices set out in the 2025 FINRA Oversight Report have been effective for off-channel oversight. In particular, we believe the practice of “[m]onitoring for indications that associated persons are using off-channel communications (e.g., a decrease or cease in activity on certain previously used firm-approved communication channels or tools)” provides meaningful insight into potential risk.

**Monitoring and Reconciliation**

Reconciliation in modern compliance technologies can provide this view of communications activity. Reconciliation in Theta Lake’s platform is enabled by integrating with the collaboration platforms. It provides programmatic and measurable information, including visual dashboards, about the capture and archiving of records from collaboration platforms to verify that all communications were accurately collected and successfully delivered downstream to the archive.

**Using AI to Identify Potential Off-Channel Activity**

Another effective practice is surveilling “for associated persons’ potential use of off-channel communications.” AI detections in innovative compliance technologies are effective in identifying the use of off channel communications. AI detections can be applied across communication modalities, in multiple languages, and interpret contextual information like emojis to support firms in uncovering issues.

Theta Lake’s machine learning models can be combined with detections for emojis, reactions, images, or file types to refine and improve a firm’s ability to identify risks. So, for instance, the detection for off-channel conversations can be combined with a detection for the mobile phone emoji (📱), and the rocket ship or moneybags emojis (🚀 or 💰) to surface conversations where the indication of off channel activity is not based on a simple text note but relies on emojis and images used in the contemporary workplace. Risk detections can be further modulated to apply to specific groups, geographies, or communication platforms to uplevel compliance supervisory practices.

**E.3. What are members’ recordkeeping challenges regarding AI-generated communications and how do these challenges vary based on the type of AI-generated communication (e.g., AI-powered chatbot, AI-generated transcripts or summaries of meetings)?**

The widespread adoption of generative AI applications like notetaking assistants and integrated tools like Zoom AI Companion and Microsoft Copilot, enable member firms to realize productivity gains and improvements in work practices and effectively serve investors.

Relevant GAI capabilities include the ability to summarize communications such as meetings, calls and chat conversations; produce transcripts of calls and meetings and automatically create communications

such as emails and chats. Furthermore, GAI chatbots allow employees to query large language models on any topic and receive human-like responses through a conversational interface.

The prompts and responses from GAI chatbots may contain sensitive or confidential firm information like customer names, employee data, intellectual property, or other proprietary details. In some scenarios, prompts and responses may present cybersecurity risks such as attempts to circumvent or compromise firm or third-party technical controls.

To assist firms in managing the recordkeeping challenges of GAI apps, Theta Lake offers flexible implementation of oversight controls enabling firms to take a risk-based approach to the capture, retention, and supervision of these new communication types.

For example, a firm could configure Theta Lake to capture and supervise all AI-generated meeting summaries shared with investors and retain those artifacts for three years. Capturing meeting summaries in this manner would allow the firm to comply with FINRA's expectations regarding AI-generated content outlined in its Advertising Regulation FAQs Section D.8.1. A firm could also enable Theta Lake to capture and retain prompts and responses from GAI chatbots for 90 days. As part of enhanced oversight, the firm could apply Theta Lake's AI-based risk detections to the captured prompts and responses to determine if confidential or sensitive information is being fed to GAI apps, or if the inputs or outputs present cybersecurity, privacy, or conduct issues.

As GAI applications evolve, compliance toolsets must keep pace with new capabilities to promote secure and effective use within firms.

**E.5. Should FINRA consider any changes to its rules, guidance or processes relating to its communications with the public requirements to address any challenges resulting from using new technologies? For example, should FINRA consider any changes to the disclosure requirements under its rules to facilitate the use of modern communication channels (e.g., through layered disclosures)?**

As outlined in our response to question E.1, the evolution and elasticity of FINRA's rules has allowed firms to adopt new technologies by making informed determinations about the applicability of the "business as such" requirement. We do not suggest any changes to the "business as such" requirement or other rules to address new technologies.

Regarding disclosure, Theta Lake has developed mechanisms such as real time policy notifications for collaboration platforms to manage relevant legal, regulatory, and operational requirements. Injecting notices and disclaimers into chat conversations where participants join from different business units, firms, or geographic regions can help organizations manage disclosure risk. The ability to automatically insert notifications based on conversation participants and other parameters ensures consistency and accuracy of disclosure processes.

Again, while we do not believe new rules are required in this area, the adoption of automated, repeatable processes provides meaningful notifications to participants and facilitates compliance with relevant rules.

## **Conclusion**

We hope that this background about how innovative compliance platforms like Theta Lake enable member firms to meet FINRA's record keeping and supervision obligations assists FINRA as it considers the modernization of FINRA rules, guidance, and processes. As mentioned earlier it is key that compliance technology is flexible and adaptive to meet member firms' requirements as they adopt new emerging technologies and business practices, including generative AI. It enables member firms to interact on the communications platforms of their choice with the assurance that all modes of communication can be retained and supervised.

Theta Lake is in regular dialogue with US and international regulators and would welcome the opportunity to discuss these issues with FINRA to provide additional context and demonstrate the value and effectiveness of modern compliance technology.

Respectfully submitted,

/s/ Marc Gilman

Marc Gilman

General Counsel and VP of Compliance

/s/ Stacey English

Stacey English

Director of Regulatory Intelligence