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## **NCLA Unleashes Lawsuit to Take Down SEC's Illegal Mass Data Collection Machine**

*Erik Davidson, John Restivo, National Center for Public Policy Research v. Gary Gensler, U.S. Securities and Exchange Commission, Consolidated Audit Trail, LLC*

**Washington, DC (April 16, 2024)** – Today, the New Civil Liberties Alliance launched a [Complaint](#) against the Securities and Exchange Commission (SEC) challenging the agency's unconstitutional "Consolidated Audit Trail." The CAT is the largest government-mandated mass collection of personal financial data in American history. Without any statutory authority, SEC is forcing brokers, exchanges, clearing agencies and alternative trading systems to capture and send detailed information on every investor's trades in U.S. markets to a centralized database, which SEC and private regulators can access forever. NCLA is asking the U.S. District Court for the Western District of Texas to stop this unlawful, unprecedented seizure and mass surveillance scheme in its tracks.

Like thousands of other Americans, NCLA clients Erik Davidson, John Restivo and the National Center for Public Policy Research expected the government to respect their constitutional rights. Running roughshod over that sacred trust, SEC has seized their data in violation of Article I of the Constitution, the Fourth Amendment, the Fifth Amendment, and the First Amendment's freedom of association and expression. SEC's *ultra vires* action also violates the Administrative Procedure Act. NCLA is pleased to have the assistance of the Cherry Johnson Siegmund James PLLC firm in filing this lawsuit.

The CAT database would reportedly be the largest securities database ever created, and the most massive government database of any kind outside the National Security Agency (NSA), putting every American's financial data and security at grave and needless risk from cybersecurity breaches. Amassing all such data in a single government database exponentially increases the likelihood and scope of a dire security breach imperiling the financial security of all Americans.

Congress never authorized SEC to set up such a data collection and surveillance system. By doing so anyway, SEC seizes legislative power, clearly violating Article I of the Constitution, which vests Congress with all lawmaking authority. SEC funds its CAT scheme by unilaterally taking billions of dollars from self-regulatory organizations like the Financial Industry Regulatory Authority and other self-regulatory organizations (SROs). This self-appropriation of billions of dollars constitutes taxation without representation and brazenly ignores the Constitution and statutes that reserve tax and appropriations powers to Congress alone. Agencies have no power to fund new programs by raising billions from self-regulatory organizations under their regulatory thumb.

SEC Commissioner Hester Peirce has [called](#) the CAT system "a dangerous dog," pointing out that Americans would never tolerate government organizations partnered with private firms to collect complete information on everything they buy or give government a "direct feed" of movements from their cars' GPS systems. Yet the CAT proposes to do just that by commandeering SROs and thereby forcing all investors to turn over to the government the far more valuable—and vulnerable—set of information about their investments and retirement savings.

**NCLA released the following statements:**

“SEC’s CAT has no precedent in history. By seizing all financial data from all Americans who trade in the American exchanges, SEC arrogates surveillance powers and appropriates billions of dollars without a shred of Congressional authority—all while putting Americans’ savings and investments at grave and perpetual risk. The Founders provided rock-solid protections in our Constitution to prevent just these autocratic and dangerous actions. This CAT must be ripped out, root and branch.”

— **Peggy Little, Senior Litigation Counsel, NCLA**

“To create the Consolidated Audit Trail, the SEC has mowed down venerable constitutional safeguards that shield citizens’ private information from the government. This new database tracks investments made by more than 100 million private citizens who have done nothing wrong—citizens who want to invest to buy a house, pay for their children’s education, or save for retirement. It’s no surprise that Congress never authorized any of this. In this lawsuit, we ask the Court to put a stop to it.”

— **Andrew Morris, Senior Litigation Counsel, NCLA**

“The CAT is just the latest example of an agency run amok, claiming power to do something that Congress never bestowed. The Major Questions Doctrine was tailor-made to take down unauthorized agency actions like this.”

— **Mark Chenoweth, President, NCLA**

For more information visit the case page [here](#).

## ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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