



Securities Arbitration Clinic
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Via email to pubcom@finra.org
Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: **Regulatory Notice 20-42**

Dear Ms. Mitchell:

Thank you for the opportunity to comment on the changes that FINRA should consider to its rules to address lessons learned during the Covid-19 pandemic. We are writing this comment on behalf of the Securities Arbitration Clinic at St. John's University School of Law (the "Clinic"). The Clinic is part of the St. Vincent De Paul Legal Program, Inc., a not-for-profit legal services organization. The Clinic represents aggrieved investors with small dollar claims and is committed to investor education and protection. Accordingly, the Clinic has a strong interest in the rules protecting investors from firms and brokers that engage in misconduct as well as the rules governing the dispute resolution process.

The Clinic would like to address questions 20-24 in the Regulatory Notice, which focus on investor experiences during the Covid-19 pandemic.

The Clinic suggests that FINRA adopt additional protections or provide educational resources about online options and margin trading. During the Covid-19 pandemic, there has been an increase in the number of individuals investing through online brokerage firms. New investors are able to easily open accounts either through

the internet or apps on their phone. Many of these new investors are unaware of the risks associated with options and margin trading. The Clinic has received numerous calls from investors with issues relating to online options trading. Some investors did not understand the risk to which they were exposed and were surprised when options that they had written were exercised. Others did not fully understand how their trades were being executed. Some did not understand that they had been approved for trading on margin, and were actually borrowing money from the firm.

Providing investors with more education about online options and margin trading will provide them with information to make a more informed decision. This education should be informed by the marketing tactics of the online firms, which often undermine the existing education and risk disclosures. Overly simplistic explanations by the firms often leave investors believing they understand what they are doing, but their experiences suggest otherwise. Investors should be fully informed as to what option trading and trading on margin entails, the risks involved, and the costs.

Additionally, FINRA should consider adopting additional protections to help curb the number of investors aggrieved by options and margin trading. The options approval process should involve ensuring that investors understand the risks in which they are engaging, and that they have the financial capacity to withstand losses. As the Covid-19 pandemic continues and more individuals turn to the stock market as a source of income, the Clinic expects that it will receive additional calls from investors affected by online options trading, often on margin, unless the issue is addressed.

The pandemic has also demonstrated that some investors, especially seniors, have relied on in-person communications with their advisors to conduct business. When businesses shut down early in the pandemic, some investors were unsure how to contact their broker. This was especially true of those investors whose broker was located within a bank branch. The investors would stop into the branch to speak with the broker, but really did not speak with the broker by phone. With banks slowly re-opening, but investors still unable or unwilling to visit the branches in person and brokers having partially remote schedules, investors are unsure how to reach their brokers. One investor shared that she tried calling the local branch to speak with her broker but was unable to connect with him due to his reduced hours. The Clinic suggests that FINRA provide firms with guidance about the firm's responsibility to communicate with customers about the best way to contact the firm and their broker while offices remain closed or lightly and intermittently staffed.

In connection with the dispute resolution process, the Clinic suggests that FINRA adopt the use of Zoom in special proceeding arbitrations to allow the parties to present their cases more effectively. Currently, investors have the option of a telephone hearing

unless the parties agree otherwise. Implementing the use of Zoom will help investors adequately present their case by sharing documents with the arbitrators and the opposing side. Because of the pandemic, most investors are already using Zoom for other activities. Additionally, telephone hearings do not allow the parties to see each other or view the same document synchronously. Zoom would allow the parties to share their screen, annotate documents, and engage in face-to-face communication. An arbitrator can control the arbitration proceeding by muting/unmuting parties and turning off a party's camera. Zoom also offers third-party applications that can assist an arbitrator during a special proceeding such as a meeting timer to keep track of the time limitations during the parties' presentation of their case or rebuttal. By implementing the use of Zoom, FINRA can provide investors with a more familiar alternative in presenting their case.

The Clinic thanks FINRA for the ability to provide feedback on these important issues. We commend FINRA for examining these issues, and proceeding proactively to address concerns raised by the pandemic.

Respectfully Submitted,

/s/
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Legal Intern

/s/
Christine Lazaro
Director of the Securities Arbitration Clinic
and Professor of Clinical Legal Education