

HOWARD UNIVERSITY

School of Law
Investor Justice and Education Clinic

Office of the Corporate Secretary-Admin.

Via first Class US Mail

December 7, 2010

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FINRA
Notice to Members

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006

Re: Comments on FINRA Concept Proposal to Require a Disclosure
Statement for Retail Investors at or Before Commencing a Business
Relationship

Dear Ms. Asquith:

We are two student attorneys in the very first class of the brand new Investor Justice & Education Clinical Law Program at Howard University School of Law. The mission of our clinic is to represent underserved and small investors in connection with their disputes with broker-dealers, and provide community outreach and education to these communities regarding their rights as investors. The investment community we serve will be greatly and directly impacted by any disclosure rule for retail investors FINRA proposes and adopts. As a result of our work with small and underserved investors we are in a unique position to make recommendations regarding the optimum disclosure rule of most benefit to these investors. Therefore, we are delighted to provide FINRA with our views on the concept proposal and sincerely hope FINRA will give them serious consideration.

We believe FINRA's concept proposal to require a disclosure statement for retail investors at or before commencing a business relationship, if adopted, would be beneficial to investors, especially small investors. Small investors, unlike larger and wealthier investors, do not have the market power, knowledge, or market sophistication to demand that broker-dealers provide the type of information this proposed disclosure would provide. We further believe that



to be of most benefit to small investors the disclosure needs to be in plain, concise, and easily understood language. Currently, brokers are not required to provide much pertinent information to investors that could inform investors of matters that limit brokers' duties and responsibilities to retail investors. Therefore, we believe that the concept proposal's requirement that brokers disclose conflicts of interests and other information that may limit the brokers' duties to a client is extremely beneficial to small retail investors. If retail investors receive this information, they are more likely to make intelligent and informed decisions as to whether or not to do business with a particular broker. This could also help eliminate future disputes and misunderstandings between investors and brokers. In the long term, this disclosure requirement will likely force brokers to adopt policies and practices that are not in conflict with retail customers interests or they will risk losing a considerable amount of business from retail customers.

We also believe it would benefit retail investors if FINRA required that such disclosures be made available online as well as in hard copy so retail investors would have maximum access to the information and can review the disclosures at their convenience. For those small investors without access to the Internet, they would at least receive hard copy disclosures.

With respect to the timing of the disclosures, the concept proposal states that the disclosures should be made at or before the commencement of the relationship. We believe that the final rule should also provide a provision that if the disclosure is provided at the time of the commencement of the relationship, then the retail investor should have the option to rescind the customer agreement and receive the return of all money and securities at the customer's full option and discretion. This three day right of rescission is commonplace in many retail customer contracts such as contracts for the purchase of cars and home improvements. Although there are other considerations in the securities markets, such as what to do if the customer is really interested in a time sensitive investment, we believe providing the customer with the right of rescission and the option of the return of his money or keeping the investment would address these concerns.

We believe whatever disclosure rule FINRA proposes should include all the items set forth in Regulatory Notice 10-54. As with the Form ADV for investment advisers, the required disclosure should include the broker's identifying information, whether the broker has been involved in civil or criminal litigation, and the broker's financial industry affiliations. The identifying information would provide retail investors with the broker's legal name and CRD

number so investors can more readily check the broker's registration status and disciplinary history. Also, customers would be informed of the broker's civil or criminal litigation history, which could alert retail customers to such issues and help customers determine if the broker is engaged in practices that tend to result in litigation even if the broker always wins the cases. Likewise, knowledge of broker's financial industry affiliations are essential to retail investors because they could influence the type of investment advice the broker provides to customers. For the same reason, the broker's conflicts of interests should also be disclosed to customers. We believe the final rule proposal should require that brokers disclose all relevant, material information that a reasonable investor would need to know in order to make a well-informed decision about whether or not to do business with a broker.

It appears FINRA is modeling its Concept Proposal's disclosure document on the investment adviser's Form ADV. Therefore, we believe there may be certain categories of information required in the Form ADV that FINRA may find is not necessarily helpful to investors if included in the disclosure statement. In this regard, we believe the following ADV disclosures may fall in this category: The broker's form of organization, control persons, fiscal year-end, and state of organization. FINRA should consider whether this and similar information is likely to be helpful to retail investors, or would it add to the complexity and length of the disclosure document making it less likely to be read by investors. FINRA should also consider whether retail customers could easily access this information from other readily available sources. We are concerned that if the disclosure document is too long and complex, then investors may overlook or ignore important information within the document.

Lastly, brokers should be required to update their disclosures online and in hard copy whenever there is a material change in the information disclosed, and provide the updates to customers. Brokers should make their online changes promptly, and hard copies should be mailed to investors within a short period of a few days. This would ensure that both investors with Internet access and those without would receive the same information within a short period of time.

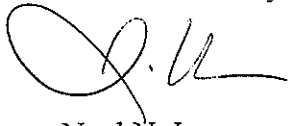
Overall, we believe FINRA's concept proposal, if adopted, would help retail investors make informed decisions concerning the selection of brokers. We also believe the benefits to the investing public and the overall efficiency of the securities market far outweigh any additional compliance burden it may cause to brokers. In fact, we believe it may lessen brokers' compliance

burdens in the likely event that it eliminates disputes and misunderstandings between customers and brokers.

Therefore, we recommend that FINRA propose a retail investor disclosure requirement for brokers taking into consideration our recommendations contained within this Comment Letter. Thank you.

Very truly yours,

Idongesit T. Umo
Student Attorney

A handwritten signature in black ink, appearing to read 'N. Isama', with a large, stylized initial 'N'.

Noel N. Isama
Student Attorney

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