

HOWARD UNIVERSITY

School of Law
Investor Justice and Education Clinic

Office of the Corporate Secretary-Admin.

DEC 18 2010

FINRA
Notice to Members

Via First Class US Mail

December 7, 2010

Ms. Marcia E. Asquith
Office of Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Comments on FINRA's Concept Proposal contained in Regulatory
Notice 10-54 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. Other Student Attorneys from our Clinic are also providing comment letters to FINRA. Please consider our comment letter separate and apart from the other Student Attorney comment letters. 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 appreciate the opportunity to comment on Regulatory Notice 10-54, which proposes that brokers provide retail investors with a disclosure statement at or before commencing a business relationship.

We acknowledge the necessity of FINRA's proposal in helping to protect retail investors from the misconduct of brokers. FINRA's Concept Proposal, if adopted, would require that brokers, at or before commencing a business relationship with a "retail customer," to provide the customer with written disclosure statement similar to Form ADV disclosures required of investment advisers. Today, brokers have no similar disclosure requirements. Thus, FINRA's Concept Proposal has the potential to become an important regulatory requirement for brokers. Brokers would be required to disclose in plain English their firm's accounts and services, associated conflicts of interests, and any limitations on duties owed to customers. The disclosure document would be provided to the broker's retail customers, but not (a) banks, savings and loan institutions and insurance companies, (b) registered investment companies, (c) registered investment advisers, and (d) other customers with total assets of \$50 million or greater.

We believe this Proposal, if adopted, is necessary because it will require brokers to disclose material information that investors need to make informed decisions regarding doing business with a broker. We agree with FINRA that the specific disclosures set forth in the Concept Proposal should be included in the disclosure statement. However, we suggest that FINRA consider our recommendations set forth below which we believe will add clarity to the Proposal. Our Recommendations are set forth below:

Disclosures of Conflicts of Interests, and Updates

The Concept Proposal would require that brokers disclose conflicts of interests that may arise between the broker and its customer, conflicts that may

arise in meeting competing needs of multiple customers, and the manner in which the broker manages such conflicts. We believe it would be beneficial to retail investors if this provision also includes a specific time period when conflicts must be disclosed. In addition, brokers are constantly acquiring new customers and engaging in business practices that may create unexpected conflicts of interests. Therefore, brokers should also be required to regularly update customers regarding conflicts of interests to provide continuing protection to customers.

Brokers Covered by the Concept Proposal

FINRA's Concept Proposal does not appear to set forth any criteria to determine which brokers are covered by the rule, so it appears the proposal would apply to all brokers who have retail customers regardless of size. If this is the intent of FINRA's Concept Proposal then we agree the proposal. We would not recommend that FINRA's proposal attempt to limit disclosure requirements to only large brokers since this may put many of the small, underserved investors that our Clinic represents at considerable risks. Such investors are arguably the most vulnerable and need at least the same protections as large, wealthy investors who are more likely to do business with larger brokers.

Length of the Disclosure Statement

FINRA's Concept Proposal would require brokers to disclose a considerable amount of information at one time to retail customers who may have varying degrees of financial and educational sophistication and knowledge. We believe FINRA should do all it can to insure that brokers are required to disclose material and important information while at the same time also insure that the disclosure document is not so long that it becomes useless. In addition, we believe FINRA should continue its commitment to customer understanding of the securities business by requiring that disclosures are made in plain, commonly understandable language. We recommend that FINRA keep the required disclosure document to a manageable length and degree of complexity.

Brokers Should be Required to Explain Contents of Disclosure Document

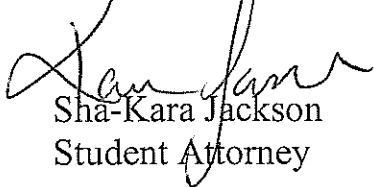
FINRA's Concept Proposal should require that brokers actually explain the disclosure document to customers, and reasonably assure themselves that the customers understand all material provisions, such as conflicts of interests, limitations on its duty to customers, etc, contained in the document. Such a

requirement to explain would be especially helpful to small, underserved investors who tend to be financially unsophisticated and in many cases are novice investors who may not understand the complex business and financial principles disclosed. In addition, these small investors may not have access to legal counsel to assist them with understanding the disclosures. We further believe this requirement would increase the likelihood that customers would actually read and understand the disclosure document and would be better able to make informed decisions regarding doing business with the broker.

Conclusion

In conclusion, we believe FINRA's Regulatory Notice 10-54 is a very good Concept Proposal, and that it would be even more effective and beneficial to retail customers if FINRA incorporates our recommendations contained in this comment letter. Thank you.

Sincerely yours,



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