

MICHIGAN STATE
UNIVERSITY
COLLEGE OF LAW

May 18, 2015

Via Email Only

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506
pubcom@finra.org

RE: Regulatory Notice 15-06 Registration of
Associated Persons Who Develop Algorithmic Trading Strategies

Dear Ms. Asquith,



Legal Clinic

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On behalf of the Investor Advocacy Clinic at Michigan State University College of Law, I write to support Regulatory Notice 15-06 (the "Proposal"). The Clinic is a Michigan State University College of Law clinical course in which students represent public investors who cannot secure private counsel due to the relatively small size of their claims. Additionally, students enrolled in the Clinic provide public education about investment fraud in the Michigan area. The Clinic has a strong interest in supporting measures that promote investor protection and increase market integrity. We believe that the Proposal advances these goals and write to support it.

The Proposal warrants prompt attention because the Securities and Exchange Commission (the "Commission") has asked FINRA to oversee this area. The Proposal supplements the Commission's proposed amendment to Rule 15b9-1, which would require all firms engaged in high frequency trading to register with FINRA. The Commission's registration requirement would provide FINRA with increased oversight over the industry. The Proposal would provide more robust investor protection in a cost efficient manner by ensuring persons designing these algorithms are knowledgeable about the securities laws and are personally accountable if they violate the securities laws. We support the Proposal because it addresses new trading developments and appears superior to other possible alternatives.

A. FINRA Rules Must Evolve With a Changing Trading Landscape

FINRA rules are designed to promote investor protection and market integrity. These rules should be updated to adapt to changing technology. For a time, NASD Rule 1032 sufficiently protected investors because transactions were primarily executed by natural persons associated with FINRA member firms.¹ Today, however, NASD Rule 1032 does not govern the persons controlling most equity trading. Algorithmic trading now accounts for one-half to two-thirds of all equity securities transactions.² Persons designing these algorithms have not yet been required to register with FINRA. As a result, no mechanism now ensures that these individuals are knowledgeable about the securities laws, thereby exposing investors to risk of market manipulation.

B. The Proposal Is Superior to Other Alternatives to Protect Investors

FINRA's Proposal rightly sets the important goal of requiring employees at algorithmic-trading firms to be educated about securities law requirements and accountable for their role in algorithmic trading strategies. As FINRA has recognized, the current rules will not achieve this objective.

To evaluate the Proposal, we considered other ways FINRA might seek to address algorithmic trading. Some alternatives might be more limited. For example, if FINRA did not pursue the Proposal, another option to address algorithmic trading would be for FINRA to only require algorithmic-trading firms to maintain FINRA-approved internal training programs. We do not believe a more limited program would suffice. This type of limited education requirement would not make developers or supervisors accountable because it would not require the individuals involved to register with FINRA.

While some registration requirement appears essential, FINRA should carefully tailor its registration requirement. Another possible option to address algorithmic trading would be for FINRA to require *all* associated persons even tangentially involved in the design, development, and significant modification of algorithmic trading strategies to register with FINRA. This possible response strikes us as overbroad. While this more extensive alternative would cover everyone involved, it would place an unreasonable financial burden on firms for only marginal increases in investor protection.

After considering other possible options, we believe the Proposal appropriately achieves the goals of education and personal accountability in a cost efficient manner. Less extensive measures would not create accountability while more extensive interventions would not create benefits justifying their costs.

¹ Current NASD Rule 1032 requires all persons associated with a FINRA member firm falling within the definition of a Representative in Rule 1031 to register with FINRA as a General Securities Representative. As a result, the rule ensures all General Securities Representatives involved in trading securities are knowledgeable about FINRA rules and personally accountable for their actions.

² GARY SHORTER & RENA S. MILLER, HIGH-FREQUENCY TRADING: BACKGROUND, CONCERNS, AND REGULATORY DEVELOPMENTS 13 (Congressional Research Service 2014).

C. Conclusion

The Clinic supports the Proposal to require registration of associated persons who develop algorithmic trading strategies. We believe that the Proposal strikes an appropriate balance and will effectively promote both investor protection and market integrity.

Thank you for the opportunity to comment.

Respectfully Submitted,



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