FINANCIAL INFORMATION FORUM
5 Hanover Square
New York, New York 10004

212-422-8568

November 04, 2009

Glen Garofalo
Director, Credit Regulation
FINRA
One Liberty Plaza, 51st Floor
New York, NY 10006

Re: FINRA Regulatory Notice 09-53, Increased Margin Requirements for Leveraged ETFs and Associated Uncovered Options

Dear Mr. Garofalo,

The Financial Information Forum (FIF)[1] would like to take this opportunity to express our concerns about Notice 09-53, which imposes increased margin requirements for leveraged ETFs, associated uncovered options and leveraged mutual funds (collectively "leveraged ETFs"). The broker-dealer and service bureau members of the FIF Multi-Client Back Office Committee are concerned that the industry cannot be ready for a December 1st effective date for these new requirements. We believe there are significant benefits, including mitigation of back office risk, to extending the implementation timeframe in order for participants to have additional time to modify and test their systems accordingly. FIF urges FINRA to consider postponing the effective date of the new requirements and states our rationale for such a request below.

Please note that the FIF Multi-Client Back Office Committee has no issue with the concept of different margin requirements for leveraged ETFs. As mentioned above, the concern lies with implementation of these requirements at this time when the industry is in a critical phase of testing major systems changes to support the Options Symbology Initiative (OSI) which has been planned for nearly two years and goes into effect on February 12, 2010. In addition, since these changes involve significant systems changes, we would have preferred that FINRA published proposed changes for comment so that the industry and FINRA could have worked together on implementation issues, which could have alleviated the concerns that we are now raising.

[1] FIF (www.fif.com) was formed in 1996 to provide a centralized source of information on the implementation issues that impact the financial technology industry across the order lifecycle. Our participants include trading and back office service bureaus, broker-dealers, market data vendors and exchanges. Through topic-oriented working groups, FIF participants focus on critical issues and productive solutions to technology developments, regulatory initiatives, and other industry changes.

As you probably know, the increased margin requirements for leveraged ETFs require firms to make changes to multiple systems and processes, including margin systems, security master systems, databases and data feeds. Integrating new data into processes as complex and critical as the margin and security master systems require adequate time and testing. In addition, supporting these new margin calculations requires additional data that is not readily available today. As we discussed in the FIF conference call on October 13th, the leverage factors for each individual issue may soon be available from vendors that provide other reference data to the brokerage industry. However, this data is not yet currently available, so it is difficult to proceed with systems enhancements when we do not know the final form or the timing of delivery of the data to support the process. If we were to make assumptions on these points and attempt to modify our systems now, we would very likely have to re-work the changes once the reference data becomes generally available. We believe that the complexity of the required changes alone make the December 1st deadline questionable and increase risks of system problems without adequate testing. In addition, when coupled with the mandatory options symbology change over, including major industry tests in November and December for a go live date in February 2010 and traditional end of year code freezes, the December 1st deadline is not realistic in our view. Some examples of the complexities of the increased margin requirements for leveraged ETFs are set forth below:

- Day trading margining systems may be programmed to function in literal compliance with NASD Rule 2530(f)(8)(B)(iii). This means that these systems find day trading buying power (DTBP) by multiplying maintenance excess times four for equity securities. This four times requirement is hardcoded into many systems. Changing the four times formula for determining DTBP into a formula where maintenance excess is divided by the maintenance requirement is a material systems change;
- Multiplying DTBP by a leverage factor is a material systems change;
- Many security master systems and databases do not currently have fields for holding leverage factors or the processes to pass the leverage factor to the margining systems;
- Existing vendor feeds may or may not identify ETFs with a separate code and whether the vendors will carry a leverage factor by December 1st is not clear. Our Multi-Client Back Office Committee believes that an industry utility – like DTCC or FINRA – should be formed to provide this data at cost to the industry.

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The members of the FIF Multi-Client Back Office Committee feel that these new requirements could be implemented without risk to brokerage systems by the end of the first quarter of 2010. Assuming that reference data on Leveraged ETFs will become generally available in the near future, we believe that project planning and work with reference data vendors could be done now through the beginning of 2010. Development could begin after January 1st and testing could be carried out in mid-February, after the first stage of the OSI conversion, which is scheduled for February 12th. Given these circumstances we respectfully request that FINRA postpone the effective date or provide penalty relief until April 1, 2010.

Sincerely,

Arsalan Shahid
Financial Information Forum