Release No. 34-87607 dated November 25, 2019

Reference: File Number S7-24-15

RETAIL INVESTORS WOULD BE IRREPARABLY HARMED BY THE PROPOSED RULE. The proposed sales practices rules would require a broker, dealer, or investment adviser that is registered with (or required to be registered with) the Commission to exercise due diligence in approving a retail customer's or client's account to buy or sell shares of certain "leveraged/inverse investment vehicles" before accepting an order from, or placing an order for, the customer or client to engage in these transactions. The costs imposed by the proposed sales practices would most certainly cause current retail brokerage firms to STOP OFFERING the subject products to retails investors, since these firm's cost structures don't allow them to have the staff that would be needed to perform the proposed due diligence for each retail investor who desires to invest in certain "leveraged/inverse investment vehicles." As such, access to these investment vehicles would now be denied to existing and new clients, which would cause IRREPARABLE HARM TO RETAIL INVESTORS. This would be fundamentally counter to Section 3(f) of the Exchange Act and section 2(c) of the Investment Company Act, which state that when the Commission is engaging in rulemaking under such titles and is required to consider or determine whether the action is necessary or appropriate in (or, with respect to the Investment Company Act, consistent with) the public interest, the Commission shall consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors. Further, section 23(a)(2) of the Exchange Act requires the Commission to consider, among other matters, the impact such rules would have on competition and states that the Commission shall not adopt any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Instead of protecting retail investors, the rule would irreparably harm them by taking away access to critical investment vehicles that they currently rely on.

Furthermore, the rule is anti-competitive, since it would not similarly restrict investor access to the prevailing non-inverse (yet still derivative) investment vehicles like index funds. Given the significant market corrections that are currently taking place, the SEC should be promoting certain "leveraged/inverse investment vehicles" instead of trying to kill them, since it is now clear that the one-sided market interventions of central banks over the last 12 years has created unsustainable price inflation in all asset classes that is now starting to unwind, leaving conventional retail investors few alternatives to protect themselves except for certain "leveraged/inverse investment vehicles."

In conclusion, the proposed rule would cause irreparable harm to retail investors by imposing a burden on brokerages that is not necessary or appropriate, resulting in loss of access to critical investment tools that retail investors need to protect themselves. The proposed rule is thus contrary to the Commission's obligations to protect investors and should be permanently withdrawn.

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It would be anti-competitive and contrary to capital formation to bar or restrict retail investors' access to leveraged/inverse ETF products unless similar prohibitions or restrictions were instituted to high net worth individuals. The leveraged/inverse ETF products that are currently available to retail investors are essentially the same tools that hedge funds use to protect and grow the investments of their high net worth clients. To limit access to these tools to just high net worth individuals would be anti-competitive and un-American. To do so would simply prove the saying, "The Rich get richer." Retail investors should have the same access to tools that allow them to properly hedge their investments to grow their capital in both up and down markets. As such, the proposed rule should be permanently withdrawn.

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It would be counter to the SEC's mission of ensuring efficient markets if it were to restrict or prohibit access to market products that provide positive returns when the market goes down. In fact, if the SEC were to implement such a rule, it would simply exacerbate the kind of market corrections we are now seeing as a result of the coronavirus outbreak. Does anyone doubt that the reason that the markets have corrected so significantly to the pandemic is that assets were extremely over-valued at the start of the crisis (S&P 500 P/E was 24 in December 2019, which is considered bubble territory). That's because most investors have been sold on the 'buy and hold" strategy, regardless of whether asset prices make economic sense.

Instead of trying to remove or restrict retail investors' access to investment vehicles that can help them hedge their portfolios, the SEC should be promoting these investment tools and educating retails investors how to effectively use them so that they don't find themselves at the mercy of market corrections, like they do now.

As such, the proposed rule is not appropriate in (or, with respect to the Investment Company Act, consistent with) the public interest. The Exchange Act and the Investment Company Act require the Commission to consider whether an action will promote efficiency, competition, and capital formation. As discussed herein, the proposed rule clearly does not and thus this action should be permanently withdrawn.