

23 March 2020

From: Roy Weisert, President, Weisert [Investment Services](#), Inc.
To: SEC Comment Coordinator

Subject: File No. S7-24-15 Comments

Appendix B:

Feedback Flier: Sales Practices Rules for Transacting in Shares of Leveraged/Inverse Investment Vehicles

Item 1: General Identifying Information

Instructions: At your option, you may include general identifying information that would help us contextualize your other feedback on the proposal. This information could include responses to the following questions, as well as any other general identifying information you would like to provide. Responses to these items—like responses to the other items on this Feedback Flier—will be made public.

a. Is the firm a Commission-registered investment adviser or a broker-dealer? Registered Investment Advisor; Weisert Investment Services, Inc.

b. What is the size of the firm in terms of:

- 1.) The number of retail investors (as defined in the release)? None. All clients have an assignment of Financial Professional authorization
- 2.) For Investment Advisers, regulatory assets under management? Less than \$5 million
- 3.) For broker-dealers, regulatory net capital? NA
- 4.) Other (please specify)?

c. Please include any additional general identifying information that you wish to provide, that could add context to your other feedback on the proposal.

Type business: We are a niche, family-run business that provides investment discretionary to fund selection based on our client's goals and market strategy models.

Funds we utilize: ProFunds leveraged and inverse funds for over 20 years, i.e. thru 3 major bear markets

Buy and Hold Comments: Concur with comment that buy and-hold investors in a leveraged/inverse fund who have an intermediate or long-term time horizon—and who may not evaluate their portfolios frequently—may experience large and unexpected losses or otherwise experience returns that are different from what they anticipated

How we manage leveraged funds: Being a Naval Aviator that used to fly off and land on aircraft carriers 830 times (takeoffs equaled landings), leveraged funds are like landing on an aircraft carrier. While this environment at first look might appear inherently dangerous/risky, it is a manageable environment if you follow set procedures. Naval aviation has been around since WWII (long term investing), but you manage those landings (short period of less than a minute). Daily monitoring of the leveraged funds and making those glideslope corrections (daily monitoring) is key to performance, and we have been using them with clients since 1994 to meet their goals.

Buy and Hold: Concur with the comment that “buy and-hold investors in a leveraged/inverse fund who have an intermediate or long-term time horizon—and who may not evaluate their portfolios frequently—may experience large and unexpected losses or otherwise experience returns that are different from what they anticipated”. Example: The S&P 500 has a positive return of 10% for the year. If you buy a 2:1 leveraged index fund on 1 January, do nothing until 31 December, and expect your return will be 20%, it could be significantly different. People need to understand that.

FINRA Model: Concur with “The approval and due diligence requirements under the proposed rules are modeled after current FINRA options account approval requirements for broker-dealers. Under the FINRA rules governing options, a broker-dealer may not accept a customer’s options order unless the broker-dealer has approved the customer’s account for options trading. Similarly, the proposed sales practices rules would require that a firm approve a retail investor’s account before the retail investor may invest in leveraged/inverse investment vehicles. As such, the proposed sales practices rules, like the FINRA rule, would not require firms to evaluate retail investors’ eligibility to transact in these products on a transaction-by-transaction basis.

Definition of the term “leveraged/inverse investment vehicle”: I would make the limit 2:1 for mutual funds since they can only be bought and sold with end of day pricing. For ETF’s I would make it 3:1 since they can be trading throughout the day.

Rule Application: Only upon account establishment, not transactional

Rule Application to preexisting clients: I mentioned above, that we were a small family run business and all of our clients are friends and families. They have also been clients of ours for over 2 decades. One of the biggest obstacles I have is updated and/or new Investment Policy Statements from these clients even when I update it, say just review/sign it and email it back. The usual response is “You know me”. This is a frustration as you can not force them, i.e. “I already filled out the paperwork when I opened the account, do bother me now”. Common sense to me would be if they have been using it for years, they have the implied experience so don’t bother me with some other form. That said, I do think it should be applicable to new accounts using something similar to the aforementioned FINRA model.

Where Leveraged Funds work best:

Bear Market: When you have a systemic event such as the bear markets of 2000, 2008, and 2020 which are triggered by systemic global events, inverse funds work best. They do not work as well inside a bull market as you could get whipsawed

Consolidated Market Breakout: Similar to September 2019, the markets broke out of a summer trading range to the upside. When you see the breakout in either direction, it is a good time to shift to leveraged funds.

Bull Market: Best utilized in an upward trending market like after the September 2019 breakout or January of 2019

Bottom Line: Daily monitoring with daily reallocations when needed is key. We also utilize a 5% trailing stop from the most recent high (monitored on a daily basis) to preclude nasty sell off’s like we are having now.

d. Does the firm accept orders from or place orders for the accounts of retail investors to buy or sell shares of leveraged/inverse investment vehicles (as defined in the proposed sales practices rules)? No.

Item 2: Cost to Comply with the Proposed Due Diligence and Account Approval Requirements

a. What do you expect the cost to your firm would be in order to comply with these proposed requirements (in terms of combined internal and external costs)?

1.) For an investment adviser (check one box):

Estimated cost (\$)

\$0 - \$5,000 \$5,001 - \$10,000 > \$10,000

2.) For a broker-dealer (check one box): NA

Estimated cost (\$)

\$0 - \$25,000 \$25,001 - \$50,000 > \$50,000

b. Are there any less expensive alternatives to the proposed requirements you can suggest that would still preserve the proposed rules' intended investor protection safeguards? Have FINRA model apply to new client accounts only. Established accounts are knowledgeable just by exposure.

Item 3: Other Feedback on Proposed Sales Practices Rules

Instructions: Please include any other additional suggestions or comments about the proposed sales practices rules that you would like to provide. See item 1c above.