

## ATTACHMENT A

Below is the text of FINRA Rule 2270.

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### **2270. Day-Trading Risk Disclosure Statement**

(a) Except as provided in paragraph (b), no member that is promoting a day-trading strategy, directly or indirectly, shall open an account for or on behalf of a non-institutional customer unless, prior to opening the account, the member has furnished to each customer, individually, in paper or electronic form, the disclosure statement specified in this paragraph (a). In addition, any member that is promoting a day-trading strategy, directly or indirectly, must post such disclosure statement on the member's Web site in a clear and conspicuous manner.

#### **Day-Trading Risk Disclosure Statement**

You should consider the following points before engaging in a day-trading strategy. For purposes of this notice, a "day-trading strategy" means an overall trading strategy characterized by the regular transmission by a customer of intra-day orders to effect both purchase and sale transactions in the same security or securities.

**Day trading can be extremely risky.** Day trading generally is not appropriate for someone of limited resources and limited investment or trading experience and low risk tolerance. You should be prepared to lose all of the funds that you use for day trading. In particular, you should not fund day-trading activities with retirement savings, student loans, second mortgages, emergency funds, funds set aside for purposes such as education or home ownership, or funds required to meet your living expenses. Further, certain evidence indicates that an investment of less than \$50,000 will significantly impair the ability of a day trader to make a profit. Of course, an investment of \$50,000 or more will in no way guarantee success.

**Be cautious of claims of large profits from day trading.** You should be wary of advertisements or other statements that emphasize the potential for large profits in day trading. Day trading can also lead to large and immediate financial losses.

**Day trading requires knowledge of securities markets.** Day trading requires in-depth knowledge of the securities markets and trading techniques and strategies. In attempting to profit through day trading, you must compete with professional, licensed traders employed by securities firms. You should have appropriate experience before engaging in day trading.

**Day trading requires knowledge of a firm's operations.** You should be familiar with a securities firm's business practices, including the operation of the firm's order execution systems and procedures. Under certain market conditions, you may find it difficult or impossible to liquidate a position quickly at a reasonable price. This can occur, for example, when the market for a stock suddenly drops, or if trading is halted due to recent news events or unusual trading activity. The more volatile a stock is, the greater the likelihood that problems may be

encountered in executing a transaction. In addition to normal market risks, you may experience losses due to system failures.

**Day trading will generate substantial commissions, even if the per trade cost is low.** Day trading involves aggressive trading, and generally you will pay commissions on each trade. The total daily commissions that you pay on your trades will add to your losses or significantly reduce your earnings. For instance, assuming that a trade costs \$16 and an average of 29 transactions are conducted per day, an investor would need to generate an annual profit of \$111,360 just to cover commission expenses.

**Day trading on margin or short selling may result in losses beyond your initial investment.** When you day trade with funds borrowed from a firm or someone else, you can lose more than the funds you originally placed at risk. A decline in the value of the securities that are purchased may require you to provide additional funds to the firm to avoid the forced sale of those securities or other securities in your account. Short selling as part of your day-trading strategy also may lead to extraordinary losses, because you may have to purchase a stock at a very high price in order to cover a short position.

**Potential Registration Requirements.** Persons providing investment advice for others or managing securities accounts for others may need to register as either an “Investment Adviser” under the Investment Advisers Act of 1940 or as a “Broker” or “Dealer” under the Securities Exchange Act of 1934. Such activities may also trigger state registration requirements.

(b) In lieu of providing the disclosure statement specified in paragraph (a), a member that is promoting a day-trading strategy may provide to the customer, individually, in paper or electronic form, prior to opening the account, and post on its Web site, an alternative disclosure statement, provided that:

(1) The alternative disclosure statement shall be substantially similar to the disclosure statement specified in paragraph (a); and

(2) The alternative disclosure statement shall be filed with FINRA’s Advertising Department (Department) for review at least 10 days prior to use (or such shorter period as the Department may allow in particular circumstances) for approval and, if changes are recommended by FINRA, shall be withheld from use until any changes specified by FINRA have been made or, if expressly disapproved, until the alternative disclosure statement has been refiled for, and has received, FINRA approval. The member must provide with each filing the anticipated date of first use.

(c) For purposes of this Rule, the following terms shall have the meanings specified below:

(1) “Day-trading strategy” shall have the meaning provided in Rule 2130(e).

(2) “Non-institutional customer” means a customer that does not qualify as an “institutional account” under Rule 4512(c).

(3) “Promoting a day-trading strategy” shall have the meaning provided in Rule 2130.01.

••• **Supplementary Material:** -----

**.01 Review by FINRA’s Advertising Regulation Department.** A member may submit its retail communications to FINRA’s Advertising Regulation Department for review and guidance on whether the content of the retail communications constitutes “promoting a day-trading strategy” for purposes of this Rule.

**.02 Additional Rules Regarding Day Trading.** Members should be aware that, in addition to general rules that may apply, FINRA has additional rules that specifically address day trading. See, e.g., Rule 2130 (Approval Procedures for Day-Trading Accounts); Rule 4210(f)(8)(B) (Margin Requirements) regarding special margin requirements for day trading.