

**From:** [REDACTED]  
**To:** [Comments, Public](#)  
**Subject:** Comments on FINRA Reg Notice 22-08  
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Please include in comments for Reg Notice 22-08.  
Thank you.  
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Source:  
<https://www.finra.org/rules-guidance/notices/22-08>

Thank you for this opportunity to submit a few comments on FINRA Regulatory Notice 22-08.

From the link above, it appears that FINRA, the SEC, and perhaps others have grave concerns about the access currently granted to a range of market participants for a range of what are perceived to be complex products and options.

Implied -- if not overtly stated -- in Notice 22-08 is a concern that some current participants are perceived as being deficient relative to these products.  
In the vernacular, they may hurt themselves if someone does not look out for them.  
Further, it seems that this potential for self inflicted damage may be cured by a bigger bank account or through some level of more education and information.

Hmmm...maybe....  
But then, how would we explain the fluctuations of our U.S. markets for the last 150 years or so were that the case?  
IDK. Maybe I'm missing something.

I feel fortunate that such demands and metrics are not applied to other areas of my life.  
I'm not sure I would ever obtain the implied level of knowledge and smarts required.  
Think about it....  
Loss of use of my car -- for lack of understanding of how its internals work.  
Or, worse, I might not ever adequately understand the inner workings of my toilet.  
And that would be a sad loss for sure.

Woops. Digressed.  
Back to it here.

So we all may need to eat our vegetables before we qualify to use these risky products.  
Seriously?

First, I couldn't agree more that the issues raised in the discussion surrounding Notice 22-08 are true, real, and valid.  
They do need to be discussed and understood.  
That said, the cure(s) contemplated does, somehow, seem far worse than the ill.

We're human. We all do stupid things. Some more than others. Life.  
But limiting all of us to cure a few? Not so sure about the wisdom in that.

One chooses to study and analyze something to death; understand it fully; elects never to participate or only dips a toe in now and then.  
Another? Couldn't be more opposite. Big bank account or small; educated or not -- jumps right in. Loses his (cause statistically it most likely is a male) a\*\*.  
Raising the bar beyond an already reasonable level and eliminating participants will cure this?  
Unlikely.

Does that mean that some of these products won't go south and blowup from time to time? Nope; they absolutely will.

Will it be disruptive in that moment? Yep. Perhaps even high drama.

Witness VIX ETNs of a couple years back. Boom!

Was that necessarily unexpected under that level of volatility?

Nope; not at all. Went by the script under those conditions.

But does that warrant effectively banning relatively less informed, less wealthy participants?

In some worlds, apparently so.

In mine? Nope.

Do I use these products?

Yes on a limited basis.

Do I use them as designed?

No. Not exactly.

Did I execute that contrary behavior on purpose?

Well, yes.

Am I at risk of a catastrophic meltdown?

Technically, yes. Practically speaking, no.

If the geared product(s) I've chosen to use, unconventionally, has a meltdown, the World in that moment will be having so many other issues that my trading account will be irrelevant and of little consequence. In that moment, I'll probably be more concerned about bigger issues -- like meeting my Maker.

Would I qualify to use these products under the various rules and regulations contemplated?

Maybe. Probably could master any knowledge requirements sooner or later, hopefully. But the bank account? Depends on the threshold.

Consider this...

We have a world of ETFs that allow all of us to immediately access a reliable, diversified basket of equities as never before.

In an earlier age, who could hope to hold all of the S&P 500? The Nasdaq 100? The Dow 30?

Only a few could muster the wealth to diversify at that level?

Now? All of us can. And do it literally in a click.

Similarly, ETFs/ETNs have introduced risk and diversification only dreamed of by retail investors a short ten or twenty years ago.

These products bring to life ideas and financial concepts that most of us have neither the time, resources, or competence to construct and fund.

Oh, sure, each one seems to bring along a range of technical imperfections and slippage versus the ideal model it purports to follow or mirror.

But for so many, that ETF/ETN provides a chance -- a chance to do something financially that otherwise for that individual would be impossible -- NEVER accessible.

That product adds value to our lives.

It has merit.

It's my job to inform and educate myself.

It's my job to wade in at levels I perceive as appropriate.

Is it my fault, FINRA's, or another's that some folks will choose to use these products foolishly?

Hardly.

Is it my fault, FINRA's, or another's that some professionals will abuse their position, trust, and fiduciary responsibilities in the usage of these riskier products -- along with other, more traditional, less risky tools? No; not at all.

That's part of the human condition. And FINRA, the SEC, and others do a reasonable job of addressing the more egregious, even criminal, misbehavior of those actors.

But should we lock down and effectively punish all of us for the actions of the minority, a relative few?

The 80/20 Rule may apply here. 20% may cause 80% of the problems. IDK.

But do we really want to limit the 80% who seem to use ETFs/ETNs/ETPs (and Options?) prudently?

Or if not prudently, then well enough?

No; I don't think so.

I've been involved in the equity markets almost daily for about 12 years now.  
It's some of the hardest, most challenging work I've ever had the privilege of doing.  
Much of it happens between the ears.  
A BBA and MBA help -- but only a little.  
Understanding risk and its management is a totally different ballgame versus my earlier career experiences.  
I've evolved to a technical model after starting with a more balanced technical-fundamentals model.

ETFs have been a critical piece of that journey.  
Further, a limited application of geared products has been instrumental as well.  
Had I not had access to (geared) ETF products to develop that mix? Well, life would look a lot different.

In closing, thank you for allowing me to share this perspective.  
Further, I'm thankful that FINRA has been and continues to be a vital part of the discussion and regulatory landscape of our American capital markets.  
FINRA brings a necessary element to a complex environment.  
I trust FINRA will practice considerable restraint as it contemplates its rules and regulations for 22-08.  
I'd like to think that another generation will continue to have access to a host of ETPs -- warts, risk, geared/leveraged, and all -- as I have.  
Any downside at the individual, retail level seems more than offset by the odds of upside, positive outcomes -- individually and collectively.

All the Best!  
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