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Via email

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

RE: University of Pittsburgh Securities Arbitration Clinic's response to "The Metaverse and the Implications for the Securities Industry" request for comment.

By: Professor Alice L. Stewart,* Professor Rachael T. Shaw,* Karly Treaster,* and Nick Bridges.*

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Dear Ms. Mitchell:

The Securities Arbitration Clinic at the University of Pittsburgh School of Law ("Pitt Law") appreciates the opportunity to comment on *The Metaverse and the Implications for the Securities Industry*. This comment is written on behalf of the University of Pittsburgh Securities Arbitration Clinic (the "Clinic"), which advocates for the interests of smaller investors, particularly older individuals and those with limited financial resources. FINRA's efforts to explore potential benefits and challenges to investing in the metaverse naturally stir up excitement for the future. However, we would like to highlight several concerns regarding how the metaverse may disproportionately affect some retail investors, especially elders and those without significant financial means.

I. INTRODUCTION

The Clinic was founded in 2000 and originally based at the Thomas R. Kline School of Law at Duquesne University at the urging of the 25th Chairman of the United States Securities Commission (SEC) Arthur Levitt Jr who served from 1993-2001. The Clinic moved to the University of Pittsburgh School of Law in 2011. There are currently eight law students and two attorney advisors. The Clinic requires that students participate for two consecutive semesters, ensuring that each student has sufficient time to acquire a wealth of experience and remain with his or her assigned cases over an entire academic year. Pitt Law is now one of only ten law schools across the country offering such a securities arbitration clinic.

The Clinic represents small investors with claims under $100,000 in disputes before FINRA. Since the inception of the Clinic in 2000, Clinic students (under the supervision of Professor Alice Stewart) have recovered for hundreds of small investors. The Clinic does not take any legal fees and requests filing fee waivers for disadvantaged and low-income clients, making it entirely free for harmed small investors. The Clinic is vital to clients who cannot afford an attorney and whose financial losses are viewed by the practicing securities bar as too small in value to accept. The clients of the clinic are often elderly, economically disadvantaged, and unsophisticated young investors. Clinic students participate in the client's legal representation for the entire life cycle of potential cases – from drafting complaints and completing discovery, to negotiating settlements or representing the client in arbitration.

Our role is to investigate our clients' claims, represent them in arbitration, and proactively advocate for them by addressing issues that may affect our clients in the future, such as issues raised in this request for comment from FINRA. While the Clinic acknowledges the benefits that may exist in using the metaverse, we urge that FINRA consider the type of investor served by our Clinic. To that end, the Clinic submits the following in response to the request for comment on *The Metaverse and the Implications for the Securities Industry.*

II. CONCERNS WITH METAVERSE TECHNOLOGY

A. Accessibility and Digital Barriers

The metaverse presents significant accessibility barriers for both small and elderly investors. Virtual-Reality (VR) hardware, high-speed internet access and digital literacy are prerequisites for meaningful participation, but these resources are often unavailable to older and lower-income individuals. For example, older investors may have the resources to access relevant technology, but they may not possess the technological literacy to properly engage and participate with investing in the metaverse. On the other hand, some younger but smaller investors may possess the technological literacy necessary to participate but may be unable to do so due to a lack of resources.

Without adequate non-VR alternatives and investor education initiatives, many retail investors risk exclusion from financial opportunities or, worse, making uninformed investment decisions in an unfamiliar digital setting. We encourage FINRA to implement standards ensuring that all investors—regardless of technological proficiency or resources—have fair access to metaverse-related financial services.

B. Regulatory & Compliance Concerns

Metaverse financial transactions raise significant questions about regulatory jurisdiction and compliance enforcement. With virtual financial services potentially operating across multiple jurisdictions, it is unclear how FINRA will monitor and enforce investor protections. Additionally, traditional disclosure methods, such as written prospectuses, may not translate effectively into metaverse platforms. While some investors may be familiar with common practices in the outside world, new practices will have to be developed so that regulators can retain a high level of confidence in consumer protection. FINRA should consider adapting regulatory frameworks to ensure that essential investor protections remain intact in virtual financial environments. As an example, compliance with Know-Your-Customer and Anti-Money Laundering rules should require financial institutions operating in virtual platforms to implement enhanced digital identity verification processes to confirm investor identities.

C. Gamification of Investing

The metaverse's ability to gamify financial activities introduces new risks for retail investors. By making investing feel more like an interactive experience, firms could inadvertently encourage impulsive trading, particularly among inexperienced young investors. The possibilities of investing in the metaverse have yet to be designed by human imagination, but one can certainly understand that the ideas pose dangers for certain demographics. Children and young adults are naturally more susceptible to ignore the link between virtual currency and the real money to which it is tied. As a child, spending money on "gems"[1] or "v-bucks"[2] lacks the physical exchange that is important for solidifying the idea that you are giving up something real in return for this online product. There is significant danger in gamifying investing due to new generations' difficulty in separating online and real-world consequences.

D. Purposeful Design

This difficulty in separating online and real-world consequences has created an avenue for companies to take advanatge of individuals in the new generation. Epic games, the maker of Fortnite, was ordered by the Federal Trade Commission (FTC) to pay a $245 million fine for allowing kids to rack up massive charges without parental consent.[3] The lawsuit claimed that "Fortnite's counterintuitive, inconsistent, and confusing button configuration led players to incur unwanted charges based on the press of a single button."[4] The FTC says, "The company also made it easy for children to make purchases while playing Fortnite without requiring any parental consent."[5]

Targeted advertising and solicitation tactics in virtual spaces may exert undue influence on certain retail investors, steering them toward high-risk financial products. While young people may be susceptible, they are not the only group that may be subject to targeted advertising like this. Elderly and unsophisticated new investors could be vulnerable to purposeful designs that encourage high-risk investment products by playing on the attractiveness of large gains in wealth

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[1] Virtual currency in *Clash of Clans* and *Clash Royale.* Two games designed by SuperCell that have had issues with children racking up major charges on parent's cards

[2] Virtual currency in Fortnite

[3] Zachary Rogers, *'Fortnite' develop fined $245 million for letting kids 'rack up' charges without parent consent* (Mar. 17, 2023), https://katv.com/news/nation-world/fortnite-developer-fined-245-million-for-letting-kids-rack-up-charges-without-parents-consent-ftc-federal-trade-commission-epic-games-dark-patterns-skins-vbucks-refunds.

[4] *Id.*

[5] *Id.*

while downplaying the risks involved. This could appear as a metaverse environment in which it is designed to be difficult to access smarter and safer investment products, while access to high-risk products is straightforward and easy. We urge FINRA to develop specific safeguards against such practices, including stronger transparency requirements for metaverse-based advertising and solicitation.

III. RECOMMENDATIONS

To address these concerns, we propose the following measures:

A. **Stronger Fraud Prevention Measures** – FINRA should implement enhanced monitoring and AI-driven fraud detection tools tailored to the metaverse.

A large concern with the metaverse is its ability to collect a wide range of information from individuals. This can include personal data beyond that typically gathered by member firms. For example, the metaverse can collect "sensor data like gesturing, gait, facial expressions, eye movements, vocal inflections and vital signs in real time."[6] This goes beyond the traditional information used or stored by advisors or brokers. This creates great potential for abuse as this data could be obtained by hackers or misused by enabling those with access to the data "to build data points and predict certain preferences or decisions they may likely make."[7]

Although there are protections currently in place, "future technology will likely accelerate the pace of human invention, meaning that the current encryption may not provide enough surety for the users in protecting their assets."[8] As technology advances, "concerns arise that if the technology moves too quickly the encryption methods that users rely on for protection of their

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[6] *Metaverse Privacy and Safety*, WORLD ECONOMIC FORUM (July 2023), https://www3.weforum.org/docs/WEF_Metaverse_Privacy_and_Safety_2023.pdf.
[7] *Cyber considerations for the Metaverse*, KPMG (2022), https://kpmg.com/kpmg-us/content/dam/kpmg/pdf/2022/cyber-considerations-metaverse.pdf.
[8] *Metaverse Property: Advocating for the Regulation of Metaverse Land and Property through Real Estate Regime*, 17 OHIO ST. BUS. L.J. 323, 329-330 (2023).

transactions may not maintain an adequate level of surety."[9] Failure to update security measures at the same pace as metaverse technology can lead to technological gaps, causing significant concerns. Leaving "security lapses on some developing platforms and the ability to build fake metaverse experiences can lead to hacks, fraud, or the theft of users' funds."[10] In order to prevent breaches and protect investors, these technological gaps and the difficulty in the onboarding process should be addressed.[11]

B. **Clearer Regulatory Guidelines** – FINRA must ensure that metaverse financial services comply with existing securities laws and provide additional guidance on jurisdictional enforcement.

Some financial institutions are beginning to experiment with incorporating the metaverse and its technology. For example, Fidelity has opened "Fidelity Stack" in Decentraland, a virtual world encompassing metaverse technology. One capability at The Fidelity Stack in Decentraland is gathering "orbs" while learning about ETF investing.[12] As more financial institutions begin to experiment with the metaverse, it is essential that there is proper regulatory guidance in addition to enforcement mechanisms. When violations of securities' laws occur within the metaverse, there must be systems in place to permit wronged investors to recover. These securities regulations and enforcement mechanisms should be established expeditiously, ahead of the increased participation of financial institutions in the metaverse.

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[9] *Id.* at 347-48.
[10] NASAA, *US investors cautioned about crypto scams in metaverse* (Aug 31, 2022).
[11] Mubashar Iqbal et al., *Metaverse in financial industry: Use cases, value, and challenges*, INT'L J. INFO. MGMT. DATA INSIGHTS, Oct. 26, 2024, at 1, 12.
[12] FIDELITY NEWSROOM, *Fidelity opens "The Fidelity Stack" in Decentraland; becomes first brokerage firm with immersive educational Metaverse experience* (Apr. 21, 2022), https://newsroom.fidelity.com/pressreleases/fidelity-opens--the-fidelity-stack--in-decentraland--becomes-first-brokerage-firm-with-immersive-edu/s/1b05ba31-ad92-4eee-84ef-bf298bb4c802.

C. **Investor Education Initiatives** – FINRA should launch targeted educational campaigns to help older and lower-income investors navigate metaverse investment opportunities safely.

Unsophisticated young investors, and elderly individuals, may be unfamiliar with the advancements in the metaverse. Even those who are familiar with metaverse technology, may not fully understand the type of information collected or the risks that could be associated with investing in the metaverse. These investors should be made aware of the type of information that can be collected with metaverse technology, and that information should not be stored or shared without the consent of these investors.[13] There should also be "[p]rivacy and safety considerations...at each stage of accessing, onboarding and engaging in metaverse environments and experiences."[14] An understanding of metaverse technology and the risks it poses is essential for ensuring meaningful and safe investing practices.

D. **Accessibility Standards** – Firms offering financial services in the metaverse should be required to provide non-VR alternatives and ensure disclosures remain comprehensible to all investors.

To the extent that investors are unable to understand or effectively utilize metaverse technology, non-VR alternatives should remain available. FINRA should explore options to make certain that elderly, low-income, and unsophisticated investors do not miss out on investing opportunities because of their lack of access to or understanding of metaverse technology. As member firms continue to explore metaverse technology, traditional methods of investing should still be an option for these investors.

[13] *Supra, Metaverse Privacy and Safety.*
[14] *Supra, Metaverse Privacy and Safety.*

E. **Advertising and Behavioral Protections** – Metaverse-based investment solicitations should be subject to heightened scrutiny to prevent manipulative practices.

Despite the potential benefits of the metaverse, these developments in technology can also create more avenues for bad actors to harm investors. With the substantial amount of information the metaverse can obtain, the concern of security breaches becomes even more prevalent. Two main concerns are (1) that security measures are not keeping up with the advancements in technology, allowing for easier breach; and (2) the lack of understanding by unsophisticated young and elderly investors may allow for them to be taken advantage of more easily. This may include cyberattacks or data breaches, which could allow bad actors to gain access to private information.[15] A lack of understanding of metaverse technology can make it easier for bad actors to take advantage of elderly or unsophisticated young investors. The metaverse uses virtual identities which can make "it easier for rogue sellers to impersonate established companies and collect personal data without permission."[16] Without a full understanding of these technological possibilities, unsophisticated young and elderly investors may be easily scammed. This should be taken into consideration when considering the use of metaverse technology.

IV. CONCLUSION

While the metaverse offers exciting possibilities for the securities industry, it also introduces serious risks that could disproportionately harm smaller investors, particularly the elderly and those with limited resources. We urge FINRA to take proactive steps to ensure that the evolution of financial services in virtual environments does not come at the expense of investor

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[15] Gia Snape, *Metaverse risks: how organizations can prepare* (Jan. 20, 2023), https://www.insurancebusinessmag.com/ca/news/cyber/metaverse-risks-how-organizations-can-prepare-433569.aspx.

[16] Nageswar Cherukupalli, *How financial advisors can capitalize on the metaverse* (Mar. 21, 2023), https://www.investmentnews.com/opinion/how-financial-advisors-can-capitalize-on-the-metaverse/235062.

protection. We appreciate the opportunity to comment on this important issue and welcome further dialogue on ways to safeguard vulnerable investors in the metaverse in the future.

Respectfully submitted,

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