

FINRA Reminds Member Firms of Obligations in the Sale of Exchange Traded Products

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FINRA recently issued Regulatory Notice 20-14 ("Reg. Notice 20-14") in which they remind member firms of their obligations in connection with the purchase and sale of oil-linked exchange-traded products ("ETPs"). Oil-linked ETPs, as well as other commodity-linked ETPs, do not necessarily track the price of the underlying commodity, but rather may track the futures index value of the commodity. FINRA warns that these ETPs may not be fully understood by retail investors, as well as some registered representatives who sell them.

As a result, these products may subject retail investors to financial exposure of which they are unaware, as the markets for oil have recently undergone extraordinary volatility and some futures indices have lost a significant percentage of their value. FINRA has also previously reminded firms of these issues in [Regulatory Notice 10-51](#) concerning commodity futures-linked securities and in [Regulatory Notice 17-32](#) concerning volatility-linked exchange-traded products.

FINRA again reminds member firms that:

1. recommendations to customers must be based on a full understanding of the terms, features and risks of the product recommended;
2. firms must have fair and accurate communications with the public; and
3. firms must have reasonably designed supervisory procedures in place to ensure that these obligations are met.

In addition, firms that offer complex ETPs are required to train registered representatives who sell these products about the terms and risks of these products. Further, recommendations of these ETPs will be governed by the SEC's Regulation Best Interest ("Reg. BI") beginning June 30, 2020. Reg. BI will require firms to "have a reasonable basis to believe that the recommended security is suitable for at least some investors" and "have a reasonable basis that the recommended security is in the specific retail customer's best interest at the time the recommendation is made".

The full text of Reg. Notice 20-14 can be found [here](#).

Authors