

February 16, 2021

Robert Cook
President and Chief Executive Officer
Financial Industry Regulatory Authority, Inc. (FINRA)
1735 K Street NW
Washington, DC 20006

Dear Mr. Cook:

I am writing regarding recent market volatility and the role of Robinhood in “the recent wild swings in the price of GameStop Inc.[...] and other heavily shorted stocks”¹ and to better understand how the Financial Industry Regulatory Authority (FINRA) is addressing these events. I am concerned about actions by Robinhood and entities affiliated with Robinhood that appear to present an uneven playing field that harms individual investors. FINRA’s mission statement is clear that “Every investor in America relies on one thing: fair financial markets,” and to ensure this fairness, the agency must conduct a thorough review to determine whether Robinhood’s practices comply with existing laws and regulations governing broker-dealers.² In order to meet its goal of “protect[ing] the investing public against fraud and bad practices,”³ FINRA—in its role as the self-regulatory entity that licenses and regulates brokers-dealers— should also review concerns about payment for order flow and potentially misaligned incentives in the brokerage industry, the impact of forced arbitration, and potential gaps in existing enforcement practices.

Regulators and Lawmakers Have Long Expressed Concerns with Robinhood Practices

While this past month’s activities have led federal regulators to more aggressively consider “whether the financial markets — from hedge funds to the banking sector and beyond — require more oversight” and whether there should be “new oversight over some of the trading platforms, such as Robinhood,”⁴ FINRA and other regulators have already taken notice of harmful practices by Robinhood in recent years.

¹ MarketWatch, “Robinhood ramps up its lobbying effort as Washington scrutinizes the trading app,” Victor Reklaitis, February 10, 2021, <https://www.marketwatch.com/story/robinhood-ramps-up-its-lobbying-effort-as-washington-scrutinizes-the-trading-app-11612977918>.

² Financial Industry Regulatory Authority, “About FINRA,” Accessed February 10, 2021, <https://www.finra.org/about>.

³ Financial Industry Regulatory Authority, “What We Do,” Accessed February 10, 2021, <https://www.finra.org/about/what-we-do>.

⁴ Washington Post, “Treasury Secretary Janet Yellen and other top financial regulators will convene amid GameStop stock craze,” Jeff Stein and Rachel Siegel, February 2, 2021, <https://www.washingtonpost.com/business/2021/02/02/yellen-gamestop-regulator/>.

In 2019, FINRA fined Robinhood \$1.25 million “for best execution violations related to its customers’ equity orders and related supervisory failures.”⁵ FINRA found that “Robinhood’s supervisory system was not reasonably designed to achieve compliance with its best execution obligations.”⁶ In December 2020, the Commonwealth of Massachusetts filed a legal complaint against Robinhood on grounds that it failed to act “without regard for the best interest of its customers.”⁷ That same month, Robinhood paid \$65 million to settle charges brought by the Securities and Exchange Commission (SEC), which supervises FINRA, for “misleading customers about revenue sources and failing to satisfy duty of best execution.”⁸

Lawmakers have also previously raised questions about Robinhood’s investor protections. U.S. Representatives Lauren Underwood, Brad Sherman, Bill Foster, and Sean Casten and Senators Richard Durbin and Tammy Duckworth wrote to the company in July 2020, noting that “[b]y seeking to cultivate a customer base of relatively inexperienced investors, [Robinhood has] also taken on an especially great responsibility to make sure your customers are protected and always provided with clear and accurate information.”⁹ These lawmakers raised their concerns following the tragic death of Alex Kearns, a 20-year-old student who died by suicide after he “repeatedly tried and failed to get in touch with Robinhood about his negative account balance of \$730,000.” As of this month, the “Kearns family is suing Robinhood for the wrongful death of their son, who — like a growing number of novice traders — turned to the free trading app for access to sophisticated financial instruments such as options.”¹⁰ Indeed, a new FINRA report released earlier this month described “emerging digital communication risks” in which “[s]ome online broker-dealers’ apps—as well as those offered by other financial services and consumer-oriented businesses—include interactive and ‘game-like’ features, as well as related forms of advertising and marketing.”¹¹ FINRA must review the extent to which Robinhood, which utilizes several of these practices, put investors at unnecessary risk in the ways described by FINRA’s report.

Robinhood’s decision to abruptly restrict particular trades in recent weeks raises further questions about whether the company is meeting its obligations to investors. I have questioned the company’s leadership on their actions, which appeared to treat individual investors in an unequal and

⁵ Financial Industry Regulatory Authority, “FINRA Fines Robinhood Financial, LLC \$1.25 Million for Best Execution Violations,” press release, December 19, 2019, <https://www.finra.org/media-center/newsreleases/2019/finra-fines-robinhood-financial-llc-125-million-best-execution>.

⁶ *Id.*

⁷ Washington Post, “Robinhood agrees to \$65 million civil penalty to resolve SEC charges,” Hannah Denham, December 17, 2020, <https://www.washingtonpost.com/business/2020/12/17/robinhood-sec-investigation/>.

⁸ Securities and Exchange Commission, “SEC Charges Robinhood Financial With Misleading Customers About Revenue Sources and Failing to Satisfy Duty of Best Execution,” press release, December 17, 2020, <https://www.sec.gov/news/press-release/2020-321>.

⁹ Letter from Representatives Underwood, Sherman, Foster, and Casten and Senators Durbin and Duckworth to Robinhood Co-Founders and Co-CEOs Vladimir Tenev and Baiju Bhatt, July 13, 2020, <https://underwood.house.gov/sites/underwood.house.gov/files/Underwood%20Letter%20to%20Robinhood%20re%20Investor%20Protections.pdf>.

¹⁰ CNN, “‘He would be alive today’: Parents detail son’s desperate attempts to contact Robinhood before he killed himself,” Matt Egan, February 11, 2021, <https://www.cnn.com/2021/02/11/investing/robinhood-lawsuit-suicide-alex-kearns/index.html>; Wall Street Journal, “Robinhood Faces Wrongful-Death Lawsuit Over Young Trader’s Suicide,” Peter Rudegeair, February 8, 2021, <https://www.wsj.com/articles/robinhood-faces-wrongful-death-lawsuit-over-young-traders-suicide-11612813320>; CNN, “Lawmakers slam Robinhood after apparent suicide by 20-year-old trader,” Matt Egan, July 14, 2020, <https://www.cnn.com/2020/07/14/investing/robinhood-suicide-congress-underwood/index.html>.

¹¹ Financial Industry Regulatory Authority, “2021 Report on FINRA’s Examination and Risk Monitoring Program,” report, February 2021, <https://www.finra.org/sites/default/files/2021-02/2021-report-finras-examination-risk-monitoring-program.pdf>.

unfair fashion.¹² These restriction reportedly stemmed from “an early morning message from a clearinghouse asking for a sharp increase in deposits for that day’s trading” following the surge in trading volume for volatile stocks like GameStop.¹³ To meet these requirements, Robinhood reportedly drew “on a line of credit from six banks amounting to between \$500 million and \$600 million” and “raise[d] more than \$1 billion from its existing investors.”¹⁴ The public deserves to know the details of circumstance behind Robinhood’s decision to restrict trading, and FINRA must review Robinhood’s actions to see if they are consistent with FINRA’s mandate “to protect America’s investors by making sure the broker-dealer industry operates fairly and honestly.”¹⁵

Given several findings that Robinhood violated rules governing broker-dealers and lacked systems to ensure their compliance with those rules, the public deserves to understand what steps FINRA has taken to ensure future compliance by Robinhood, whether Robinhood improved its systems and compliance in response to the many complaints filed by regulators and lawmakers, and whether continued violations of market rules may have contributed to the company’s role in recent market swings.

Misaligned Incentives in the Brokerage Industry

The recent market volatility has raised troubling questions about the relationship between trading platforms and large financial institutions.¹⁶ The relationship appears to exist largely through payment for order flow, “in which the [brokerage] firms steer investor trades to high-volume market makers such as Citadel Securities in exchange for fees.” Last year, “Wall Street trading firms paid almost \$3bn to retail brokers such as Robinhood to handle their trades.”¹⁷ While “payment for order flow made it possible for the U.S. brokerage industry to shift to zero-commission trades,” some experts say the practice “warps the incentives of brokers and encourages them to maximize their revenue at the expense of customers,”¹⁸ while also giving market makers “informational advantages over individual investors.”¹⁹

Securities experts have argued that federal regulators, including the SEC and FINRA, “should have done more in recent years to significantly rein in the practice of payment for order flow and to set new rules about the types of orders market makers and stock exchanges can accept from traders that can give them informational advantages over individual investors.”²⁰ By “creat[ing] conflicts of interest and

¹² Letter from Senator Warren to Robinhood Chief Executive Officer Vladimir Tenev, February 2, 2021, <https://www.warren.senate.gov/imo/media/doc/02.02.2021%20Letter%20from%20Senator%20Warren%20to%20Mr.%20Tenev.pdf>.

¹³ Wall Street Journal, “Robinhood Raises \$1 Billion to Meet Surging Cash Demands,” Peter Rudegeair and Orla McCaffrey, January 29, 2021, <https://www.wsj.com/articles/robinhood-raises-1-billion-to-meet-surging-cash-demands-11611928504>.

¹⁴ New York Times, “Robinhood, in Need of Cash, Raises \$1 Billion From Its Investors,” Kate Kelly, Eric Griffith, Andrew Ross Sorkin, and Nathaniel Popper, January 29, 2021, <https://www.nytimes.com/2021/01/29/technology/robinhood-fundraising.html>.

¹⁵ Financial Industry Regulatory Authority, “About FINRA,” Accessed February 10, 2021, <https://www.finra.org/about>.

¹⁶ CNBC, “Robinhood restricts trading in GameStop, other names involved in frenzy,” Maggie Fitzgerald, January 28, 2021, <https://www.cnbc.com/2021/01/28/robinhood-interactive-brokers-restrict-trading-in-gamestop-s.html>.

¹⁷ Financial Times, “Wall Street firms paid almost \$3bn last year for retail brokers’ trades,” Philip Stafford, Joe Rennison, Madison Darbyshire, and Patrick Temple-West, February 5, 2021, <https://www.ft.com/content/6651f34a-0d8d-4d68-bdf9-23b355f8c9db>.

¹⁸ Wall Street Journal, “GameStop Mania Drives Scrutiny of Payments to Online Brokers,” Alexander Osipovich, February 4, 2021, <https://www.wsj.com/articles/gamestop-mania-drives-scrutiny-of-payments-to-online-brokers-11612434601>.

¹⁹ MarketWatch, “Robinhood-GameStop saga could put spotlight on DC, Wall Street revolving door,” Chris Matthews, February 8, 2021, <https://www.marketwatch.com/story/robinhood-gamestop-saga-could-put-spotlight-on-dc-wall-street-revolving-door-11612817586>.

²⁰ *Id.*

rais[ing] serious questions about whether such conflicts can be effectively managed,”²¹ the payment for order flow system risks undermining best execution considerations —“regulations that essentially require brokerages to find the best price for their retail clients.”²² Indeed, the \$65 million fine the SEC levied against Robinhood last year stemmed from the finding that the company failed to “sufficiently disclose its business deals with high-speed trading firms,” resulting in its customers receiving “prices ‘that were inferior to other brokers’ prices.”²³

I am concerned that current oversight of broker-dealers does not sufficiently prevent conflicts of interest caused by payment for order flow, particularly with respect to the relationship between broker-dealers and market makers. According to news reports, when “Robinhood directs a transaction to one of these third parties, the market maker learns which security is being bought or sold before the trade happens” which ultimately “gives the market-making firms information about retail trading patterns.” This practice may amount to “a hidden tax on unsuspecting” investors.²⁴ The beneficiaries of this trading information, like Citadel Securities, have “repeatedly drawn controversy” over their practices, and penalties paid to both the SEC and FINRA “have fueled suspicion about... hand[ing] of individual investors’ orders.”²⁵ I urge FINRA to review the potential harm that payment for order flow practices may pose to consumers, the adequacy of existing FINRA regulations and guidance, and potential regulatory or legislative solutions to reduce conflicts of interest that weaken brokers’ obligations to investors.

FINRA Must Review Forced Arbitration Agreements By Broker-Dealers Like Robinhood

Regulators must also review other potentially harmful practices by Robinhood and other broker-dealers. Notably, I am troubled by Robinhood’s inclusion of forced arbitration clauses in its customer agreement, which state that in using the app, users and Robinhood “are giving up the right to sue each other in court... except as provided by the rules of the arbitration forum,” and that any “controversy or claim” between Robinhood and the user are required to be brought before FINRA Dispute Resolution.²⁶ According to reports, several lawsuits have been filed against Robinhood in recent weeks, with some “seek[ing] damages on behalf of other aggrieved investors.”²⁷

Robinhood’s use of forced arbitration clauses suggests that investors will not have sufficient opportunity to pursue their claims and seek relief.²⁸ Research shows that “individuals are far less likely

²¹ Quartz, “How Robinhood became a target of the retail-trading hype it helped create,” John Detrixhe, February 4, 2021, <https://qz.com/1967574/robinhood-is-a-target-of-its-own-financial-democratization-story/>.

²² MarketWatch, “The SEC could cripple Robinhood’s business model by enforcing existing rules, experts say,” Chris Matthews, February 6, 2021, <https://www.marketwatch.com/story/the-sec-could-cripple-robinhoods-business-model-by-enforcing-existing-rules-experts-say-11612377651>.

²³ Wall Street Journal, “Robinhood Financial to Pay \$65 Million to Settle SEC Probe,” Dave Michaels and Alexander Osipovich, December 17, 2020, <https://www.wsj.com/articles/robinhood-to-pay-65-million-to-settle-sec-probe-11608213680>.

²⁴ Washington Post, “Robinhood and Citadel’s relationship comes into focus as Washington vows to examine stock-market moves,” Douglas MacMillan and Yeganeh Torbati, January 29, 2021, <https://www.washingtonpost.com/business/2021/01/29/robinhood-citadel-gamestop-reddit/>.

²⁵ Wall Street Journal, “GameStop Frenzy Puts Spotlight on Trading Giant Citadel Securities,” Alexander Osipovich, January 31, 2021, <https://www.wsj.com/articles/gamestop-frenzy-puts-spotlight-on-trading-giant-citadel-securities-11612089000>.

²⁶ Robinhood, “Robinhood Financial LLC & Robinhood Securities, LLC Customer Agreement,” June 22, 2020, <https://cdn.robinhood.com/assets/robinhood/legal/Customer%20Agreement.pdf>.

²⁷ Bloomberg, “Robinhood Suits Come Daily, But an Outcome May Be Years Away,” Chris Dolmetsch and Christopher Yasejko, January 29, 2021, <https://www.bloomberg.com/news/articles/2021-01-29/robinhood-suits-arrive-daily-but-an-outcome-may-be-years-away>.

²⁸ Robinhood, “Robinhood Financial LLC & Robinhood Securities, LLC Customer Agreement,” June 2020, <https://cdn.robinhood.com/assets/robinhood/legal/Customer%20Agreement.pdf>.

to prevail when their grievances are heard in arbitration vs. court” and that “companies can use arbitration to preemptively crush consumer challenges to their practices, no matter how predatory, discriminatory, unsafe—and even illegal—they may be.”²⁹ Secretive arbitration processes deny customers a fair hearing, undermine public accountability, and hamper efforts to assemble a thorough and complete understanding of events. Investors harmed by Robinhood’s trading restrictions should be able to argue their case in court, rather than in closed-door proceedings that are too often rigged against claimants. In order to better understand how Robinhood has potentially abused forced arbitration as a way to stifle consumer complaints, FINRA must examine the company’s use of these practices in detail.

Furthermore, in reviewing how forced arbitration clauses may have been used to hurt investors, FINRA must also review its own arbitration practices and provide the public with information and data on arbitration outcomes, arbitration awards, the demographics of arbitrators, and whether wronged investors actually receive their arbitration awards. I am deeply concerned about reports that indicate that FINRA’s pool of arbitrators lacks diversity, and that in “the five years from 2012 through 2016, a total of 268 awards (27 percent of the cases where investors were successful) or \$199 million in awards (29 percent of total damages awarded to investors) have gone unpaid.”³⁰ Due to the lack of action on unpaid arbitration rewards, I introduced the bipartisan *Compensation for Cheated Investors Act* and called for increased transparency in FINRA proceedings.³¹ I urge you to consider these issues seriously and take immediate action to provide the public with information about arbitration before FINRA.

FINRA Should Review Potential Gaps in Market Laws, Regulations, and Enforcement

Regulators and other market watchdogs, such as FINRA, must identify where there may be gaps in the current laws, rules, and guidance used to oversee market participants, particularly as regulators look “into the decision-making by Robinhood and other online trading platforms.”³²

Identifying existing regulatory gaps will be critical in reviewing potential regulatory or legislative solutions. In particular, FINRA and other regulators must identify for Congress and the public areas where regulators lack sufficient enforcement personnel, training, or resources. Reports have raised concerns that the enforcement division of the SEC “lacks the data science specialists needed to combat market manipulation cases”³³ executed online, and it is important for investors and lawmakers to understand whether FINRA may face similar challenges in fulfilling its responsibilities.³⁴

²⁹ Consumer Reports, “Forced Arbitration: A Clause for Concern,” Scott Medintz, January 30, 2020, <https://www.consumerreports.org/mandatory-binding-arbitration/forced-arbitration-clause-for-concern/>.

³⁰ Public Investors Arbitration Bar Association, “Study: Industry-Run FINRA Arbitrator Pool Lacks Diversity And Fails To Detect, Communicate Potential Biases,” press release, October 7, 2014, <https://piaba.org/in-the-media/study-industry-run-finra-arbitrator-pool-lacks-diversity-and-fails-detect-communicate>; Public Investors Arbitration Bar Association, “PRESS RELEASE: As Unpaid Arbitration Awards Reach \$200 Million, Congress Must Force Creation of ‘Arbitration Pool’ if FINRA Does Not Act,” press release, March 7, 2018, <https://piaba.org/piaba-newsroom/press-release-unpaid-arbitration-awards-reach-200-million-congress-must-force>.

³¹ Office of Senator Warren, “Kennedy Joins Warren on Legislation to Compensate Cheated by Brokers and Dealers,” press release, May 16, 2018, <https://www.warren.senate.gov/newsroom/press-releases/kennedy-joins-warren-on-legislation-to-compensate-investors-cheated-by-brokers-and-dealers>; Office of Senator Warren, “Warren Calls for Transparency as FINRA Updates Broker Expungement Rules,” press release, March 22, 2019, <https://www.warren.senate.gov/oversight/letters/warren-calls-for-transparency-as-finra-updates-broker-expungement-rules>.

³² Washington Post, “GameStop frenzy leaves behind a mess for Wall Street regulators,” Tory Newmyer and David Lynch, February 3, 2021, <https://www.washingtonpost.com/business/2021/02/03/gamestop-sec-regulation/>.

³³ *Id.*

³⁴ Wall Street Journal, “SEC Expands Enforcement Staff’s Power to Start New Investigations,” Dave Michaels, February 9, 2021, <https://www.wsj.com/articles/sec-expands-enforcement-staffs-power-to-start-new-investigations-11612894490>.

Questions Regarding Concerns Raised by Robinhood Practices

Recent market volatility and practices used by companies like Robinhood have raised concerns about the integrity and stability of the stock market. FINRA is “authorized by Congress to protect America’s investors by making sure the broker-dealer industry operates fairly and honestly” and works to provide “essential support to investors, regulators, policymakers and other stakeholders,”³⁵ FINRA must review the role broker-dealers, such as Robinhood, may have played in the recent market instability, areas where regulation and enforcement can be improved, and ways in which FINRA can better protect the integrity of capital markets moving forward.

In order to better understand how FINRA views the recent market instability as well as the steps FINRA will take “to protect investors and ensure the market’s integrity,”³⁶ I ask that you respond to the following questions by Monday, February 22, 2021.

1. In recent years, Robinhood has faced significant scrutiny from regulators and lawmakers, including paying fines to FINRA and the SEC for violations of market regulations that protect consumers through the company’s responsibility to provide clients with the best execution of orders.³⁷
 - a. What specific actions has FINRA taken to ensure that Robinhood changed its practices following these violations of rules to provide clients with the best execution of orders?
2. In a report issued earlier this month, FINRA described as “emerging digital communication risks” that “[s]ome online broker-dealers’ apps—as well as those offered by other financial services and consumer-oriented businesses—include interactive and ‘game-like’ features, as well as related forms of advertising and marketing.”³⁸ Robinhood has been criticized for its contribution to the gamification of securities trading.³⁹
 - a. Please describe the interactive and game-like features and forms of advertising and marketing discussed in the FINRA report.
 - i. Please explain how these features and forms of marketing present a risk to consumers and investors.

³⁵ Financial Industry Regulatory Authority, “About FINRA,” Accessed February 10, 2021, <https://www.finra.org/about>.

³⁶ *Id.*

³⁷ Financial Industry Regulatory Authority, “FINRA Fines Robinhood Financial, LLC \$1.25 Million for Best Execution Violations,” press release, December 19, 2019, <https://www.finra.org/media-center/newsreleases/2019/finra-fines-robinhood-financial-llc-125-million-best-execution>; Securities and Exchange Commission, “SEC Charges Robinhood Financial With Misleading Customers About Revenue Sources and Failing to Satisfy Duty of Best Execution,” press release, December 17, 2020, <https://www.sec.gov/news/press-release/2020-321>.

³⁸ Financial Industry Regulatory Authority, “2021 Report on FINRA’s Examination and Risk Monitoring Program,” report, February 2021, <https://www.finra.org/sites/default/files/2021-02/2021-report-finras-examination-risk-monitoring-program.pdf>.

³⁹ Bloomberg, “Online Trading Apps Attract Regulator’s Scrutiny After Robinhood Binge,” Benjamin Bain, February 5, 2021, <https://www.bloomberg.com/news/articles/2021-02-05/game-like-apps-robinhood-popularized-get-added-finra-scrutiny>; Washington Post, “Robinhood’s Role in the ‘Gamification’ of Investing,” Annie Massa and Edward Robinson, December 21, 2020, https://www.washingtonpost.com/business/robinhoods-role-in-the-gamification-of-investing/2020/12/19/83b310ca-41bf-11eb-b58b-1623f6267960_story.html; Wall Street Journal, “Robinhood, Facing Ire on Many Fronts, Defends Its App to Regulators,” Caitlin McCabe, January 29, 2021, <https://www.wsj.com/articles/robinhood-facing-ire-on-many-fronts-defends-its-app-to-regulators-11611963829>.

- ii. Has Robinhood used these features and forms of marketing? If so, has FINRA reviewed the extent to which Robinhood’s practices put investors at unnecessary risk in the ways described by FINRA’s report? Please describe any findings.
3. Reports indicate that “Robinhood CEO Vlad Tenev is not licensed by FINRA, Wall Street’s powerful self-regulator, even though he presides over one of the nation’s largest and most powerful online brokers” and that “FINRA generally requires that the CEOs of registered broker-dealers be registered with the agency,” which “allows the public to track any violations of licensed individuals.”⁴⁰ Additionally, “[n]one of Tenev’s direct reports appear to be registered with FINRA.”⁴¹
 - a. Please describe what determines whether individuals must be registered with FINRA.
 - b. Please describe FINRA policies related to registration requirements for executives at companies registered as broker-dealers.
 - i. Is it unusual that the head of a broker-dealer is not registered with FINRA?
4. Reports have stated that payment for order flow agreements “have helped expand access to stock markets by dramatically lowering costs for retail investors” but can give market makers “informational advantages over individual investors.”⁴²
 - a. In light of new scrutiny of payment for order flow agreements, does FINRA plan to review these practices and existing regulations and enforcement activity governing these practices? If so, please describe the timeline for these reviews.
 - i. To what extent has FINRA reviewed existing payment for order flow practices and any potential conflicts of interest or harmful incentives caused by such agreements? Please describe any findings.
 - ii. To what extent has FINRA reviewed existing payment for order flow practices and their impact on consumers and investors? Please describe any findings.
5. Robinhood’s customer agreement contains a provision requiring mandatory arbitration, clauses in contracts that typically “prevent any kind of litigation, protecting the company” in

⁴⁰ CNN, “Robinhood’s CEO is not licensed by a powerful Wall Street regulator,” Matt Egan, February 4, 2021, <https://www.cnn.com/2021/02/04/investing/robinhood-ceo-vlad-tenev-finra/index.html>.

⁴¹ *Id.*

⁴² Bloomberg, “GameStop Revives Fights Over Stock Tax, HFT Firms Buying Orders,” Daniel Avis, February 10, 2021, <https://www.bloomberg.com/news/articles/2021-02-10/gamestop-revives-fights-over-stock-tax-hft-firms-buying-orders?srd=deals>; MarketWatch, “Robinhood-GameStop saga could put spotlight on DC, Wall Street revolving door,” Chris Matthews, February 8, 2021, <https://www.marketwatch.com/story/robinhood-gamestop-saga-could-put-spotlight-on-dc-wall-street-revolving-door-11612817586>.

question.⁴³ The arbitration forced by the Robinhood agreement are required to be brought before FINRA.⁴⁴

- a. Please explain FINRA’s current mandatory arbitration rules and practices, including information about FINRA’s pool of arbitrators and FINRA’s requirements for payment of arbitration awards. Are Robinhood’s terms consistent with existing rules and practices?
 - b. Does FINRA obtain records or notice of Robinhood’s settled arbitration cases? If not, do you believe this presents a potential barrier to effective regulation by your agency?
6. News reports indicate that Robinhood’s actions to restrict trading of certain securities, such as GameStop stocks, “suggest that the stock trading platform may not have had enough cash on hand to stay within regulatory rules for brokerage firms,” potentially because “Robinhood may have been exposed to too much risk associated with margin trading.”⁴⁵ Has FINRA reviewed these potential lapses in compliance? If so, are these reports accurate?
- a. Reports revealed that potential cash flows issues “could have put Robinhood out of compliance with very basic regulatory rules that every brokerage is required to follow.”⁴⁶ According to one analyst, “[t]his raises the question of if [Robinhood was] negligent in their management of their net capital and other regulatory obligations.”⁴⁷
 - i. Please describe in detail any of FINRA’s findings of noncompliance with laws or regulations governing Robinhood’s platform or business practices under FINRA’s jurisdiction during or preceding the recent market volatility.
 - ii. Please describe in detail any conversations that FINRA senior leadership had with Robinhood staff or senior leadership regarding the recent market volatility.
7. Federal regulators, including the SEC, are currently looking “into the decision-making by Robinhood and other online trading platforms”⁴⁸ and are reviewing existing laws, regulations, and enforcement practices.
- a. Please describe the challenges that FINRA faces when regulating Robinhood and other broker-dealers.

⁴³ Robinhood, “Robinhood Financial LLC & Robinhood Securities, LLC Customer Agreement,” June 22, 2020, <https://cdn.robinhood.com/assets/robinhood/legal/Customer%20Agreement.pdf>; American Prospect, “How the Supreme Court Protects Robinhood,” Marcia Brown, February 2, 2021, <https://prospect.org/justice/how-the-supreme-court-protects-robinhood/>.

⁴⁴ Robinhood, “Robinhood Financial LLC & Robinhood Securities, LLC Customer Agreement,” June 22, 2020, <https://cdn.robinhood.com/assets/robinhood/legal/Customer%20Agreement.pdf>.

⁴⁵ Vice, “Experts Say Robinhood’s GameStop Fiasco Likely Caused By Lack of Cash,” Jason Koebler, January 28, 2021, <https://www.vice.com/en/article/wx8bpx/experts-say-robinhood-gamestop-fiasco-likely-caused-by-lack-of-cash>.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Washington Post, “GameStop frenzy leaves behind a mess for Wall Street regulators,” Tory Newmyer and David Lynch, February 3, 2021, <https://www.washingtonpost.com/business/2021/02/03/gamestop-sec-regulation/>.

- i. To what extent has FINRA reviewed in recent months areas where current regulations and guidance do not adequately protect market integrity or stability, or protect consumers and investors? Please describe any findings.
- ii. To what extent has FINRA reviewed in recent months areas where current levels of enforcement personnel or resources do not adequately protect market integrity or stability, or protect consumers and investors? Please describe any findings.

Thank you for your consideration of this important matter, and I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Warren", written over a horizontal line.

Elizabeth Warren
United States Senator

CC:

Eileen Murray, Chairperson and Public Governor, Financial Industry Regulatory Authority
Allison Herren Lee, Acting Chair, Securities and Exchange Commission
Vladimir Tenev, Chief Executive Officer, Robinhood