RIABiz News, Vision & Voice for the Advisory Community

Checking pre-IPO boxes, Robinhood makes quick work of FINRA with $70-million settlement but minefield of less sympathetic investigators and litigants lies ahead

The SRO huffed that its action sounds a loud warning to future scofflaws but Brian Hamburger asks what $70 million means to a firm set to sell shares at a $40 billion valuation

July 9, 2021 — 11:03 PM by Oisin Breen

Jessica Hopper: All FINRA member firms, regardless of their size or business model, must comply with the rules. [It] is not optional and canno be sacrificed for the sake of innovation or a willingness .t 'break things' and fix them later

Brooke's Note: It is an article of faith that moving fast and breaking things works in the world of Facebook, Amazon and Google. But an allegory says, too, that tangling a startup in regulatory red tape might be a tangle too far as it races to achieve critical mass and success. If Robinhood's IPO goes off without a hitch this month, we all might need to reassess our faith in allegories. The company is dancing like Fred Astaire through a minefield by appeasing its pseudo-insurrectionist customers and its faux-shocked overseers to make the real money off a public offering's multiple-of-revenues valuation. Of course, we need to remember that Wall Street invented the system of breaking things and faking a fix later, as any reader of Michael Lewis books knows. Fortunately for the those cheering 'creative destruction,' investors are quick to forgive and forget. The trick is just to move very fast and break very big things.

0 Comments

Robinhood Markets Inc. just took a giant step toward its $40 billion IPO, after the Financial Industry Regulatory Authority (FINRA) gave it a $70 million slap on the wrist, but a mountain of litigation and major federal and state challenges to its core business model still loom.

FINRA last month handed Robinhood a $57 million fine -- the largest in its history -- on top of ordering $12.6 million in reimbursements to aggrieved clients for "systemic supervisory failures."

Ari Sonneberg: Robinhood, considering the spotlight they've been under, is low hanging, not to mention sensational, fruit.

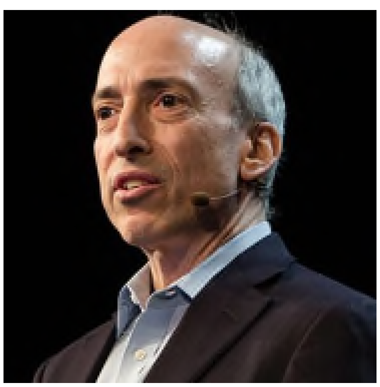
In 2019, FINRA also fined the firm $1.25 million over trade execution issues.

"All FINRA member firms, regardless of their size or business model, must comply with the rules. [It] is not optional and cannot be sacrificed for the sake of innovation or a willingness to 'break things' and fix them later," said Jessica Hopper, head of FINRA's department of enforcement, in a release.

Yet FINRA and its intentions are hard to scrutinize because it is a self-regulatory organization [SRO] where it polices its own. It's prerogative is to regulate based on the letter of the law, which critics see as a way to look paast the spirit of the law. See: FINRA shifts an unwelcome spotlight away from itself -- by training it on the brokers it oversees

Sacrifice?

Paying $70 million to clinch a $40 billion IPO sure doesn't sound like a financial sacrifice for a firm of Robinhood's stature, says Brian Hamburger, founder of MarketCounsel, a business and regulatory compliance consulting firm in Englewood, N.J.



Gary Gensler has launched a probe into payment for order flow.

"FINRA's claim that compliance is not optional seems at odds with the message they've sent with the penalty; that compliance is indeed optional. It just costs a firm like Robinhood $70 million," he says, via email. See: What FINRA's CEO shuffle reveals about its waning viability as the self-funded fox guarding the investor henhouse

"It's just a cost of doing business. They call it 'breakneck speed' for a reason," he continues.

"The [$70 million] fine represents less than 3.5% of their expected annual revenue for this year and a mere pittance of their widely anticipated IPO. When firms grow this fast, they understand that they're going to break some glass along the way," he adds.

FINRA's action drew sharp criticism from Democrat Sen. Elizabeth Warren, who accused the regulator of not going far enough. "Robinhood won't clean up its act with slap-on-the-wrist settlements," she tweeted, Jun. 30.

Robinhood declined to comment, but in its settlement with FINRA, it neither admitted nor denied the regulator's charges.

The settlement requires Robinhood to hire a consultant to review its compliance systems within six months, and to implement the consultant's recommendations in three months.

IPO incoming?

FINRA's investigation undoubtedly contributed to Robinhood's decision to push back its IPO, according to industry observers.

The ongoing SEC probe is another stumbling block that could push the IPO further into the Fall, Bloomberg reports.

"Considering Robinhood's rocky year, it would be no surprise if this application is being run through the wringer [by the SEC]," says Ari Sonneberg, partner and