



June 28, 2021

Submitted electronically through pubcom@finra.org

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street NW
Washington, DC 20006-1506

Re: Supporting Diversity and Inclusion in the Broker-Dealer Industry, Regulatory Notice 21-17

Dear Ms. Mitchell:

Fidelity Investments (“Fidelity”)¹ appreciates the opportunity to provide comments to the Financial Industry Regulatory Authority (“FINRA”) on its Supporting Diversity and Inclusion in the Broker-Dealer Industry, Regulatory Notice 21-17, published April 29, 2021 (the “Notice”).² Below we have provided detail of Fidelity’s efforts to strengthen diversity and inclusivity in our workplace, followed by comments for FINRA to consider related to qualifications testing and Form U4 disclosures that might have a negative impact on underrepresented individuals who may be interested in becoming associated persons of a broker-dealer.

I. Introduction – Fidelity’s Commitment to Diversity and Inclusion

As a financial services firm dedicated to helping people live better lives by making financial expertise broadly accessible and effective, Fidelity is committed to continually strengthening diversity and inclusivity in our workplace, for our customers, and in our communities. We believe that building and sustaining this culture is both the right thing to do and a business imperative.

Creating a More Inclusive Workplace

At Fidelity, we believe that the most effective way to attract, develop and retain a diverse workforce is to build an enduring culture of inclusion and belonging. While it is critical to build

¹ Fidelity is one of the world’s largest providers of financial services, including investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing and many other financial products and services to more than 30 million individuals and institutions, as well as through 13,500 financial intermediary firms. Fidelity submits this letter on behalf of Fidelity Brokerage Services LLC, National Financial Services LLC, and Fidelity Distributors Company LLC.

² See FINRA Regulatory Notice 21-17, <https://www.finra.org/rules-guidance/notices/21-17>.



a pipeline of diverse talent, it is equally important to develop and retain underrepresented associates. Therefore, we are focused on both attracting a diverse candidate pool and building an inclusive environment where our associates can thrive and build rewarding careers.

Diversity in Hiring

Fidelity remains committed to always hiring the best candidates for roles while increasing the diversity of our workforce. Fidelity works with more than 20 partner organizations focused on sourcing people with diverse backgrounds. These external groups help Fidelity source job candidates at all career levels, from students through early career and experienced hiring. They give Fidelity access to diverse job applicants through events, mentoring opportunities, access to candidate databases, and distribution of our jobs and internships to their populations.

Fidelity is focused on driving awareness of the various careers within the financial services industry earlier and among broader talent pools. To do this, we are designing programs that connect with untapped talent at various phases of career exploration. These programs aim to build the pipeline of future talent at Fidelity and throughout financial services.

One such program is our Fidelity Boundless Program, which is a career discovery initiative for high school and college-aged female-identifying students to explore opportunities in financial services. Boundless connects Fidelity with students who may have never considered financial services as a career option. In addition, another program is Fidelity Resume, which recognizes that building a career does not always occur linearly. For associates returning to the workforce after a career break, we offer a paid 26-week return to work (or “returnship”) program.

The Importance of Identity

We want all associates to feel welcome and valued for their unique abilities and contributions. This is essential for the personal career fulfillment of Fidelity associates and the success of the company. Feeling comfortable in the workplace is closely tied to one’s identity being respected. With continued growth over the last decade, Fidelity offers ten (10) self-organized and executive-sponsored affinity groups, including six Employee Resource Groups (“ERG”) and four Special Interest Groups (“SIG”). An ERG has common interests relating to areas such as race, ethnicity, gender, or sexual orientation, or share an affinity based on similar sets of experiences. In contrast, a SIG provides members with support and a sense of community around other common interests. While each affinity group may have a specific focus area or community, they are open to all Fidelity associates to participate and learn. Almost half of Fidelity associates belong to one or more ERG or SIG.

Accessibility for All

Ensuring that our workplace and tools are accessible and inclusive for all associates not only increases productivity, but enables career vitality and ensures that all associates have the opportunity for success and advancement. We continue to prioritize the need for accessibility, and this extends to our work with vendors. Fidelity’s procurement team added accessibility language

to our contracts to ensure that accessibility and inclusion are built into external designs when we are purchasing technologies from our vendors.

Customer Inclusion

In response to the ever-changing diversity of Fidelity's customer base, we established a new Customer Inclusion team. This team is focused on how Fidelity can better serve our diverse customers and apply those learning across the firm. Key focus areas include:

- Driving an inclusive customer experience in our solutions, products, and services;
- Gathering data and insights to better understand diverse segment customer needs;
- Becoming a thought leader for our diverse customers and retirement plan sponsors.

Increased Transparency

Being transparent with respect to diversity and inclusion efforts is vital for any organization. Global and national events in the past year have underscored the importance of transparency more than ever. With that in mind, Fidelity took the following actions to support greater transparency within the financial services industry:

- Voluntarily completed the SEC OMWI Diversity Assessment Report in October 2020;
- Participated in the McLagan and Investment Company Institute's U.S. Asset Management Diversity & Inclusion Study, the results of which were published in February 2021;
- Released our first Diversity & Inclusion Report in February 2021 (available publicly [here](#)) ; and
- Responded to the U.S. House Committee on Financial Services, Subcommittee on Diversity and Inclusion request for diversity data issued to 41 firms, in April 2021.

We know that there is more work to do both at Fidelity and in the financial services industry and look forward to partnering with you and your staff, as well as other stakeholders, to ensure that diversity and inclusion is a core pillar of our industry and the services we offer. In our response to the request for comments below, we hope you will see our firm's commitment to diversity and inclusion and a desire to accelerate our industry's progress in the future.

II. Responses to Request for Comment

There are a number of areas where Fidelity believes FINRA, as a member organization, can help advance diversity and inclusion efforts across its members.

A. Qualification Examinations

Fidelity was supportive of FINRA's prior initiative to develop the Securities Industry Essentials (SIE) Exam, and still believes that the SIE will help to expand the population of eligible

industry applicants who can demonstrate a basic level of securities industry knowledge prior to a job application. Fidelity believes that FINRA should consider additional actions related to qualification exams to further promote diversity, inclusion, and equal opportunity.

Continuing the Use of Remote, Non-Standard Test Locations

Fidelity previously submitted comments regarding FINRA's recognition of the challenges in having representatives take in-person exams at testing centers during the COVID-19 pandemic,³ and believes that remote test-taking from non-standard test locations could benefit diversity and inclusion efforts as well. Providing remote options lowers the barrier for underrepresented individuals who might have travel limitations, child-care issues, or disabilities that prevent them from easily accessing a testing site.

Fidelity strongly suggests that remote test-taking from non-standard test locations become a permanent option. Along with other benefits, this would enable broker-dealers to hire individuals from more diverse geographies. Importantly, Fidelity requests that the limitations of the types of tests which can be taken remotely be lifted, so that all FINRA qualification exams, especially supervisory principal examinations, are widely available. In addition, FINRA should continue to provide the option for individuals to take qualification exams from testing centers so that if individuals do not have a secure, quiet place to test, they can utilize a center.

Reviewing the Request for Accommodations Process for Test-Taking

FINRA should evaluate its Testing Accommodations process and determine whether what is being asked of candidates who are seeking accommodations is necessary, or rather might create too great a hurdle that could have a chilling effect. FINRA should consider whether there could be a less restrictive policy that maintains the testing integrity without placing a high burden on the test-taker. Relatedly, FINRA should review the testing results of those test-takers who requested accommodations that were not wholly approved by FINRA and seek to ascertain whether the accommodations provided were in fact reasonable.

Timing for Retaking Qualification Exams

FINRA should consider eliminating the waiting period requirements before a candidate can re-take a qualification exam after failing. Given the varying abilities of test-takers, they should be permitted to re-take a qualification exam sooner than 30 days if they feel ready to re-take it, which is very often the case if an individual failed by merely one or two points. In addition, the forced 180 waiting period after the third attempt often leads to individuals leaving the industry, as member firms may feel that this time period is too long to maintain unlicensed individuals. Fidelity understands there could be a need to limit the number of times a candidate tests but asks that FINRA eliminate the waiting requirements for taking an exam a second or third time, and significantly shorten the 180 waiting period after the third attempt.

³ See Fidelity's February 16, 2021 letter re "Retrospective Rule Review: Lessons From the COVID-19 Pandemic, Regulatory Notice 20-42, at p. 6.

Development of Qualification Examination Question and Answer Choices

There is a dearth of publicly available information around how FINRA creates the qualification examination questions and answer choices. Providing such information will allow for transparency regarding how the test is developed and who takes part in creating it. In addition, steps should be taken to ensure that exam questions and answer choices are written in a way that is fair to test-takers of varying backgrounds and experiences. For example, FINRA should consider whether the authors of qualification examination questions and answer choices come from diverse backgrounds and experiences so that they are utilizing different perspectives and inclusive language in the test. FINRA should further consider utilizing available AI writing assistance software programs to ensure that the language used in qualification examination question or answer choices is inclusive and does not contain bias that would impact a test-taker's results.⁴

Evaluating the Fairness and Predictive Validity of Qualification Examinations

Using FINRA qualification exams to confirm competencies of registered representatives would be bolstered by validating that the exams are non-discriminatory and do not have a disparate impact on underrepresented groups, and that each question and answer is based on a business necessity. FINRA currently does not request information about test-takers' gender, sexual orientation, race, ethnicity, national origin, or disabilities, and therefore does not have a meaningful way to confirm whether the exams have a disproportionately adverse effect as to any group. FINRA should consider collecting such personal information from test takers so it could validate that its qualification exams do not have a disparate impact on underrepresented groups.

Consideration of the Topics Covered by the Entry-Level Qualification Examinations

For representatives entering the securities industry in a customer-facing role, there are generally two common paths: the Investment Company and Variable Contracts Products Representative Exam (the "Series 6" exam), which allows advice on mutual funds and variable insurance products, and the General Securities Representative Qualification Examination (the "Series 7" exam), which allows advice on the full scope of investment products including equities, fixed income, structuring offerings, use of margin, and options.

Fidelity encourages FINRA to review whether these two exams remain aligned with the typical advice and product offering in the industry today. For example, in Fidelity's experience, few, if any, registered representatives perform securities activities related to options or margin in the first few years of their employment and many will never be directly involved in structuring a securities offering, yet mastering these more complex topics is required to pass the Series 7 exam. Unfortunately, the Series 6 exam, with a less complex offering, tends to limit a customer-facing representative's career options given the narrow scope of product offerings it covers.

⁴ Fidelity would be happy to share its experiences with specific AI writing assistance software if FINRA would like additional information on this.

Fidelity suggests that FINRA review the scope of these exams to determine whether they align with the needs of the industry, as the Series 7 may inadvertently limit access to the industry by forcing all representatives to master more complex subjects that they are not likely to encounter, especially early in their careers. A different combination of topics between the exams by, for example, expanding the Series 6 to include equities and fixed income, or creating a new exam that does not require mastery of the more complex Series 7 product topics (e.g., margin and options) might help expand access to the industry.

B. Requiring Disclosure of Certain Criminal and Financial Events

Fidelity believes that the requirement to disclose criminal events that do not result in a conviction, as well as certain financial disclosures, can have a significant negative impact on employment opportunities for underrepresented groups. These mandatory disclosures can adversely impact a potential applicant who, for example, might not wish to revisit unfair or discriminatory arrests and charges that were subsequently dismissed, as well as aged financial distress events such as bankruptcies and compromises with creditors. It can also impact a potential employer, who does not want to risk hiring an individual knowing that these charges and aged financial events will be associated with the broker-dealer due to publication on BrokerCheck.

There are concerns that individuals from underrepresented groups are more likely to be arrested and charged, but not convicted, of crimes. Therefore Fidelity encourages FINRA to review whether the fact that an individual has been charged with a crime but not convicted has any connection to potential future negative actions by that individual against the investing public or broker-dealers, and therefore whether it should be publicly disclosed on the U4 or BrokerCheck. In those instances where the criminal justice system has determined that an individual is not guilty of the charges, or reduces or dismisses the charges without prosecuting them, it is unclear what benefit FINRA or the investing public gains from viewing these unsubstantiated charges.

Therefore, Fidelity encourages FINRA to conduct an analysis to determine whether these types of criminal and financial disclosures are relevant to an individual's ability to assist investors or are truly necessary to protect investors. And if such disclosures continue to be required, FINRA should consider examining whether disclosure of these matters on BrokerCheck is also required and whether such a requirement has a disparate impact on underrepresented groups.

C. Representative Diversity and Inclusion

Greater Transparency in Representative Diversity data

Fidelity believes that regulatory organizations like FINRA have an opportunity to evaluate and understand whether their rules and regulatory actions have unintended disparate impacts on those within the industries they regulate. FINRA currently does not request information about test-takers' gender, sexual orientation, gender identity, race, ethnicity, national origin, or disabilities, and therefore does not have a meaningful way to understand and track representatives' diversity. Fidelity believes gathering this data confidentially and providing transparency into this data are necessary steps in driving accountability for improvement over time. Fidelity knows this

is not a simple undertaking, and candidates and representatives would first need to feel comfortable sharing this information with FINRA, and that it will be kept confidential.

Supporting Gender Identity and those in Transition

Fidelity also believes that diversity includes many dimensions, including different gender identities. There may be instances where the representative's gender identity does not match the sex that they were assigned at birth and what is reflected in official birth records. Transitioning gender identities is a process that can take anywhere between several months and several years. This may result in issues on the U4 submission that need to be resolved via an exception process.

Fidelity encourages FINRA to establish a process to respectfully address those who might identify differently than what is reflected in official records. This includes some provision to indicate gender identify in the U4 proactively, and to ensure the representative's preferred gender identity is populated in other systems like Central Registration Depository.

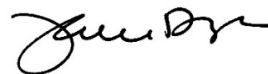
Conclusion

Fidelity is happy to provide further information, participate in any direct outreach efforts FINRA undertakes, or respond to questions you may have about our comments. Thank you again for this opportunity.

Sincerely,



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