

Diversity and Inclusion

FINRA Seeks Comment on Supporting Diversity and Inclusion in the Broker-Dealer Industry

Comment Period Expires: June 28, 2021

Summary

FINRA is committed to supporting efforts by broker-dealer industry participants to foster diversity, inclusion and equal opportunity.¹ FINRA seeks comment on any aspects of our rules, operations and administrative processes that may create unintended barriers to greater diversity and inclusion in the broker-dealer industry or that might have unintended disparate impacts on those within the industry.

Questions regarding this *Notice* should be directed to:

- ▶ Jeanette Wingler, Associate General Counsel, Office of General Counsel (OGC), at (202) 728-8013;
- ▶ Kristine Vo, Principal Counsel, OGC, at (212) 858-4106;
- ▶ Matthew Kozora, Economist, Office of the Chief Economist (OCE), at (202) 728-8804; or
- ▶ Stephanie Denis, Associate Principal Research Analyst, OCE, at (202) 728-6979.

Action Requested

FINRA encourages all interested parties to comment. Comments must be received by June 28, 2021.

Comments must be submitted through one of the following methods:

- ▶ Online using FINRA's comment form for this *Notice*;
- ▶ Emailing comments to pubcom@finra.org; or
- ▶ Mailing comments in hard copy to:
Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

April 29, 2021

Notice Type

- ▶ Request for Comment

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Registered Representatives
- ▶ Senior Management

Key Topics

- ▶ Diversity and Inclusion

To help FINRA process comments more efficiently, persons should use only one method to comment.

Important Notes: Comments received in response to *Regulatory Notices* will be made available to the public on the FINRA website. In general, comments will be posted as they are received.²

Background & Discussion

FINRA's oversight of the broker-dealer industry is based on and limited by its statutory mandate and authority, which focus on investor protection and market integrity.³ Agencies such as the U.S. Equal Employment Opportunity Commission and its state and local counterparts are focused directly on discrimination issues in the workplace. Nevertheless, other 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.

Many broker-dealer industry participants have developed initiatives and programs to foster greater diversity, inclusion and equal opportunity in the industry, as well as expand opportunities for historically underserved businesses and investors.⁴ FINRA supports these efforts and has been engaging with its advisory committees, industry associations and other industry members to explore how it can further facilitate those goals within the subset of the financial services industry regulated by FINRA—the broker-dealer industry.⁵ Additionally, FINRA has undertaken a number of initiatives, including:

- ▶ establishing an internal [Racial Justice Task Force](#), whose efforts include identifying opportunities to encourage greater diversity and inclusion within the broker-dealer industry, with the goal of better engaging traditionally underinvested communities and representing the needs of all investors;
- ▶ hosting an [Annual Diversity Summit](#) since 2013, where FINRA provides a forum for diversity practitioners and business leaders in the broker-dealer industry to share ideas and effective practices to promote inclusion in the workplace;
- ▶ creating diversity-focused programming at the [FINRA Annual Conference](#) since 2010, where FINRA's CEO hosts top keynote speakers and industry panelists to discuss perspectives and insights on the importance of ensuring that diversity and inclusion remain a key commitment within firms in the broker-dealer industry;

- ▶ developing the [Securities Industry Essentials® \(SIE®\) Exam](#) to expand who is eligible to take a qualification examination and to enable prospective broker-dealer industry professionals to demonstrate to potential employers a basic level of securities industry knowledge prior to a job application, including concepts fundamental to working in the industry (*e.g.*, types of products and their risks); the structure of the securities industry markets, regulatory agencies and their functions; and prohibited practices. Individuals taking the SIE do not need to be associated with a FINRA member firm and a passing result on the SIE is valid for four years. This approach allows for more flexibility and career mobility within the broker-dealer industry. In promoting the SIE, FINRA has particularly emphasized outreach to historically Black colleges and universities and other minority-serving and diversity-focused organizations to expand the pool of candidates and registered persons; and
- ▶ proposing to implement the recommendations of the Securities Industry/Regulatory Council on Continuing Education regarding enhancements to the continuing education program for broker-dealer industry professionals.⁶ These enhancements include enabling individuals who terminate their registrations to maintain their qualification by completing continuing education, in order to allow individuals to better manage significant life events, such as professional changes and development (*e.g.*, pursuing educational goals, a career change to a role in the firm that is not part of the broker-dealer, working overseas for an extended period due to a career change or an attempt at a different career path) or personal life events (*e.g.*, birth or adoption of a child, unexpected loss in the family or relocation due to family needs).⁷

The FINRA Board has expressed its support for FINRA's initiatives to promote greater diversity and inclusion and to better engage traditionally underinvested communities to serve the needs of all investors.⁸

FINRA staff's preliminary conversations with some industry participants have suggested the potential that aspects of FINRA's rules, operations and administrative processes may unintentionally impede diversity and inclusion (*e.g.*, certain background data that must be provided by applicants for securities industry registration).⁹ FINRA requests comment to ensure that FINRA's rules, operations and administrative processes do not create unintended barriers to greater diversity and inclusion in the broker-dealer industry or have unintended disparate impacts on those within the industry.

Request for Comments

FINRA seeks comment on any aspects of our rules, operations and administrative processes that may create unintended barriers to greater diversity and inclusion in the broker-dealer industry or that might have unintended disparate impacts on those within the industry.

FINRA requests comment, and if possible, descriptive information, on the following questions:

1. What, if any, FINRA rules or market practices have a disparate impact on individuals in the broker-dealer industry (on the basis of national origin, language, age, gender, race, color, ethnicity, socioeconomic status, religion or spiritual practice, disability, sexual orientation, gender identity, family structure or veteran status) or discourage participation in the broker-dealer industry?
2. Are there circumstances where FINRA's application of our rules have a disparate impact on individuals in the broker-dealer industry (on the basis of national origin, language, age, gender, race, color, ethnicity, socioeconomic status, religion or spiritual practice, disability, sexual orientation, gender identity, family structure or veteran status) or discourage participation in the broker-dealer industry?
3. What, if any, FINRA operations and administrative processes have a disparate impact on individuals in the broker-dealer industry (on the basis of national origin, language, age, gender, race, color, ethnicity, socioeconomic status, religion or spiritual practice, disability, sexual orientation, gender identity, family structure or veteran status) or discourage participation in the broker-dealer industry?
4. Does the current collection and publication of registered representative background data, including that which relates to education, employment status, tenure, and complaints and grievances, create an unintended barrier to greater diversity in the broker-dealer industry?¹⁰
5. Are there additional changes that FINRA could make to its rules, consistent with the scope and limitations of its statutory mandate, to affirmatively foster diversity, inclusion and equal opportunity in the broker-dealer industry?

Endnotes

1. In addition, at FINRA, we are committed to fostering an inclusive and diverse workplace. FINRA's diversity and inclusion initiatives for employees include an award-winning Diversity Leadership Council formed in 2009; two formal mentoring programs; more than 20 executive Diversity Dialogues; an award-winning Employee Resource Group (ERG) program; and nine organization-wide ERGs. Recently, FINRA created and filled a role at the FINRA Investor Education Foundation to build strategic partnerships and manage public engagement initiatives that benefit underserved financial consumers and include people from diverse cultures and socio-economic backgrounds. More information about FINRA's diversity and inclusion initiatives is available at www.finra.org/careers/diversity-inclusion.
2. Parties should submit in their comments only personally identifiable information, such as phone numbers and addresses, that they wish to make available publicly. FINRA, however, reserves the right to redact, remove or decline to post comments that are inappropriate for publication, such as vulgar, abusive or potentially fraudulent comment letters. FINRA also reserves the right to redact or edit personally identifiable information from comment submissions.
3. FINRA oversees a specific subset of the greater financial services industry—approximately 3,400 broker-dealers that conduct business with the investing public in the United States, and the approximately 617,000 registered individuals that they collectively employ. These figures are as of December 2020. These firms and individuals are subjected to a comprehensive registration and licensing program maintained by FINRA. Under the supervision of the Securities and Exchange Commission (SEC), FINRA writes rules for these firms and individuals; examines them for, and enforces compliance with, FINRA rules and federal securities laws; provides registered individuals with education and training; and provides educational information to the investing public. In addition, FINRA provides surveillance and regulatory services for equities and options markets, as well as trade reporting and other industry utilities. FINRA does not have oversight jurisdiction with respect to investment advisers.
4. See, e.g., the industry diversity, equity and inclusion programs: [Securities Industry and Financial Markets Association](#), [Financial Services Industry](#), [Certified Financial Planner Board of Standards, Inc.](#), [Bond Dealers of America](#), [American Bankers Association](#), [Bank Insurance & Securities Association](#), [Investment Company Institute](#) and [Insured Retirement Institute](#).
5. The broker-dealer industry regulated by FINRA, which as noted above includes approximately 617,000 registered individuals, is only one part of the overall financial services industry. According to the U.S. Bureau of Labor Statistics there are over 6.5 million people employed in the financial services industry. See U.S. Department of Labor, Bureau of Labor Statistics, "[Industries at a Glance: Finance and Insurance: NAICS 52.](#)"
6. See [Report from FINRA Board of Governors Meeting – December 2020](#).
7. See [Regulatory Notice 20-05](#) (February 2020). Registered persons of broker-dealers may terminate one or more of their registrations for a variety of reasons, such as life events, career changes or business reorganizations. By enabling individuals the option of maintaining their qualification for a longer period of time through continuing education, the proposal would achieve a number of goals. It would provide them with

more flexibility to address life and career events and necessary absences from registered functions without the added challenge of having to requalify each time. It would also incentivize them to stay current on their respective securities industry knowledge following the termination of any of their registration categories. Further, if they choose to participate in the program, they would be subject to a continuing education standard that would be as rigorous as the standard to which registered persons are subject, which promotes investor protection.

8. See [Statement of the FINRA Board of Governors](#) (June 11, 2020).
9. For example, the collection of data that must be provided to establish or terminate securities industry registration is governed by Form U4 (Uniform Application for Securities Industry Registration or Transfer) and Form U5 (Uniform Termination Notice for Securities Industry Registration). The SEC, self-regulatory organizations, the states and other governmental entities use Forms U4 and U5, and any amendments to or guidance on Forms U4 and U5 would be subject to discussion with, and may require action by, these agencies.
10. See *supra* note 9. Information involving registered persons collected on uniform forms is maintained in the Central Registration Depository (CRD®), the central licensing and registration system used by the U.S. securities industry and its regulators. FINRA operates the CRD system pursuant to policies developed jointly with the North American Securities Administrators Association (NASAA). FINRA works with the SEC, NASAA and other members of the regulatory community to ensure that information submitted and maintained in the CRD system is accurate and complete. The CRD system fulfills FINRA's statutory obligation to establish and maintain a system to collect and retain registration information. NASAA and state regulators play a critical role in the ongoing development and implementation of the CRD system.