



July 11, 2019



1 Primerica Parkway
Duluth, Georgia 30099-0001

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

Re: FINRA Regulatory Notice 18-26 Continuing Education Program

Dear Ms. Mitchell:

PFS Investments, Inc. (“PFSI”), a registered broker-dealer and investment adviser, appreciates the opportunity to comment on the proposed enhancements to the CE Program under consideration by the CE Council.¹ Although PFSI fully supports a robust continuing education requirement for securities industry professionals, we are not in favor of the proposal to change the frequency of the Regulatory Element. For the reasons discussed below, we urge you to keep the current frequency of the Regulatory Element which has worked well since 1995.

PFSI is a wholly-owned subsidiary of Primerica, Inc. (NYSE: PRI) We serve the middle-income market by offering high quality mutual funds and variable annuities to our clients in all fifty states and Puerto Rico. We have over 18,700 independent contractor representatives with Series 6 and 63 FINRA registrations, and over 3,600 branch office supervisors who also hold the Series 26 principal’s registration. Our representatives serve the communities where they live and work, and typically meet with clients in their homes, face-to-face “across the kitchen table.” We educate our customers about the long-term benefits of dollar-cost averaging through systematic investing into a diversified investment portfolio. We know firsthand that individuals with access to a financial representative accumulate greater and more balanced assets than those without such assistance. This fact is well supported by numerous independent studies.²

¹ FINRA Notice 18-26; Continuing Education Program (Sept. 6, 2018); available at <https://www.finra.org/industry/notices/18-26>

² See, e.g., *The Role of Financial Advisors in the US Retirement Market*, at 17, OLIVER WYMAN (July 10, 2015), <http://fsroundtable.org/wp-content/uploads/2015/07/The-role-of-financial-advisors-in-the-US-retirement-market-Oliver-Wyman.pdf> (finding that, on average, individuals that use a financial representative have more assets than nonadvised individuals across all the age and income levels examined and that the differences are meaningful); Robert Litan and Hal Singer, *Good Intentions Gone Wrong: The Yet-To-Be Recognized Costs of the Department of Labor’s Proposed Fiduciary Rule*, ECONOMISTS INC. (July 2015), <https://www.dol.gov/agencies/ebsa/laws-and-regulations/rules-and-regulations/public-comments/1210-AB32-2/00517.pdf>; Claude Montmarquette and Nathalie Viennot-Briot, *Econometric Models on the Value of Advice of a Financial Advisor*, CIRANO (July 2012), <http://www.cirano.qc.ca/pdf/publication/2012RP-17.pdf>.

The CE Council is appropriately focused on maintaining and advancing the CE Program, while promoting and providing educational opportunities that support investor protection and market integrity. Since it was instituted in 1995, the Regulatory Element has been required on the second anniversary of a registered person's initial registration date and every three years thereafter. The CE Council proposes to increase the frequency of the Regulatory Element to every year while reducing the content to about one-third of the content in the current program, and charging a fee of about one-third of the current fee. In addition, the CE Council intends to narrow the scope of the Regulatory Element to focus on "impactful rule changes and significant industry regulatory issues" while at the same time "increas[ing] the relevance of content most individuals receive."³

We applaud the CE Council's goal of increasing the relevance of the Regulatory Element's content. We trust you would agree that having representatives learn information that is not relevant to their current businesses does little to advance investor protection or market integrity. In fact, we submit that it may increase confusion and resentment toward the CE process, which is counterproductive.

We have over 3,600 branch office supervisors who maintain a Series 26 registration in order to supervise a mutual fund and variable contracts business. Our supervisors are required to take the S201, which is the Regulatory Element program for a general securities principal, because there is no program specifically geared towards a mutual fund and variable contracts principal. For this reason, when the S201 was a timed program, many of our supervisors struggled with completing it on time, as they were unfamiliar with much of the program content. Though the program is no longer "timed" our principals are still having to expend additional time during the session to understand the general securities material, in order to successfully complete the program. Of course, increasing the frequency of those programs only increases the burden for our supervisors to learn material that is far beyond the relevant scope of their businesses.

The summary information shown on the Continuing Education Regulatory Element Report (First Quarter 2019), available in FINRA's Report Center, illustrates this problem. In the first quarter of 2019, PFSI had 574 supervisors take the S201. On average, our supervisors spent 2 hours and 57 minutes to complete the session, compared to the industry average of 1 hour and 47 minutes. Despite spending an average of 1 hour and 10 minutes longer on the session, our supervisors achieved an average score of 77.4%, which was close to the industry average of 80.23%. We are proud of our supervisors for putting in the additional time and effort to complete the session, but we do not see the regulatory benefit to having them expend substantial time and energy on program materials that are not related to their businesses. We are concerned that increasing the frequency of the Regulatory Element will only worsen this situation, and make our principals wrestle with understanding general securities material not relevant to their business every year instead of every three. Before you consider increasing the frequency of the Regulatory Element, we urge the CE Council to develop a supervisory program that is geared toward principals of a mutual funds and variable contracts business, and relieve our supervisors from having to learn general securities material for the sole purpose of completing the Regulatory Element.

³ FINRA Notice 18-26; Enhancements Under Consideration for the Securities Industry Continuing Education Program; Securities Industry / Regulatory Council on Continuing Education (Sept. 6, 2018) at pg. 4.

Along those same lines, we think that simultaneously narrowing the focus of the Regulatory Element while increasing its frequency, is at cross-purposes with maintaining the relevancy of the content for Series 6 representatives. We are doubtful that there are enough “impactful rule changes and significant industry regulatory issues” that affect a mutual funds and variable contracts business to justify an annual Regulatory Element for Series 6 representatives. We note that the material covered on the Series 6 exam is just a fraction of the material that is covered on the Series 7 general securities exam. Based on the time allotted to take each exam (90 minutes compared to 225), and the number of questions on each (50 compared to 125), it would appear that the Series 6 exam covers only about 40% of the material covered on the Series 7. It follows then that a reasonable estimate of the number of “impactful rule changes and significant industry regulatory issues” that will affect a mutual fund and variable contracts business is also 40% or 4 out of every 10. If less than half of the “impactful rule changes and significant regulatory issues” will be relevant to a Series 6 business, then it seems incongruent to make a Series 6 representative take the Regulatory Element as often as a Series 7 representative. In order to not make Series 6 representatives study and learn irrelevant material, we submit that the Regulatory Element for Series 6 representatives should stay at its current frequency of every three years, or at a minimum, increase it to every other year. Making Series 6 representatives take the Regulatory Element every year seems almost a guarantee that they will be asked to learn material that is irrelevant to their actual businesses.

It would seem prudent to first narrow the focus of the Regulatory Element, and then evaluate the availability of appropriate content for several years, before deciding to change the frequency of the current program. As an alternative to increasing the frequency of the Regulatory Element, we believe a more effective approach would be that as “impactful rule changes and significant industry regulatory issues” arise, FINRA could mandate that these issues be discussed by firms in their annual Firm Element training. FINRA could also provide issue briefs explaining the content to be covered, or even short videos of FINRA personnel covering specific topics. This way, firms would be able to augment the presentation with a discussion of how each issue affects their particular firm, and highlight the specific policies and procedures put in place to address an issue, bringing much needed context and relevancy to an issue to foster a representative’s understanding. This seems to be a more efficient and effective way to address your concerns about providing timely regulatory training without having to put the industry through the administrative problems of increasing the frequency of the Regulatory Element.

We believe that for our firm and our representatives the costs of increasing the frequency of the Regulatory Element, and the risks associated with making the change, outweigh any potential benefit. Without question, changing the Regulatory Element to an annual requirement will increase our costs to monitor our representatives’ completion of the program. Due to the administrative burden and associated risks of having a representative go CE Inactive, we take a proactive approach to alerting our independent representatives of the need to complete the training. Even after we initially notify a representative that her window is open, we send repeated letters and emails at regular intervals reminding her to complete the training before the deadline. In spite of these efforts, we have a number of representatives that go CE Inactive every year, before they finally complete the program. We are concerned that increasing the frequency of the Regulatory Element from every three years to every year, while at the same time reducing the material covered

to one-third of the current content, on balance will not have accomplished any more training, but merely will have made Series 6 representatives sit for the Regulatory Element three times more often. Of course, this will also increase the opportunities for a representative to miss a deadline and go CE Inactive. Due to nothing more than the hurried pace of modern life, we would expect the number of our representatives currently missing the deadline to complete the Regulatory Element to increase. Every time a representative goes CE Inactive it places additional burdens on the firm to monitor the representative's activity to make sure she doesn't violate the suspension, and to make sure that her clients are appropriately serviced in her absence. Again, we do not think the hypothetical benefit expected to result from increasing the frequency of the Regulatory Element will outweigh the definite and inevitable increase of these costs and obligations.

Lastly, we are concerned that increasing the frequency of the Regulatory Element will have a detrimental effect on the growing number of minorities in our representative population. As of July 1, 2016, the Regulatory Element was no longer available through testing centers, but was accessible only via the internet.⁴ This made the Regulatory Element much easier to access for anybody with the right technology; unfortunately not everybody has the right technology. The online Regulatory Element requires a "high-speed internet connection" and is not available to smartphones.⁵ Based on a recent study by the Pew Research Center, as of February 2019 fully 27% of U.S. adults did not have a broadband connection at home, and presumably would not be able to access the Regulatory Element.⁶ The study indicates that home broadband connections are much more common among Whites than minorities. While 79% of Whites have a broadband connection at home, only 66% of African-Americans and 61% of Hispanics do. The findings of the Pew study suggest that if the frequency of the Regulatory Element is changed from every three years to annually, this change will have a disparate impact on the minority members of our representative population due to their reduced access to broadband connections at home.

Also, the Pew study confirmed the growing influence of smartphones in America and found that minorities have higher incidences of smartphone ownership than broadband connections at home. According to Pew, 81% of U.S. adults have a smartphone, which includes 82% of Whites, 80% of African-Americans and 79% of Hispanics.⁷ Moreover, 37% of Americans now go online mostly using a smartphone, which number was only 19% in 2013.⁸ Finally, smartphone ownership is more prevalent than broadband at home in every economic class. For example, in households earning \$75,000 or more per year, 95% of adults have a smartphone, while only 92% of adults say they have broadband at home. For households earning \$30,000 to \$74,999, 83% of adults have a smartphone, while only 79% have broadband at home, and for households earning less than \$30,000, 71% of adults have a smartphone, but only 56% have broadband at home.⁹ The Pew research indicates that to lessen the disparate impact on minorities of making the Regulatory

⁴ See www.finra.org/industry/ce-online.

⁵ See www.finra.org/industry/ce-online-technical-support.

⁶ Pew Research Center, June 2019, "Mobile Technology and Home Broadband 2019" at pg. 3, online at www.pewinternet.org/2019/06/13/mobile-technology-and-home-broadband-2019/

⁷ Id. at 4.

⁸ Id. at 2.

⁹ Id. at 4.

Element annual, the CE Council should make sure the Regulatory Element is accessible by smartphones before it considers increasing its frequency.

Conclusion

We believe that the Regulatory Element serves an important role in the continuing education of our registered representatives, and that the current frequency of the program has served the firm and our representatives well. However, we are not in favor of increasing the frequency of the Regulatory Element at this time. Rather, we would recommend that the important issues outlined above be considered, before a decision is made to increase the frequency of the program for representatives that conduct a mutual funds and variable contracts business.

- First, we request that the CE Council initially narrow the focus of the Regulatory Element as outlined in its proposal, and then take some time to monitor how frequently “impactful rule changes and significant industry regulatory issues” occur that affect a mutual funds and variable contracts business. At the same time, we urge the CE Council to consider that having FINRA require that these important regulatory issues be covered in a firm’s annual Firm Element training, when necessary, would solve the CE Council’s concerns about the timeliness of training. In addition, it would likely result in more effective training on these important issues, without putting the industry through the administrative problems of increasing the frequency of the Regulatory Element. Again, we believe the current frequency of the Regulatory Element works well and is serving its intended purpose.
- Second, we are requesting that the CE Council develop a supervisory program for principals of a mutual funds and variable contracts business, to relieve our supervisors from having to address general securities material every three years for the sole purpose of completing the Regulatory Element.
- Finally, after taking the above steps, if you then decide it is necessary to increase the frequency of the Regulatory Element, we recommend that it be made accessible by smartphones first. This will lessen the disparate impact increasing the frequency will have on minorities who have lower access to broadband services at home.

We hope that you find our thoughts and comments helpful, and we welcome any follow-up questions you may have.



William A. Kelly
Chief Executive Officer
PFS Investments Inc.