

February 10, 2021

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

Re: Regulatory Notice 20-42: FINRA Seeks Comment on Lessons from the COVID-19 Pandemic

Dear Ms. Mitchell:

Edward Jones appreciates the opportunity to submit comments on FINRA Regulatory Notice 20-42. We are grateful for FINRA's efforts to provide guidance, updates and other information to help firms stay informed about the latest developments relating to the ongoing COVID-19 pandemic and willingness to maintain an ongoing dialogue about our experiences and observations during this extraordinary time. We have gained valuable insights navigating the pandemic that we hope will help inform future FINRA rulemaking, operations and administrative processes.

Edward Jones is one of the largest financial services firms in the United States, serving the needs of over seven million U.S. investors through personalized service provided by over 18,000 financial advisors. We focus on serving the needs of the long-term individual investor by establishing personal relationships, understanding their needs and implementing tailored solutions to help them achieve their financial goals.

In response to the onset of the COVID-19 pandemic, Edward Jones implemented a number of measures to support the health and wellbeing of our clients and associates, including among other things:

- Initial closure of branch offices to public access;
- With limited exceptions, requiring home office associates to work remotely while supporting them in doing so; and
- Eliminating all non-essential business travel, a restriction which remains in effect.

Beginning in June, we began to gradually reopen branch offices to the public based on guidance from the Center for Disease Control ("CDC"), local health authorities and industry regulators. We also implemented new health and safety protocols for our branch offices to ensure the wellbeing of our clients and associates.

In an effort to mitigate the impact of the pandemic, the vast majority of our home office associates continue to work remotely. While we have experienced periodic technology challenges, we have found that virtually all home office roles and responsibilities can be performed successfully by associates working remotely.

Remote Offices and Alternative Work Arrangements

Edward Jones has seen a significant increase in requests for flexible or hybrid work arrangements over the past few years from associates who, due to a variety of life circumstances, may not be able to work in a traditional work environment or to do so for a five day week. Technology advancements in recent years have enabled our ability to offer these opportunities, but current FINRA rules have limited our ability to support flexible work arrangements in certain areas of the firm.

FINRA's current regulatory framework provides for different types of work locations through the definitions of "branch office" and "office of supervisory jurisdiction," but these rules have not been meaningfully revised for many years. We believe these definitions should be updated to reflect the modern workplace and support use of flexible work arrangements and remote locations, such as an individual's residence.

We would particularly recommend FINRA revisit Rule 3110(f)(1) which defines Offices of Supervisory Jurisdiction. We have many home office associates performing functions described in Rule 3110(f)(1) who, prior to the COVID-19 pandemic, requested flexible or home-based work arrangements. We have generally declined these requests due to a lack of clarity in the rule and efforts to limit the number of Offices of Supervisory Jurisdiction.

A large group of associates impacted by Rule 3110(f)(1) is the firm's Field Supervision Directors ("FSDs"), who are registered principals with supervisory responsibility over assigned branch offices and financial advisors. FSDs use extensive electronic processing systems and exception reports to supervise and support branch offices in areas of account and trade activity, industry regulations and firm policies. FSDs must complete extensive training prior to being assigned supervisory responsibilities and are subject to rigorous oversight by Team Leaders, who supervise teams of FSDs.

On March 17, 2020, the firm instructed FSDs to begin working remotely to reduce the risks to our associates and combat the spread of COVID-19. For the past 10 months FSDs, while working remotely, have continued to use and rely upon all the same electronic processing systems and exception reports available to them in our headquarters locations and have performed all their supervisory

responsibilities without interruption. Our experience has been that FSDs have maintained their capacity to continue performing supervisory responsibilities.

Another group of associates impacted by Rule 3110(f)(1) are the firm's Trading Department traders, who undertake order execution and market making. The firm's Trading associates manage a variety of trade activities for our clients through the firm's authorized systems and do not handle physical or paper tickets given the technology advances in the equity and fixed income markets.

During the week of March 16, 2020 most of the firm's traders began to work remotely to mitigate health risks and combat the spread of the COVID-19 pandemic. The firm's Trading Department, while working remotely, has continued to utilize extensive electronic systems and exception reports to trade, report and supervise trades in order to comply with industry regulations and the firm's policies and procedures.

The experience of the Trading Department's leaders and traders is that the firm's systems have performed well and that they have been able to fulfill the trading needs of the firm's clients and related supervisory requirements in a fashion substantially similar to a central office setting. Significantly, our traders were able to achieve these positive results while managing trades and trading positions through some of the most volatile periods in recent history in both the equity and fixed income markets.

We have seen similar positive results from associates performing other functions described in FINRA Rule 3110(f)(1), such as individuals reviewing and approving retail communications with the public and approval of trade corrections.

We have many associates in these areas who would like to continue to work in flexible or home-based arrangements as we move to a post-pandemic environment. We would like to support these requests and, based on the demonstrated success of these associates, urge FINRA to revisit the OSJ definition and the related inspection requirement.

It has been our experience that the development of new tools and technology, and the elimination of paper-based reports and rigorous oversight protocols have greatly diminished the need for a physical presence in a central office. As discussed further below, our experience during the pandemic has not shown a demonstrable benefit to conducting onsite inspections of home-based associates performing many central office functions. We recommend a modernized risk-based approach to defining OSJ locations that will support greater utilization of flexible work arrangements and promote firms' ability to hire and retain talented and diverse employees without geographic limitations.

Remote Inspections

Edward Jones' Branch Audit Department generally conducts unannounced, on-site inspections of each branch office every year. The inspections include a thorough review of records, individual client files, and an assessment of the financial advisor and the branch office administrator's understanding of the firm's policies and procedures. A majority of these branch audits also include compliance discussions with the financial advisor and branch office administrator, as well as a review of the financial advisor's business.

While we have traditionally conducted the vast majority of our branch audits on unannounced basis, in 2020, due to travel and safety concerns related to the coronavirus, virtual announced audits were also utilized. In 2021, the firm is continuing to utilize a virtual approach while monitoring developments related to the pandemic.

We have gained valuable insights from this experience and found that remote inspections can be conducted in a manner substantially similar to on-site audits. The primary difference has been the absence of a physical presence in the branch, which has been addressed in some cases by "virtual walk arounds" of the branch.

Much of the audit work, including account reviews, has been conducted on a pre-audit basis, using the firm's systems and data, document retention databases and online filing cabinet functions. Branch auditors conduct internet searches, including social media sites to verify the financial advisor's compliance with firm policies regarding electronic communications, social media and outside activity requirements. If significant concerns are discovered within a branch that cannot be addressed in a virtual environment, an on-site audit is conducted.

Based on our experience, we recommend FINRA further extend the temporary relief provided during the pandemic with respect to remote inspections.¹ While we recognize the benefits of onsite inspections in higher risk scenarios, such as financial advisors on heightened supervision or where there are, or have been, "red flags" about unusual activity, we have found that existing technology and data analytics provide solutions that we expect will facilitate greater utilization of remote inspections in the future without diminishing the level of effective supervision.

We request that FINRA reassess Rule 3110(c) requiring firms to perform onsite inspections of all locations, irrespective of the type of office, from which

¹ See FINRA Rule 3110, Supplemental Material .17, *Temporary Relief to Allow Remote Inspections for Calendar Year 2020 and Calendar Year 2021*

associated persons regularly conduct business. We recognize that inspections are an important component of a robust compliance program. However, in our experience, there are many central office functions where traditional onsite inspections do not meaningfully add to or support existing compliance oversight and supervisory controls.

We recommend that FINRA revisit Regulatory Notice 17-38 ("FINRA Requests Comment on a Proposal to Amend Rule 3110 (Supervision) to Provide Firms the Option to Conduct Remote Inspections of Offices and Locations That Meet Specified Criteria")². The proposal would give firms the option to fulfill their obligations under Rule 3110(c) by conducting a remote inspection of a "qualifying office," in lieu of a physical, onsite inspection. A "qualifying office" is defined as an office or location that meets the following conditions:

- (1) not more than three associated persons that conduct business for the firm are designated to the location;
- (2) the location is not held out to the public as an office of the firm;
- (3) the associated person(s) at the location conducts business, including electronic communications, on behalf of the member at that location solely through the use of the firm's authorized electronic systems and platforms;
- (4) all books or records required to be made and preserved by the member under the federal securities laws or FINRA rules are maintained by the member other than at the location;
- (5) no customer funds or securities are handled at the location;
- (6) the location is either (i) not required to be inspected annually pursuant to Rule 3110(c)(1)(A); (ii) designated as an OSJ solely because of the supervisory activities described in Rule 3110(f)(1)(D) through (G) or (iii) designated as a branch office solely because of the supervisory activities described in Rule 3110(f)(2)(B); and
- (7) no registered person at the location has a disciplinary history (as defined in Rule 3170(a)(3)) and no associated person at the location is subject to a statutory disqualification.

² See FINRA, Regulatory Notice 17-38, *FINRA Requests Comment on a Proposal to Amend Rule 3110 to Provide Firms the Option to Conduct Remote Inspections of Offices and Locations That Meet Specified Criteria*

Firms conducting remote inspections would be required to have policies and procedures in place reasonably designed to determine whether a location is eligible for remote inspection as a "qualifying office" and to assess whether a remote inspection of any such office is reasonable. In our view, this framework appropriately balances investor protection considerations, provides practical relief for firms in fulfilling obligations under Rule 3110(c), and supports firm efforts to accommodate flexible work arrangements, thereby increasing opportunities to attract and retain a broader, more diverse talent pool.

As noted above, we urge further consideration of the OSJ definition under Rule 3110(f) to modernize the rule and provide a more risk-based approach. We have found other areas of the firm not covered by the proposed definition of "qualifying office," such as our Trading Department, have performed well in a remote work environment during the pandemic.

Based on our experiences during the COVID-19 pandemic, we ask that FINRA modernize the OSJ rule and update the proposed definition of "qualifying office" to include traders. These changes would provide a regulatory framework for supporting home-based and flexible work arrangements for traders while ensuring the proper functioning of the equity and fixed income markets when a future BCP event occurs.

Finally, we recommend FINRA consider whether any of the areas covered by the "qualifying office" definition would be also eligible for a multi-year inspection cycle. As noted above, we have found a number of central office functions where traditional branch inspections do not meaningfully add to or support existing compliance programs and supervisory controls. We also believe there are areas covered by this definition that have a lower risk profile where inspections could be conducted on a regular periodic schedule with a presumption of at least every three years similar to the cycle provided for non-branch locations.³

Forms U-4 and U-5

Edward Jones is deeply appreciative of the relief FINRA has provided throughout the pandemic to get "wet signatures" on Forms U-4/U5 and Form BR filings as soon as practicable.⁴ The "wet signature" requirement under FINRA Rule 1010 is an area where we believe permanent relief is warranted. We encourage FINRA to consider accepting electronic signatures for initial and transfer Form U-4 filings as well as Form U-5 submissions. Electronic signatures are a valid alternative that is legally enforceable and should be used to alleviate the backlog of filings from the pandemic and on a going-forward basis.

³ See FINRA Rule 3110, Supplemental Material .13

⁴ See FINRA, *Frequently Asked Questions Related to Regulatory Relief Due to the Coronavirus Pandemic*

We also ask that FINRA continue to work with the SEC, state securities regulators and other financial services regulators to address other "wet signature," notarization and medallion guaranty requirements that can be effectively and more efficiently met through electronic means in order to continue to support more timely process flow, as well as the transition to remote work and flexible work arrangements.

Qualification Exams

While Edward Jones experienced many of the widely reported technical issues at the onset of the pandemic, in working with Prometric we have seen considerable progress over the past few months. Prometric has diligently worked to add capacity and we have seen our disconnection rates decline. We have continued to experience challenges in some rural parts of the country where internet connections are less stable, but that is a broader challenge associated with the availability of rural broadband connections.

We appreciate that Prometric has worked hard over the past few months to provide accommodations, where appropriate, for individuals needing additional time or private rooms. We commend Prometric for working with FINRA to have the remote testing experience mirror the same testing experience as at a traditional testing center location. We are also grateful that Prometric increased the times available to take examinations to provide more flexibility for individuals working nontraditional hours during the pandemic. We request that FINRA continue to work with Prometric on making systems more compatible. We have experienced situations with our systems where browser versions were not compatible and testing candidates have had to either drive to a Prometric testing center or utilize a non-Edward Jones device.

We recommend FINRA continue to permit the online delivery of qualification examinations post-pandemic. We also encourage FINRA to consider expanding online delivery of qualification examinations to supervisory examinations, such as the Series 9, 10 and 24. This would provide exam candidates with testing choices during the ongoing pandemic and promote the health and safety of our associates.

Business Continuity Planning

Edward Jones believes FINRA Rule 4370 has worked well and provided the firm with the necessary flexibility to successfully execute our business continuity plan and respond to the COVID-19 pandemic. We do not have any recommended changes to Rule 4370.

The COVID-19 pandemic has reinforced and affirmed the value of our business continuity plan. While it is difficult to fully prepare for an event of this magnitude and duration, we have found that our plan's focus on addressing the consequences of the BCP event rather than the cause has served us well in responding to the pandemic. Routine exercises to validate and enhance the effectiveness and operational "readiness" of executing these plans has also contributed to the success of the firm's response.

The firm's business continuity plan has played a critical role in ensuring the continued operations of the firm and uninterrupted service to our clients. The plan was particularly useful as we moved beyond the initial crisis management to a longer-term enterprise-wide response to the COVID-19 pandemic. We will continue to monitor the effectiveness of our business continuity plan throughout the pandemic with a particular focus on the resilience of our third-party relationships and critical technologies that support our current state.

Edward Jones appreciates the opportunity to provide comments on our experiences and observations from the COVID-19 pandemic. We are deeply appreciative of the numerous steps FINRA has taken to assist firms and investors in navigating the COVID-19 pandemic and efforts to collaborate with the SEC, NASAA and other financial services regulators to provide clear guidance during this uncertain time. We respectfully request that FINRA continue to provide extensions of temporary relief through the pendency of the pandemic and, as discussed in this letter, consider more permanent relief where appropriate.

We look forward to continuing to engage with FINRA as vaccines for COVID-19 become more widely available and we are able to more fully-assess the long-term impact of the pandemic on the firm and investors. If you have any questions regarding the comments contained in this letter, please contact me at 314-515-5862 or Jesse Hill, Principal, Government and Regulatory Relations, at 314-515-9711.

Sincerely,



Merri Jo Gillette
Deputy General Counsel