

May 9, 2022

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

Re: Comments on FINRA Regulatory Notice 22-08

Dear Ms. Mitchell:

Federated Hermes, Inc. and its subsidiaries ("**Federated Hermes**")¹ appreciates the opportunity to comment on the Financial Industry Regulatory Authority's ("**FINRA**") request for comments with respect to FINRA's Regulatory Notice 22-08 ("**Notice 22-08**")², seeking input as to whether it should impose additional regulatory requirements for retail investors accessing "complex products."³ Suggested regulatory requirements in Notice 22-08 include, but are not limited to: (i) additional disclosures for retail investors, highlighting characteristics and/or risks of the "complex product"; (ii) requiring broker-dealers to approve their retail customer's account to trade in "complex products"; and (iii) requiring broker-dealers to assess whether a product is "complex" before allowing retail customers to transact in the product.

Federated Hermes supports the comment letters submitted by the Investment Company Institute (the "**ICI**") (the "**ICI Letter**") and the Securities Industry and Financial Markets Association ("**SIFMA**") (the "**SIFMA Letter**") regarding Notice 22-08. In particular, Federated Hermes similarly questions FINRA's regulatory authority to impose regulations which would essentially limit customers access to "complex products" as noted in both comment letters. We also hold similar concerns that, because "complex products" are not defined in Notice 22-08, the requirements proposed by Notice 22-08 would be applied subjectively, likely causing confusion among the industry and customers. Additional anticipated effects of Notice 22-08 include reducing customers' investment choices and stifling product innovation. This is due to the risk of broker-dealers foregoing offering products that could be deemed to be a "complex product" in order to avoid noncompliance of seemingly arbitrary requirements, resulting in issuers not developing innovative products for customers.

¹ Federated Hermes, Inc. (NYSE: FHI) is a global leader in active, responsible investment management, with \$631.1 billion in assets under management as of March 31, 2022. We deliver investment solutions that help investors target a broad range of outcomes and provide equity, fixed-income, alternative/private markets, multi-asset and liquidity management strategies to more than 11,000 institutions and intermediaries worldwide. Our clients include corporations, government entities, insurance companies, foundations and endowments, banks and broker-dealers.

² Complex Products and Options, FINRA Regulatory Notice 22-08 (March 8, 2022) (available at <https://www.finra.org/sites/default/files/2022-03/Regulatory-Notice-22-08.pdf>) ("**Notice 22-08**").

³ Notice 22-08 does not define "complex product." Rather, FINRA describes a "complex product" as being "[...] a product with features that may make it difficult for a retail investor to understand the essential characteristics of the product and its risks (including the payout structure and how the product may perform in different market and economic conditions)." See Notice 22-08 at page 3.

Ms. Jennifer Piorko Mitchell
FINRA
May 9, 2022
Page Two

Further, while we understand FINRA's desire to protect investors, the ICI Letter correctly asserts that there is no need for additional regulations for funds as they are already subject to robust regulation under the Investment Company Act of 1940 which strives to protect customers, including strict disclosure requirements. Broker-dealers also are already required to comply with FINRA Rule 2111 (the "**Suitability Rule**"), which requires broker-dealers to have a reasonable basis to believe that a certain investment recommendation is "suitable" for a particular customer, and the Security and Exchange Commission's Regulation BI ("**Reg BI**"), which established a "best interest" standard of conduct for broker-dealers when making an investment recommendation to a retail customer. Existing regulations require thorough disclosure regarding an investment product, including its complexities. The existing regulatory requirements are appropriately designed to protect investors, without reducing choice or limiting innovation. Accordingly, Federated Hermes strongly opposes any additional requirements as proposed by Notice 22-08 or otherwise.

Finally, if FINRA does promulgate additional "complex product" regulation, the definition of "complex product" should be clear and narrowly defined as not to inadvertently cover mutual funds, ETFs, tender offer funds, and closed-end funds with investment strategies that are traditional in nature, such as equity and fixed income strategies.

* * *

We are available to discuss any questions that FINRA may have relating to these comments.

Sincerely,



Peter J. Germain
Chief Legal Officer