



June 28, 2021

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

Via email to: pubcom@finra.org

RE: Regulatory Notice 21-17
Request for Comments-Supporting Diversity and Inclusion in the Broker-Dealer Industry

Thank you for allowing us the opportunity to comment on diversity and inclusion in the broker-dealer industry

Integrated Solutions (“IS”) is one of the largest providers of compliance consulting and financial accounting services to the financial services industry, including about 100 FINRA members, among others types of financial services firms. We counsel clients daily on the scope of permissible broker-dealer activities under various FINRA, SEC and other rules. At any one time, we have several New Member Applications, Continuing Membership Applications and Materiality Consultations submitted to FINRA on behalf of clients. IS has regular, daily experience with FINRA and its membership categories and rules, the SEC, and other regulators with jurisdiction over the financial services industry. We counsel clients in the financial reporting and compliance requirements applicable to broker-dealers, and how they are, in fact, implemented by the various regulators. As a service provider to the financial services industry, IS is privy to the inner workings of a myriad of broker-dealers, each with its own unique blueprint for managing its day to day operations. Each broker-dealer has had to enact plans which take into consideration its responsibility to its clients and counterparties, the financial repercussions on its business and complying with rules and regulations.

Discrimination in this country is not new. Yet, we believe that perhaps the societal pendulum towards diversity and inclusion is now swinging so far that the unintended consequence of these programs results in reverse discrimination against many people. Frankly, when we employ the skill sets of people available to us we never consider factors such as gender, religion, sexual preferences, height, weight, birthplaces, etc. Sometimes we consider language abilities since in a global economy we find that the ability to speak certain foreign languages or to be familiar with foreign customs or culture can be useful.

Discrimination based upon irrelevant factors is simply unethical and wrong but to correct any wrongful discrimination by employing reverse discrimination is just as wrong or even more so and can often result in unintended consequences. Our industry needs to have the skills of the

best people it can find to produce results that benefit the broker-dealer community and the public at large. None of us should strive to ever employ people who may be the worst choices based upon their attributes just because some regulatory or governmental body believes that a quota should be filled. We say so with a great deal of sincerity since both of the authors of this letter have been the victims of discrimination or reverse discrimination early in our respective careers.¹ Luckily, we both overcame inappropriate initiatives. We owe it to the financial services industry to curtail the proliferation of such insidious activities.

Our industry, like all industries, should endorse education as a means to support equality, diversity, and inclusion. Education is the key to all. Outreach programs aimed at high school students from a diverse range of neighborhoods could be utilized to encourage qualified young adults to join our industry, as well as job fairs at diverse colleges and universities to attract the qualified graduates. Notice that the functioning word is “qualified.” Our industry wants qualified, intellectually curious, hard working, and ethical individuals to populate it, regardless of where they come from.

While we mention high schools as a place to begin, we do not mean to exclude places of higher education from being good resources for educated and diversified individuals. Many of the best people in our industry who perform vital functions have degrees and training offered by community colleges and university undergraduate and graduate programs. While some of those university graduates have degrees from ivy-league schools, neither of the well-educated authors of this letter have such lofty degrees yet we both have functioned admirably for decades anyway. Perhaps, we functioned even better by simply being street smart.

We are now living in a culture in which there is recognition of all but understanding and acceptance is a learning process. Our language is being modified to reflect an understanding of issues such as gender fluidity and we are processing the changes, but it doesn’t happen overnight. We should just accept individuals as individuals, without labels.

To pretend that there are no judgments made on an individual is to do disservice to one’s thought process. We all make assumptions based on what we see or hear. We need to discriminate between individuals, not because of their race, religion, sexual orientation, disability, or socio-economic status, but because at some point we must distinguish those that we feel would be qualified and those that we feel are not. We must give everyone equal footing, but that doesn’t mean that we shouldn’t seek out eager, qualified individuals. We should do so without a thought as to what they look like or where they come from. We should psychologically conduct our interviews as if we were on the “Dating Game” where the contestants are hidden from sight, and we choose our best match based upon their answers. That would be the proper and fair way to hire an individual!

FINRA has asked us to comment on how our industry can foster diversity, inclusion, and equal opportunity. Let us first provide the definitions, so we can clarify our response. Equality means the “state of being equal, especially in status, rights and opportunities” Diversity means the

“state of being diverse; variety” and lastly inclusion means, “the action or state of including or of being included within a group or structure.” To address the specific questions raised by FINRA as to diversity and inclusion, we offer the following responses in the same order as the requests for comments was posed in Regulatory Notice 21-17:

1. FINRA rules and market practices are not particularly discouraging of participation in the broker-dealer industry. Market practices do not target anyone individually with any distinction but with equality among all who choose to participate in the market. Markets do not see or hear the individuals participating in them.
2. FINRA’s application of its rules do not necessarily have a disparate impact on individuals in the broker-dealer industry. As stated above, market rules do not discriminate against individuals; other individuals do. Perhaps it would be helpful to request that inclusion and diversity training be part of a firm’s Continued Education Program, so that the importance of these topics is emphasized at least periodically to its Associated Persons. Yet the training needs to emphasize that quotas, per se, are inappropriate and that all human beings need to be treated respectfully and appropriately at all times.
3. FINRA’s operations and administrative processes for the most part do not discourage participation in the broker-dealer industry or have a disparate impact on individuals. No one individual is singled out or given a different set of requirements that need to be adhered to, based upon who the individual is. If some accommodations are needed, such as for someone with a disability, that should be handled with discretion, fairness and sensitivity in mind. FINRA should also recognize that as individuals, each Associated Person’s life and situations are unique and so “checking a box” may not be as simple or non-biased as intended.
4. What does have a disparate impact on an individual is the current collection and publication of a person’s background birth date and various other disclosure requirements on Form U4. What can be discerned from the information disclosed? One can ascertain that an individual is perhaps obese or too skinny by the disclosure of their weight and a member firm secretly desires a certain “look.” One can discriminate in hiring an individual based upon their disclosed age, because a firm only wants a youthful ambiance in the workplace. One can perhaps review the individual’s disclosed eye or hair color and make assumptions about their race or ethnicity. Why should anyone’s gender, whether at birth or currently, make a difference to a potential employer in the broker-dealer community? In addition, a person’s address history may indicate that they have lived in lower or higher socio-economic conditions and presumptions can be made based upon this information. The truth is that none of this information is necessarily important to the hiring process or ascertaining a person’s ability to function effectively in the industry. Rather, it can feel intrusive and discriminatory. Even the collection of one’s

educational history can create a sense of inequality among individuals. For those of us that went to a public university because we couldn't afford a private or ivy league education, is it possible that we will be judged with prejudice because of this disclosure?

Even more egregious, more dangerous and a barrier to greater diversity is the requirement for non-securities related criminal disclosures. Many Associated Persons are forced to disclose information about their past, which may discourage them from joining or being part of our industry when they are qualified to do so and despite their past controversial background they could benefit the industry and the public at large. This is especially evident now with the number of arrests that were made related to marijuana, which is no longer a criminal offense in many states. And driving while intoxicated might not be a wise thing to do, yet it should not impede a brilliant person from being associated with a broker-dealer. We know that communities of color have been disproportionately affected by these types of arrests and their socio-economic backgrounds are seen as causal, so why should any individual be penalized again by disclosure? There is no "need to know" basis, other than in the privacy of a discussion between a potential employee and employer, if warranted. A fingerprint submission to the FBI will provide all information related to an individual's height, weight, hair color, and eye color and the results provided to the member firm will include an individual's criminal history. FINRA should not require certain disclosures on Form U-4, other than those that are securities-related.

5. Kudos to FINRA for developing the SIE examination and offering it to people that wish to have basic training so that they can join our industry. One additional change that could and should be made is to change the two-year rule for securities licensing. If FINRA wants to foster diversity inclusion and equal opportunity, then they have to modify this rule to conform to other industries. Doctors, insurance agents and accountants have to participate in a certain number of hours of Continued Education hours to keep their licensing active, regardless of their current employment status. Life may not fit into a two-year cycle, and in fairness to individuals caring for a child, elderly parents, an ill spouse, or any other life requirement or desire, it is unjust to penalize an individual for those circumstances. By eliminating the two-year licensing requirement, the industry will not be discriminatory against any individual based solely on a timing factor, which can negate the years and years of practical experience an individual has, which could be damaging to his or her career.

Ultimately, equality and fairness are warranted in all aspects of life and our industry. What we want to see is that individuals work in areas for which they are trained and qualified, solely because they are qualified and have training in their specific lines of business, not because there are quotas to be filled. We wouldn't want our medical doctors to be chosen based solely upon quotas. All individuals should be chosen for their merit and well-trained in their field.

Discrimination should not exist, nor should reverse discrimination. A well-qualified individual who has distinguished themselves as such, should not be rejected for the sole reason that a position has to be filled because of a quota system. An individual should be given a chance because they have the qualities that are needed for the position. As Martin Luther King said so eloquently, "I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin, but by the content of their character." We should all seriously consider and promulgate his words.

We at Integrated Solutions firmly believe in being an equal opportunity employer and promoting equality in our hiring processes and in determining whether to render services for a particular client. We exercise color blindness, religious blindness, gender blindness and sexual orientation blindness in the way we screen our candidates for employment. We do the same in screening our clients. In essence, we don't care to learn about irrelevant attributes. We care about our client's and employee's relevant qualifications and integrity; we don't care about quotas. We also care about providing our clients with incredibly well-trained professionals to assist with their compliance, accounting, and fund administration needs. We are happy to discuss any of our remarks with others. Please do not hesitate to contact us.

Peggy E. Chait, pchait@integrated.solutions, 212-897-1698

Howard Spindel, hspindel@integrated.solutions, 212-897-1688

Very truly yours,



Peggy E. Chait
Managing Director



Howard Spindel
Senior Managing Director

¹ One of us is actually familiar with such heinous actions committed long ago by a predecessor to FINRA in response to an action by a governmental authority.