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Via Electronic Filing

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Release No. 34-63250; File No. SR-FINRA-2010-053 (Proposed Rule Change Relating to Amendments to the Panel Composition Rule, and Related Rules, of the Code of Arbitration Procedure for Customer Disputes)

The Cornell Securities Law Clinic (the "Clinic") submits this comment to support the proposal (the "Rule Proposal") of the Financial Industry Regulatory Authority ("FINRA") to amend the panel composition rule and related rules of the Code of Arbitration Procedure for Customer Disputes ("Customer Code"). The Clinic is a Cornell Law School curricular offering, in which law students provide representation to public investors and public education as to investment fraud in the largely rural "Southern Tier" region of upstate New York. For more information, please see http://securities.lawschool.cornell.edu.

Current Rule 12402 states that when a claim qualifies for three arbitrators, the panel shall consist of one non-public arbitrator and two public arbitrators. Pursuant to Rule 12403, FINRA provides parties with three lists: (1) of chair-qualified public arbitrators, (2) of public arbitrators, and (3) of non-public arbitrators. Rule 12404 provides that parties may strike up to four arbitrators from each list and rank the remaining arbitrators for selection. Under Rule 12405, FINRA then combines the lists and pursuant to Rule 12406 appoints the highest-ranked available arbitrator from each list.

The Rule Proposal will result in a new panel selection method labeled the "Composition Rules for Optional All Public Panel." Under this method, any party may strike all non-public arbitrators from the list. If all non-public arbitrators are stricken, FINRA will appoint a public arbitrator to complete the panel.

Public investor advocates, including the Clinic, have long called for a change to the current panel composition rules. The Clinic previously joined other clinics in supporting the petition of the Public Investors Arbitration Bar Association ("PIABA") to modify the panel composition rules to remove the mandatory non-public arbitrator in cases exceeding $100,000. (See Letter of Christine Lazaro, St. John's University School of Law, August 4, 2009, File 4-586). The Clinic also submitted a separate comment supporting the PIABA petition. (Letter of William A. Jacobson, Cornell Securities Law Clinic, October 5, 2009, File 4-586). Now that FINRA has submitted the current Rule Proposal, the Clinic again writes to express its support for the elimination of the mandatory non-public arbitrator.

The Clinic strongly supports the Rule Proposal and asks the SEC to expedite its effective date.

The removal of the mandatory non-public arbitrator will increase the impartiality of FINRA arbitration. There is no legitimate need for a mandated non-public arbitrator. Opponents of the Rule Proposal have argued that non-public arbitrators are necessary to provide technical knowledge to panels. (See Letter of Harvey Wacht, Shufro, Rose & Co., LLC, November 18, 2010). This argument is flawed because non-public arbitrators are not required to possess any technical knowledge. Moreover, if a non-public arbitrator does possess such knowledge this essentially results in expert testimony that the parties do not hear and that is not subjected to cross-examination.

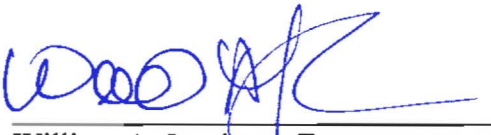
FINRA rules already permit parties to call experts. An additional "expert" who is part of the securities industry, who may not even be qualified, and whose "testimony" is given in secret is unfair to public customers and unnecessary.

Significantly, the Rule Proposal still allows parties the option of a non-public arbitrator when they feel it is necessary. Thus, when the parties believe that securities industry background is needed on a panel, they may retain a non-public arbitrator. Mandating such a non-public arbitrator, though, does not further any legitimate purpose.

Furthermore, the presence of a mandated non-public arbitrator contributes to the perception of bias, evidenced by investor dissatisfaction with FINRA's arbitration process. (See Jill I. Gross & Barbara Black, *When Perception Changes Reality: An Empirical Study of Investor's Views of the Fairness of Securities Arbitration*, 2008 J. of Disp. Resol. 349, 385–400 (2008)). The fact that investors perceive the system as unfair threatens the credibility of the system and conflicts with FINRA's dispute resolution goals. Affording investors the opportunity to bring their claims before an all-public arbitration panel will significantly counteract this perception and increase investor confidence in the FINRA arbitration forum.

For the foregoing reasons, the Clinic urges that the SEC promptly approve FINRA's Rule Proposal.

Respectfully Submitted,



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