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Via Electronic Filing

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

**RE: Release No. 34- 63910; File No. SR-FINRA-2011-006 (Proposed Rule Change Relating to Motions in Arbitration)**

Dear Ms. Murphy:

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 Rules 12206, 12503, and 12504 of the Code of Arbitration Procedure for Customer Disputes (collectively, “Customer Code”).<sup>1</sup> 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>.

The current Customer Code specifies time periods for a party to respond to a motion. The Customer Code, however, does not provide time periods for the party that made the original motion (the “moving party”) to reply to a response. FINRA is proposing to amend the Customer Code to provide a moving party with a five-day period to reply to a response to a motion. The Clinic supports the Rule Proposal because it ensures that parties in arbitration have the opportunity to brief fully the issues in dispute and that arbitrators have access to all motion papers before reaching a final decision on a motion.

The Clinic supports FINRA’s proposed five-day period for the moving party to reply to a response to a motion. According to the Rule Proposal, however, FINRA does not intend to change Rule 12512 (Subpoenas) which provide moving parties with a ten-day time period to

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<sup>1</sup> The Rule Proposal also proposed changes to Rules 13206, 13503, and 13504 of the Code of Arbitration Procedure for Industry Disputes. The Clinic takes no position on such changes, as we are only concerned with the rule proposals that affect customer disputes.



reply to other parties' objections. The Clinic recommends that FINRA consider maintaining consistency by providing all moving parties, including under Rule 12512, with a five-day period to reply to responses to motions. Maintaining a consistent time period will ensure efficiency when motions combine subpoena issues with other discovery issues.

The Clinic notes that both the New York District Courts and State Courts allocate a shorter response time for moving parties replying to a motion response than to opposing parties responding to a motion. For example, the District Courts for the Western, Southern, and Eastern Districts of New York allocate fourteen days for answers to a motion and seven days for a reply to an answer. W.D.N.Y. R. 7(b)(2)(b); S.D.N.Y. R. 6.1(b)(2)–(3); E.D.N.Y. R. 6.1(b)(2)–(3). Similarly, §2214 of the New York Civil Practice Rules provides that where a motion is served at least sixteen days before the return date, a moving party has six days to reply. N.Y. C.P.L.R. 2214(b) (McKinney 2007).

For the foregoing reasons, the Clinic supports FINRA's Rule Proposal but suggests that the time period for Subpoena motions be conformed to these same time periods.

Respectfully submitted,



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