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April 9, 2008

VIA EMAIL

to: rule-comments@sec.gov

Ms. Nancy Morris
Secretary Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: File No. SR-FINRA-2007-021
Proposal amending Rules 12206 and 12504 of the Customer Code and Rules 13206
and 13504 of the Industry Code to address motions to dismiss

Dear Ms. Morris:

As an attorney who has made frequent use of SRO arbitration for more than twenty five years, I support significant restrictions on the utilization of Motions to Dismiss. It has always been a serious mistake to allow Respondents to secure awards in their favor without a hearing on the merits while denying that possibility to Claimants. While not perfect, the proposed rules will help correct this problem and should be approved.

I write in specific response to SIFMA's proposal to modify Rule 12504 to expressly facilitate dismissals by motion against clearing firms. SIFMA comment letter to SR-FINRA-2007-021 dated April 7, 2008. According to SIFMA, dismissals on motion are justified because "clearing firms cannot be held liable for the negligence or wrongful acts of the correspondent." Id. at 3.

As the attorney who tried McDaniel v. Bear, Stearns & Co., 196 F. Supp. 2d 343 (S.D.N.Y. 2002), I am appalled that SIFMA could make such an inaccurate statement of the law. I am also disturbed that SIFMA's footnote 9, which purports to support SIFMA's statement of law, fails to cite or otherwise refer to McDaniel, or any of the many other decisions and authorities finding clearing broker liability.

JONATHAN KORD LAGEMANN

By seeking to effectively exempt clearing brokers from arbitral liability, SIFMA is asking the Commission to legislate substantive law in the process of enacting a procedural arbitration rule. The Commission should decline SIFMA's initiation to engage in such a questionable activity.

Very truly yours,



Jonathan Kord Lagemann