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Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: Amendments to Discovery Guide in FINRA Arbitrations
SR-FINRA-2008-024

Dear Ms. Murphy:

I am an attorney who has represented aggrieved customers in seeking redress from broker/dealers for more than 20 years. I am extremely concerned about the direction being taken with the proposed revisions to the Discovery Guide.

Years ago investors lost the right to bring their claims before a jury of their peers. Instead, they are forced to seek relief in an industry forum, a forum that is frequently and with good reason criticized as being biased in favor of the industry. Unfortunately, the proposed revisions to the Discovery Guide do nothing to remedy these criticisms. Instead, they increase the already severe burden on the public customer without imposing a higher standard of accountability on the industry.

The list of documents that a customer must produce in every case is already too long. In effect, the Discovery Guide sanctions the tactic of putting the customer on trial by allowing the broker/dealer to fish for information, no matter how old or how irrelevant, to show that the customer was wealthy enough or took risks in the past that the broker knew he was averse to in the present when the recommendation was made—while allowing the industry to shield relevant information from discovery. Investors must produce years of financial records that have nothing to do with their case—bank records, checking account statements, financial statements, tax returns, and more. This task is already extremely burdensome for the average claimant, and especially for the elderly. The proposed revisions will expand the customers burden even further, including more irrelevant information for more years, while the industry continues to suppress relevant information.

In short, because the proposed revisions make arbitration even more burdensome and encourage even more abuse, they should be rejected by the SEC. Thank you for the opportunity to present my concerns.

Sincerely,

MITCHELL S. OSTWALD
MSO/slm