



St. John's University School of Law  
Securities Arbitration Clinic

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Via Online Submission

Ms. Elizabeth M. Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549

Re: 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)

Dear Ms. Murphy:

The Securities Arbitration Clinic at St. John's University School of Law is very pleased to accept this opportunity to comment on the proposed changes to the FINRA Rules related to the composition of arbitration panels. The Clinic supports the current rule proposal in its endeavor to provide customers with expanded choice in the arbitration process; however, we believe that there is room for improvement in the way the rule has been drafted.

The Clinic is a not-for-profit organization in which second and third year law students provide free legal representation under our supervision to public investors in their securities disputes who are otherwise unable to obtain legal representation. Our clients are generally of modest means, and if the Clinic did not represent them, they would likely be forced to proceed *pro se*. Accordingly, we are very sensitive to ensuring that the administration of the arbitration system is as simple and straightforward as possible.

Overall, we are very supportive of the rule proposal. When PIABA filed a similar rule petition last year, we supported that petition as well. We believe that it is important that customers be given the opportunity to proceed through arbitration in a fair and neutral forum.

Given the abundance of data that demonstrates that at a bare minimum, the presence of a non-public arbitrator on a panel presents the appearance of bias, customers should not be forced to select a non-public arbitrator, when they are already forced into the forum itself by the brokerage firms. There may be cases where a customer decides that it is appropriate to have a non-public arbitrator on the panel. The customer, however, should be able to choose whether to proceed under the majority public arbitrator option.

Our concern with the drafting of the proposed rule has to do with the 35 day time limit imposed on customers within which they must elect whether not they would like to opt-in to the all public option. We are concerned that customers, particularly *pro se* customers, may not appreciate the importance of this deadline, or may simply inadvertently miss the deadline. To the extent the rule contemplates a default option; we believe the default option should be the all public panel option rather than the majority public panel option.

We welcome any questions you may have regarding our position. Please do not hesitate to contact us should you have any questions or wish to discuss this matter.

Respectfully submitted,  
ST. JOHN'S UNIVERSITY SCHOOL OF LAW  
SECURITIES ARBITRATION CLINIC

/s/

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