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VIA E-MAIL TO: rule-comments@sec.gov

May 31, 2011

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

Re: Proposed Addition to FINRA Code of Arbitration Procedure
FINRA Regulatory Notice 2011-18
Exchange Act Release No. 34-64386

Dear Ms. Murphy:

On behalf of the Public Investors Arbitration Bar Association ("PIABA"), I am pleased to comment on the above-referenced proposed adoption of NASD Rule 2830 (Investment Company Securities) as FINRA Rule 2341 (Investment Company Securities) in the consolidated FINRA rulebook with significant changes.

PIABA is a bar association comprised of attorneys who devote a significant portion of their practice to the representation of investors in securities arbitrations. Since its formation in 1990, PIABA has promoted the interests of the public investor in all securities and commodities arbitration forums. Our members and their clients have a strong interest in FINRA rules that govern the arbitration process and/or touch upon investor protection.

I. The Proposed Change Should Be Approved Because It Will Incrementally Improve Disclosure Concerning Brokerage Firms' Financial Incentives To Recommend Certain Mutual Funds Over Other Investments

PIABA believes that the proposed FINRA Rule 2341 should be adopted. The proposed rule will incrementally improve disclosure concerning brokerage firms' financial incentives to recommend certain mutual funds over other investment company securities or other investments. Under the current NASD Rule 2830, the duty to disclose "special cash compensation" (compensation other than sales charges and service fees not made available on the same terms to all FINRA members who sell the fund's shares) rests with the investment company, which must disclose the compensation either in the prospectus or a fund's statements of additional information ("SAI").

The new FINRA Rule 2341 eliminates the investment company's duty to disclose special cash compensation in the prospectus or SAI and instead places the duty to disclose on the FINRA member. Under the proposal members would be required to disclose any additional cash compensation received in connection with the

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sale of mutual fund shares, and also disclose any "preferred" list of investment companies to be recommended to customers as a result of the member firm's receipt of special cash compensation. The proposal would also require FINRA member firms to establish a web site or toll-free telephone number to make this information readily available to customers.

PIABA believes that the proposed Rule 2341 will incrementally improve disclosure of built-in conflicts of interest that incentivize member firms and registered representatives to recommend certain investments based on special compensation that they receive from investment companies rather than on the merits of the investments. Under the proposal disclosure would be modestly improved because the information would be made readily available to customers and highlighted in a more accessible format than under the current rule. This highlighted and always-available disclosure would represent an improvement over the current rule, under which such disclosures are embedded in lengthy prospectuses that many customers discard. As such, the disclosure required under the proposed new rule represents a modest improvement over the current rule and should be adopted.

II. The Proposed Rule Change Should Go Further to Prohibit Special Cash Compensation That Is Not Made Available On The Same Terms to All FINRA Members Who Sell The Fund's Shares

The dynamic discussed above in which registered representatives, who frequently hold themselves out as trusted advisors rather than as commissioned salespeople, may have special financial incentives to recommend certain mutual fund shares over other investments, is simply inconsistent with FINRA's goal of investor protection. Public investors should not have to remain perpetually on guard lest their "financial advisors" disadvantage them by recommending mutual fund shares based on special financial incentives made available to some FINRA members but not others. Inevitably many investors will simply overlook disclosures concerning brokers' financial incentives and remain unaware that their "financial advisor" is making recommendations based on special financial incentives available from a given investment company.

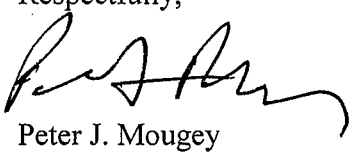
Rather than modestly improving the disclosure rules, FINRA should limit financial incentives paid by investment companies to member firms to the sales charges and service fees disclosed in the prospectus fee tables and made available on the same terms to all member firms. FINRA should also require that the member firms disclose sales charges and service fees for all mutual funds in a prominent manner similar to what would be required by proposed FINRA Rule 2341. That way, compensation for sale of mutual fund shares would be made more uniform, simpler, and more transparent than under either the current NASD Rule 2830 or proposed FINRA Rule 2341.

Conclusion

For the above reasons, PIABA respectfully requests that FINRA approve the changes to the Code of Arbitration Procedure proposed in Regulatory Notice 2011-18. We further urge FINRA to consider further amendments that would limit financial incentives paid by investment companies to member firms to the sales charges and service fees disclosed in the prospectus fee tables and made available on the same terms to all member firms.

Thank you for your consideration.

Respectfully,



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