



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

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VIA ONLINE SUBMISSION

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

***Re: SR-FINRA-2012-011
Proposed Rule Change Relating to Mediator Selection***

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 rule change to mediator selection. The Clinic is in favor of the proposed amendments to Rule 14107(a), providing the Director of Mediation with discretion to determine whether parties to a FINRA mediation may select a mediator who is not on FINRA's mediator roster, and Rule 14107(c) clarifying that FINRA disclosure requirements applies to non-FINRA mediators. It is of utmost importance to utilize well-qualified mediators to resolve disputes efficiently.

The Securities Arbitration Clinic is a not-for-profit organization that provides free legal representation to public investors, who are otherwise unable to obtain legal representation, in securities disputes. The Clinic is staffed by second- and third-year law students. Our clients are generally of modest means and have been turned down by a minimum three attorneys. If the Clinic did not represent them, our clients would likely be forced to proceed *pro se* or not pursue their claims at all. In addition to representing aggrieved investors, the Clinic is committed to protecting investors. Accordingly, we have a strong interest in rules that affect investors.

In order to ensure quality and efficiency in mediation, it is best for the Director of Mediation to have discretion in approving a non-FINRA mediator. With an abundance of experienced and knowledgeable mediators on FINRA's roster, there is no longer a need to allow parties to select a mediator who is not approved by FINRA. The original intention behind allowing for non-FINRA mediators was to ensure that the parties had the opportunity to select from a sufficient pool of mediators. The growth of FINRA's mediator roster has eliminated this concern. Parties are now presented with numerous seasoned securities mediators, all of whom have been evaluated by FINRA and the NAMC to ensure training and competency. Allowing for non-FINRA evaluated mediators to partake in the process jeopardizes the quality and efficiency of the mediation process. There is a very deliberate and thorough screening process through which FINRA chooses mediators to appear on its roster. To allow the parties to circumvent this quality control feature will be detrimental to the quality of the process and put in jeopardy FINRA's statutory responsibilities. Parties to a FINRA mediation will still retain the right to choose a non-FINRA mediator, so long as the Director of Mediation approves the selection. In addition, if non-FINRA mediators are allowed to continue mediating FINRA disputes without paying the annual and mediation case fees, qualified mediators may be less likely to join the FINRA mediator roster which will undermine FINRA's goal of having a comprehensive roster.

We also agree with the amendment to Rule 14107(c) clarifying that non-FINRA mediators must comply with FINRA rules relating to disclosures required of arbitrators unless the parties elect to waive such disclosure. This amendment will reduce confusion and make it clear that non-FINRA mediators are subject to the same disclosure requirements as FINRA mediators. If Rule 14107(c) did not apply to non-FINRA mediators, they may be in a more advantageous position than FINRA mediators if they choose not to disclose certain things about themselves.

Thank you for the opportunity to comment on this proposed rule change. We believe that the proposed amendment to Rule 14107(a) is in the best interest of FINRA and its parties. We ask that the SEC approve these amendments. Thank you for considering this important matter.

Respectfully,

/s/

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