

April 19, 2012

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

Re: File No. SR-FINRA-2012-012 – Proposed Rule Change Relating to Raising the Limit for Simplified Arbitration

Dear Ms. Murphy:

The Financial Industry Regulatory Authority, Inc. (“FINRA”) hereby responds to the comment letters received by the Securities and Exchange Commission (“SEC”) with respect to the above rule filing. In this rule filing, FINRA is proposing to amend FINRA Rules 12401 (Number of Arbitrators) and 12800 (Simplified Arbitration) of the Code of Arbitration Procedure for Customer Disputes, and FINRA Rules 13401 (Number of Arbitrators) and 13800 (Simplified Arbitration) of the Code of Arbitration Procedure for Industry Disputes, to raise the limit for simplified arbitration from \$25,000 to \$50,000.¹

The SEC received five comment letters on the proposed rule change, all of which support the proposal.² The Caruso letter states that the proposed rule change “would be beneficial for public investors and should be immediately approved.” The PIABA letter states that the \$25,000 threshold is presently too low, and that the proposed rule change “increases the efficiency of FINRA arbitration and better serves aggrieved investors.” The Cornell letter states that the clinic supports the proposed rule change “because the Clinic agrees that raising the limit will better capture what

¹ See Securities Exchange Act Rel. No. 66442 (February 22, 2012), 77 FR 12092 (February 28, 2012) (File No. SR-FINRA-2012-012).

² Comment letters were submitted by Steven B. Caruso, Esq., Maddox Hargett & Caruso, P.C., dated March 2, 2012 (“Caruso letter”); Ryan K. Bakhtiari, President, Public Investors Arbitration Bar Association, dated March 16, 2012 (“PIABA letter”); William A. Jacobson, Associate Clinical Professor of Law, Cornell Law School, and Director, Cornell Securities Law Clinic, and Brenda Beauchamp, Cornell Law School ’13, dated March 20, 2012 (“Cornell letter”); Lisa A. Catalano, Director; Christine Lazaro, Supervising Attorney; Anna Andreescu, Julia Iodice, and Ashley Morris, Legal Interns; St. John’s School of Law Securities Arbitration Clinic, dated March 20, 2012 (“St. John’s letter”); and Jill I. Gross, Director; Edward Pekarek, Assistant Director; and Genavieve Shingle, Student Intern; Investor Rights Clinic, Pace Law School, dated March 20, 2012 (“PIRC letter”).

are considered small claims in the current legal marketplace.” Moreover, the Cornell letter asserts that the proposed rule change “may make it more likely that clients will be able to obtain legal representation if the limit for simplified arbitration were raised.” Similarly, the St. John’s letter states, among other things, that “raising the limit for simplified arbitration will allow a greater number of economically disadvantaged individuals to bring claims against their brokers without the financial burden of hearing fees, the total amount of which is unpredictable.” The St. John’s letter goes on to state that brokerage firms should also find the proposed rule change beneficial because “firms will avoid the additional costs associated with preparing for and appearing at arbitration hearings.” The PIRC letter states that the proposed rule change “would further the goals of resolving customer disputes expediently and efficiently, while simultaneously promoting the primary goals of FINRA as well as those of state and federal securities laws: investor protection and market integrity.”

In the PIRC letter, the commenters raise a concern about an arbitrator’s ability to resolve a customer dispute solely on paper submissions, asserting that customer disputes “typically involve hotly-contested issues of fact and credibility determinations, which arbitrators are hard-pressed to resolve based solely on written submissions.” The PIRC letter urges FINRA to consider the feasibility of offering customer claimants a telephonic hearing option. FINRA agrees with the suggestion and will consider the feasibility of a telephonic hearing option. However, consideration of a telephonic hearing option should not delay the SEC’s consideration of the proposed rule change before it. Currently, if parties to an arbitration proceeding submit a joint request for a telephonic hearing, FINRA honors such requests.

The proposed rule change should improve efficiency and reduce fees for claims up to \$50,000, enhancing the forum for its users, and thus FINRA requests that the SEC approve it.

If you have any questions, please contact me by telephone at (212) 858-4481 or by email at margo.hassan@finra.org.

Very truly yours,

Margo A. Hassan
Assistant Chief Counsel
FINRA Dispute Resolution