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July 11, 2013

Via SEC Website and First Class Mail

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

Re: Comment on File No. SR-FINRA-2013-023
Proposed Rule Change to Amend FINRA Rule 12403

Dear Ms. Murphy:

I write on behalf of the Public Investors Arbitration Bar Association ("PIABA"). PIABA is an international bar association comprised of attorneys who represent investors and securities arbitrations. Since its formation in 1990, PIABA has promoted the interests of the public investor in all securities and commodities arbitration forms, while also advocating for public education regarding investor rights. Our members and their clients have a profound interest in FINRA rules relating to the dispute resolution process.

PIABA supports the proposed rule change to amend FINRA Rule 12403 of its Code of Arbitration Procedure to simplify the arbitration panel selection process in cases with three arbitrators. The proposed rule change advances the interest of investors and should be approved.

In 2008, FINRA initiated a Public Arbitrator Pilot Program which gave investors a greater choice when selecting an arbitration panel. Specifically, investors in eligible cases were allowed to choose a panel consisting of three public arbitrators, rather than two public arbitrators and one non-public arbitrator. After a twenty-seven month period, results showed that investors chose the new method of arbitrator selection almost 60% of the time. In a September 28, 2010 FINRA News Release, Richard Ketchum, FINRA Chairman and Chief Executive Officer, stated that "giving each individual investor the option of an all-public panel will enhance confidence in and increase the perception of fairness in the FINRA arbitration process."

The Public Arbitrator Pilot Program was such a success that effective February 1, 2011, FINRA announced the amendment of its rules regarding the selection of arbitration panels with three arbitrators. Under the newly adopted Rule 12403, investors have had the option to have had an all-public panel hear their cases, but investors have been required to notify FINRA in writing of their election to have an all-

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public panel hear their cases in the statement of claim or within thirty-five days of the service of the statement of claim.

FINRA's proposed rule change eliminates the requirement for an investor or his or her counsel to notify FINRA of the investor's election to have an all-public panel hear the investor's case. The rule change insures that parties in cases with three arbitrators will be provided with the same method for selecting a panel of arbitrators. In addition, to the extent that an investor or his or her counsel believes that it is in the best interest of the investor to have the case heard by an arbitration panel that includes a non-public arbitrator, the investor has the option to rank non-public arbitrators.

The elimination of the requirement that investors submit a written election to have an all-public panel is a significant improvement in the arbitrator selection process for investors. However, pro se investors and investors represented by less experienced arbitration counsel may not be aware of the investor's right to have his or her case determined by an all-public panel, despite the proposed rule change. PIABA believes that it would be in the best interest of investors for FINRA to emphasize in its transmittal letter accompanying the arbitrator ranking form and the arbitrator disclosure reports that each party has the ability and right to have the case heard by an arbitration panel comprised of only public arbitrators. FINRA's current transmittal letter to parties has the information about the arbitrator ranking process is in the middle of a lengthy letter. PIABA believes a revision of the text would be appropriate and beneficial to investors to emphasize the two alternative types of panels available under the revised rule and the ability and right of the parties to have their cases heard by an all-public panel.

PIABA appreciates the opportunity to comment on this proposed rule change.

Very truly yours,

Scott C. Ilgenfritz
President

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