



Securities Arbitration Clinic
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VIA On-Line Submission

July 9, 2013

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

Re: File Number SR-FINRA-2013-023
Proposed Rule Change to Amend FINRA Rule 12403 (Simplifying Arbitrator Selection
in Cases with Three Arbitrators)

Dear Ms. Murphy:

Thank you for the opportunity to comment on the proposed rule change to amend FINRA Rule 12403 of the Code of Arbitration Procedure for Customer Disputes to simplify arbitration panel selection in cases with three arbitrators. We are writing this comment on behalf of the Securities Arbitration Clinic of St. John's University School of Law. The Securities Arbitration Clinic is part of the St. Vincent De Paul Legal Program, Inc., a not-for-profit legal services organization.

The Securities Arbitration Clinic represents aggrieved investors and is committed to investor education and protection. Accordingly, the Clinic has a strong interest in the rules governing arbitrator selection, and ensuring that investors who would otherwise be *pro se* are given the opportunity to be represented and have their cases heard by a panel that is selected in the simplest manner possible.

Under the current Rule 12403, customers are given the opportunity to choose between two arbitration panel composition methods: the “Majority Public Panel Option” and the “All Public Panel Option.” The Majority Public Panel Option provides for a panel of one chair-qualified public arbitrator, one public arbitrator, and one non-public arbitrator. On the other hand, the All Public Panel Option allows a party to select an arbitration panel that consists of three public arbitrators. When the rule was adopted, the Majority Public Panel Option was made the default, meaning customers had to opt-in to use the All Public Panel Option. The new rule would consist of a one panel method that encompasses the provisions in the All Public Panel Option, but with more clarity. It is important to note that since the All Public Panel Option was implemented, it has been chosen by customers in approximately three-quarters of eligible cases. It is unclear whether the remaining customers affirmatively chose the Majority Public Panel Option, or simply had failed to opt-in to the All Public Panel Option.

The Clinic is supportive of the proposed rule change that suggests the use of one panel method in all customer cases. By eliminating the choice of arbitrator panel composition, FINRA is assuring certainty and uniformity among cases since the same rules will apply to all parties. Additionally, those parties that are not as knowledgeable in the arbitrator selection process will not be faced with failing to make a choice because of confusion over the process or making an uninformed choice.

The proposed rule change also guarantees that each party has the opportunity to review the list of non-public arbitrators and rank or strike any of them from the list. By simplifying the rule, less experienced customers will not lose the chance to select an all-public panel because they are confused by the wording of the rule.

The Clinic believes that the proposed rule change will enhance efficiency. Removing the notification period for panel options allows for immediate production and distribution of arbitrator lists to the parties. Not only will this ensure that the process moves along at a faster pace, it will also reduce expenses, making it advantageous to both investors and FINRA members. We believe that any costs to comply with this rule will be minimal and outweighed by the benefits it provides.

Thank you for your consideration of this matter.

Sincerely,

/s/

Pamela Albanese
Legal Intern

Christine Lazaro, Esq.
Acting Director