

# Public Investors Arbitration Bar Association

November 14, 2013

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

Re: SR-FINRA-2013-045

Dear Ms. Murphy:

Pursuant to Rule of Practice 192(a) of the Securities and Exchange Commission ("SEC"), the Public Investors Arbitration Bar Association ("PIABA") submits its comment to the SEC concerning SR-FINRA-2013-045 and its proposed changes to the Series 6 Examination. These changes would be to "update the material to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Investment Company and Variable Contracts Products Representative." While PIABA believes that these changes are a move in the right direction, especially as the changes pertain to an increased focus on suitability, the changes should go even further to promote investor protection.

PIABA is a bar association whose attorneys are committed to representing investors in securities arbitrations. In promotion of these efforts, PIABA often comments upon proposed changes to the arbitration process to ensure the rights and fair treatment of the investing public. PIABA submits its comment herein because it believes the issue to be of significant importance to the investing public.

SR-FINRA-2013-045, the proposed change, modifies the Series 6 content outline to comport with current rules and regulations. These modifications to the content outline give suitability requirements (as identified in FINRA Rule 2111) greater prominence and reflect recent changes to the suitability rule. PIABA supports such modifications because PIABA supports the addition of anything that increases broker awareness and understanding of suitability requirements. Suitability violations constitute 953 of the 2809 arbitration cases filed with FINRA during 2013 (through September 2013).<sup>1</sup> Testing on the suitability rule has become even more important due to recent changes to Rule 2111. PIABA supports the modifications to the Series 6 Exam that reflect those changes.

<sup>1</sup> <http://www.finra.org/ArbitrationAndMediation/FINRADisputeResolution/AdditionalResources/Statistics/>

Ms. Elizabeth M. Murphy, Secretary  
November 14, 2013  
Page 2

The testing and outline, however, should go further to protect investors. PIABA would like to see additional issues receive greater attention in the Series 6 Exam. The Series 6 allows a broker to sell variable life products and investment company products. The members of PIABA commonly see issues in these areas, including annuity and mutual fund switching, and break point violations that could be resolved with better testing and education of brokers. PIABA would like to see greater testing on these issues as a condition precedent to getting a Series 6 license to better protect the investing public.

We further suggest that the training concerning suitability focus first on the critical need for the selling agent to understand the products being considered for sale to their customers. PIABA membership has witnessed a significant increase in the number of clients suffering significant losses in very complex annuities and life insurance products. It can take someone well-versed in the area hours, if not days, to understand how a particular product calculates its surrender value or death benefit. But, as our membership has seen, selling agents are often more interested in spending their time selling these high-commission products than they are in understanding them so that they can determine whether they would be appropriate for any of their clients. The customer-specific issues addressed in Sections 2.1 and 2.2 of the proposed outline are a meaningful step in the right direction, but they cannot come into play until the agent spends the time to truly understand the products they sell – as addressed in Section 2.3. An agent can't abide by FINRA Rule 2111's requirement that they have a reasonable basis for believing the recommended transaction is suitable unless they understand the product being offered. Thus, we strongly suggest that the training outline be modified to focus first upon the broker's need to understand the products they offer. Specifically, we suggest that Section 2.3 be expanded and replace Section 2.1, with Sections 2.1 and 2.2 being re-labeled 2.2 and 2.3, respectively.

In sum, PIABA supports the new rule proposal but hopes that the new outlines would go further in an effort to protect investors. I would like to thank you once again for the opportunity to comment on this rule proposal.

Sincerely yours,



Jason Doss  
President