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VIA ELECTRONIC SUBMISSION

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

Re: SR-FINRA-2014-008

Dear Ms. Murphy:

This comment is submitted by the Georgia State University College of Law's Investor Advocacy Clinic concerning SR-FINRA-2014-008. We are dedicated to protecting investors and offer these comments in support of the proposal if it is expanded to more fully protect investors.

The proposal would require parties to redact all but the last four digits of an individual's Social Security number, taxpayer-identification number and financial account numbers on documents filed with FINRA. Noncomplying parties would receive thirty days to resubmit properly redacted documents. The proposal does not require redaction of documents the parties exchange with each other, submit to arbitrators at a hearing on the merits or file in simplified proceedings.

We support the goal captured by FINRA's proposal. However, in light of the rising crime of identity theft, we recommend more comprehensively protecting investors' personal identifiers. In particular, the proposal should be broadened in three ways: (1) redaction requirements should apply to all documents related to any proceeding involving a customer's information, (2) birthdates should be included as personal identifiers that must be redacted; and (3) investors should have additional time to comply after initially providing non-conforming materials.¹

1. The Rule Should Apply to All Types of Document Submissions in All Proceedings.

As the redaction requirement is currently drafted, it only applies to documents "filed with FINRA" in both electronic and paper formats. It specifically excludes documents submitted to arbitrators in hearings on the merits, documents exchanged by the parties and all documents submitted in a simplified arbitration proceeding. FINRA should, however, require the redaction

¹ Although outside the scope of this proposal, we recommend that a rule be implemented to truncate account numbers on brokerage statements. This would reduce the potential harm to investors and eliminate the subsequent need for redaction. A similar practice already applies to credit and debit card receipts. See 15 U.S.C. § 1681c(g)(1).

of personal identifiers from documents submitted or exchanged in all stages of every proceeding.

The danger posed by a wrongdoer's use of confidential information is the same regardless of whether the information appears on a hard copy or in a digital file. The investor faces the same potential harm whether the information is submitted to FINRA, to a party or to an arbitrator. Indeed, FINRA acknowledges that arbitrators sometimes misplace documents submitted to them by the parties.² Additionally, the proposal would take away some investor protections that are already in place, since the FINRA Discovery Guide requires certain redactions on documents parties exchange in the discovery process.³

The decision to exclude simplified arbitration from the proposal's ambit because it may be too burdensome for unrepresented investors is likewise misplaced. All parties in certain federal proceedings, including *pro se* parties, are subject to redaction requirements.⁴ FINRA's concern that *pro se* parties may be unfamiliar with redaction can be addressed in the same fashion that federal courts have addressed the issue: by creating a guide outlining the process and offering tips for compliance.⁵

2. The Rule Should Require Redacting Dates of Birth.

While an individual's date of birth is commonly used with other personal information to commit identity fraud,⁶ an investor's birthdate may appear on brokerage account statements, tax returns and other documents that may be used in a FINRA proceeding. Consequently, we recommend that in addition to redacting Social Security numbers, taxpayer-identification numbers, and account numbers, FINRA also require the redaction of a person's month and day of birth from all materials related to any proceeding. This should not place an unreasonable burden on the parties as the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure and the Federal Rules of Bankruptcy Procedure already require redacting such information.⁷

3. Investors Should Have Additional Time to Comply With the Rule After Initially Providing Nonconforming Documents.

FINRA's dispute resolution proceedings often provide the only source of redress for aggrieved investors in claims against a broker/dealer. Due to the six year eligibility rule, an investor's non-compliance with redaction requirements may preclude valid claims. This is a particular danger

² See SR-FINRA-2014-008, p. 10.

³ See FINRA Discovery Guide, List 1: Documents the Firm/Associated Persons Shall Produce in All Customer Cases, Section 10 (2013) (presumptively discoverable documents must be "redacted to prevent the disclosure of non-public personal information of the complaining customers."); *id.* at List 2: Documents the Customer Parties Shall Produce in All Customer Cases, Section 1 (2013) (requiring customers to produce certain pages of federal tax returns "redacted to delete the customer parties' Social Security numbers.").

⁴ See FED. R. CIV. P. 5.2; FED. R. CRIM. P. 49.1; FED. R. BANKR. P. 9037. See also U.S.D.C., N.D. TEX., PRO SE HANDBOOK FOR CIVIL SUITS 14 (2010), available at <http://www.txnd.uscourts.gov/pdf/ProSe/handbook.pdf>; U.S.D.C., W.D. WASH., FILING YOUR CASE IN FEDERAL COURT: A PRO SE GUIDE 35 (2013), available at http://www.wawd.uscourts.gov/sites/wawd/files/ProSeManual4_8_2013wforms.pdf.

⁵ See, e.g., <https://ecf.cand.uscourts.gov/cand/faq/tips/redacting.htm>.

⁶ When a Criminal's Cover is Your Identity, available at <http://www.fdic.gov/consumers/privacy/criminalscover/>.

⁷ See FED. R. CIV. P. 5.2(a)(2); FED. R. CRIM. P. 49.1(a)(2); FED. R. BANKR. P. 9037(a)(2).

when *pro se* investors have filed a claim.⁸ If an investor does not resubmit compliant documents within the thirty day correction period, the investor should receive a second notice with an additional fifteen days to comply. To ensure investor understanding of these requirements, the Submission Agreement and notices of noncompliance should include instructions for redacting and the risks associated with noncompliance.

Conclusion

We support FINRA's efforts to protect investors. Requiring the redaction of personal identifiers is essential to securing investors' confidential information. FINRA's proposed rule is a great step in that direction. However, as currently drafted, the rule does not go far enough. Since the benefit of protecting personal confidential information far outweighs any burdens of redacting it, we recommend broadening the information that must be protected under the rule.

Best regards,

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⁸ This is a concern whether or not the proposal is expanded to include simplified arbitration. *Pro se* parties with non-simplified claims and claims in excess of \$50,000 are arguably subject to more harm if they do not timely comply with the redaction requirements.