

March 6, 2018

By email to rule-comments@sec.gov

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street NE,
Washington, DC 20549-1090.

Re: SR-FINRA-2018-003
Proposed Rule Change Relating to Simplified Arbitration

Dear Secretary Fields,

On behalf of the Investor Protection Clinic at the William S. Boyd School of Law at the University of Nevada, Las Vegas, we write to comment on SR-FINRA-2018-003 (the "Proposal"). The Investor Protection Clinic represents investors who have suffered losses resulting from unsuitable financial advice. We provide pro bono assistance to investors who cannot secure private legal representation due to the size of their claims and typically seek to represent customers with less than \$50,000 in losses. Our clients have a direct interest in the rules set by the Financial Industry Regulatory Authority ("FINRA"). We thank you for the opportunity to comment on the proposed changes and for your consideration.

We encourage the Commission to approve FINRA's proposed rule change to create an option for telephonic hearings ("Special Proceedings") in cases where the parties have claims involving \$50,000 or less. We believe that Special Proceedings will result in lower costs, increased representation rates for claimants, and greater participant satisfaction with the arbitration process.

FINRA correctly acknowledges that its current rules may deter some claimants from requesting a full, in-person hearing. Under the current rules, some claimants may shy away from in-person hearings because of the costs associated with an in-person appearance as well as the intimidating prospect of cross examination. Although the filing fees and legal fees to submit the claim may remain the same, the cost of the Special Proceedings will be substantially reduced when compared to an in-person hearing, as there is no cost for travel or lodging and the opportunity costs, like lost income or other costs associated with time spent at an in-person arbitration hearing, are substantially reduced. These reduced costs may result in increased participation in the arbitration process. For example, those parties who cannot, under the current rules, afford or justify the prohibitive costs associated in-person mediation and must rely on their pleadings would have an opportunity to argue their case, ask questions, and respond to the opposing parties' contentions without incurring the heavy costs of in-person arbitration.

The Proposal may also increase representation rates in cases with less than \$50,000 in dispute. At present, the private bar may provide less representation in these cases because of the time required to prepare adequate pleadings or conduct an in-person hearing. An attorney may incur significant costs preparing for and traveling to an in-person arbitration, including the opportunity costs associated with forgoing work on other matters. The proposed Special Proceedings would substantially reduce or even eliminate many of these costs. The time limitations included in the Proposal also increase certainty and reduce the risk that a matter will extend for a significant number of hearing sessions.

Some may express concern that the proposed Special Proceedings do not allow cross-examination. However, the arbitrator, who is trained and experienced in these matters, will have the knowledge, wherewithal, and judgement to ask questions and obtain much of the same information that would have been revealed through cross examination. Moreover, the claimant retains the right to ask for an in-person hearing if she would prefer to have the ability to cross-examine witnesses.

Overall, the Special Proceeding will expand access to the forum and provide an economical way for claimants to speak directly to arbitrators.



Respectfully Submitted,

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