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VIA EMAIL to rule-comments@sec.gov

Mr. Robert W. Errett
Deputy Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Comments Concerning SR-FINRA-2018-012
Proposal to Eliminate the Fee for an Explained Decision

To Whom It May Concern:

Thank you for the opportunity to comment on SR-FINRA-2018-012 and its proposal to eliminate the fee for explained decisions. The proposed changes to Rules 12214 and 12904 of the Code of Arbitration Procedure for Customer Disputes and Rules 13214 and 13904 of the Code of Arbitration Procedure for Industry Disputes will demonstrate whether parties want explained decisions and will increase transparency.

As student interns working in the Georgia State University College of Law's Investor Advocacy Clinic, we represent claimants with smaller dollar claims who could not otherwise afford legal representation. While it is unlikely that the removal of the \$400 fee will increase the number of explained decisions, it will remove all financial barriers and encourage those who want an explained decision to request one. We support FINRA's proposal because it is a step towards greater transparency. However, we do not believe that the alternative of reducing the fee to an amount that is greater than zero but less than the current \$400 should be considered. Explained decisions take time and effort, and arbitrators deserve compensation.

I. The Elimination of the Explained Decision Fee Will Demonstrate Whether Parties Want Explained Decisions.

Since the SEC enacted the rule allowing jointly requested explained decisions in 2009, very few parties have jointly requested an explained decision. From 2009 through 2016, only 40 joint requests for an explained decision have been made. Out of those 40 requests, only 32 were issued, resulting in an average of 4.6 explained decisions per year. Since FINRA began waiving the fee in January 2017, there have only been two explained decisions. These numbers indicate that removing the fee altogether will not result in an increase of explained decisions. However, FINRA's voluntary waiver of explained decisions fees in 2017 was not permanent, and the possibility that FINRA could decide to no longer waive the fee might have been a constraint on

parties jointly requesting an explained decision. Thus, permanently removing the \$400 fee will show whether or not the fee is the reason parties have rarely requested explained decisions in the past. If FINRA discovers the fee is not the primary obstacle to obtaining explained decisions, it can focus on alleviating other possible, non-financial hurdles.

II. Any Increase in Explained Decisions Promotes Transparency.

More explained decisions, if the permanent removal of the fee for explained decisions promotes such an outcome, would increase transparency. Arbitration as a field is often criticized for a lack of transparency, and any increase in the amount of information describing why and how an arbitration panel reached a decision will better equip parties to make decisions and understand the forum.

III. The Current \$400 Honorarium Should Not Be Lessened Because Arbitrators Deserve Adequate Compensation for Their Time and Effort.

As an alternative to eliminating the fee and having FINRA absorb the cost of the honorarium, this proposal also considers reducing the fee applicable to parties jointly requesting an explained decision to an amount greater than zero but less than \$400. This alternative should be rejected because arbitrators need to be fairly and adequately compensated, and the cost borne onto FINRA is *de minimis* and will not economically burden the organization.

Conclusion

Although removing the fee is unlikely to increase the number of jointly-requested explained decisions, it will demonstrate whether parties actually want explained decisions. In the event the removal of the fee does increase explained decisions, it will encourage transparency. Finally, regardless of whether the FINRA removes the fee for the parties, arbitrators should continue to receive the current \$400 honorarium because drafting explained decisions takes time and effort and arbitrators should be adequately compensated.

Best regards,

/s/ Abigail Howd

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*All student interns in the Investor Advocacy Clinic, including this signatory, perform all work under the Georgia Student Practice Rule contained in Rules 91-95 of the Rules of the Supreme Court of Georgia as registered law students under the supervision of a licensed Georgia attorney.