



Securities Arbitration Clinic  
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[Via email to rule-comments@sec.gov](mailto:rule-comments@sec.gov)  
Vanessa Countryman, Esq.  
Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: **SR-FINRA-2019-030**  
**Proposed Rule Change to Amend the Membership Application**  
**Program Rules To Address the Issue of Pending Arbitration Claims**

Dear Ms. Countryman:

Thank you for the opportunity to comment on FINRA's proposed rule change to amend the Membership Application Program ("MAP") rules to address the issue of pending arbitration claims. I am writing this comment on behalf of the Securities Arbitration Clinic at St. John's University School of Law (the "Clinic"). The Clinic is part of the St. Vincent De Paul Legal Program, Inc., a not-for-profit legal services organization. The Clinic represents aggrieved investors with small claims, often less than \$50,000 and is committed to investor education and protection. The Clinic has a strong interest in the rules governing the practices of member firms, especially in connection with customer complaints.

Currently, there is a rebuttable presumption that a new membership application ("NMA") will be denied under certain circumstances, including when the new member applicant or certain persons connected with the applicant are subject to unpaid arbitration awards, other adjudicated customer awards, or unpaid arbitration settlements. FINRA proposes to add whether the applicant or its associated persons are the subject of a pending arbitration claim as another circumstance under which the NMA may be denied. FINRA is also proposing changes to Rule 1017 to require member firms to seek a materiality consultation from FINRA if adding associated persons who

have a covered pending arbitration claim, an unpaid arbitration award, or an unpaid settlement related to an arbitration. Under the proposed changes, firms would also be required to seek a materiality consultation if the member is contemplating any direct or indirect acquisition or transfer of a member's assets or any asset, business or line of operation where the transferring member or an associated person of the transferring member has a covered pending arbitration claim, an unpaid arbitration award, or an unpaid settlement related to an arbitration.

Generally, the Clinic is supportive of the proposed rule changes. The proposed rules changes will provide FINRA with another tool with which it may scrutinize the business of its members and new member applicants to ensure they can comply with the relevant rules and regulations, and that investors are protected.

The Clinic offers one amendment for the Commission and FINRA to consider in either this rule making or in a subsequent rule making. The current rules and the proposed amendments to the rules capture pending arbitration claims, unpaid arbitration awards, and unpaid settlements related to an arbitration. However, neither the current rules nor the proposed changes consider that a firm or associated person may have an unpaid settlement unrelated to an arbitration.

Investors sometimes make written or verbal complaints to firms before filing an arbitration claim, to explore whether the firms may be willing to resolve the complaint before both the investor and the firm incur the costs associated with initiating arbitration. Investors and firms may also decide to mediate a claim and settle it prior to filing an arbitration claim. If the firm chooses to resolve the complaint and enter into a settlement agreement, the possibility exists that the firm may not fully satisfy the settlement. Such a possibility raises the same concerns for investor protection as does a firm's failure to pay a settlement that was reached after an arbitration claim has been filed. There is little rationale for only considering the impact of unpaid settlements related to an arbitration. The rules should be expanded to include any unpaid settlements related to investor complaints, regardless of whether an arbitration has been filed.

In sum, the Clinic supports the proposed rules changes, but urges the Commission and FINRA to consider expanding its scope to include all investor settlements that have not been fully paid. Thank you for your consideration of this matter.

Very truly yours,



Christine Lazaro  
Director of the Securities Arbitration Clinic  
and Professor of Clinical Legal Education