



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

Re: **File No. SR-FINRA-2023-013: Notice of Filing of a Proposed Rule
Change to Amend the FINRA Codes of Arbitration Procedure and Code of Mediation
Procedure to Revise and Restate the Qualifications for Representatives in Arbitrations and
Mediations**

Dear Secretary Countryman,

Thank you for the opportunity to comment on the proposed rule change to amend the FINRA Codes of Arbitration and Mediation Procedure to revise and restate the qualifications for representatives in arbitration and mediation. We are writing this comment on behalf of the Securities Arbitration Clinic of St. John's University School of Law ("Clinic"). The Clinic is part of the St. Vincent De Paul Legal Program, Inc., a not-for-profit legal services organization. The Clinic represents small, aggrieved investors and is committed to investor protection and education. Accordingly, the Clinic has a strong interest in the rules governing the Codes of Arbitration and Mediation Procedure, and we believe that the proposed amendments are important and necessary to protect investors from improper conduct by compensated non-attorney representatives ("NARs").

First, the Clinic agrees with FINRA that it is appropriate to prohibit compensated NARs from representing parties in FINRA Dispute Resolution Services ("DRS"). We echo the opinion expressed in the Clinic's 2017 comment letter in response to FINRA Regulatory Notice 17-34.¹ The Clinic is concerned by the behavior and practice of compensated NARs, who are not governed by the same constraints as licensed attorneys or law students under the supervision of licensed attorneys. There are no ethical rules limiting the conduct of NARs, and individuals who fall prey to incompetent representation by a NAR may not have any method of recourse.

Second, we maintain the Clinic's support expressed in our 2017 comment letter regarding express permission for law student representation of investors in the DRS forum. As a pro bono law school clinic, we support the proposal to codify that a student participating in a law school clinical program or its

¹ See Letter to FINRA from the Clinic (Dec. 18, 2017), https://www.finra.org/sites/default/files/notice_comment_file_ref/17-34_st_johns_comment.pdf.

equivalent and practicing under the supervision of an attorney may represent investors in the DRS forum. Law school clinics provide pro bono representation to investors who otherwise are unable to find an attorney due to the size of their claims or the uncertainty of collectability. Our clients are small investors who are in a particularly vulnerable position because their losses represent a substantial portion of their savings, often retirement savings. The Clinic supports this proposal because it is critical that law school students in clinic programs remain able to represent customers in the DRS forum to fill the access to justice gap with ethical representation for investors who cannot otherwise afford it. Additionally, the Clinic supports FINRA's proposal to continue to permit the ability of uncompensated NARs, often friends and relatives, to represent investors in the DRS forum.

Thank you for your consideration of this matter and your efforts to protect vulnerable small investors.

Respectfully Submitted,

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