



DIVISION OF
MARKET REGULATION

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

April 28, 1998

Linda D. Fienberg, Esq.
Executive Vice President
NASD Regulation, Inc.
1735 K Street, NW
Washington, D.C. 20006

Re: Referral to SICA and NASDR of Public Investors Arbitration Bar
Association (PIABA) Rulemaking Petition Filed with SEC

Dear Linda:

We are writing this letter to you both in your capacity as the chairperson for the next scheduled meeting of the Securities Industry Conference on Arbitration (SICA) as well as your capacity as the person with responsibility over NASDR Arbitration. We are referring to SICA and the NASDR for their consideration the enclosed petition that PIABA submitted to the Commission requesting enactment of several NASD rules that PIABA believes would improve the SRO-sponsored arbitration system. The three rules proposed by PIABA would: (1) establish the American Arbitration Association as an alternative venue for customer arbitrations; (2) change the composition of arbitration panels hearing customer arbitrations; and (3) provide for a rotational system for the selection of arbitrators.

PIABA petitioned the Commission under Section 19(c) of the Exchange Act, which provides that the Commission, by rule, may amend the rules of an SRO "as the Commission deems necessary or appropriate to insure the fair administration of the self-regulatory organization, to conform its rules to requirements of [the Exchange Act] and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of [the Exchange Act]...." 15 U.S.C. §78s(c). The Commission has historically used its Section 19(c) authority when there has been no other mechanism in place to effectively instigate uniform SRO rules. The staff believes that the rule amendments advocated by PIABA should in the first instance be considered by the SROs for possible SRO rulemaking, rather than Commission rulemaking.

Since one of SICA's purposes is to make recommendations on uniform SRO arbitration rules and amendments to those rules, we believe that it is logical to have the arbitration rules proposed in the petition considered through this mechanism. In fact, we understand that, among other initiatives, SICA is currently considering some of the issues raised in PIABA's petition. For this reason, we ask that the petition be placed on the agenda for the next SICA meeting scheduled for May 1, 1998 at the NASD's offices in New York City.

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In addition, the NASD is currently undertaking major regulatory action to implement many of the recommendations made in the Ruder Report. We therefore also request that the NASDR look at PIABA's proposals in connection with its proposed reforms.

Thank you for your cooperation with this request. We look forward to seeing how SICA and the NASDR address the issues raised by PIABA in its petition, and look forward to reviewing any proposed amendments to SRO arbitration rules that may arise from consideration of PIABA's petition or any other NASDR or SICA initiative. Please advise me within 60 days of reasonable timeframes for both NASDR and SICA consideration of these issues.

Please feel free to contact me at (202) 942-0061 if you have any questions concerning this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Catherine McGuire".

Catherine McGuire
Chief Counsel
Division of Market Regulation

CM/LSP/dn

Enclosure

cc: Diane Nygaard, Esq., President,
Public Investors Arbitration Bar Association