



PUBLIC INVESTORS ARBITRATION BAR ASSOCIATION

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August 18, 2017

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

Re: *SR-FINRA-2017-025*
Proposed Rule Change Relating to Revisions to the Definition of Non-Public Arbitrator

Dear Mr. Fields:

I write on behalf of the Public Investors Arbitration Bar Association ("PIABA"), an international bar association comprised of attorneys who represent investors in securities arbitrations. Since its formation in 1990, PIABA has promoted the interests of the public investor in all securities and commodities arbitration forums, while also advocating for public education regarding investment fraud and industry misconduct. Our members and their clients have a strong interest in rules promulgated by the Financial Industry Regulatory Authority ("FINRA") that govern the conduct of securities firms and their representatives. In particular, our members and their clients have a particular interest in FINRA rules relating to FINRA's Code of Arbitration Procedure and the arbitrator selection process.

The Commission seeks comment regarding proposed changes to the definition of "non-public" arbitrator under FINRA Rules 12100(r) and 13100(r). The proposed rule seeks to redefine a non-public arbitrator as a person who is otherwise qualified to serve as an arbitrator, but is disqualified from serving as a "public" arbitrator under the Code.

The purpose of the rule change is to close a gap in eligibility which was created when the arbitrator definitions were changed in 2015. Under the previous rule change, hundreds of arbitrators were re-classified from public to non-public. However, there were a number of persons who did not meet the criteria outlined under the definition of "non-public" arbitrators, rendering them completely ineligible to serve as arbitrators.

PIABA supports this proposed rule change. The gap created by the previous rule change should be closed so that otherwise qualified arbitrators can serve as non-public arbitrators. PIABA believes that having as many qualified, fair, and neutral arbitrators as possible will help advance the integrity of the arbitration process. This rule proposal is a step in the right direction.

PIABA also hopes that FINRA will continue its other efforts to ensure a fair and efficient arbitrator pool. PIABA has had prior concerns about the lack of diversity in the arbitrator pool. PIABA hopes that FINRA will continue (and perhaps increase) its efforts to recruit new arbitrators to help increase the diversity of the pool.

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Moreover, many constituents of FINRA arbitration, including PIABA, have had concerns about the number of “traveling” arbitrators (arbitrators who are selected to serve in the arbitrator pool outside of their nearest arbitration site), especially in the “public” pool. This is a bigger problem for small and mid-size cities. Scheduling issues with traveling arbitrators can delay the arbitration process, and the traveling arbitrators may not understand a neighboring state’s laws and procedures as much as a local arbitrator. PIABA hopes that FINRA will continue its efforts to recruit new arbitrators to expand “public” pools, especially in small and mid-size cities, and decrease the occurrence of traveling arbitrators.

Additionally, PIABA welcomes any efforts to lower or eliminate certain thresholds required for one to become a FINRA arbitrator. Under the current rules, arbitrators are required to have a minimum of 5 years of professional experience and at least two years of college-level education to become an arbitrator. Considering that there are no educational requirements to sit for the Series 7 exam (and thus, the broker whose conduct at issue has no such educational requirement to qualify as a registered representative), there should be no requirement that an arbitrator has to have some college-level education in order to be qualified.

Whether someone has taken college-level courses does not necessarily mean that such person cannot grasp the concepts being discussed and considered during the arbitration process. As long as the person can understand and pass the arbitrator training courses, they should be qualified to become arbitrators.

In sum, PIABA supports the proposed rule change, and PIABA also hopes that FINRA will continue its efforts to provide more qualified, fair, neutral, and diverse arbitrators. I want to thank you for the opportunity to comment.

Very truly yours,



Marnie C. Lambert
PIABA President