Statement for the Record by the
Public Investors Arbitration Bar Association
Hearing before the House Financial Services Committee; Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets:
Putting Investors First: Reviewing Proposals to Hold Executives Accountable

April 2, 2019

Chairwoman Maloney
Ranking Member Huizenga
U.S. House Committee on Financial Services
Subcommittee on Investor Protection, Entrepreneurship,
and Capital Markets
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Maloney and Ranking Member Huizenga:

The Public Investors Arbitration Bar Association (PIABA)[1] appreciates the opportunity to submit this statement for the record in connection with the April 3, 2019 hearing, "Putting Investors First: Reviewing Proposals to Hold Executives Accountable."

PIABA is focusing its statement on the issue of mandatory arbitration clauses contained within contracts between investors and brokerage firms. Since the Supreme Court decided *Shearson/American Express v. McMahon*[2] in 1987, investors have increasingly been required to submit their disputes to arbitration. Restoring investor choice of forum is an important step to further investor protection.

[1] PIABA is 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 which govern the conduct of those who provide advice to investors.
[2] 482 U.S. 220, 107 S. Ct. 2332, 96 L. Ed. 2d 185 (1987)

I. *The history of investor choice*

a. The landscape pre-McMahon

The Federal Arbitration Act ("FAA") provides that arbitration agreements "shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract."[3] The FAA "was designed to allow parties to avoid 'the costliness and delays of litigation,' and to place arbitration agreements 'upon the same footing as other contracts.'"[4] From the enactment of the FAA in 1925 until the Supreme Court's decision in *Wilko v. Swan*[5] in 1953, pre-dispute arbitration clauses were given full effect in the securities industry.

However, *Wilko* effectively changed the face of securities arbitration. In that case, the Supreme Court held that claims brought by investors under the Securities Act of 1933 (the "'33 Act") could not be referred to arbitration through the use of pre-dispute arbitration clauses. In reaching this conclusion, the Court cited several flaws in the arbitration process, which included concern for the ability of arbitrators to decide legal issues,[6] limited judicial review of arbitral decisions,[7] and the circumvention of the anti-waiver provision in the '33 Act.[8] Following *Wilko*, arbitration of claims brought under the '33 Act was strictly voluntary. During the years after *Wilko*, courts interpreted the Supreme Court's decision as also applicable to claims brought under the Securities Exchange Act of 1934 (the "'34 Act").[9]

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[3] 9 U.S.C.A. § 2

[4] *Scherk v. Alberto-Culver Co.,* 417 U.S. 506, 510-11, 94 S. Ct. 2449, 2453, 41 L. Ed. 2d 270 (1974) (quoting H.R.Rep.No.96, 68th Cong., 1st Sess., 1, 2 (1924)).

[5] 346 U.S. 427, 74 S. Ct. 182, 98 L. Ed. 168 (1953) overruled by *Rodriguez de Quijas v. Shearson/Am. Exp., Inc.*, 490 U.S. 477, 109 S. Ct. 1917, 104 L. Ed. 2d 526 (1989)

[6] *See id.* at 436 ("As their award may be without explanation of their reasons and without a complete record of their proceedings, the arbitrators' conception of the legal meaning of such statutory requirements as 'burden of proof,' 'reasonable care' or 'material fact' . . . cannot be determined.").

[7] *See id.* at 436-37 ("In unrestricted submission, such as the present margin agreements envisage, the interpretations of the law by the arbitrators in contrast to manifest disregard are not subject, in federal courts, to judicial review for error in interpretation.").

[8] *See id.* at 434-35 (Section 14 of the '33 Act voids any "'stipulation' waiving compliance with any 'provision' of the Securities Act. This arrangement to arbitrate is a 'stipulation,' and we think the right to select the judicial forum is the kind of 'provision' that cannot be waived under [Section 14] of the Securities Act.").

[9] *See e.g. Mansbach v. Prescott, Ball & Turben*, 598 F.2d 1017, 1030 (6th Cir. 1979) ("While *Wilko* arose under only the Securities Act of 1933, its holding and rationale are equally applicable to cases arising under the Securities Exchange Act of 1934." (citing *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Moore*, 590 F.2d 823, 827-29 (10th Cir. 1978); *Weissbuch v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 558 F.2d 831, 834-35 (7th Cir. 1977); *Ayres v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 538 F.2d 532, 536 (3d Cir.), Cert. den. 429 U.S. 1010, 97 S.Ct. 542, 50 L.Ed.2d 619 (1976); *Newman v. Shearson, Hammill & Co.*, 383 F.Supp. 265, 268 (W.D.Tex.1974); *Maheu v. Reynolds & Co.*, 282 F.Supp. 423, 426 (S.D.N.Y.1967); *Stockwell v. Reynolds & Co.*, 252 F.Supp. 215, 220 n. 2 (S.D.N.Y.1965)).

In 1968, FINRA (then NASD) adopted the Code of Arbitration Procedure. Section 12 of the Code was entitled "Required Submission", and provided that, upon the demand of a customer, a member and associated person was required to submit any dispute, claim, or controversy to arbitration. Today, this rule exists in substantially similar form as FINRA Rule 12200. Although brokerage firms were not permitted to enforce pre-dispute arbitration agreements with respect to federal securities law claims pursuant to *Wilko*, pursuant to FINRA (then NASD) rules, investors were able to compel brokerage firms to arbitrate any claims. From 1968 through today, in the absence of a pre-dispute arbitration agreement, investors have had the option of choosing either court or arbitration to resolve their claims, and firms have no say in the choice.

In 1979, the U.S. Securities and Exchange Commission (the SEC) issued a release to brokerage firms advising them that, "[r]equiring the signing of an arbitration agreement without adequate disclosure as to its meaning and effect violates standards of fair dealing with customers and constitutes conduct that is inconsistent with just and equitable principles of trade."[10] In 1983, the SEC adopted Exchange Act Rule 15c2-2, "Disclosure Regarding Recourse to the Courts Notwithstanding Arbitration Clauses in Broker-Dealer Customer Agreements", "in order to address regulatory concerns arising from the inclusion in standard form customer agreements of predispute arbitration clauses (i.e., agreements requiring customers to submit to arbitration all future disputes.)."[11] Thus, two layers of protection existed after *Wilko*: pre-dispute arbitration clauses would not be enforced by the courts as to federal securities law claims and, if a firm did include a pre-dispute arbitration clause, it had the duty of fully disclosing the clause to the investor prior to the investor signing the agreement.

b. Erosion of investor choice with McMahon

In 1987, the Supreme Court decided *Shearson/American Express v. McMahon*,[12] which revisited the issue of whether pre-dispute arbitration clauses were enforceable under the '34 Act. The Court effectively reversed decades of precedent that prohibited the enforcement of pre-dispute arbitration clauses in claims brought under the '34 Act and cited the increasing prevalence of arbitration in the securities industry in support of its holding.[13] The Court also addressed the concerns set out in the *Wilko* decision and found that "there is no reason to assume at the outset that arbitrators will not follow the

[10] "Notice to Broker-Dealers Concerning Clauses in Customer Agreements which Provide for Arbitration of Future Disputes", 1979 WL 174165 (S.E.C. Release No. 34-15984), p. 4.
[11] "Rescission of Rule Governing Use of Predispute Arbitration Clauses in Broker-Dealer Customer Agreements", 1987 WL 847512 (S.E.C. Release No. 34-25034), p. 1.
[12] 482 U.S. 220, 107 S. Ct. 2332, 96 L. Ed. 2d 185 (1987)
[13] *See id.* at 233 ("Thus, the mistrust of arbitration that formed the basis of the *Wilko* opinion in 1953 is difficult to square with the assessment of arbitration that has prevailed since that time. This is especially so in light of the intervening changes in the regulatory structure of the securities laws.").

law; although judicial scrutiny of arbitration awards is necessarily limited, such review is sufficient to ensure that arbitrators comply with the requirements of the statute," thus reinforcing the legitimacy of an arbitral award.[14]

However, the *McMahon* decision was by no means unanimous. It was a 5-4 decision, with Justice Blackmun authoring an important dissenting opinion.[15] Specifically, Justice Blackmun objected to the majority's holding on two bases. First, he noted that the majority erred in reading the *Wilko* decision as being decided solely on the basis of perceived inadequacy in the arbitration process.[16] Second, he criticized the majority's blind acceptance that the problems with arbitration cited in *Wilko* no longer existed.[17] With a prescient assertion that foreshadows the current state of affairs, he criticized SEC oversight of the securities arbitration process: "[T]he Court's complacent acceptance of the Commission's oversight is alarming when almost every day brings another example of illegality on Wall Street."[18] The validity of Justice Blackmun's concerns is even more apparent today than when *McMahon* was decided in 1987.

Shortly after *McMahon*, the Supreme Court officially overruled the *Wilko* decision in *Rodriguez de Quijas v. Shearson/American Express*.[19] As a result of *McMahon* and *Rodriguez*, brokerage firms have the unhindered ability to compel arbitration of investor claims through the inclusion of a simple pre-dispute arbitration clause in all customer agreements. The once voluntary submission to arbitration had become an industry mandate, leaving aggrieved investors with no other choice than to arbitrate their claims.

c. The landscape after McMahon

Shortly after *McMahon* was decided, the SEC found in a survey that "98% of the margin accounts, 95% of the options accounts and 39% of the cash accounts" were subject to pre-dispute arbitration clauses.[20] This means that at the time, over 60% of cash

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[14] *See id.* at 232.
[15] *See id.* at 242 (Blackmun, J., dissenting).
[16] *See id.* at 249-50.
[17] *See id.*
[18] *See id.* at 265.
[19] 490 U.S. 477, 109 S. Ct. 1917, 104 L. Ed. 2d 526 (1989)
[20] Letter from SEC Chairman David Ruder to New York Stock Exchange, July 8, 1988, in ARBITRATION REFORM: HEARINGS BEFORE THE SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE OF THE COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, 100TH CONGRESS, SECOND SESSION, ON MARCH 31, JUNE 9 AND JULY 12, 1988 (U.S. G.P.O., 1989), at p. 510. Similarly, James Buck, Sr. V.P. of the New York Stock Exchange, testified in that hearing: "Most firms do not require arbitration agreements for cash accounts. Only in the case of margin accounts where the customer is borrowing money do you find overwhelming use of these clauses." Id., at p. 533. *See also* Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the NYSE, NASD, and AMEX Relating to the Arbitration Process and the Use of Pre-dispute Arbitration Clauses, 54 Fed. Reg. 21144, n.51 (May 10, 1989)

accounts were not subject to pre-dispute arbitration clauses. Therefore, in every one of these accounts, investors were free to choose between court and arbitration if a dispute arose because of the FINRA (then NASD) rules. The survey did indicate a movement toward placing pre-dispute arbitration provisions in cash account agreements. Commission Chairman Ruder testified before Congress:

> I expressed vocally and vociferously my opposition to that trend. I believed then, and I believe now, that customer choice is an exceedingly important aspect of this industry and the movement apparently to push these clauses on the public so that they couldn't trade at all without them was in my mind simply terrible.[21]

The industry responded by assuring the SEC that it had no intentions of imposing arbitration clauses in cash accounts and depriving American investors of any choice.[22] In essence, firms accepted the fact that investors could choose the forum in which they wanted to resolve their disputes. Based on these assurances at the time, the SEC did not take any action to prohibit pre-dispute arbitration clauses.

Over the years this situation dramatically changed. Notwithstanding the industry's reassurances that it would not seek to include pre-dispute arbitration clauses in its contracts broadly, today virtually every brokerage firm in America includes a pre-dispute arbitration provision in its new account documentation for every type of account. If investors want to buy a stock or a bond or seek to participate in the capital markets in America, they must give up their Constitutional right to a jury trial by an independent and impartial judiciary and agree to mandatory arbitration.

Investor choice has been eroded in other ways as well. We have seen a consolidation of the American securities markets, which culminated in the 2007 NYSE-NASD merger. Today, the only SRO-sponsored forum is the one sponsored by FINRA. At the time *McMahon* was decided, there were at least ten different arbitration forums. Most stock exchanges and the Chicago Board of Options Exchange provided arbitration forums. Many arbitration clauses, and the rules of the American Stock Exchange, gave investors the option of avoiding arbitrating in an arbitration forum associated with the securities industry altogether by allowing arbitration before the American Arbitration Association. Now all these choices are effectively gone. Investors with pre-dispute arbitration clauses (virtually all customers) are now forced into FINRA arbitration. There is no

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[hereinafter *Self-Regulatory Organizations*] (stating that, at the time of *McMahon*, only 39% of broker-dealers mandated arbitration of customer disputes involving cash accounts).

[21] *Id*., p.512, Testimony of July 12, 1988. Chairman Ruder also testified on June 1, 1988: "I fail to see why one should deny access to the securities market to those people who are unwilling to waive their disputes in advance. I think it's unfair." *Id.*, at p. 524.

[22] *Id*., pp. 474, 514-516.

competition; there is no alternative. In a relatively short time span, America's investors have seen their 'choices' dwindle to one.

The number and types of Americans who invest have also changed since the pre-*McMahon* years. The number of households holding stocks has increased more than three-fold since the early 1980s.[23] Today, between 57 and 62% of middle-aged households have direct or indirect stock holdings.[24] The number and demographics of investors have changed over time as well:

- Total Financial Assets: Americans over the age of 50 currently account for 77 percent of financial assets in the United States, according to the Securities Industry and Financial Markets Association (SIFMA).
- Retirement Assets: As of Dec. 31, 2017, retirement assets reached $28.2 trillion and accounted for 43.8 percent of all household financial assets in the United States for householders aged 65 and older.
- Total Household Net Worth: In 2011, the net worth of households headed by someone aged 65 or older totaled approximately $17.2 trillion.
- Median Household Net Worth: By 2013, households headed by someone aged 65 or older had a median net worth of $202,950, including $80,000 in retirement accounts.[25]

As greater numbers of Americans invest, it is important that they have access to a fair means of resolving any disputes that may arise.

II. Investors should be given the choice of forum

True investor choice returns the investor's ability to choose between court and arbitration to resolve any disputes that arise. There are costs and benefits to both arbitration and court resolution of disputes, and investors should be given the ability to weigh those costs and benefits and chose the forum best fitted to address any concerns.

[23] Investment Company Institute & Securities Industry Association, "Equity Ownership in America," (Nov. 2005), p. 1.
[24] Federal Reserve Bank of St. Louis, "How Has Stock Ownership Trended in the Past Few Decades?" (Apr. 9, 2018).
[25] U.S. SEC Office of the Investor Advocate, "Elder Financial Exploitation; Why it is a concern, what regulators are doing about it, and looking ahead" (June 2018).

a. Concerns with mandatory arbitration

i. Arbitration awards are not explained

Mandatory arbitration has many flaws which affect both investors and the industry. For example, arbitration awards do not contain reasoned opinions justifying the outcome. The awards often just state who won the arbitration and what amount was awarded, if any. While FINRA arbitration awards are publicly available, they are of limited use to investors. The opacity in awards may prevent investors from making informed decisions about which firms and brokers to trust with their money because they cannot tell what actually happened. It also allows brokerage firms and brokers to more easily hide details of any wrongdoing from their current clients.

ii. Arbitration has eliminated judicial interpretation of SEC and FINRA rules and regulations

Investors and the industry both need judicial interpretations to apply new factual situations to existing and new rules and regulations. Since mandatory arbitration has become the norm, case law interpreting relevant statues has nearly disappeared, as arbitrators are not required to issue written decisions, nor are arbitration decisions considered binding authority. The case law and resulting clarity needed by the industry and investors has simply been unable to develop. Allowing judges to decide many of these issues with written opinions and an appeals process would provide more clarity to the rights and expectations of the industry and investors.

iii. Investors perceive the FINRA forum to be biased

In 2005, amid concerns about the fairness of the arbitration process, the Securities Industry Conference on Arbitration ("SICA") conducted a study of perceived fairness in the arbitration process.[26] It consisted of a survey that was sent to over 30,000 participants with questions assessing perception of the arbitration process. Particular emphasis was placed on: fairness of the SRO arbitration process; competence of arbitrators to resolve investors' disputes with their broker-dealers; fairness of SRO arbitration as compared to their perceptions of fairness in securities litigation in similar disputes; and fairness of the outcome of arbitrations.[27] Not surprisingly, the SICA study found that the overall perception of the securities arbitration process was negative.[28]

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[26] *See* Barbara Black & Jill Gross, *Perceptions of Fairness of Securities Arbitration: An Empirical Study*, Report to the Securities Industry Conference on Arbitration (2008), *available at* https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1477&context=lawfaculty.

[27] *See id.* at 1.

[28] *See id.* at 3.

Over sixty percent of customers perceived the process as unfair,[29] with nearly half perceiving arbitral panels as being biased.[30] And, most significantly, three out of every four customers found securities arbitration to be "very unfair" or "somewhat unfair" when compared with the judicial system.[31] Moreover, over one-third of customers confronted with a pre-dispute arbitration clause in the brokerage agreement were not aware of its existence.[32]

Further, the lack of diversity in the FINRA pool of arbitrators further undermines investor confidence in the system. Based on its most recent survey, FINRA's arbitrator pool is 70% male; and 83% Caucasian.[33] Moreover, the advanced age of many of FINRA's arbitrators also raises serious concerns about not only the diversity of the pool, but also those arbitrators' ability to effectively and impartially participate in the arbitration proceeding. Thirty eight percent of the pool is aged 70 or older, and 26% is aged 61 to 69.[34] Many elderly arbitrators use the income from serving on arbitration panels to supplement their retirement; and therefore, presumably, would like to continue serving on panels. However, arbitrators with a record of making awards to investors are often struck during the arbitration selection process by brokerage firms, the repeat players in the system, who do not want to see investor sympathetic arbitrators on panels. This fear of being kept off of panels may bias, consciously or not, this large percentage of arbitrators against making awards in investors' favor.

b. Benefits of arbitration

Despite its shortcomings, FINRA arbitration should be maintained as an option for investors. Indeed, if investors are allowed to choose between court and arbitration, thereby encouraging FINRA to address the perceived inadequacies with the forum, FINRA arbitration has the potential to be the fair and neutral forum which is necessary to comply with due process and ensure investor protection.

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[29] *See id.* at 45 (finding that approximately 63% of investors answered "Disagree/Strongly Disagree" when responding to the statement, "As a whole, I feel the arbitration process was fair").
[30] *See id.* at 50 (finding that 47% of responses disagreed with the statement that "arbitration is conducted by the arbitrators in a way that is fair to all parties" and 44% disagreed with the statement that arbitrators conduct the arbitration without bias).
[31] *See id.* at 47 (finding that 75.55% of customers found arbitration to be "very unfair" or "somewhat unfair" when compared to civil litigation).
[32] *See id.* at 19 (stating that 37% of customers responded that they were unaware that their customer agreement contained a pre-dispute arbitration clause).
[33] *See* FINRA, "Our Commitment to Achieving Arbitrator and Mediator Diversity at FINRA", available at http://www.finra.org/arbitration-and-mediation/diversity-and-finra-arbitrator-recruitment.
[34] *Id.*

i. Arbitration may be less costly than court

Arbitration has always been touted as an efficient, cost-effective way to resolve disputes. While the hearing fees, fees which would not attach in a court proceeding, can be fairly substantial for larger cases, arbitration allows the parties to avoid the time and expense associated with court discovery procedures. Interrogatories, a time-consuming endeavor in court, are not permitted in FINRA arbitration.[35] Absent a compelling reason, depositions are also not permitted.[36] An investor should be permitted to weigh the cost of court discovery against the benefits of substantially lower court fees and court supervision, once the dispute arises.

Similarly, motions are strictly limited in arbitration. Pre-hearing motions to dismiss are discouraged, and may be granted only for tightly circumscribed reasons; an improper motion to dismiss subjects the industry defendant to potential sanctions.[37] This makes sense, as the investor is not entitled to the same discovery rights and procedural safeguards as they would get in court.

In view of the streamlined nature of arbitration, an investor is able to retain an attorney for smaller cases, and pursue those claims in an efficient manner. In most cases (though not all), the firm has greater financial resources, and is able to base its decision whether or not to arbitrate on the size of its war chest. With two-way choice, industry defendants would be able to refuse arbitration in order to make it uneconomical for investors to pursue smaller claims. In short, the industry can flex its economic muscle to the detriment of its own clients. This would be an appalling result for the small public investor.

ii. Arbitration may be a speedier option

Generally, arbitration leads to a quicker result than court proceedings. According to FINRA's statistics, the average turnaround time for cases filed in its forum has been 14.5 months for the past two years.[38] Most courts are unable to match this record. Arbitration is not dependent on a judge having availability in the court calendar. In arbitration, the parties have the ability to set a schedule for their case that meets their needs. Where an elderly investor desperately needs to replace funds lost through broker

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[35] A party may propound requests for information, but such requests are limited in scope. FINRA Customer Code section 12507(a)(1) provides, in pertinent part: "Requests for information are generally limited to identification of individuals, entities, and time periods related to the dispute; such requests should be reasonable in number and not require narrative answers or fact finding. Standard interrogatories are generally not permitted in arbitration."
[36] FINRA Code of Arbitration Procedure for Customer Disputes, Rule 12510.
[37] FINRA Code of Arbitration Procedure for Customer Disputes, Rule 12504.
[38] *See* FINRA Dispute Resolution Statistics, available at http://www.finra.org/arbitration-and-mediation/dispute-resolution-statistics.

misconduct, the ability to get a case heard and decided quickly may be of great significance. Additionally, in 2004, FINRA instituted procedures for expediting cases involving senior or seriously ill customers, ensuring that these cases are handled as efficiently as possible.[39]

iii. FINRA has unique enforcement powers

Article XIII, Section 1(c) of FINRA's Corporate Bylaws provides that a member or associated person may be disciplined for failure to pay an arbitration award or written settlement agreement. Article VI, Section 3 permits summary suspension upon 15 days' written notice of a member or associated person who fails to pay. FINRA limited the defenses a firm or associated person may raise to prevent the suspension: (1) that the firm or person paid the award in full; (2) the customer has agreed to installment payments or has otherwise settled the matter; (3) the firm or person has filed a timely motion to vacate or modify the arbitration award and such motion has not been denied; and (4) the firm or person has filed a petition in bankruptcy and the bankruptcy proceeding is pending, or the bankruptcy court has discharged the award.[40]

Notwithstanding these powers, many arbitration awards still go unpaid. In 2017, of the FINRA cases where an investor was awarded some recovery, 34% of the awards, a total of $21 million, went unpaid.[41]

Conclusion

For almost twenty years between the time FINRA first enacted its Code of Arbitration Procedure and the *McMahon* decision, investors had a choice between court and arbitration. Even following *McMahon*, until pre-dispute arbitration agreements became pervasive throughout the industry, investors retained choice in terms of forum selection.

Brokerage firms have the resources necessary to resolve disputes in both the judicial and arbitral settings and, thus, are more capable of adjusting their strategy than investors. Therefore, the brokerage firm, rather than the investor, should bear the burden of uncertainty in forum selection. Firms will not be unduly burdened if investors have the ability to choose between court or arbitration once a dispute arises.

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[39] *See* FINRA, "Expedited Procedures for Seniors and Seriously Ill", available at http://www.finra.org/arbitration-and-mediation/expedited-proceedings-seniors-seriously-ill.

[40] *See* FINRA Regulatory Notice 10-31 "Change to Expedited Proceedings for Failure to Comply with an Arbitration Award or Related Settlement", *available at* http://www.finra.org/sites/default/files/NoticeDocument/p121647.pdf.

[41] See FINRA, "Statistics on Unpaid Customer Awards in FINRA Arbitration", available at https://www.finra.org/arbitration-and-mediation/statistics-unpaid-customer-awards-finra-arbitration.

Thank you for your attention to this issue. We appreciate the opportunity to provide a statement. Please do not hesitate to contact us if you have any questions or would like any additional information.

Respectfully submitted,

Christine Lazaro
President

cc: Chairwoman Waters; Ranking Member McHenry