

NYSE Arbitrator Selection Rule Comment Letter

July 9, 2005

Jonathan G. Katz, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-9303

Re: File No. SR-NYSE-2005-02

Dear Secretary Katz:

The Public Investors Arbitration Bar Association writes to express its support for the change to New York Stock Exchange Rule 607. The amendments concern the procedure for the appointment of arbitrators to cases administered by the NYSE.

Under the proposed Rule 607, arbitrators could still be appointed without the agreement of the investor/claimant in some circumstances. PIABA again emphasizes that the definition of a public arbitrator needs to be carefully examined by the NYSE to ensure that public arbitrators do not have, nor have they had, ties to the securities industry.

Further, we are particularly concerned about the use of industry arbitrators whose firms have engaged in misconduct similar to that at issue in the case before him. Such problems are obvious in cases involving sale of B mutual fund shares and variable annuities. The presence of these persons on the panel has the effect of institutionalizing wrongful practices, and depriving the investor of a fair hearing. Challenges of industry arbitrators by investors should be liberally granted when the possibility of such a situation is presented.

Very truly yours,

Rosemary J. Shockman
President

RJS:dlr