



PUBLIC INVESTORS ARBITRATION BAR ASSOCIATION

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March 6, 2018

Mr. Brent Fields, Secretary
Securities and Exchange Committee
100 F Street NE
Washington, D.C. 20006-1009

Re: Comment on Amending the Code to include a Special Proceeding for
Simplified Arbitration (SR – FINRA 2018-003)

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 arbitration proceedings. 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") related to both investor protection and disclosure. As such, PIABA frequently comments on proposed rule changes in order to protect the rights and fair treatment of the investing public. PIABA submits this comment letter in response to SR - FINRA 2018-003 ("the Proposed Rule"). While PIABA believes the Proposed Rule is a positive step in advancing the rights of the public investor, it stresses that the Proposed Rule lacks features that would serve to further improve the simplified arbitration process.

For matters involving claims valued at \$50,000.00 or less, FINRA is proposing to amend the rules to include a special proceeding for Simplified Arbitration ("Special Proceeding"). The Special Proceeding would be limited to two hearing sessions, exclusive of prehearing conferences, with parties being given time limits for their presentations. Parties with claims involving \$50,000 or less are currently limited to a decision based on the pleadings and other materials submitted by the parties, or a full hearing that typically takes place in-person and is not limited in duration.

PIABA generally supports the amendment because it is important to have additional options related to simplified arbitration. As presented, there does not seem to be a downside for public investors under the proposed process. Under the current system, a party may desire to present his or her case to an arbitrator in person, but the travel and expenses associated with a full hearing could result in the deprivation of that

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opportunity. Also, allowing an arbitrator to see and hear the Claimant in person will add value to the process in terms of weighing witness credibility.

PIABA understands that the prospect of cross-examination by an opposing party might act as a deterrent for Claimants seeking to avoid a direct confrontation with their opponents. However, PIABA is concerned that the value of cross examination must be balanced against that apprehension. Given the fact that cross examination is often one of the most effective means of eliciting evidence during a hearing, the provision of a limited cross examination should be considered for any proposed amendment to the simplified arbitration rules. One such boundary could be time limits applied to cross examinations so that the overall goal of efficiency in adjudicating smaller cases is preserved.

In summary, PIABA generally supports FINRA's proposed amendment allowing for the option of a limited live hearing for simplified arbitrations. However, PIABA would urge FINRA to consider including in the Proposed Rule a mechanism for limited cross-examination of one or two key witnesses. PIABA thanks FINRA for the opportunity to comment on this proposal.

Very truly yours,

A handwritten signature in black ink, appearing to read "Andrew Stoltmann". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrew Stoltmann
PIABA President