

January 16, 2025

Via Email Only @ rule-comments@sec.gov

Ms. Vanessa Countryman
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: Proposal to Amend FINRA's Codes of Arbitration Procedure to Adopt FINRA Rules 12808 and 13808 (Accelerated Processing) to Accelerate the Processing of Arbitration Proceedings for Parties Who Qualify Based the Their Age or Health Condition.

Dear Ms. Countryman:

I write on behalf of the Public Investors Advocate 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") to govern the conduct of securities firms and their representatives. Our members and their clients have a strong interest in FINRA rules relating to FINRA's Code of Arbitration Procedure.

Background

FINRA currently offers an expedited arbitration program for parties who have a serious health condition or are at least 65 years old, upon request. However, the current expedited arbitration program lacks specific, rule-based deadlines for parties and arbitrators, leading to only marginal improvements in case processing times.¹ FINRA's proposed rule change seeks to codify shorter deadlines for discovery and case resolution, with the goal of reducing the arbitration timeline by approximately six months.

Discussion

PIABA generally supports rule amendments that benefit individual investors who rely on FINRA arbitration. However, we have two primary concerns. First, we strongly oppose the medical documentation requirement. Claimants should not have to produce medical records to qualify for expedited proceedings. Such a requirement would be invasive, unnecessary, and

¹ While the median time for customer arbitrations that are not in the current program to close is approximately 15.7 months, the median time for customer arbitrations that are in the current program to close is approximately 13.7 months, a difference of just two months.


contrary to the spirit of the proposed rule. The claimant's attestation of a serious medical condition should suffice.

Second, FINRA should not raise the age of eligibility from 65 to 70 years old. PIABA strongly objects to raising the age threshold for expedited arbitrations. We urge FINRA to maintain the existing threshold for several reasons. First and foremost, investors over 65 are often living on fixed incomes, making prolonged arbitration particularly burdensome. Delayed case resolution can mean the difference between financial security and hardship, especially for retirees who depend on their investments. Second, while life expectancy has increased in the United States, so have age-related health issues. Cognitive decline, mobility impairments, and other medical conditions disproportionately affect individuals over 65, making it more difficult for them to endure prolonged arbitration. Sometimes these conditions are undiagnosed, precluding these individuals from taking advantage of the medical condition exception under the new rule. Third and finally, the age of 65 has long been recognized as the traditional retirement age and is commonly used as a benchmark for senior benefits and legal protections. Changing the threshold to 70 would create unnecessary barriers for a demographic that is already at a disadvantage in arbitration.

In sum, PIABA supports FINRA's effort to establish firm deadlines for expedited arbitration but urges FINRA to (1) reject any requirement for medical record discovery and (2) maintain the age threshold at 65. These changes will ensure that the rule amendment meaningfully improves access to justice for vulnerable investors.

Thank you for the opportunity to provide comments on this important rule proposal. We appreciate FINRA's continued efforts to refine and improve the arbitration process for public investors.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Adam Gana', with a long horizontal flourish extending to the right.

Adam Gana, President
Public Investors Advocate Bar Association