PIABA
PUBLIC INVESTORS ADVOCATE BAR ASSOCIATION

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Via Email Only @ rule-comments@sec.gov
Ms. Sharry R. Haywood, Asst. Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

Re: Proposed Rule Change to Amend the Codes of Arbitration Procedure to Make Changes to Certain Provisions Relating to Arbitrator List Selection (SR-FINRA-2026-17).

Dear Ms. Haywood:

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") that govern the conduct of securities firms and their representatives. Likewise, our members and their clients have a particular interest in FINRA rules relating to FINRA's Code of Arbitration Procedure. Fairness and transparency are of utmost importance in the FINRA Arbitration process, particularly since nearly all brokerage firm customers are forced into mandatory arbitration in the FINRA forum. Thus, a key aspect of the SEC and FINRA's investor protection mission involves ensuring

## Background

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"), the SEC having given notice pursuant to statute[1], the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to amend the Code of Arbitration Procedure for Customer Disputes ("Customer Code") and the Code of Arbitration Procedure for Industry Disputes ("Industry Code") (together, "Codes") to make changes to certain provisions relating to arbitrator list selection. Specifically, the proposed rule change would amend FINRA Rules 12402 (Cases with One Arbitrator), 12403 (Cases with Three Arbitrators), 13406 (Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List), and 13411 (Replacement of Arbitrators) to provide parties with greater input into arbitrator selection at initial panel appointment and when replacing arbitrators after initial panel appointment.

[1] 5 U.S.C. 78s(b)(1)

## Discussion

PIABA generally supports rule amendments that provide investors with more input on the arbitrator selection and list creation process. PIABA is also generally in favor of rule amendments that simplify, rather than complicate, the procedural processes involved in the dispute resolution forum so long as they maintain equity and fairness to investor-claimants. PIABA supports the appointment of an arbitrator by the Director generally only when it is the course of last resort. The proposed amendments to the selection list and the short-list replacement after initial panel appointment rule appropriately provide the parties with more control over the arbitrator selection process. These changes will provide all parties a fairer opportunity to select arbitrators and reduces the Director's discretionary authority over arbitrator appointment and perception of an unfair or imbalanced "cram down" arbitrator scenario. PIABA supports these rule amendments. Likewise, as it relates to the short-list option amendment, codifying what the vast majority of experienced counsel and parties usually agree to in practice simplifies the arbitration process and ensures parties have a say on replacement arbitrators. PIABA supports arbitrator appointment rules that vest authority in the parties and not the Director wherever possible.

In sum, PIABA supports modifying the Codes of Arbitration procedure, as stated in the rule amendment proposals, while keeping in mind the organization's overriding goal of having an equitable forum that promotes and supports investor protection.

Thank you for the opportunity to comment on this potentially very impactful rule amendment.

Respectfully submitted,

Michael C. Bixby
President, Public Investors
Advocate Bar Association