

VIA ELECTRONIC MAIL

August 4, 2016

Robert W. Errett
Deputy Secretary
Securities and Exchange Commission,
100 F Street, NE
Washington, DC 20549-1090

Re: SR-FINRA-2016-022: Proposed Rule Change to Amend FINRA Rule 12403 of the Code of Arbitration Procedure for Customer Disputes

Dear Mr. Errett:

On June 22, 2016, the Financial Industry Regulatory Authority, Inc. (FINRA) filed with the Securities and Exchange Commission (SEC) a proposed rule change to amend FINRA Rule 12403 of the Code of Arbitration Procedure for Customer Disputes (Proposal or Proposed Rule) concerning customer cases with three arbitrators.¹ The Proposal would increase the number of public arbitrators on the list that FINRA sends parties during the arbitration panel selection process from 10 arbitrators to 15 arbitrators. The Proposal would also increase the number of strikes that parties may make to the public list from four strikes to six strikes to keep the proportion of strikes the same under the amended rule as it is under the current rule.

The Financial Services Institute² (FSI) appreciates the opportunity to comment on this important Proposal. FSI commends and supports FINRA's efforts to improve the customer arbitration forum. FSI believes the Proposed Rule would appropriately enhance the panel selection process, resulting in more equitable arbitration proceedings.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the U.S., there are approximately 167,000 independent financial advisors, which account for approximately 64.5% percent of all producing registered representatives. These financial advisors are self-employed independent contractors, rather than employees of Independent Broker-Dealers (IBD).

FSI member firms provide business support to financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions.

¹ <http://www.finra.org/sites/default/files/SR-FINRA-2016-022.pdf>

² The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisers, and their independent contractor registered representatives. FSI has more than 100 Broker-Dealer member firms that have approximately 138,000 affiliated registered representatives serving more than 14 million American households. FSI also has more than 35,000 Financial Advisor members.

Independent financial advisors are small-business owners who typically have strong ties to their communities and know their clients personally. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations and retirement plans with financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their investment goals.

Discussion

FSI appreciates the opportunity to comment on the Proposed Rule. FSI strongly supports the proposed amendment to FINRA Rule 12403 of the Code of Arbitration because it enhances the process for selecting the composition of arbitration panels which results in greater choice for both parties to arbitration. This, in turn, results in more equitable arbitration proceedings, which is essential to the continued success of the FINRA Dispute Resolution program. We elaborate on our support below.

I. FSI Supports FINRA Enhancing the Arbitration Panel Selection Process

A. Introduction

FSI endorses the Proposed Amendment to Rule 12403 and applauds FINRA for adopting policies that will enhance the arbitration process – For the past several years, FSI has maintained a FINRA Arbitration Task Force (Task Force) made up of various FSI member representatives to identify and address areas for improvement regarding FINRA’s Dispute Resolution program, particularly with regards to arbitration. The Task Force was designed to foster a dialogue with FINRA to provide industry insight on challenges with the dispute resolution program. One area the Task Force identified as a point of frustration was the composition of the arbitration panels. The Task Force has requested this specific change to the arbitration roster not only through dialogue with FINRA but also with the National Arbitration and Mediation Committee and FINRA’s Dispute Resolution Task Force. FSI members feel this change is essential because it provides parties in arbitration greater choice of potential arbitrators in their proceedings which makes those proceedings inherently more equitable.

B. FSI Supports Providing Parties to Arbitration with Greater Choice in Selecting Arbitrators

FSI and FINRA are in agreement that FINRA should provide parties in arbitration with greater choice of potential arbitrators in their proceedings. By increasing the amount of potential arbitrators provided to the parties of arbitration proceedings, FINRA has decreased the likelihood of less experienced, or potentially less qualified arbitrators surviving the strike process for placement on panels. Increasing the number of strikes allowed by each party, whether plaintiff or complainant, is consistent with traditional notions of fairness in arbitration proceedings.

The arbitration process is an essential part of FINRA’s regulatory function, and FSI supports FINRA in adopting this rule. Not only does it enhance the arbitration process for both parties, but it also avoids putting any undue burden on the industry.

Conclusion

We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with FINRA on this and other important regulatory efforts

Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 803-6061.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. T. Bellaire". The signature is fluid and cursive, with a large initial "D" and "T" followed by "Bellaire".

David T. Bellaire, Esq.
Executive Vice President & General Counsel