



NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

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January 18, 2021

Submitted electronically through the SEC's [Webform](#)

Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

RE: **File Number SR-FINRA-2020-030: Notice of Filing of Amendment No. 1 and Order Instituting Proceedings to Determine Whether to Approve or Disapprove the Proposed Rule Change, as modified by Amendment No. 1, to Amend the Codes of Arbitration Procedure Relating to Requests to Expunge Customer Dispute Information, Including Creating a Special Arbitrator Roster to Decide Certain Expungement Requests**

Dear Ms. Countryman:

On behalf of the North American Securities Administrators Association (“NASAA”),¹ I hereby submit the following comments regarding the above-referenced proposal (the “Proposed Amendment”),² made by the Financial Industry Regulatory Authority, Inc. (“FINRA”), and published by the Securities and Exchange Commission on December 18, 2020.

As we have stated previously, NASAA has a unique expertise in the expungement process because it has been involved in developing – and reforming – the process since its inception. NASAA also has a long-standing interest in ensuring that there is no compromise to the integrity of the information housed on the Central Registration Depository (“CRD”) and its investment adviser equivalent, the Investment Adviser Registration Depository (“IARD”). Each system contains information filed with state securities administrators by applicants for registration as broker-dealers, investment advisers, and their representatives. State securities administrators use this information as part of their licensing and oversight responsibilities, and they are generally obligated under state securities and public records laws to retain all information filed as part of a registration application or an amendment to the application.

¹ Organized in 1919, NASAA is the oldest international organization devoted to investor protection. NASAA’s membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico, Puerto Rico, and the U.S. Virgin Islands. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

² The Proposed Amendment is available at <https://www.finra.org/sites/default/files/2020-12/sr-finra-2020-030-amendment1.pdf>. Notification of the Proposed Amendment is found in SEC Rel. No. 34-90734 (Dec. 18, 2020), which is available at <https://www.sec.gov/rules/sro/finra/2020/34-90734.pdf>.

We write first to express our appreciation for the fact that the Proposed Amendment would amend the Code of Arbitration Procedure for Customer Disputes, and the Code of Arbitration Procedure for Industry Disputes, to establish requirements for notifying state securities regulators of expungement requests earlier in the expungement process.³ While notification at the onset of a request for expungement would not afford NASAA members the opportunity to become involved in the FINRA arbitration forum, earlier notice would allow NASAA members additional time to evaluate the request and determine the appropriate regulatory response, including but not limited to investigations, enforcement actions, or intervention in subsequent court proceedings seeking to confirm an award.

As worded in the Proposed Amendment, FINRA would provide such notice “in the manner determined by FINRA.”⁴ In the past, and particularly with respect to National Association of Securities Dealers (“NASD”) Rule 2130, *Obtaining an Order of Expungement of Customer Dispute Information from the Central Registration Depository (CRD System)*⁵ and its subsequent iterations, NASAA and FINRA have worked collaboratively to determine how best to notify state securities regulators of expungement requests in order to help states meet their oversight and record retention needs.⁶ NASAA anticipates and encourages FINRA to continue to collaborate with state securities regulators to arrive at a workable and efficient process for providing notice of expungement requests.

Should you have any questions regarding the comments in this letter, please do not hesitate to contact either Melanie Senter Lubin (mlubin@oag.state.md.us), Maryland Securities Commissioner, and Chair of NASAA’s CRD/IARD Steering Committee, or Vince Martinez (vlm@nasaa.org), NASAA’s General Counsel.

Sincerely,



Lisa Hopkins
NASAA President
General Counsel and Senior Deputy
Commissioner of Securities, West Virginia

³ Proposed Amendment at 2, 28 and 38 of 43.

⁴ *Id.* at 28 and 38 of 43.

⁵ The text of retired NASD Rule 2130 is available at <https://www.finra.org/rules-guidance/rulebooks/retired-rules/2130>.

⁶ Given that history, NASAA requests text in the adopting release which acknowledges our collaboration, and states that FINRA intends to collaborate with NASAA to determine the manner of notice.