NASAA

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September 18, 2026

Submitted by SEC Webform

Sherry R. Haywood
Assistant Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: File No. SR-FINRA-2026-017: Notice of Filing of a Proposed Rule Change to Amend the Codes of Arbitration Procedure to Make Changes to Certain Provisions Relating to Arbitrator List Selection

Dear Ms. Haywood:

On behalf of the North American Securities Administrators Association, Inc. ("NASAA"),[1] I am writing in response to U.S. Securities and Exchange Commission ("SEC" or the "Commission") Release No. 34-106183, *Notice of Filing of a Proposed Rule Change to Amend the Codes of Arbitration Procedure to Make Changes to Certain Provisions Relating to Arbitrator List Selection* (the "Notice"). NASAA generally supports the proposed rule change. However, FINRA should consider additional changes before the proposal is approved.

As described in the Notice, the proposal would give the parties in FINRA arbitration greater input into the selection of arbitrators.[2] NASAA fully supports such efforts because investors are typically compelled to resolve disputes in arbitration through mandatory pre-dispute arbitration clauses in broker-customer account agreements. Since investors often have no meaningful choice of forum, the rules should be designed to assure that they have a say in who will decide their claims in the FINRA forum. FINRA rules currently require FINRA Dispute Resolution Services ("DRS") to appoint arbitrators in certain circumstances, with little input from the parties.[3] As explained in the Notice, the unpopularity of that process has led DRS to offer the parties an opportunity to receive new lists in those circumstances, and to strike and rank the arbitrators on the list.[4] NASAA

[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, México, Puerto Rico, the U.S. Virgin Islands, and Guam. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

[2] *See*, *e.g.*, Notice at 5-6.

[3] *See*, *e.g.*, *id.* at 5.

[4] *See*, *e.g.*, *id*. at 5-6.

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supports FINRA's proposal to codify this practice, rather than conditioning the receipt of new lists on mutual agreement of the parties.

NASAA appreciates that the proposed short list option would not be available in cases related to straight-in expungement requests filed on or after October 16, 2023.[5] Under FINRA rules, such requests must be decided by a three-person panel randomly selected from a roster of experienced public arbitrators with enhanced expungement training.[6] Parties may not strike the selected arbitrators or stipulate to their removal, and replacement arbitrators are randomly selected by the algorithm.[7] These rules were designed to help ensure that the arbitrators responsible for deciding such requests have the qualifications and training to do so.[8] The proposed rule change appropriately preserves those procedures for straight-in expungement proceedings.

While NASAA generally supports the proposed rule change, parties should not be assessed postponement fees when they agree to postpone an imminent hearing to replace an arbitrator using the proposed short list procedure.[9] As proposed, the amended FINRA rules would subject the parties to fees when they agree to postpone a hearing that is scheduled within 10 days, but would not assess fees when the parties do not agree to postpone. In our view, parties should not be penalized for cooperating with each other to avail themselves of an option that is offered to them under FINRA rules, particularly given that they do not control when an arbitrator becomes unavailable or unwilling to serve. This change would better ensure the fairness and efficiency of FINRA arbitration for all parties.

NASAA appreciates the opportunity to comment on the Proposal. Thank you for considering these views. Should you have any questions about this letter, please contact either the undersigned or NASAA's General Counsel, Vince Martinez, at (202) 737-0900.

Sincerely,

Marni Rock Gibson

Marni Rock Gibson
NASAA President

5 Notice at 10.

6 *See* Regulatory Notice 23-12, 11 (Aug. 11, 2023).

7 *Id*. at 12.

8 *See id*. at 11.

9 *See* Notice at 8 n.32.