

Thank you for the opportunity to comment on this important issue. I am an attorney who regularly represents investors who have been wronged by their broker, advisor, or brokerage firm.

Notice 18-22 seeks comment on whether the FINRA Discovery Guide should require Respondents to produce insurance policies in customer cases. I fully support this proposed amendment to the Discovery Guide.

I have represented many clients that have sued brokerage firms who claim that they have no money and no insurance to cover these claims, in an effort to get customers to accept low-ball settlement offers or face the potential scenario that the firm will go out of business from an adverse arbitration award. When we seek the same information in discovery, brokerage firms routinely object to providing insurance documentation. It is frustrating, considering that under Rule 26(1)(A) of the Federal Rules of Civil Procedure, parties are required to produce this information as part of their initial discovery disclosures, and many states have adopted similar procedures.

FINRA should require the production of the applicable insurance policy, any riders or amendments, and the declarations page, without redaction. I also agree that insurance policies should not be admissible as evidence in most situations, but such would be admissible under certain circumstances. Parties should not be penalized for bringing such issues to the attention of the panel if there is a dispute about the insurance or its admissibility.

Finally, there should be little cost to the brokers or brokerage firms to provide this information. Compared to the production of a customer's account statements or the brokerage firms' compliance manuals, the production of insurance documentation should be relatively small.

In sum, I support this proposed amendment to the Discovery Guide.

Sincerely,

David Neuman
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