

The proposal to require respondent BD's and Reps to furnish details of the existence of professional liability insurance policies in a Finra arbitration proceeding will promote the demise of Finra BD's and their registered reps. By requiring early production of the policy, claimants can tailor a claim to trigger the policy, including the obligation to defend the policyholder (BD and/or the BD Rep), by using key words and phrases. The practical effect of making it easier to trigger a policy coverage, will be to drive up insurance premiums, and increase the amount of a particular retention/deductible per claim for future policy renewals. I have been directing and negotiating professional malpractice policies for my employer BD's since the late 1980's. The retention amount has gone from \$5,000 per claim, to \$100,000 or more per claim today. Similar to auto insurance, if a BD receives too many claims on its policy, the insurance carrier will NOT offer renewal terms, and the BD is forced to look elsewhere for coverage. In some years since 1985, professional malpractice insurance was simply not available at any cost. Having such insurance is a double-edged sword—in one sense, having less capital inside the BD and no insurance policy may make the BD less likely to be sued in arbitration, simply because an award may prove to be uncollectible. A BD with an insurance policy, particularly where the insurance carrier ultimately decides whether to arbitrate to a full hearing, or settle, often becomes a continual target of claimant attorneys, if the policy details become known. It is relatively easy to find other claimants who are willing to file a claim, who own the same or similar securities.

According to the Notice, the Finra Task Force concluded that furnishing insurance information would be mostly beneficial to claimants, who would then make better decisions on a litigation strategy. The Notice indicates that the proposal would increase the ability of claimants to maximize their monetary compensation by tailoring their litigation strategy, based on the insurance policy coverage provisions.

I much prefer the way things are now, where a claimant can ask whether the respondent BD and/or the respondent Rep has a relevant insurance policy.

Thank you for your consideration.

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