

Office of the Ombudsman

2013 Report





A Message From the Ombudsman

This report describes the role of the Office of the Ombudsman and the work we perform, and provides insight into the cases and issues received during 2013.

As a designated neutral, the role of the Ombudsman is to provide confidential and informal assistance to FINRA's constituents. The Ombudsman does not advocate for any individual or organization—including FINRA—rather, the Ombudsman advocates for fair processes. The Ombudsman acts as a source of information and referral, and assists in answering questions and resolving concerns. We also help our constituents address their concerns in the most constructive manner and at the most appropriate level within the organization.

Beyond responding to the inquiries and concerns the Office receives, we periodically report statistics regarding our cases and trends we identify to the Audit Committee of FINRA's Board of Governors. We also provide feedback to department managers on ways to improve internal policies and procedures, and ways to enhance the resources available to FINRA constituents.

The Office of the Ombudsman consists of four ombudspersons, as well as one administrative assistant. Each ombudsperson has completed ombudsman training, and is required to meet continuing education requirements. Ombudsman staff are also required to stay abreast of securities industry changes.

FINRA has many mechanisms to address and respond to the issues that may be raised by its constituents. The Ombudsman does not replace those mechanisms but supports them, as well as FINRA's commitment to continuous evaluation of its procedures and how it goes about performing its work. For more information on the Office of the Ombudsman, please visit www.finra.org/aboutFINRA/ombudsman.

Sincerely,

A handwritten signature in black ink that reads "Cindy Foster". The signature is fluid and cursive, with the first name "Cindy" and last name "Foster" clearly legible.

Cindy Foster
Ombudsperson, FINRA

Introduction

FINRA's Office of the Ombudsman was created in 1996 and is an informal, impartial, confidential and independent resource that assists in finding solutions to FINRA-related issues, concerns or problems. As a neutral party, the Ombudsman considers the interests and concerns of all parties, with the objective of achieving the right outcome. The Ombudsman's Office is the place to turn if parties require anonymity or have exhausted all other FINRA avenues without finding a resolution.

The following three ideals are paramount to the work performed by the Office of the Ombudsman.

- Independence:** The FINRA Ombudsman reports directly to the Audit Committee of FINRA's Board of Governors and functions independently from other departments and FINRA management.
- Neutrality:** As a designated neutral, the Ombudsman does not represent or act as an advocate for any person or entity in a dispute with FINRA. Instead, he or she will promote fair processes and the fair administration of those processes.
- Confidentiality:** The Ombudsman will not voluntarily disclose to anyone outside its office any information provided in confidence or a person's identity—unless the Office is provided express permission to do so. The Ombudsman may need to share information if there is a threat of imminent risk or serious harm, or when legal requirements require FINRA to take action.

Individuals contact the Office of the Ombudsman when they:

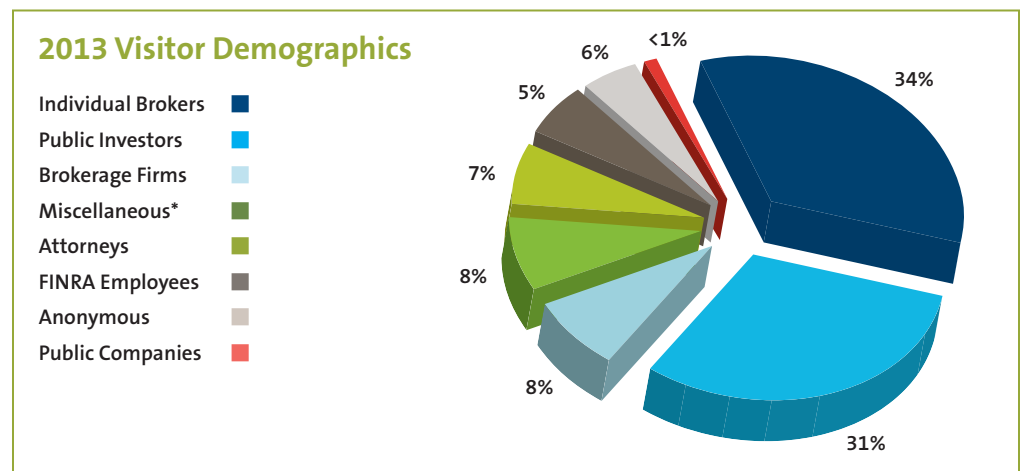
- ▶ do not know where to take their concerns;
- ▶ do not know how to take their concerns forward;
- ▶ want confidentiality;
- ▶ need a neutral sounding board to help identify and evaluate their options;
- ▶ seek an off-the-record discussion with a knowledgeable, neutral and informal party who has broad knowledge of the organization;
- ▶ need information about the company's policies or procedures; or
- ▶ need someone to listen to their concern.

FINRA's Ombudsman is an Associate Member of the International Ombudsman Association (IOA) and the United States Ombudsman Association (USOA).

Visitor Demographics

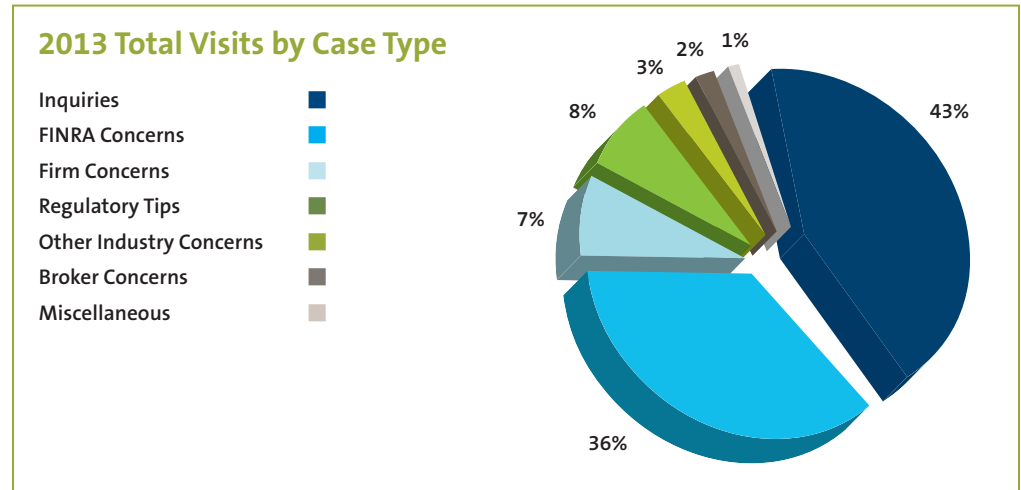
The Ombudsman responds to inquiries and concerns from investors, brokers, brokerage firms (firms), FINRA employees and others. In 2013, the Ombudsman's Office opened 567 cases. A case refers to any inquiry, issue or concern received by the Office of the Ombudsman. Individual brokers accounted for 194 (34 percent) of those cases, while public investors accounted for 174 cases (31 percent). The remaining cases were from firms, attorneys, FINRA employees, public companies, anonymous individuals and other miscellaneous individuals.

Brokers contacted the Ombudsman's Office with questions regarding FINRA's BrokerCheck® tool and issues related to their registration matters. Investors inquired most often with questions about FINRA's Investor Complaint Program and about FINRA's dispute resolution forum. Firms contacted the Ombudsman with questions regarding member firm and broker registration requirements, and policies and procedures related to FINRA's examination, investigative and enforcement activities. Attorneys representing investors, firms and brokers contacted the Ombudsman about information displayed by FINRA's BrokerCheck tool, brokers' registration requirements and FINRA's examination, investigative and enforcement procedures.

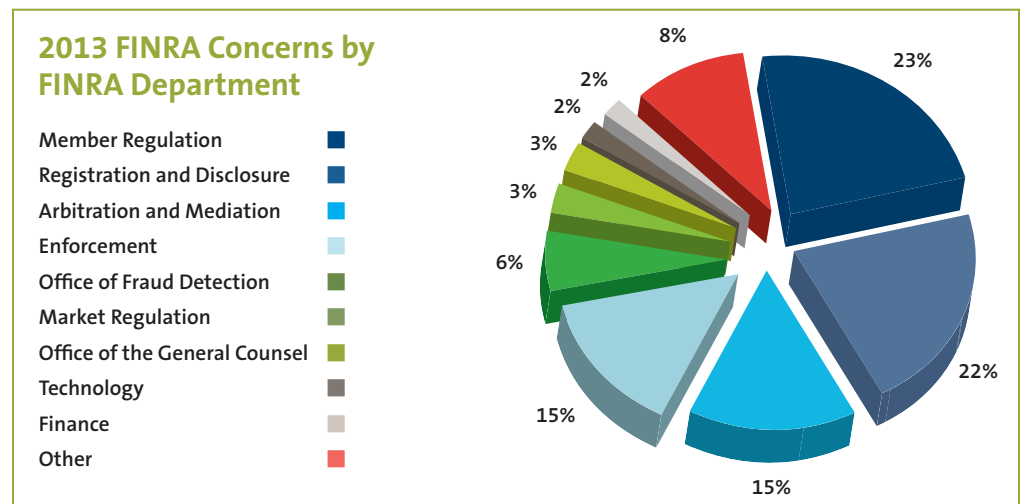


* The miscellaneous category includes any constituent who provided their identity, but who could not be described by any other category.

The following chart shows all 2013 visits categorized by case type. For example, a case is categorized as a FINRA concern if the constituent has an issue related to FINRA policies, procedures, rules and regulations; FINRA staff; or the outcome of an enforcement/disciplinary investigation or dispute resolution proceeding. Cases are categorized as firm concerns or broker concerns when constituents have concerns about a brokerage firm or an individual broker, respectively. Inquiries are requests for information or other resources.



The chart below shows all FINRA concerns categorized by FINRA department. All cases including FINRA concerns are designated to a department based on function or area of responsibility. For example, a concern related to a sales practice examination may be characterized as a Member Regulation Department issue, whereas a concern from a broker regarding licensing requirements or BrokerCheck would be characterized as a Registration and Disclosure Department issue.



Summary of 2013 Case Trends

The Office of the Ombudsman collects information only to the extent necessary to review the concern and to report on trends. Because of our commitment to confidentiality, we do not share specifics about actual cases. The following information describes the types of cases received from brokers, investors, firms and other FINRA constituents.

Broker Registration and Termination Policies

In 2013, the Ombudsman received cases from prospective, current and former brokers on a variety of topics. These topics included the qualification, examination and continuing education requirements to earn or maintain a securities industry license; the need to disclose certain events during the registration process, such as customer complaints, criminal events and civil actions; and information displayed by FINRA's BrokerCheck tool, a free tool to help investors research the professional backgrounds of current and former FINRA-registered brokerage firms and brokers, as well as investment adviser firms and representatives.

Prospective brokers—individuals not yet associated with a brokerage firm—contacted the office to discuss the need to be sponsored by a firm prior to taking a qualification examination for employment with a FINRA member firm, or to discuss the need to requalify by examination after an absence from the industry of more than two years.

Brokers and former brokers also contacted the Ombudsman's Office in 2013 because they disagreed with disclosures made by member firms upon termination via the Uniform Termination Notice for Securities Industry Regulation (Form U5). The Form U5 is filed by a firm to terminate the registration of a broker with FINRA, as well as the employment relationship with the broker. Brokers also inquired about the process by which they could seek to have termination information expunged.

Dispute Resolution - Arbitration

FINRA administers a dispute resolution forum that offers both mediation and arbitration services to assist in the resolution of disputes between and among investors, brokerage firms and brokers. In 2013, many of the inquiries and concerns the Ombudsman received regarding arbitration were from participants in the forum, including investors and brokers, as well as attorneys who represented those individuals.

Pro-se investors (*i.e.*, parties not represented by an attorney) contacted the Ombudsman in 2013 for assistance with understanding and navigating the arbitration process—from initiating claims to filing motions and responding to discovery requests.

Investors, brokers, and their attorneys also contacted the office with questions about arbitration policies and procedures and to discuss interactions with arbitrators. These parties also contacted the Ombudsman regarding arbitrator decisions, such as discovery and motion practice decisions and the process by which an award can be vacated.

Customer Complaints

FINRA manages an Investor Complaint Program that investigates complaints submitted by investors or other persons with concerns regarding a firm or broker's conduct, or how a firm or broker handled their account. Some investors contacted the Ombudsman to discuss issues regarding their firm or broker. In these instances, the office referred investors to their brokerage firm or to FINRA's Investor Complaint Program. Investors who filed an investor complaint with FINRA sometimes inquired about the final outcome of FINRA's review or the length of time it took FINRA to review their complaint. Investors who contacted the Ombudsman regarding procedures to receive restitution for account losses were referred to FINRA's dispute resolution forum.

Examinations and Investigations

In addition to investigating investors' complaints about their broker or firm, FINRA also examines and investigates firms and brokers for compliance with the federal securities laws and FINRA rules.

In 2013, brokers and firms that were the subject of FINRA examinations and investigations contacted our office to inquire about relevant policies and procedures, the staff's application of certain rules and regulations, and how the outcome of the examination or investigation might impact their business. Some firms discussed FINRA's information-gathering practices and the need to respond to all requests for information whether in writing or in-person, while others discussed the duration or requested the status of an examination.

Case Outcomes

The Ombudsman responded to inquiries and concerns unrelated to FINRA activities by referring constituents to the appropriate resources, including information already available in the public domain, other FINRA departments or subject matter experts, and/or other regulatory entities. For concerns about FINRA, the office provided information and resources and, if necessary, facilitated conversations with regulatory and other FINRA staff, reviewed case documentation, discussed with the constituent applicable rules and policies, and explored options to move the issue forward. When necessary, the office escalated the matter to an appropriate level of management.

Additionally, the Ombudsman made periodic reports to the Audit Committee of FINRA's Board of Governors and FINRA management about the number and types of cases the office received.

To Contact the Ombudsman:

- ▶ Submit a message using a Web-based form (anonymously, if preferred) at <https://finra.ethicspointvp.com/login.aspx>
- ▶ Call toll-free at (888) 700-0028, weekdays from 9 a.m. to 5 p.m., ET
- ▶ For questions regarding this report, please contact Cindy Foster at (240) 386-6270.