

From: [Jeffrey T. Zaino, Esq.](#)
To: [Comments, Public](#)
Subject: Regulatory Notice 26-06, Comments of the American Arbitration Association
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Submitted via email only

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006

Dear Ms. Mitchell:

The American Arbitration Association (AAA) appreciates the opportunity to provide comments on Regulatory Notice 26-06 on Modernizing FINRA Arbitration Rules, Guidance and Processes. As the world's largest private provider of alternative dispute resolution (ADR) services, the AAA is well-positioned to provide insight and expertise on several aspects of FINRA's modernization efforts. Additionally, the AAA's specialized rules and procedures and unparalleled panel of expert arbitrators and mediators with in-depth experience in financial services, investment management, insurance, and regulatory compliance further enhance our ability to weigh in on this Notice. The AAA recognizes the important role that FINRA's arbitration forum has long played in resolving disputes within the securities industry and supports this ongoing and substantive dialogue about how dispute resolution frameworks can continue to evolve to meet the needs of investors, brokerage firms, and associated persons.

There is growing understanding and support for the benefits of ADR among industry, legislators, government agencies and commissions, and entities such as FINRA. The AAA is a not-for-profit organization with a mission to provide innovative measures to prevent, mitigate, and resolve disputes fairly and efficiently. During our 100-year history, the AAA has often worked with federal and state officials and agencies in the development and deployment of dispute resolution systems. We have worked with Congress, the U.S. Department of Justice, the Federal Communications Commission, and others in this regard, and we currently handle over 500,000 disputes annually under governmental authority. We offer our comments and views primarily on the forum selection elements in the Notice and stand ready to discuss any aspect of this initiative in more depth.

Forum Section - Request for Comment Section A

Specifically with regard to Notice section A(i)(3), we believe FINRA should provide additional avenues for parties to opt out of FINRA arbitration and resolve disputes through select alternatives that meet specific high standards and capabilities. Depending on the nature or category of disputes and/or customer type, rules and standards can be developed through a regulatory framework to provide for fairness, efficiency, and transparency.

As securities markets, the investment community, and dispute resolution practices continue to improve and evolve, policies limiting parties to a single forum for resolving disputes are ripe for reconsideration. Depending on the terms of applicable agreements and the nature of the claims, investors and industry participants might benefit from a range of dispute resolution options, including independent arbitration forums. The ability for parties to select from alternative ADR forums would provide flexibility and may allow parties to choose procedures that are better aligned with the size, complexity, and particular characteristics of a given dispute.

In structuring a regulatory path to an alternative forum, FINRA should consider a number of factors and requirements that could be incorporated into the process design, including dispute types and/or monetary thresholds, arbitral institution standards (independence, administration and case management experience, financial impartiality, administrative issue review processes, etc.), arbitral panel experience criteria, rules and procedures, ethical standards and disclosure requirements, and other key metrics.

The AAA, like other ADR providers, has longstanding experience administering disputes involving financial services, including matters arising between investors, broker-dealers, and other market participants. Each year, the AAA administers a substantial volume of financial disputes, which contributes to an institutional familiarity with the operational, procedural, and case management issues that commonly arise in this area. This experience informs the administration of cases across a range of dispute types, from relatively straightforward matters to those involving complex factual and legal issues.

The AAA's case administration is based on established procedural frameworks and administrative practices designed to facilitate the expeditious and orderly progression of cases. This includes managing filings, arbitrator appointments, scheduling, and communications with the parties and among parties and arbitrators. The consistency of these processes, along with their flexibility to meet the parties' needs, supports efficiency while maintaining fairness and neutrality in the administration of proceedings.

The AAA also maintains a roster of arbitrators that includes individuals with significant experience in financial services and related disciplines. AAA arbitrators are subject to qualification standards, including a minimum of 10-15 years of professional experience, and are expected to meet applicable ethical and disclosure obligations. The AAA places emphasis on ongoing arbitrator training and education. Its arbitrators have access to mandatory, continuing education programs that address topics such as case management, ethics, and developments relevant to financial products, industry practices, and dispute resolution procedures. This ongoing training is intended to promote preparedness and consistency in the handling of disputes, particularly as financial markets and products continue to evolve.

In parallel with these efforts, the AAA is in the process of developing updated securities arbitration rules tailored to disputes involving individual investors, brokers and brokerage firms. These rules would address procedural considerations specific to these types of cases, including issues related to accessibility, clarity of process, and case management. The development of such rules reflects AAA's recognition that different categories of disputes may benefit from more tailored procedural frameworks.

Just as the AAA periodically revisits its own rules and rosters, the AAA applauds FINRA's ongoing review of its arbitration function to provide a framework that best achieves a fair and efficient process for those industry participants that choose FINRA's platform for dispute resolution. But as arbitration has evolved into a respected alternative to litigation over the past decades, other ADR providers have also evolved as respected alternatives to FINRA, and industry participants should be afforded the freedom to select their preferred platform.

The availability of multiple dispute resolution forums, combined with ongoing efforts to review and refine rules and practices, reflects a needed evolution within the dispute resolution landscape. As stakeholders consider how best to balance efficiency, fairness, transparency, and accessibility, maintaining a range of viable forum options will contribute to a more responsive system for addressing disputes in the financial services sector.

Best regards,

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