



May 1, 2026

VIA EMAIL TO pubcom@finra.org

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1700 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 26-06: FINRA Requests Comment on Modernizing FINRA Arbitration Rules, Guidance and Processes

Dear Ms. Mitchell:

CFP Board appreciates FINRA's efforts to modernize its arbitration rules, guidance, and processes and welcomes the opportunity to comment on Regulatory Notice 26-06 (March 2, 2026).¹ As a standards-setting, professional body for CERTIFIED FINANCIAL PLANNER® professionals, CFP Board has a strong interest in ensuring that the FINRA arbitration system functions in a manner that is fair to investors, produces outcomes based on a reliable and consistent process, and promotes accountability for professional misconduct. FINRA arbitrations can provide information, including awards, that can be crucial to CFP Board's enforcement of its ethical standards.

The most significant issue that FINRA's request for comment raises is this: FINRA must solve the serious problem of unpaid arbitration awards. There is no strong rationale for not ensuring that investors who have been harmed receive the funds awarded them by arbitrators. A consumer who has been harmed should not be left without meaningful recovery. FINRA has many potential solutions (such as insurance or a dedicated fund) that are both affordable and effective. The failure to implement one of these solutions undermines consumer trust in financial advice.

CFP Board's comments focus on two other areas that are especially consequential for investor protection and professional accountability, including preserving existing safeguards around motions to dismiss, and strengthening and modernizing FINRA's Arbitration Awards Online (AAO) database. In each of these areas, CFP Board urges FINRA to prioritize reforms that enhance transparency, reduce information asymmetries, and ensure that arbitration outcomes are fair for investors.

¹ See FINRA Regulatory Notice 26-06 (March 2, 2026), <https://www.finra.org/sites/default/files/2026-03/Regulatory-Notice-26-06.pdf>.

I. Background

A. CFP Board

CFP Board consists of two affiliated non-profit organizations, Certified Financial Planner Board of Standards, Inc. and Certified Financial Planner Board of Standards Center for Financial Planning, Inc. (collectively, CFP Board). CFP Board operates the CFP® certification program, which sets high standards of competency and ethics for financial planning and is accredited by the National Commission for Certifying Agencies. CFP Board works to advance the financial planning profession for the public's benefit.

CFP Board certifies more than 109,000 CFP® professionals (or more than one-third of retail financial professionals) who operate under different business and compensation models and provide professional services on behalf of investment advisers, broker-dealers, insurance companies, banks, and trust companies, among other business types. More than half of all CFP® professionals are associated persons of FINRA member firms.

B. CFP Board's Processes Uphold Fairness, Transparency, and Accountability While Safeguarding CFP® Certification

CFP Board relies on information generated through FINRA arbitrations – and particularly arbitration awards – to carry out its public-interest mission. In addition to the direct impacts on investors, changes to arbitration rules or practices that weaken transparency, reduce the reliability of awards, or limit access to meaningful dispute information can directly impair CFP Board's ability to promote accountability and protect the public. Recognizing these interdependencies is essential to ensuring that arbitration reforms do not undermine professional oversight or investor protection. For that reason, we provide below relevant background on CFP Board's ethical standards and processes for upholding them.

1. CFP Board's Ethical Standards

As part of CFP® certification, all CFP® professionals commit to CFP Board to uphold the high standards outlined in the *Code of Ethics and Standards of Conduct (Code and Standards)*. The *Code and Standards* requires that a CFP® professional meet certain duties when providing professional services to a client, including the duty to comply with applicable laws, rules, and regulations, and to refrain from engaging in other misconduct that reflects adversely on their integrity or fitness as a certificant, on the CFP® marks or on the profession. Notably, the *Code and Standards* requires CFP® professionals as part of their certification to act as a fiduciary, and therefore, act in the best interests of the client, at all times when providing financial advice to a client. CFP® professionals' compliance with these standards reinforces the integrity of the CFP Board certification marks. As described below, while CFP Board does not guarantee their work, CFP Board may sanction a CFP® professional who fails to uphold their commitment.

Similarly, CFP Board's *Fitness Standards for Candidates for CFP® Certification and Former CFP® Professionals Seeking Reinstatement (Fitness Standards)* sets the standards against

which CFP Board evaluates the ethical fitness of those seeking CFP® certification. In some circumstances, CFP Board may determine an applicant is currently fit for CFP® certification and issue a public notice of their prior misconduct.

2. CFP Board's Process for Upholding CFP Board's Ethical Standards

CFP Board takes steps to monitor compliance with and enforce the *Code and Standards* when CFP® professionals are alleged to have fallen short of their obligations. And when misconduct is proven and results in sanctions, CFP Board publishes its findings and sanctions. These enforcement and adjudication processes help protect the public, and they benefit the financial planning profession and CFP® professionals by setting CFP® certification apart from other credentials and designations in the profession.

a) *Detection and Investigation of Potential Misconduct and CFP Board's Peer Review Disciplinary Process*

CFP Board has a defined process for identifying and acting on alleged misconduct in violation of the *Code and Standards*.

CFP Board's enforcement program includes: 1) an active detective function, 2) ethics review and background checks during the initial certification process and throughout the time a person maintains the certification, 3) ongoing disclosure requirements for CFP® professionals, and 4) a process for the public to file complaints. Among the types of issues that CFP Board requires CFP® professionals to report to CFP Board and that CFP Board also works to detect by accessing public disclosure information are regulatory actions, firm terminations, customer complaints, arbitrations, civil court litigation that involve professional conduct, criminal matters, bankruptcies, civil judgments, and tax liens. When potential misconduct is identified or disclosed, it may trigger an investigation by CFP Board's Enforcement Department.

If information gathered during an investigation suggests there may have been a violation of CFP Board's ethical standards, then CFP Board will enforce its standards through a peer-review process set forth in its *Procedural Rules* that is credible to the public and fair to those whose conduct CFP Board is evaluating. The process includes written notice of the allegations and potential grounds for sanction, an opportunity to present documents, witnesses, and argument at a hearing, and a written order that sets forth the basis for the decision that may be appealed within CFP Board. The parties to a proceeding also have the right to be represented by counsel of their choice.

CFP Board Enforcement Counsel has the authority to investigate and file a complaint against a CFP® professional for alleged violations of the *Code and Standards* or require a petition for an order finding ethical fitness for a candidate for CFP® certification. CFP Board's Disciplinary and Ethics Commission (the DEC), which is a peer-review body composed of CFP® professionals and members of the public, has the authority to issue a final order that finds facts, determines whether a violation has occurred or whether to

grant a petition and, where appropriate, imposes discipline in the form of a sanction. Such a sanction may include, but is not limited to, a private censure, a private notice, a public censure, a public notice, a suspension or revocation of a CFP® professional's license to use the CFP Board certification marks, or a temporary or permanent bar on Respondent's ability to obtain CFP® certification.

b) Sanctions

CFP Board adopted *Sanction Guidelines* to provide transparency and promote consistent imposition of sanctions for similar offenses, considering the unique facts of each case. The DEC applies the *Sanction Guidelines* in resolving a proposed settlement agreement or complaint that Enforcement Counsel has filed pursuant to the *Procedural Rules* and a petition that a Respondent has filed pursuant to the *Procedural Rules* and the *Fitness Standards*. The *Sanction Guidelines* identify the sanction guideline that applies to a violation of each conduct standard, potential aggravating and mitigating factors, and policy notes.

The parties, the DEC, and the Appeals Commission (described below) may use *CFP Board Case Histories* in preparing for or deciding cases. *Case Histories* are non-binding detailed summaries of past cases decided by the DEC. These histories identify the issues in previous cases, describe the DEC's factual findings, and provide the DEC's rationales for finding violations and its reasoning for any sanctions.

c) Appeals Process

Generally, either a Respondent or CFP Board may appeal a final DEC order to CFP Board's Appeals Commission. The Appeals Commission is a peer-review body composed of CFP® professionals and members of the public and has the authority to issue CFP Board's final decision. The Appeals Commission has broad authority to issue orders that decide Appeals and that control the conduct of the appeal proceedings. Appeals Commission orders are not subject to further appeal or review.

d) Publication of Public Sanctions

CFP Board will publish decisions imposing public sanctions in a press release and on CFP Board's website in accordance with the *Procedural Rules*.

3. Verify a CFP® Professional

At CFP.net/verify, the public can verify an individual's CFP® certification status and CFP Board disciplinary history. CFP Board also provides links to other sources of information about CFP® professionals that may be more recent or that may contain information that has not led to CFP Board discipline and does not appear on CFP Board's website, such as FINRA's BrokerCheck and the U.S. Securities and Exchange Commission's (SEC's) Investment Adviser Public Disclosure databases for individuals who are subject to FINRA or SEC oversight.

II. CFP Board Comments on FINRA Arbitration Rules

A. FINRA Must Address Unpaid Awards

CFP Board supports FINRA’s decision, reflected in requests for Comment K.1.-3. in Regulatory Notice 26-06, to seek public comment on approaches to strengthen customer recovery and address unpaid arbitration awards. FINRA’s approach to unpaid awards raises serious concerns about its commitment to effective investor protection and the integrity of FINRA’s dispute resolution framework.

Investors—particularly those saving for or living in retirement—reasonably expect that when misconduct is established and an arbitration panel issues an award, that award will be meaningful. However, according to FINRA data, as of early 2026, approximately one in four awards (roughly 25–30%) granted to investors goes entirely uncollected, with approximately 37 cents of every dollar awarded in 2024 remaining unpaid.² Between 2020 and 2024 alone, an estimated \$80 million in awards went unsatisfied³, often because the responsible brokerage firms or representatives filed for bankruptcy or simply went out of business after the claim was filed. When prevailing investors are unable to recover, the resulting harm extends beyond individual cases, undermining confidence in both the financial services profession and regulatory oversight.

This is not a sustainable position. Fortunately, there are several opportunities for FINRA to modernize its practices.

FINRA should consider whether its existing rules and supervisory tools sufficiently ensure that member firms have the financial capacity to satisfy arbitration awards. Current net capital requirements may not adequately reflect potential liability arising from customer claims, particularly for firms with significant customer exposure or a history of complaints. As a result, some investors pursue claims through lengthy and resource-intensive proceedings only to learn – after prevailing – that recovery is unlikely.

CFP Board encourages FINRA to work with the SEC to evaluate whether broker-dealer financial responsibility requirements should be recalibrated to better account for arbitration risk. This consideration could include enhanced capital expectations for firms with elevated complaint histories or material pending claims, as well as earlier identification of firms whose financial condition may impair their ability to satisfy an award.

In addition, FINRA should consider whether liability insurance requirements could play a constructive role in improving customer recovery outcomes. In many professional contexts, insurance serves as a basic mechanism for ensuring that harm caused by professional misconduct can be remedied. Requiring coverage sufficient to address

² FINRA, Statistics on Unpaid Customer Awards in FINRA Arbitration, <https://www.finra.org/arbitration-mediation/dispute-resolution-statistics/statistics-unpaid-customer-awards-finra-arbitration>.

³ *Id.*

reasonably foreseeable arbitration exposure could improve investor confidence and align member firm obligations with the responsibility inherent in managing customer assets.

CFP Board also encourages FINRA to continue evaluating the potential role of an industry-wide recovery mechanism to address unpaid awards where respondents lack sufficient resources. Investors are required to resolve disputes in FINRA's arbitration forum, and the effectiveness of that system depends in substantial part on the credibility of its outcomes. A carefully designed backstop, paired with strong disciplinary and supervisory measures, could enhance fairness without diminishing individual accountability.

FINRA has an opportunity to significantly improve its approach. CFP Board recognizes that some reforms may require coordination with the SEC or legislative action. Where FINRA possesses rulemaking authority, however, CFP Board encourages timely consideration of reforms that can materially improve investor recovery. Addressing unpaid awards is fundamental to maintaining public trust in both the financial services profession and the systems designed to protect investors when misconduct occurs.

B. FINRA Should Not Change its Rules Regarding Pre-Hearing Motions to Dismiss

In Request for Comment B(ii).1., FINRA asks: *Should FINRA change the timing or expand the circumstances under which the panel may act upon a prehearing motion to dismiss a party or claim? If so, what should those changes be? What customer protection and fairness considerations should be part of evaluating this question?*

FINRA's current motion-to-dismiss rules were adopted to protect investors from abusive practices that threatened their ability to pursue claims in arbitration. Those protections remain essential and should not be weakened.

FINRA's own findings at the time of adoption of the current rules were clear: motions to dismiss were increasing, most were denied, and the trend - if left unchecked - risked making arbitration more costly and less accessible for customers. The existing rules were crafted to prevent precisely that outcome. Expanding the grounds for dismissal now would reintroduce the same risks.

Investors already face significant challenges in recovering losses, including undercapitalized firms, limited insurance coverage, and a persistent problem of unpaid arbitration awards. Adding new procedural barriers at the outset of a case would only compound these challenges.

Moreover, FINRA arbitration is not structured like civil litigation. It does not include formal pleading standards or mechanisms that allow claimants to amend their filings after a dismissal. Allowing respondents to pursue broader dismissal motions without providing investors comparable procedural protections would be fundamentally unfair.

CFP Board encourages FINRA to focus instead on measures that enhance fairness for investors. These include reaffirming that the forum does not require court-style pleadings and ensuring that respondents meet their basic discovery obligations before filing any motion to dismiss. These steps would promote efficiency and fairness without undermining the core purpose of the existing rules.

For these reasons, CFP Board opposes expanding the use of prehearing motions to dismiss.

C. FINRA Should Improve its AAO Database

1. CFP Board is Among the Users of the AAO Database

In Request for Comment J.1., FINRA asks, *Who currently uses AAO and for what purposes?*

FINRA's AAO database is an essential public resource that supports transparency, accountability, and informed decision-making across the securities ecosystem. As FINRA evaluates potential changes to AAO, CFP Board urges FINRA to recognize the broad and critical functions the database serves—not only for investors, academics, and regulators, but also for professional oversight organizations such as CFP Board.

CFP Board relies on the AAO database in its enforcement and disciplinary functions, which are central to our mission to uphold the integrity of the CFP® certification and protect the public. CFP Board reviews arbitration awards to:

- Identify patterns of alleged misconduct
- Assess the seriousness of customer harm reflected in arbitration outcomes
- Evaluate whether conduct described in awards implicates a CFP® professional in a potential violation of CFP Board's *Code of Ethics and Standards of Conduct* (CFP Board's standards may be different from regulatory standards or those that apply in arbitration)
- Support CFP Board investigations and allegations in disciplinary proceedings when arbitration findings raise ethical concerns
- Corroborate or contextualize information disclosed through BrokerCheck or other regulatory sources

Because arbitration awards often contain information not available elsewhere, the AAO database is indispensable to CFP Board's ability to conduct thorough, fair, and evidence-based enforcement.

CFP Board also recognizes that the AAO database serves a wide range of additional users whose interests align with investor protection including:

- Parties to FINRA arbitrations, who rely on the AAO database to evaluate arbitrators and prepare their cases
- Third-party research organizations, which build analytical tools that depend on the AAO database
- Academic researchers, whose empirical studies have revealed systemic issues in arbitration fairness
- Investors and the general public, who use the AAO database to understand broker behavior beyond what appears in BrokerCheck
- Regulators, including FINRA, the SEC, NASAA members, and compliance departments
- Journalists, who rely on the AAO database to report on trends, unpaid awards, and expungement practices

Each of these user groups contributes to a more transparent and accountable marketplace.

2. FINRA Should Not Remove Awards or Permit Redaction Except in Narrow, Privacy-Related Circumstances.

Request for Comment J.2. asks, Should FINRA consider amending its rules so that FINRA could remove awards from AAO or redact information from awards published on AAO? If so, in what circumstances would it be appropriate for FINRA to remove awards from AAO or redact information from awards published on AAO? What impact would such removal of awards or redaction of information from awards have on transparency into FINRA’s arbitration process and the utility of displaying awards to parties and users of AAO? What customer protection and fairness considerations should be part of evaluating these questions?

The AAO database – like BrokerCheck – is one of the most important transparency mechanisms in the financial services industry. Allowing removal or redaction of awards would undermine investor protection, impair regulatory and professional oversight, and weaken the ability of organizations like CFP Board to fulfill their public-interest missions.

The transparency of the AAO database is essential to public confidence. Indeed, the SEC recognized in 1989 that public access to arbitration awards is “very significant in promoting investor confidence.”⁴ That rationale remains compelling today. Removing awards would recreate the information asymmetry that historically disadvantaged investors and other one-time participants. The AAO is the primary tool that allows investors, their counsel, and third parties like CFP Board to narrow this gap. Removing awards would widen it.

⁴ Order Approving Proposed Rule Changes by NYSE, NASD, and ASE Relating to the Arbitration Process and the Use of Predispute Arbitration Clauses, Release Nol. 34-26805, 54 Fed. Reg. 21144, 21152 (May 16, 1989) (SEC approval order requiring public availability of arbitration awards).

Inherent weaknesses in the expungement process support retaining awards, even if they contain information that has been expunged. Expungement is granted at extremely high rates and investors often lack notice or resources to participate. If awards were removed from AAO following expungement, then the result would be a regulatory blind spot. CFP Board would lose access to factual information necessary to evaluate misconduct, and future investors would be deprived of critical context.

Some argue that if information is removed from CRD and BrokerCheck, then the corresponding award should also be removed from the AAO database. We disagree. BrokerCheck is a disclosure system; the AAO database is a historical record of adjudicated disputes. The fact that a dispute occurred—and how it was resolved—remains relevant to investor protection, regulatory oversight, and professional discipline.

There may be circumstances where sensitive personal information is inadvertently disclosed that would merit redaction. However, entire awards should not be removed.

In Request for Comment J.3., FINRA asks: *Are there ways in which FINRA could enhance the search capabilities of AAO to be more helpful to users?*

CFP Board strongly supports improving the AAO database's search functionality. Enhancements would promote fairness, reduce information asymmetry, and strengthen the ability of regulators, researchers, and professional oversight bodies to identify misconduct. Improvements should include:

- Structured data fields and faceted search
- Arbitrator statistics and outcome analytics
- Links to related court actions and BrokerCheck entries
- Advanced full-text search
- API access or bulk data downloads
- Cross-referencing across FINRA systems

These enhancements would significantly improve the utility of the AAO database for all users, including CFP Board in upholding its ethical standards.

III. Conclusion

CFP Board appreciates FINRA's willingness to examine whether its arbitration framework continues to serve investors, market integrity, and the public interest. As FINRA considers potential reforms, CFP Board urges FINRA to address structural weaknesses – particularly unpaid awards – that undermine confidence in the system, preserve the investor-protective foundations of the forum, strengthen transparency tools that support accountability.

Thank you for the opportunity to provide these comments. If FINRA staff has any questions or would like to discuss these issues further, please do not hesitate to contact Erin Koepfel, Managing Director of Government Relations and Public Policy Counsel at ekoepfel@cfpboard.org.

Sincerely,

A handwritten signature in black ink that reads "K. Dane Snowden". The signature is written in a cursive style with a large, stylized "K" and "S".

K. Dane Snowden
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