

**Legal and Governmental Affairs**  
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May 1, 2026

Jennifer Piorko Mitchell  
Office of the Corporate Secretary  
Financial Industry Regulatory Authority  
1700 K Street, NW  
Washington, D.C. 20006

**Re: Regulatory Notice 26-06 — Modernizing FINRA Arbitration  
Rules, Guidance and Processes**

Dear Ms. Mitchell:

Charles Schwab & Co., Inc. appreciates the opportunity to comment on Regulatory Notice 26-06, Modernizing FINRA Arbitration Rules, Guidance and Processes by which FINRA seeks information about modernizing its arbitration rules, guidance, and processes. Arbitration plays a critical role in customer dispute resolution, and maintaining confidence in the fairness, consistency, and quality of outcomes benefits investors, firms, and the forum itself. As such, Schwab strongly supports and is grateful for FINRA's willingness to reexamine core aspects of its arbitration system.

Because modernization affects so many constituents—including firms, customers and their advocates, arbitrators, and the industry writ large—improvement, enhancement, and reform must be accomplished through thoughtful transparency and careful study. Accordingly, Schwab respectfully urges FINRA to employ the process it applied with its review of the Enforcement Program under the FINRA Forward initiative: by retaining outside subject-matter experts to ensure FINRA benefits from a variety of external perspectives before undertaking any changes.

Based on our review, it appears that most similar dispute-resolution systems, public or private, that handle complex matters of comparable legal and monetary stakes have developed two features that FINRA arbitration presently lacks: specialist decision-makers and articulated legal guidance. To that end, Schwab proposes that FINRA study these two core areas for modernization prior to making any changes.

## 1. Specialist Decision-Makers

Arbitrator qualifications are generalist in nature. As a baseline, FINRA requires a four-year college degree and five years of paid professional experience. There are no requirements for a law degree, securities-industry experience, or any subject-matter certification. Chairperson eligibility adds FINRA chairperson training plus either bar membership with one completed arbitration or three completed arbitrations without a law degree. This is a sharp contrast to entities like JAMS and AAA which both maintain dedicated complex case panels for private commercial arbitrations.

Inadequate compensation further suppresses arbitrator qualifications. FINRA arbitrators are paid \$300 per hearing session (a session being four hours or less), with a chairperson premium of \$250 per merits hearing day and \$125 per prehearing conference. So, a typical three-day FINRA merits hearing would pay a chairperson approximately \$2,650 and the other two arbitrators \$1,800 each. By contrast, an arbitrator sitting on a JAMS financial services panel or an AAA complex case panel may receive \$750 to \$2,000 per hour, an order-of-magnitude differential that potentially screens out individuals like retired federal judges, senior former regulators, and specialized practitioners who may be better suited to preside over complex matters, simply because of opportunity cost.

All FINRA disputes are treated equally—from a straightforward single claimant expungement matter, for example, to a complicated multi-claimant multi-firm and multi-million-dollar margin liquidation case. While FINRA arbitration works well for ordinary cases—with benefits including speed, access, finality, and lower cost—it may break down for larger and more complex cases.

To address these issues, Schwab urges FINRA to consider studying the following enhancements:

- The establishment of a large and complex case designation that is predicated on claim size, product complexity, legal issue complexity, or multi-claimant features.
- The creation of a complex case roster, requiring qualified arbitrators to maintain certain credentials like law degrees; current or former membership in good standing of state or federal bars; service as retired federal or state judges or as a former staff member of the SEC, CFTC, state securities commission, or a federal banking regulator; previous service as chairpersons through award on at least three FINRA customer arbitrations; completion of arbitrator training, chairperson training, and a complex case certification program that covers securities-industry legal standards, damages methodologies, expert-evidence gatekeeping, and award-drafting; and/or annual continuing education requirements in securities law, FINRA enforcement developments, and relevant products.
- The creation of specialized product sub-rosters within the complex case roster, with certain arbitrators maintaining specialized subject-matter expertise in such areas as

options and structured products; margin and securities-based lending; digital assets and tokenized securities; alternative investments; and ERISA- and insurance-adjacent products.

- The enhancement of chairperson qualifications for complex case matters based on years of experience, type of experience, and number of FINRA customer arbitrations chaired.
- Increased compensation for arbitrators commensurate with the complex case designation and its funding mechanism.
- Enhanced disclosure and vetting for complex case arbitrators that provide for disclosures related to all prior service as expert witness, party representative, or arbitrator in securities disputes over the preceding 10 years; all publications, speaking engagements, and public positions taken on any legal issue likely to arise in the arbitration; financial interests in any publicly traded broker-dealer, investment adviser, or clearing firm; and any FINRA-administered arbitration in which the arbitrator's service was challenged for cause, with outcomes.

## 2. Articulated Legal Guidance

In state and federal litigation, courts maintain pattern jury instructions that provide the legal standard by which decisions are rendered. These instructions are supplemented by other bench books providing guidance about scientific evidence or complex litigation. Pattern jury instructions are designed to provide clear, accurate, and neutral statements of the law, promoting consistency, fairness, and legal exactitude in deliberations while reducing the risk of reversible error or unfair results. Schwab, therefore, recommends FINRA to consider studying the following enhancements:

- The creation and establishment of a FINRA model arbitrator instructions committee modeled on circuit pattern instruction committees designed to produce pattern arbitrator instructions that represent the unified view of the industry and the claimant bar.
- The implementation of FINRA model arbitrator instructions that would cover recurring claim types in customer arbitration, including concepts like suitability; Regulation Best Interest; common-law fraud and negligent misrepresentation; breach of fiduciary duty; negligence; breach of contract; failure to supervise; aiding and abetting; causation; and mitigation.
- The adoption of pre- and post-hearing conferences at which each party submits proposed model or modified-model instructions and the panel, assisted by the chairperson, rules on which instructions the panel will apply.

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Thank you for the opportunity to provide our views on this Regulatory Notice. The issues FINRA is grappling with have real consequences, which is why Schwab recommends FINRA undertake a study prior to implementing any changes. Schwab maintains that such a study, followed by appropriate changes, would materially improve the arbitration system for all.

Sincerely,

/s/ Shamoil Shipchandler

*Shamoil Shipchandler*  
*Chief Counsel and Managing Director*  
*Charles Schwab & Co., Inc.*