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McLaughlin Ryder  
*Investments, Inc.*

April 23, 2026

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

***Re: Regulatory Notice 26-06 – Request for Comment on Modernizing FINRA Arbitration Rules, Guidance and Processes***

Dear Ms. Mitchell:

This letter responds to FINRA Regulatory Notice 26-06. FINRA’s request for comment presents an important opportunity—but also a risk. If the process is driven primarily by investor-bar narratives rather than structural realities, the result will be further imbalance rather than meaningful reform.

It is important to state plainly: the central weaknesses in the current arbitration forum do not arise from insufficient claimant advantage. They arise from inconsistency, lack of regulatory grounding, and structural gaps that undermine both predictability and legitimacy.

**1. The Narrative That the Forum Systemically Disadvantages Customers Is Overstated and Misleading**

A recurring assertion from the investor bar is that FINRA arbitration is inherently biased against customers and therefore requires further tilting of procedures in their favor. That claim does not withstand scrutiny.

Customers already benefit from:

- A forum that is mandatory for firms in most disputes,
- Relaxed evidentiary standards relative to court proceedings,
- Limited motion practice, and
- Panels that, in practice, often resolve close questions on equitable grounds.

Further procedural asymmetry is neither justified nor sustainable. Reform should focus on consistency and rule application—not outcome engineering.

**2. Removing Industry Arbitrators Has Not Increased Fairness—It Has Reduced Competency**

Investor-bar advocacy has long supported the elimination of industry arbitrators on the premise that their presence introduces bias. The practical result has been the opposite of what was promised.

Panels now frequently lack the expertise necessary to:

- Interpret FINRA rules,
- Evaluate supervisory systems, and
- Distinguish between regulatory violations and market outcomes.

This has led to decisions that are less predictable and less anchored in governing standards.

Reintroducing industry expertise is not a concession to firms—it is a prerequisite for informed decision-making. The current model substitutes inexperience for neutrality, which serves neither party.

### **3. Expanding Dispositive Motions Is Not a Threat to Fairness**

Investor advocates often argue that allowing broader motions to dismiss would deprive customers of their “day in court.” That framing ignores the cost and inefficiency of forcing meritless claims through full hearings.

A properly structured dispositive motion framework:

- Screens legally deficient claims,
- Reduces unnecessary cost for all parties, and
- Preserves resources for disputes that warrant full adjudication.

Refusing to permit such tools does not promote fairness—it institutionalizes inefficiency.

### **4. Cost Concerns Cut Both Ways**

Investor-bar commentary frequently highlights the cost of arbitration to claimants, while ignoring the parallel burden on firms—particularly smaller firms—that must defend claims regardless of merit.

Escalating costs are not evidence of insufficient claimant advantage; they are evidence of a system that lacks proportionality. A 10:1 disparity exists between firm and customer initial filing fees. Alternative arbitration forums (AAA and JAMS) are more balanced. Federal Court initial filing fees are significantly less than a FINRA firm’s initial filing fee.

Reform should focus on:

- Streamlined procedures,
- Early issue resolution, and
- Cost discipline across the system.

### **5. Expungement Critiques Overlook the Need for Accuracy in Disclosure Systems**

Investor advocates often characterize expungement as overused or improperly granted. This framing discounts the equally important need to ensure that public disclosure systems are accurate and not populated with demonstrably false or misleading information.

A balanced approach requires:

- Maintaining rigorous standards, and
- Preserving a meaningful pathway for correction of inaccurate records.

Eliminating or unduly restricting expungement would create its own form of unfairness.

## **6. The Real Deficiency Is Lack of Rule-Based Decision Making**

The most significant issue facing FINRA arbitration is not bias—it is inconsistency arising from decisions that are insufficiently grounded in FINRA rules and securities law.

A system that produces unpredictable, equity-driven outcomes:

- Fails firms that seek to comply with clear standards, and
- Fails customers who deserve consistent application of those standards.

Both constituencies are harmed by the same deficiency.

## **7. Reasoned Awards and Regulatory Anchoring Are Essential**

Investor-bar commentary often emphasizes access and outcomes, but gives insufficient weight to transparency and analytical rigor.

FINRA should require:

- Reasoned awards,
- Explicit reference to applicable rules where relevant, and
- Greater transparency in decision-making.

These reforms would benefit all parties and strengthen confidence in the forum.

## **8. Reform Should Not Be Used to Rebalance Outcomes**

There is a meaningful difference between improving a system and attempting to influence outcomes. The latter is not an appropriate objective for a self-regulatory organization.

FINRA's role is to ensure:

- Fair process,
- Consistent application of rules, and
- Neutral adjudication.

Efforts to recalibrate the forum based on perceived outcome distributions risk undermining its legitimacy.

## Conclusion


FINRA's arbitration forum requires reform—but that reform must be grounded in structural realities, not advocacy narratives. The focus should be on restoring regulatory alignment, improving decision-making competency, addressing jurisdictional gaps, and controlling costs.

Further tilting the system in response to overstated claims of systemic bias will not improve fairness. It will reduce confidence in the forum and invite further instability.

We urge FINRA to pursue reforms that enhance consistency, transparency, and adherence to its own rules—rather than those that seek to influence outcomes under the guise of modernization.

We appreciate the opportunity to comment and would welcome further engagement on these issues.

Respectfully submitted,



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