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September 12, 2018

Jennifer Piorko Mitchell
FINRA Office of the Corporate Secretary
1735 K Street
Washington, DC 20006-1506

RE: *Regulatory Notice 18-22 – Proposed Amendment to Discovery Guide to Require Production of Insurance Information*

Dear Ms. Mitchell:

Regulatory Notice 18-22 and the Proposed Amendments to the FINRA Discovery Guide simply bring FINRA's discovery closer to the type of standard document production permitted and even *required* in many states. I write in favor of this common sense proposal. This proposal imposes virtually no burden on Respondents and provides meaningful information to customers to intelligently permit prosecution of their claims. In representing customers, I have seen instances where a broker-dealer claims to be broke, close to bankruptcy, or unable to pay any material amount or any award only to later learn that the broker-dealer actually has insurance policies that cover some or all of the claims the customers assert. Without information regarding insurance coverage, which is difficult to obtain under the current rules, claimants are forced to litigate with a blindfold on. This proposal simply helps keep thinly capitalized broker-dealers from threatening bankruptcy where insurance coverage exists.

The comments in opposition to the amendment all appear to fall from a variation of a Chicken Little "The Sky is Falling" slippery slope. Those opposed seem to argue that customers will file meritless cases, exaggerate damages, and increase insurance premiums. FINRA need look no further than the multitude of states around the country that permit or require even broader information on insurance policies than the proposed Discovery Guide Amendment. For instance, Florida law already *requires* insurers upon request to provide details regarding insurance policies that may satisfy any potential claims, including producing a copy of the policy in full and providing a statement of any policy or coverage defenses. *See* Section 627.4137, Fla. Stat. The supposed parade of horrors touted by those in opposition to the amendments is nowhere to be found in Florida or elsewhere. FINRA should not be misled by the Chicken Little comments in opposition to the amendments.

The insurance policies should generally be produced in full without redactions. If there is truly some sensitive information contained in the policy, the Respondent may seek a protective Order or other relief from the Panel. Furthermore, the clear language of the proposal itself establishes that the existence of insurance coverage will not be utilized as evidence of liability. Providing customers with the ability to obtain this information makes the process more efficient and transparent for all.

Sincerely,
/s/ Michael C. Bixby