

Subject: File No. SR-FINRA-2010-035
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August 20, 2010

I am an attorney whose practice focuses on the representation of investors in disputes with the securities industry. I am presently a member of the Board of Directors of the Public Investors Arbitration Bar Association (PIABA) and am a current public member of the National Arbitration and Mediation Committee of FINRA.

I write to express my support for the proposed revisions to the FINRA Discovery Guide (SR-FINRA-2010-35). It is my opinion that the proposed revisions are an overall benefit to public investors seeking discovery from brokerage firms. It is also my view that the Discovery Guide falls short in protecting investors from the scorched earth discovery tactics employed by Wall Street firms once an arbitration has been filed.

I specifically support the revisions to the introductory portion of the Discovery Guide that relates to confidentiality, affirmations and clarifies that the fact that parties may seek discovery of other documents that are not contained on the Discovery Guide document production lists. I also support the elimination of the burden on investors to produce documents that relate to action taken by the customer to limit losses.

The discovery of personal financial information of the customer (List 2, Item 1) lends itself to frequent abuse by broker dealers that attempt to justify unsuitable transactions after a complaint is made. Under the proposed Discovery Guide broker dealers have a discovery obligation to produce documents for the time period in which transactions took place. Contrariwise, the period of time for production of financial documents of the customer is oppressive. Customers are required to produce documents for extended time periods that exceed the time period when the transactions at issue took place. In circumstances where the transactions at issue may have taken place up to 6 years from the date of filing of the Statement of Claim, the Discovery Guide as written would obligate public investors to produce financial documents such as tax returns for a period of 9 years.

Another frequent area of abuse relates to proposed List 1, Item 11 which I support. The requirement of firms to provide a list of all manuals and bulletins containing compliance and/or supervisory mandates is a step in the right direction in eliminating hide the ball discovery tactics.

List 1, Items 16 and 17 do not in my view properly define the scope of relevant discoverable documents. Items 16 and 17 should be re-written to clarify the requirement for firms to produce documents where regulatory investigations relate to the brokerage firm or a product marketed by the firm. Nothing could be more relevant today in an environment where the vast majority of FINRA cases are driven by product failures.

Subject to my comments set forth above, it is my view that the interests of the investing public are best served by the Commission approving the proposed Discovery Guide revisions on an accelerated basis.