Subject: File No. SR-FINRA-2013-006
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I have been exclusively practicing securities arbitration for more than 20 years representing investors. I also teach Securities Arbitration in the Pepperdine School of Law. I am also the founder and director of the Pepperdine Investor Advocacy Clinic which was funded by a grant from FINRA in 2009. It would be fair to say that I have as much experience as anyone in the process of FINRA Arbitration's and making them a level playing field for investors. The SEC has recognized the need for a level playing field when it approved several years ago the rule that investors should have the choice of an all public pool which preliminary figures suggest has increased the percentage win rate for investors. The next logical step on the road to making FINRA arbitration's a level playing field is to make sure that public arbitrators are truly that: they have no significant past or present associations with hedge funds or mutual funds whose interests are aligned with broker dealers. It is unrealistic to believe that a hedge fund or mutual fund employee could disregard 30 years, or 20 years, or even 10 years of his or her experience and inherent bias. Certainly it would be difficult to convince investor clients that their claims were going to be heard on a level playing field even though one of the three arbitrators has or had a significant affiliation with the securities industry. Therefore, I favor the proposed rule only in part: that any individual who is associated with a hedge fund or mutual fund cannot be classified as a public arbitrator. The part I disagree with is the two year cooling off period. Any individual who has spent a significant amount of time, say 10 years or more should never be classified as a public arbitrator.