

AIDIKOFF, UHL & BAKHTIARI

9454 WILSHIRE BOULEVARD
SUITE 303
BEVERLY HILLS, CALIFORNIA 90212
WWW.SECURITIESARBITRATION.COM

PHONE (310) 274-0666
FAX (310) 859-0513

PHILIP M. AIDIKOFF
ROBERT A. UHL[§]
RYAN K. BAKHTIARI*[†][◊]
KATRINA M. BOICE[°]

OF COUNSEL
DAVID HARRISON*
DAVID G. SPIVAK

*ALSO ADMITTED NEW YORK
†ALSO ADMITTED DISTRICT OF COLUMBIA
◊ALSO ADMITTED TEXAS
°ALSO ADMITTED IDAHO
§RETIRED FROM FIRM

June 13, 2017

Via Email Only
pubcom@finra.org

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

Re: Special Notice – Engagement Initiative

Dear Ms. Mitchell:

I am a partner at Aidikoff, Uhl and Bakhtiari, a law firm devoted to the representation of individuals and institutions in disputes with Wall Street and the financial service industry. I am the former Chairman of FINRA's National Arbitration and Mediation Committee (NAMC) and a former President of the Public Investors Arbitration Bar Association (PIABA).

The purpose of this letter is to provide FINRA with comments and feedback in response to FINRA's evaluation of various aspects of its operations and programs. My comments are directed by my participation in FINRA's NAMC.

Request for Comment on Engagement in Advisory, Ad Hoc and District Committees

How effective is FINRA's advisory and ad hoc committee structure (e.g., the number and type of committees) in providing input to FINRA on industry developments, rule proposals, regulatory initiatives and programs?

FINRA's NAMC plays a vital role in the development and monitoring of policies and procedures concerning all aspects of the securities arbitration dispute resolution process. It is the exclusive forum for the stakeholders (public and industry representatives) along with FINRA staff to develop rules and policy for the process.

Do the existing committees enable appropriate engagement by FINRA with its members and other relevant stakeholders? Are there additional steps that FINRA can consider implementing to maximize the potential for obtaining new views and fresh perspectives on existing committees? Do the current committees enable sufficient engagement by FINRA with all of its different types of members, including members with different business models and

challenges? Should FINRA re-visit to what extent there is industry versus non-industry participation on the various advisory and ad hoc committees?

The various groups represented on the NAMC during my tenure are: large firms, small firms, independent broker-dealers, investor attorneys, mediators and clinic directors. The individuals that I have served with represent a diverse group with broad experience throughout the industry and the dispute resolution process. FINRA has found the right balance between investor and industry representatives.

Of the advisory and ad hoc committees, only the SFAB has elected members. Should FINRA consider including elected members on any other of its advisory or ad hoc committees? If so, which ones? What would be the advantages and disadvantages of a more formalized selection process for advisory and ad hoc committee membership?

The choice of membership has always been based on the participant's experience, credentials and the ability of both public and industry members to put the dispute resolution process ahead of partisanship. An election process would not be feasible or desirable for the NAMC.

Of the advisory committees, only the SFAB has term limits. Of the ad hoc committees, only the LRC has term limits. Should FINRA consider implementing term limits for its other advisory or ad hoc committees? If so, how long should the terms be?

Term limits would negatively impact the NAMC process. Many of the highly qualified and respected individuals from the public and industry would then be precluded from service. This may also disproportionately impact the industry if for example term limits were applied to the firm instead of the individual.

The District Committee, SFAB and NAMC rosters are available on FINRA's website. Should FINRA make publicly available all advisory and ad hoc committee rosters? Would the usefulness of this information outweigh concerns regarding inappropriate communication with or public disparagement of committee members?

Disclosure would further FINRA's efforts at transparency. The likelihood of inappropriate communication is low and can be directly addressed with committee members.

Other than posting committee rosters, what other information should FINRA make available to create additional transparency around FINRA's committees?

At a minimum, FINRA should provide the public with the individual's business affiliation and contact information.

In addition to providing a means for FINRA to obtain the views of committee members, FINRA understands that many members find the committees to be a useful way to learn about FINRA initiatives and to speak with FINRA management. Is this a useful purpose for the committees? Are there other steps that FINRA should consider, in addition to or in lieu of specific committees, to make information and FINRA personnel available to its stakeholders?

FINRA executives and staff involved with the NAMC committee do an exemplary job of public outreach with both the public and industry stakeholders.

FINRA's committees typically meet between two and five times per year. Is the current number of meetings sufficient? Should some committees meet fewer or more times per year? If so, which ones and why?

The current number of in-person NAMC meetings is appropriate to conduct the business of the committee. It is common that between in-person meetings, various sub-committees as well as the entire NAMC meet by telephone.

Is it preferable to hold committee meetings in-person or via teleconference, or a combination of both? Are there particular committee meetings that should be held in-person or via teleconference only?

It is highly preferable to conduct NAMC meetings in person. It is my belief that the in-person nature of the meetings and the exchange of dialogue is of critical importance. Many of the most important improvements to the dispute resolution process have been because of the NAMC committee members ability to form consensus or to come to unanimity in decisions. The ability to debate issues of importance with FINRA staff present and the real time exchange of ideas amongst staff cannot be replicated by phone or video conference meetings.

If you have been a member of any of FINRA's committees, what has been your experience serving on that committee? Is appropriate information provided to the committee to facilitate meaningful discussion and input into FINRA's operations and programs? What changes to the operation of that committee might enable it to have more meaningful discussion and input into FINRA's operations and programs?

In December 2015 the FINRA Dispute Resolution Task Force (Task Force) issued its final report relating to the comprehensive review of the forum. The Task Force report contained 51 separate recommendations which included potential rule making, policy and procedure changes. The 51 recommendations touched on all aspects of the process from arbitrator recruitment, expungement, motions to dismiss and mediation.

The NAMC committee structure provided the starting point for the analysis of the Task Force report. The first step in managing the Task Force recommendations was for members of the NAMC executive committee to triage the various recommendations into categories based on how quickly the concept could be reviewed and what action could be taken. For example, concepts involving transparency, recruitment, arbitrator training and case administration often did not require rule making and could be more quickly discussed and changes implemented. Concepts such as modifying the small claims process to permit parties to elect a modified hearing process required rule writing and thus additional committee time to discuss.

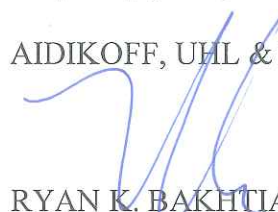
Often committee members or sub-committee groups asked FINRA staff for answers to questions, further information or follow up. FINRA staff has provided an enormous amount of analysis and information to NAMC members concerning the proposed Task Force recommendations.

On February 8, 2017, FINRA Office of Dispute Resolution released its second status report on the Task Force recommendations noting that action had been taken on 35 of the 51 recommendations with 16 items still pending. Of the remaining 16 items, all have been discussed by NAMC. While some additional work remains, the interplay between the Task Force, NAMC and FINRA executives and staff has been a model for enhancing the dispute resolution process.

Thank you for your attention to these critically important matters and the opportunity to comment.

Very truly yours,

AIDIKOFF, UHL & BAKHTIARI



RYAN K. BAKHTIARI
rkb@aublaw.com