

May 1, 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:

I appreciate the opportunity to comment on Regulatory Notice 26-06 regarding the modernization of FINRA's arbitration rules, guidance, and processes. Even though I have never experienced an arbitration, I have spoken to many member firm representatives and I hear their concerns. I submit these comments from the perspective and as representative of a FINRA member small firm, and I strongly support FINRA's efforts to modernize arbitration to better reflect current business practices, technology, and resource constraints.

**1. Costs Disproportionately Burden Small Firms**

The cost of arbitration, filing fees, forum fees, arbitrator compensation, discovery-related expenses, and legal fees can be significant for small firms. Even relatively small claims may require substantial expenses simply to defend the matter, which can create pressure to settle regardless of merit.

Modernization efforts should focus on cost-efficient procedures, clear limits on unnecessary hearings and submissions, and greater use of technology to reduce administrative and travel expenses. A more streamlined, predictable process would benefit all firms while maintaining fairness to all parties.

**2. Discovery Standards Need Greater Clarity and Consistency**

Discovery is often one of the most expensive and controversial aspects of arbitration. Small firms usually face broad and duplicative document requests that go beyond what is reasonably necessary, increasing costs and operational strain (since small firms do not have enough resources, both financial and head-count). By improving clarity and proportionality in discovery, it would help reduce costs and shorten case timelines.

I encourage FINRA to modernize discovery guidance by:

- Providing clearer limits on scope and proportionality

- Encouraging early and more active arbitrator involvement in discovery disputes
- Enhancing standardized discovery tools and guidance for common case types

### **3. Arbitrator Selection Can Be Difficult for Small Firms**

The arbitrator selection process can be challenging for small firms with limited experience and resources. Arbitrator disclosures are sometimes difficult to evaluate, and there may be limited information available to help the parties assess suitability, expertise, or potential conflicts.

I support modernization efforts that improve arbitrator transparency, enhance training and specialization, and refining selection tools to help parties make more informed choices. Consistency in arbitrator conduct and expectations would also improve confidence in the process.

### **4. Motions Practice Often Adds Cost Without Clear Benefit**

Motions practice, specifically motions to dismiss and discovery motions, can increase expenses and delay without always providing meaningful resolution. In some cases, inconsistent handling of motions by panels create uncertainty and incentivizes unnecessary filings. Clearer expectations would reduce unnecessary costs and procedural disputes.

FINRA should consider modernizing motions practice by:

- Clarifying standards and limits for dispositive and discovery motions
- Encouraging efficient resolution of routine procedural issues
- Providing additional arbitrator guidance to promote consistency

### **5. Continued Expansion of Virtual and Hybrid Options**

Virtual hearings and conferences have proven effective in reducing costs and logistical challenges. For small firms, the ability to participate remotely minimizes travel expenses and business disruption while preserving due process. I encourage FINRA to incorporate virtual and hybrid procedures as a formal and well defined part of the arbitration framework, supported by updated rules and guidance.

### **Conclusion**

For FINRA member small firms, the arbitration process can be costly, time-consuming, and unpredictable. Modernizing rules, guidance, and procedures, specifically in areas such as costs, discovery, arbitrator selection, and motions practice would significantly improve efficiency, fairness, and confidence in the system.

I commend FINRA for seeking public input and urge continued focus on practical reforms that reflect the realities that small member firms face.

Thank you for the opportunity to provide comments.

Sincerely,

Carlos Barrientos

CCO of a FINRA Member Small Firm