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Via Electronic Filing

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Proposed Rule Change Petition, File No. 4-586 – Elimination of FINRA-DR Mandatory Industry Arbitrator Pursuant to Commission Rule of Practice 192(a)

Dear Ms. Murphy:

The Cornell Securities Law Clinic (the "Clinic") welcomes the opportunity to comment on a rule change proposed by the Public Investors Arbitration Bar Association ("PIABA") pursuant to SEC Rule of Practice 192(a). The Clinic is a Cornell Law School curricular offering, in which law students provide representation to public investors and public education as to investment fraud in the largely rural "Southern Tier" region of upstate New York. For more information, please see http://securities.lawschool.cornell.edu.

The Clinic was one of the undersigned law school clinics that submitted a comment letter on August 4, 2009. (*See* letter of Christine Lazaro, St. John's University School of Law). The Clinic is filing this supplemental comment letter specifically to address FINRA's response to PIABA's proposed rule change. (*See* letter of Linda Fienberg on August 3, 2009). In particular, the Clinic objects to FINRA's request that the Pilot program, discussed below, be allowed to run its course.

The Pilot program is a two-year voluntary program that allows a limited number of public investor claimants to choose a panel consisting solely of public arbitrators under a procedure similar to that in the PIABA proposed rule change. FINRA believes that the Pilot program may provide sufficient data to analyze the effect of industry arbitrators on the arbitration process and to draw empirical conclusions that can guide the rulemaking process. The Clinic, however, believes that the Pilot program's shortcomings, discussed below, render any likely resulting conclusions inadequate to justify further delay.

First, only eleven firms are participating in the Pilot program, so there will be a very limited data set. Moreover, the data set will be further limited because the Pilot program

excludes many firms that are frequently subject to investor complaints (see p. 14 of PIABA's rule proposal). Accordingly, there is little reason to believe that allowing the Pilot program to run its course will generate sufficient data to change the SEC's view of the PIABA proposal.

Additionally, timing must be considered. The Pilot program, now in its first year, is scheduled to run for an additional year. FINRA would then need time to analyze the data and propose a rule change based on that analysis following the required process. Consequently, multiple years may come to pass before the Pilot program produces any potentially useful information which finds its way into a new rule. For a limited program which seeks to assess an arbitration procedure with already obvious flaws, this wait is not only far too long, but completely unnecessary given the limited data set to be generated.

While the Clinic appreciates that FINRA seeks to gather data, the immediate elimination of the mandatory industry arbitrator as set forth in the PIABA proposal is necessary to restore investor confidence in the arbitration process, for the reasons set forth in our prior letter. Accordingly, we urge the Commission to move forward on the PIABA proposal immediately.

Respectfully submitted,

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