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FINRA Continues Investor-Friendly Arbitration Reforms

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The Financial Industry Regulatory Authority (FINRA) is submitting rule amendments for SEC approval that would generally make individuals with any past ties to the financial industry ineligible to be considered "public" FINRA arbitrators. Currently, an individual with past ties to the industry, but no current ties, can be considered a public arbitrator under certain conditions. A FINRA panel typically includes three arbitrators, who can be public arbitrators, nonpublic (industry insider) arbitrators, or both. Several years ago, FINRA made rule changes that gave investors the power to demand panels comprised entirely of public arbitrators. *See also* "FINRA Favors an Easier Choice [of Public Arbitrators]" in *Expect Focus*, Volume III, Summer 2013. FINRA critics have argued that nonpublic arbitrators can exhibit bias in favor of the industry. **FINRA's tolerance for customer agreement provisions whereby broker-dealers require arbitration of disputes has also been criticized as unfriendly to investors.** *See, e.g.*, "Blue-Sky Regulators Attack Pre-Dispute Arbitration Agreements" in *Expect Focus*, Volume II, Spring 2013. The amendments FINRA submitted may help quell critics' frustration regarding mandatory arbitration provisions. If not, the SEC or Congress could act to prohibit these provisions. This could substantially reduce the volume of FINRA arbitrations, perhaps to the detriment of FINRA's arbitration program.

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