

Dear Sir or Madam:

I am writing to comment in support of FINRA's proposed amendment to the Discovery Guide to require production of insurance information in arbitration. I am an attorney whose primary practice area is representation of claimants in FINRA customer vs. member arbitrations, however I have also represented brokers and a pair of brokerage firms who were respondents in a small number of customer disputes. As stated in the notice, the benefits of requiring disclosure of available insurance coverage would help with settlement discussions and also help make this information consistently available in every arbitration, rather than on a case-by-case basis as it is now. Further, insurance information has also been useful to help determine who, if anyone, at a firm may have "control person" liability over the associated person involved in a claim.

Discoverability of insurance information is not new and should not be controversial. A number of states already require disclosure of insurance information. For example, Florida Statutes § 627.4137 requires:

(1) Each insurer which does or may provide liability insurance coverage to pay all or a portion of any claim which might be made shall provide, within 30 days of the written request of the claimant, a statement, under oath, of a corporate officer or the insurer's claims manager or superintendent setting forth the following information with regard to each known policy of insurance, including excess or umbrella insurance:

(a) The name of the insurer.

(b) The name of each insured.

(c) The limits of the liability coverage.

(d) A statement of any policy or coverage defense which such insurer reasonably believes is available to such insurer at the time of filing such statement.

(e) A copy of the policy.

In addition, the insured, or her or his insurance agent, upon written request of the claimant or the claimant's attorney, shall disclose the name and coverage of each known insurer to the claimant and shall forward such request for information as required by this subsection to all affected insurers. The insurer shall then supply the information required in this subsection to the claimant within 30 days of receipt of such request.

(2) The statement required by subsection (1) shall be amended immediately upon discovery of facts calling for an amendment to such statement.

(3) Any request made to a self-insured corporation pursuant to this section shall be sent by certified mail to the registered agent of the disclosing entity.

At a minimum, FINRA's Discovery Guide amendment should include disclosures of the name of each insurer who could potentially provide coverage for a given claim, the name of the insured(s), the limits of the coverage, a copy of the policy, and a copy of any Reservation of Rights letter to the insured. FINRA's proposal for sanctions for unauthorized disclosures of any/all of this information to the Panel should be sufficient to protect the information and resolve any concerns of prejudicial impact to the arbitrators. Thank you in advance for your consideration of this comment.

Sincerely,

Rob Norton

Robert E. Norton

Attorney at Law