LAMBERT
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September 23, 2018

VIA EMAIL TO PUBCOM@FINRA.ORG
Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 18-22

Dear Ms. Mitchell:

I am writing in support of the proposed amendment to the Discovery Guide to require routine disclosure of liability insurance coverage by broker-dealers who are thinly capitalized or not self-insured. I have represented investors in FINRA arbitrations for over 13 years and many of my clients would have benefited from having this insurance coverage information early in their cases.

The existence and scope of liability insurance policies is essential information for attorneys to consider if they are to properly advise investor victims in cases where the wrongdoer is thinly capitalized or insufficiently insured. The unfortunate reality is that many member firms and associated persons are financially unable to satisfy arbitration awards. The reality is that a respondent's ability to pay a later arbitration award is an essential consideration for investors that have been victimized. Without the benefit of this information, investors who file FINRA arbitration claims stand to be victimized again after spending a lot of time and money litigating their claims through a final award that the respondent never pays. Liability insurance coverage information can be useful to investors and their attorneys when evaluating whether or for how much to settle a claim prior to a hearing if such an opportunity arises. Keeping investors in the dark about this highly relevant information would be inconsistent with FINRA's mission to protect investors.

Disclosure of liability insurance coverage has been part of the Federal Rules of Civil Procedure for decades, mandating that coverage information be produced. *See* Federal Rule of Civil Procedure 26(a)(1)(A)(iv). It should not be the least bit controversial for FINRA to require its members to disclose information about liability coverage, if it

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exists. The rule amendment proposed in Notice 18-22 would also help prevent broker-dealers from threatening to file bankruptcy or filing a Form BDW in response to customer complaints.

The anticipated objections to Rule 18-22 by some in the securities industry are nothing more than red-herrings. There is nothing in the proposed rule amendment that makes it more likely that attorneys like me (or investors) will file more claims against wrongdoers. Similarly, there is no reason to believe that attorneys like me (or claimants) will attempt to use the existence of insurance coverage as evidence of wrongdoing. Not only would an insurance policy have no relevance to the legitimacy of the underlying claims, but the guidance on the proposed rule amendment also has strict limitations on making the arbitrators aware of an existing insurance policy.

If you have any questions about anything contained herein, please contact me.

Best Regards,

Marnie C. Lambert

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