

115TH CONGRESS
2D SESSION

S. 2499

To require the Financial Industry Regulatory Authority to establish a relief fund to provide investors with the full value of unpaid arbitration awards issued against brokerage firms or brokers regulated by the Authority.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2018

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To require the Financial Industry Regulatory Authority to establish a relief fund to provide investors with the full value of unpaid arbitration awards issued against brokerage firms or brokers regulated by the Authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINRA RELIEF FUND.**

4 (a) DEFINITIONS.—In this Act:

5 (1) BANK.—The term “bank” means—

6 (A) a banking institution organized under
7 the laws of the United States;

1 (B) a member bank of the Federal Reserve
2 System;

3 (C) any other banking institution—

4 (i) whether incorporated or not, doing
5 business under the laws of any State or of
6 the United States, a substantial portion of
7 the business of which consists of receiving
8 deposits or exercising fiduciary powers
9 similar to those permitted to national
10 banks under the authority of the Comp-
11 troller of the Currency pursuant to the
12 first section of the Act entitled “An Act to
13 place authority over the trust powers of
14 national banks in the Comptroller of the
15 Currency”, approved September 28, 1962
16 (12 U.S.C. 92a);

17 (ii) supervised and examined by a
18 State or Federal authority having super-
19 vision over banks; and

20 (iii) that is not operated for the pur-
21 pose of evading the provisions of that Act;
22 and

23 (D) a receiver, conservator, or other liqui-
24 dating agent of any institution or firm de-
25 scribed in subparagraph (A), (B), or (C).

1 (2) BROKER.—The term “broker”—

2 (A) means any individual, corporation,
3 partnership, association, joint stock company,
4 business trust, unincorporated organization, or
5 any other legal entity engaged in the business
6 effecting transactions in securities for the ac-
7 count of others;

8 (B) has been admitted to membership in
9 FINRA; and

10 (C) is not a bank.

11 (3) BROKERAGE FIRM.—The term “brokerage
12 firm” means any broker or dealer admitted to mem-
13 bership in FINRA.

14 (4) FINRA.—The term “FINRA” means the
15 Financial Industry Regulatory Authority.

16 (5) RELIEF FUND.—The term “relief fund”
17 means the relief fund that FINRA is required to es-
18 tablish under subsection (b).

19 (b) FUND ESTABLISHED.—FINRA shall establish a
20 relief fund that shall be used to provide an investor with
21 the full value of an arbitration award that—

22 (1) was issued in favor of the investor against
23 a brokerage firm or a broker regulated by FINRA;

24 (2) was confirmed in a court of competent ju-
25 risdiction in a final order that is not appealable; and

1 (3) is unpaid as of the date that the investor
2 submits a claim to the relief fund.

3 (c) NO LIMITATIONS.—FINRA may not—

4 (1) limit the amount that an investor may re-
5 ceive from the relief fund; or

6 (2) prohibit any investor from submitting a
7 claim to the relief fund.

8 (d) IDENTIFICATION OF SUFFICIENT FUNDS.—
9 FINRA shall ensure that—

10 (1) there are sufficient reserves in the relief
11 fund to provide each investor that submits a valid
12 claim to the relief fund with the entire amount owed
13 to that investor, including in a year in which there
14 may be an unusually large number of unpaid arbi-
15 tration awards that are subject to claims from the
16 relief fund;

17 (2) the reserves described in paragraph (1) are
18 obtained from brokerage firms or brokers regulated
19 by FINRA and not from investors; and

20 (3) the relief fund shall be funded first from
21 penalties paid by brokers and then from sources de-
22 termined by FINRA.

23 (e) DISCLOSURE.—FINRA shall annually disclose on
24 a publicly available website—

1 (1) for the year covered by the disclosure, the
2 total number of arbitration awards issued in favor of
3 investors against brokerage firms or brokers regu-
4 lated by FINRA, including—

5 (A) the total dollar amount of such
6 awards;

7 (B) the number of such awards that, as of
8 the date of the disclosure, are unpaid, including
9 the total dollar amount of the unpaid awards;
10 and

11 (C) with respect to each arbitration award
12 issued against a broker regulated by FINRA—

13 (i) the name of the brokerage firm or
14 broker regulated by FINRA against which
15 the award was issued;

16 (ii) the total amount of the award;

17 (iii) the specific claims asserted by the
18 investor in the arbitration;

19 (iv) the date by which the award was
20 required to be paid in full (pursuant to
21 FINRA rules); and

22 (v) the actual date the award was
23 paid in full or, if any part of the award
24 has not been paid in full, an explanation as
25 to why not; and

1 (2) beginning in the first full year after the re-
 2 lief fund is established, the number of—

3 (A) claims made to the relief fund during
 4 the year covered by the disclosure; and

5 (B) investors that made claims to the relief
 6 fund that, as of the date of the disclosure, have
 7 not obtained an amount from the relief fund.

8 (f) IMPLEMENTATION.—

9 (1) IN GENERAL.—FINRA shall—

10 (A) not later than 1 year after the date of
 11 enactment of this Act, promulgate such regula-
 12 tions as FINRA determines are necessary to es-
 13 tablish the relief fund; and

14 (B) when adopting rules under paragraph
 15 (1), establish a procedure for submitting a
 16 claim to, and recovering an amount from, the
 17 relief fund that—

18 (i) reduces the burden on investors;

19 and

20 (ii) ensures that an investor obtains
 21 an amount from the relief fund as quickly
 22 as is practicable after submitting a valid
 23 claim to the relief fund.

24 (2) FAILURE TO PROMULGATE REGULATIONS.—

25 If FINRA fails to promulgate the regulations under

1 paragraph (1), FINRA shall use amounts made
2 available to FINRA from its general budget to pay
3 claims made to the relief fund.

4 (g) CLAIMS.—FINRA may require investors to sub-
5 rogate their claims against brokers and FINRA may pur-
6 sue additional remedies against the brokers.

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