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**VIA ELECTRONIC MAIL** – [pubcom@finra.org](mailto:pubcom@finra.org)

September 21, 2018

Jennifer Piorko Mitchell  
Office of the Corporate Secretary  
FINRA  
1735 K Street, NW  
Washington, DC 20006-1506

Re: FINRA Request for Comment on Proposed Amendments to Its Discovery Guide to Require Production of Insurance Information in Arbitration

Dear Ms. Mitchell:

Thank you for the opportunity to comment on FINRA's proposed amendments to the Discovery Guide's Firm/Associated Persons Document Production List to require firms and associated persons, upon request, to produce documents concerning third-party insurance coverage in a customer arbitration proceeding.

Farmers Financial Solutions, LLC is strongly opposed to the proposed amendment.

Errors and Omission (E&O) Insurance coverage is not required by FINRA, and many firms simply do not carry this type of insurance. The existence of third-party insurance coverage is simply not relevant to an arbitration proceeding. An arbitration case should focus on the harm incurred to an investor, not the ability of an insurance company to make payments.

Moreover, injecting the issue of insurance coverage into an arbitration (by discovery or otherwise) will adversely impact both firms and customers in unintended ways. As is clear from other forums of civil litigation, disclosure of third-party insurance does not promote efficient and rational proceedings and settlement. To the contrary, the focus of plaintiffs' lawyers shifts from the actual harm which may have been caused to a customer, to the insurance policy limit. Disclosure of insurance policy limits tends to drive and impact many decisions from, which customers to accept as clients, to how the matter is prosecuted, to how much is demanded in settlement. The result is that litigation costs and settlement demands invariably rise, and become divorced from the actual economic harm at issue in the case. The result will be higher arbitration costs for all parties, and higher insurance premiums due to those higher costs.

Because of lack of relevance, and what will likely be adverse unintended consequences, Farmers Financial Solutions, LLC urges FINRA to reject the proposed amendment in total.

Alternatively, if the proposed amendment is to proceed; it must be revised to make clear it applies to the third-party **insurance policy document only**, (consisting of the policy form and declarations page).

As currently drafted, subpart (a) of the amendment referring to "...documents sufficient to provide details concerning coverage and limits of any insurance policy..." is vague, ambiguous and far too broad. Such a production requirement will invariably lead to disputes as to the type of "documents" required to be produced. It will also conflict with, and jeopardize, rights of confidentiality and privilege between and among insurance carriers, their insureds and their respective counsel.

In short, if such an amendment is to go forward, subpart (a) should be clearly limited to production of a copy of the third-party insurance policy document only.

Again, we appreciate the opportunity to respond. We urge FINRA to invalidate this proposed amendment. Alternatively, we urge that it be revised to require production of only the third-party policy document itself.

Sincerely,



Steven K. Klein  
Chief Compliance Officer