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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINRA RELIEF FUND.

(a) Definitions.—In this Act:

(1) Bank.—The term “bank” means—

(A) a banking institution organized under the laws of the United States;
(B) a member bank of the Federal Reserve System;

(C) any other banking institution—

(i) whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency pursuant to the first section of the Act entitled "An Act to place authority over the trust powers of national banks in the Comptroller of the Currency", approved September 28, 1962 (12 U.S.C. 92a);

(ii) supervised and examined by a State or Federal authority having supervision over banks; and

(iii) that is not operated for the purpose of evading the provisions of that Act; and

(D) a receiver, conservator, or other liquidating agent of any institution or firm described in subparagraph (A), (B), or (C).
(2) Broker.—The term “broker”—

(A) means any individual, corporation, partnership, association, joint stock company, business trust, unincorporated organization, or any other legal entity engaged in the business effecting transactions in securities for the account of others;

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

(C) is not a bank.

(3) Brokerage Firm.—The term “brokerage firm” means any broker or dealer admitted to membership in FINRA.

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

(5) Relief Fund.—The term “relief fund” means the relief fund that FINRA is required to establish under subsection (b).

(b) Fund Established.—FINRA shall establish a relief fund that shall be used to provide an investor with the full value of an arbitration award that—

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

(2) was confirmed in a court of competent jurisdiction in a final order that is not appealable; and
(3) is unpaid as of the date that the investor submits a claim to the relief fund.

(c) No Limitations.—FINRA may not—

1. limit the amount that an investor may receive from the relief fund; or
2. prohibit any investor from submitting a claim to the relief fund.

(d) Identification of Sufficient Funds.—FINRA shall ensure that—

1. there are sufficient reserves in the relief fund to provide each investor that submits a valid claim to the relief fund with the entire amount owed to that investor, including in a year in which there may be an unusually large number of unpaid arbitration awards that are subject to claims from the relief fund;
2. the reserves described in paragraph (1) are obtained from brokerage firms or brokers regulated by FINRA and not from investors; and
3. the relief fund shall be funded first from penalties paid by brokers and then from sources determined by FINRA.

(e) Disclosure.—FINRA shall annually disclose on a publicly available website—
(1) for the year covered by the disclosure, the total number of arbitration awards issued in favor of investors against brokerage firms or brokers regulated by FINRA, including—

(A) the total dollar amount of such awards;

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

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

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

(ii) the total amount of the award;

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

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

(v) the actual date the award was paid in full or, if any part of the award has not been paid in full, an explanation as to why not; and
(2) beginning in the first full year after the rel-
ief fund is established, the number of—

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

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

(f) IMPLEMENTATION.—

(1) IN GENERAL.—FINRA shall—

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

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

(i) reduces the burden on investors;

and

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

(2) FAILURE TO PROMULGATE REGULATIONS.—

If FINRA fails to promulgate the regulations under
paragraph (1), FINRA shall use amounts made available to FINRA from its general budget to pay claims made to the relief fund.

(g) CLAIMS.—FINRA may require investors to subrogate their claims against brokers and FINRA may pursue additional remedies against the brokers.