

SICA PILOT *cont'd from page 2*

and more recently adopted, either for all cases or at the election of the parties, by the NASD and the NYSE. Each party will receive two lists, one containing non-affiliated arbitrators and the other the names of affiliated arbitrators. Each party will have 20 days in which to strike any names and number the remaining names in order of preference.

JAMS requires \$25,000 in dispute and the AAA requires \$100,00, before the case will qualify for three arbitrators. In the event the claim is for less than these amounts, both parties must agree to proceed with fewer than three arbitrators.

Given the expense of three-arbitrator panels, many in the securities industry have adopted Seth Lipner's belief that numerous disputes in arbitration should be resolved by one arbitrator. This would save time and money by making the hearing easier to schedule and by lowering the cost involved in the

arbitration. Several have voiced the opinion that the parties may be willing to agree to a single arbitrator after the panel has been established and the chair chosen. At that juncture, both parties will know who the single arbitrator will be (namely the Chair) and may be comfortable in having him or her decide the case.

Oral Hearings

If the parties agree, oral hearings in a case may be waived.

Awards

Any awards under the pilot program shall contain the names of the parties and their representatives, a summary of the issues, the damages or other relief requested and awarded, a statement of any other issues resolved, the names of the arbitrators, the date the case was filed, the date of the award, the number and dates of hearings, and the location of the hearings. All of the information will be public except for the names of the parties and any wit-

nesses unless those individuals specifically agree to have their names made public.

Evaluations

SICA will evaluate the pilot program by various means including evaluation forms completed by the participants. Obviously, the program's purpose is to evaluate non-industry forums: therefore, the participants' active involvement in the evaluation process must occur. Records will be kept of every customer who participates in the program as well as the customers who decline to participate.

SICA has prepared special submission forms and evaluation forms for use in this program.

All the participants, industry forums, non-industry forums and firms have agreed to actively cooperate in an effort to make the program a success. The only ingredient left to come is the public customer. ■

Award Mini-Survey: SICA Pilot and Customer Award Volume

One criticism voiced about the "SICA Pilot" holds that the commitment made by the participating brokerage firms is small, in terms of case volume. One hundred Awards over two years for seven major broker-dealers might seem insignificant, but a closer look demonstrates otherwise.

Using the two-year period from 1997-1998, we queried SAC's Award Database to determine Award volume by participating broker-dealer. The results appear in the Chart below. We focused on Customer-Member Awards, Awards involving amounts in excess of \$10,000, figuring that small-claim cases meet the Pilot's parameters

Our first screen sought Customer-Member Awards where a participating broker-dealer was the principal Respon-

dent in the case. On the second pass, we screened out Awards where another Respondent was named, besides the participating broker-dealer.

PaineWebber, A.G. Edwards and Raymond James reflect Award totals that indicate their SICA Pilot commitments may constitute a third or more of their caseloads for the next two years, since it is the brokerage firms that have made this commitment, not their brokers, a Claimant who insists upon naming additional Respondents jeopardizes the right to arbitrate at JAMS or AAA. This frequently occurs, as the Chart's "BD Respondent Only" column shows. If we use these figures for comparison, all of the participating firms have made sizeable commitments, relative to the number of qualified cases.

What we take from the "BD Respondent Only" column is the caution that Claimants' counsel who want to qualify their cases for the SICA Pilot alternative will need to consider well if naming a second Respondent is a strategic must. Perhaps, in order to ensure inclusion, that second Respondent can be dropped (see, "Naming the Broker: The Pros and Cons," 2 SAC 7(7)). Of course, all this presumes that Claimants' counsel will rise to the challenge that now issues to those who for so long have clamored for a "window" to non-SRO forums. This program will be around for two years; if it goes unused, industry representatives and SICA members will have cause to believe that significant investor demand for an arbitration alternative is illusory. ■

Broker-Dealer Name	C/M Awards '97-'98 ¹			BD Respondent Only ²		SICA Pilot % ³	
Merrill Lynch	98 ¹	20	15%	Salomon Smith Barney	144	44 ²	10% ³
MS Dean Witter	77	18	20%	A.G. Edwards & Sons	33	5	45%
PaineWebber	44	6	34%	Raymond James	16	3	63%
Prudential Secs.	97	19	15%	Note: "SICA Pilot %" compares the 10 or 15 Award Pilot no. (see p. 1 Chart) to the no. of '97-'98 Award total for the BD.			