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Mission Statement

We publish *The Neutral Corner* to provide arbitrators and mediators with current updates on important rules and procedures within securities dispute resolution. FINRA's dedicated neutrals better serve parties and other participants in the FINRA forum by taking advantage of this valuable learning tool.

Office of Dispute Resolution (ODR) and FINRA News

COVID-19 Notice to Parties and Arbitrators



In response to the evolving coronavirus disease 2019 (COVID-19), FINRA has decided to administratively postpone all in-person arbitration and mediation proceedings scheduled through May 31, 2020. Parties with in-person hearing or mediation sessions scheduled through this date will be contacted by FINRA staff to reschedule or discuss remote scheduling options.

FINRA Dispute Resolution offers virtual hearing services (via Zoom and teleconference) to parties by joint agreement or by panel order. These services provide high-quality, secure, user-friendly options for conducting video and telephonic hearings and sharing documents remotely. We are encouraging the use of these virtual technologies as an alternative to postponing existing hearing dates.

If the parties in a case to which you are assigned jointly request a virtual hearing option or the panel orders the parties to proceed using a virtual hearing option, FINRA staff will contact you to provide additional information and training on these virtual technologies. FINRA staff will also remain available to provide technical support for all virtual hearings. For more information about the coronavirus impact on Arbitration and Mediation, visit [FINRA.org](https://www.finra.org).

Thank you for your commitment to FINRA's Dispute Resolution program during this challenging time. We wish you and your family safety, comfort and good health.

Arbitration Case Filings and Trends

2019 Year-End Statistics

[Arbitration case filings](#) for 2019 reflect a 13 percent decrease compared to cases filed in 2018 (from 4,325 cases in 2018 to 3,757 cases in 2019). Customer-initiated claims also decreased by 13 percent in 2019 compared to cases filed in 2018.

Arbitrator Travel Policy

We recently updated [FINRA's Arbitrator Travel Policy](#) (travel policy) to clarify the IRS's new reporting policy regarding meal reimbursement. Although FINRA will continue to reimburse meal expenses under \$25 without a receipt, we strongly encourage arbitrators to provide a receipt or credit card statement with meal expenses under \$25. In the absence of a receipt or credit card statement, FINRA will be required to report meal expenses under \$25 as taxable income. Please note that all meal expenses over \$25 still require receipts or credit card statements. Please review the updated travel policy. If you have any questions, please contact your regional office.

In 2019, customer arbitration cases filed identified the following securities (listed in order of decreasing frequency): municipal bond funds, municipal bonds, mutual funds, common stock, government securities, real estate investment trusts, options, private equities, exchange-traded funds, limited partnerships, variable annuities, annuities, corporate bonds, structured products and 401(k) plans. The top two causes of action alleged were breach of fiduciary duty and negligence.

Statistics through February

Arbitration case filings from January through February 2020 reflect a two percent increase compared to cases filed during the same two-month period in 2019 (from 581 cases in 2019 to 592 cases in 2020). Customer-initiated claims also increased by two percent through February 2020, as compared to the same time period in 2019.

2019 Arbitrator and Mediator Diversity Statistics

Since 2015, ODR has used a third-party consultant to survey the demographics of neutrals on an anonymous and voluntary basis. In making these findings available publicly, ODR strives to provide transparency about the current makeup of our roster of arbitrators and mediators. The 2019 diversity statistics—which are available now on [FINRA.org](https://www.finra.org)—show increases in the number of women, African Americans and Asians. Women accounted for 39 percent of the new arbitrator applicants, while 19 percent of the new arbitrator applications were submitted by African-Americans and three percent were submitted by Asians. While we are encouraged by these results and the incremental progress that has been made, we recognize that achieving our diversity goals is a long-term effort to which we will remain fully committed in the years ahead.

Removal of Award Information Sheet from FINRA's Website

On August 3, 2019, ODR added the Award Information Sheet (AIS) to the Dispute Resolution Portal (portal). After the arbitrators have deliberated, they can complete the AIS directly on the portal from the "Drafts & Submissions" tab rather than downloading a PDF to their personal computers.

As part of the award process, arbitrators can review award drafts in the portal in the “Award Review” tab for a case:

- On the “Award Review” tab, there is a “View Award Draft” button that opens the award draft PDF in the browser.
- The “Award Review” tab has two additional buttons: “Sign Award” and “Return for Correction.”
- If the award draft is complete and accurate, arbitrators can check the box to affirm the award as written, type their name and press the “Sign Award” button. This allows arbitrators to sign awards using an electronic signature.
- If there is an error or omission in the award draft, arbitrators can press the “Return for Correction” button. Arbitrators will need to contact staff by email or phone to discuss the issue with the award draft.

The PDF version of the AIS was removed from our website on March 2, 2020. The PDF will remain available to arbitrators upon request. Since 2017, FINRA rules have required all parties, except customers representing themselves, to use the portal. ODR integrated the AIS and other important forms onto the portal to encourage arbitrators to use the portal as the most efficient and secure way to communicate with parties and staff. If you need to register for the portal or need to reactivate a dormant account, please send an email to the [Department of Neutral Management](#) for an invitation.

If you have any questions about using the portal forms, please review the [User Guide](#) or contact ODR staff for assistance at (800) 700-7065.

Register for the Portal Today

If you have not already done so, we strongly encourage arbitrators and mediators to register for the portal. The portal allows you to:

- file case documents including the electronic Oath of Arbitrator and Checklist, the Initial Prehearing Conference, general, dismissal and postponement orders, and the AIS;
- access information about assigned cases, including case documents, upcoming hearings and arbitrator payment information;
- schedule hearings;
- update profile information;

- view and print the disclosure report;
- update the last affirmation date on the disclosure report; and
- review list selection statistics to see how often your name has appeared on arbitrator ranking lists sent to parties and how you have been ranked or struck on those lists.

Portal registration is reflected on the disclosure reports that parties review when selecting arbitrators and mediators.

Portal How-to Videos

If you need assistance updating your profile or submitting the Oath of Arbitrator or other forms in the [portal](#), the portal [how-to videos](#) are here to help. These videos are quick tutorials for arbitrators on navigating to the Update Form and Oath of Arbitrator. They also include information on how to disable pop-up blockers in different Internet browsers.

SEC Rule Approval

Amendments to FINRA Rule 12000 Series to Expand Options Available to Customers if a Firm or Associated Person is or Becomes Inactive

On February 20, 2020, the Securities and Exchange Commission (SEC) approved a proposal to amend FINRA Rules [12100](#), [12202](#), [12214](#), [12309](#), [12400](#), [12601](#), [12702](#), [12801](#) and [12900](#) of the Code of Arbitration Procedure for Customer Disputes (Customer Code) to expand a customer's options to withdraw an arbitration claim if a member or an associated person becomes inactive before a claim is filed or during a pending arbitration. In addition, the proposed amendments will allow customers to amend pleadings, postpone hearings, request default proceedings and receive a refund of filing fees in these situations. FINRA will announce the effective date of the proposal in a Regulatory Notice.

SEC Rule Filing

Applying Minimum Fees to Requests for Expungement of Customer Dispute Information

FINRA filed with the SEC a proposed rule change to amend [Part IX \(Fees and Awards\)](#) of the Customer Code and the Code of Arbitration Procedure for Industry Disputes (Industry Code, together, Codes) to apply minimum filing fees to requests for expungement of customer dispute information, whether the request is made as part of the customer arbitration or the associated person files an expungement request in a separate arbitration (straight-in request). The proposed rule change would also apply a minimum member surcharge and process fee to straight-in requests, as well as a minimum hearing session fee to expungement-only hearings. The time to submit comments expired on March 18, 2020. Please see [SR-FINRA-2020-005](#) for more information.

FINRA Board of Governors Meeting—December 2019

Increasing Arbitrator Chairperson Honoraria

In December 2019, FINRA's Board of Governors approved a proposal to amend the Codes to increase certain arbitration fees for the sole purpose of increasing arbitrator chairperson (Chair) honoraria. Under this proposal, the Chair of the panel would receive an extra \$250 per day instead of the current \$125 hearing-day rate. The proposed amendments would also create a new \$125 Chair honorarium for each prehearing conference in which the Chair participates. The proposed amendments will next be filed with the SEC.

Mediation Update

Mediation Statistics

2019 Year-End Statistics



In 2019 parties initiated 588 mediation cases, an increase of 16 percent compared to cases filed in 2018. FINRA closed 599 cases during this time. Approximately 86 percent of these cases concluded with successful settlements, and the average case turnaround time was 93 days.

Statistics through February

From January through February 2020, parties initiated 104 mediation cases, a decrease of six percent from the same period in 2019. FINRA also closed 123 cases during this time. Approximately 89 percent of these cases concluded with successful settlements.

Mediation Program for Small Arbitration Claims

FINRA's [Telephonic Mediation Program for Small Arbitration Claims](#) continues to receive positive feedback from parties and mediators. Active FINRA arbitration cases with initial claims of \$50,000 or less are eligible for the program. Claims for \$25,000 or less are eligible for mediation at no cost. Claims for more than \$25,000 through \$50,000 are eligible for a reduced fee of \$50 per hour (divided by the parties). FINRA collects no mediation filing fees for these cases.

To date, more than 90 percent of the cases mediated through this program have reached a settlement. While conducting mediations, FINRA mediators emphasize the value of telephonic mediation and help parties understand the strengths and weaknesses of their cases and help them shape their own outcomes.

Telephonic mediation offers seniors, or those with difficulty traveling, the option to participate in a mediation from the comfort of their own homes. Telephonic mediation also provides mediators with additional opportunities to mediate in hearing locations across the country, regardless of the mediator's home base.

We encourage parties and counsel in small cases to consider using the telephonic mediation program.

Keep It Current

Keeping your mediator disclosure report up-to-date—including the number of times you have mediated cases, your success rate and types of cases mediated—matters to parties when selecting a mediator. Parties have also requested references from mediators who do not list them on their disclosure report. Please add references to your disclosure report, so parties may consider them when selecting a mediator. If you have a cancellation policy, please include it in your disclosure report. You can update your mediator profile anytime through the [portal](#).

Mediator Training Opportunities

Occasionally, FINRA receives information about mediator training that we think would be of interest to our mediators. We will post information and links to these training opportunities on the [Resources for Mediators](#) page on our website.

Become a FINRA Mediator

Do you have mediator experience? Consider joining the FINRA mediator roster. Please email the [Mediation Department](#) for more information.



Questions and Answers

Requests for Postponement and Motions to Vacate

Question Under what circumstances should a panel grant a party's (opposed) postponement request?

Answer Rules 12601 and 13601 of the Codes provide that "a hearing may be postponed by the panel, upon motion of a party. The panel may not grant a motion to postpone a hearing made within 10 days of the date that the hearing is scheduled to begin, unless the panel determines that good cause exists." For example, parties may request postponements in order to:

- retain counsel;
- complete discovery;
- settle the case;
- locate a missing witness, party or counsel; or
- determine options should a witness become unavailable due to illness or death.

When deciding a postponement request, arbitrators should review the facts and arguments presented by the parties and consider:

- fairness to the parties;
- number of prior postponements;
- burden placed on the parties;
- panel's ability to conduct a productive hearing;
- age and health of parties or key witnesses; and
- whether the party or parties had information earlier in the proceeding that could have avoided the need to request a postponement.

Although one of the primary goals of arbitration is to provide an efficient resolution to the parties' disputes, arbitrators should balance expediency with the parties' genuine need to postpone the hearing. Arbitrators should remember that refusal to postpone, when sufficient cause is shown, is a ground for vacatur under Section 10 of the Federal Arbitration Act.

Hearing Rooms at Non-FINRA Locations

Question There is no recording device in the hearing room. Whom should I contact?

Answer You should contact the FINRA case administrator assigned to the case. They can track the recorder and follow up with the onsite contact to locate the device. In the unlikely event that the recorder has not been delivered, FINRA staff can coordinate with the onsite contact to have a speaker phone set up in the room and can arrange for our communications provider to digitally record the hearing. FINRA will make every effort to resolve the issue and proceed with the hearing as scheduled.

Question The temperature in the hearing room is too cold or too hot. What should I do?

Answer When you notice the temperature needs to be adjusted, you should ask the onsite contact for assistance.

Question The hearing room is too small to accommodate the number of hearing participants. What should I do?

Answer You should inform the onsite contact and inquire whether a larger conference room is available for the remainder of the hearing day(s). If the onsite contact is unable to accommodate the request, please reach out to the FINRA case administrator to discuss options.

Question The parties request a different table configuration. How can we accommodate this request?

Answer You should inform the onsite contact, and they will provide staff to reconfigure the table or provide additional tables.

Question There is construction noise that is disrupting the hearing. What can I do?

Answer If the construction is going on inside the facility, please let the onsite contact know and ask whether the work can be paused and restarted after 5:00 p.m. when the hearing concludes for the day. If that is not an option, please reach out to the FINRA case administrator to discuss options.

Arbitrator Tip

Videoconference Tips



Increasingly we are offering videoconferencing as an alternative to in-person or telephonic hearings. Before you join your next videoconference, be prepared and keep these tips in mind to ensure a successful meeting:

- **Test Your Equipment:** Make sure your computer and connection are ready when you are. If you have any questions about logging on to the videoconference, be sure to contact FINRA staff in advance of the call.
- **Properly Position Your Camera:** Position your camera at eye level. When a camera is angled too high or too low, it can be distracting.
- **Mute Your Microphone:** When you are not speaking, mute your line to avoid any background noise like construction, lawnmowers, barking dogs, televisions, etc. Be sure to turn your microphone back on before speaking.
- **Limit Distractions:** Turn off computer notifications, mute cell phones and streaming music, etc. Avoid checking your cell phone or emails while you are on a videoconference.
- **Look Professional:** Dress as if you are meeting in person and be mindful of personal grooming. That means no pajamas, t-shirts, baseball caps, etc. Always look professional.

Arbitrator Disclosure Reminder



As a reminder, arbitrators should review their disclosure reports regularly to ensure that all information is accurate and current. Even if arbitrators are not currently assigned to cases, their disclosure reports may be sent to parties during the arbitrator selection process. Giving parties the most current and complete information, helps them make informed decisions when selecting their panel. Arbitrators should log in to the [portal](#) to update their disclosure reports.

Last Affirmation Dates on Arbitrator Disclosure Reports

In 2017, FINRA enhanced arbitrator disclosure reports by publishing the date that arbitrators last affirmed the accuracy of their disclosure reports. The affirmation date appears prominently at the top of the disclosure report that parties review during the arbitrator selection process. Parties may consider the affirmation date when making decisions about ranking and striking arbitrators.

In order to provide parties with the most current arbitrator information, we are asking arbitrators to review their disclosure reports regularly and affirm the information in the disclosure report. Arbitrators can affirm their disclosures and refresh the affirmation date by submitting an update through the portal or by submitting an Oath of Arbitrator when assigned to a case. Even if you have no changes, you can update the affirmation date by affirming the information on your disclosure report and submitting an update form through the portal. If you would like to register in the portal or need to reactivate a dormant account, please send an email to [Dispute Resolution Neutral Management](#) to request an invitation. Please include “request portal invitation” in the subject line.

Directory

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Executive Vice President and
Director of Dispute Resolution

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Vice President of Dispute Resolution

James Schroder
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Regional Director
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Regional Director
Midwest Region

Laura D. McNamire
Regional Director
West Region

Manly Ray
Regional Director
Southeast Region

Jisook Lee
Associate Director of
Neutral Management and Editor of
The Neutral Corner

FINRA Dispute Resolution Offices

Northeast Region
FINRA Dispute Resolution
One Liberty Plaza, 27th Floor
165 Broadway
New York, NY 10006
Phone: (212) 858-4200
Fax: (301) 527-4873
neprocessingcenter@finra.org

West Region
FINRA Dispute Resolution
300 S. Grand Avenue, Suite 1700
Los Angeles, CA 90071
Phone: (213) 613-2680
Fax: (301) 527-4766
westernprocessingcenter@finra.org

Southeast Region
FINRA Dispute Resolution
Boca Center Tower 1
5200 Town Center Circle, Suite 200
Boca Raton, FL 33486
Phone: (561) 416-0277
Fax: (301) 527-4868
fl-main@finra.org

Midwest Region
FINRA Dispute Resolution
55 West Monroe Street, Suite 2600
Chicago, IL 60603-1002
Phone: (312) 899-4440
Fax: (312) 236-9239
midwestprocessingcenter@finra.org

Editorial Board

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Send all correspondence to Jisook
Lee, Associate Director of Neutral
Management and Editor of *The Neutral
Corner*:

FINRA Dispute Resolution
One Liberty Plaza
165 Broadway, 27th Floor
New York, NY 10006

Or call (212) 858-4400.

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