

## Simplified Arbitration

### SEC Approves Amendments to Arbitration Codes to Raise the Limit for Simplified Arbitration from \$25,000 to \$50,000

Effective Date: July 23, 2012

#### Executive Summary

FINRA Rules 12800 and 13800 (Simplified Arbitration) of the Customer and Industry Codes of Arbitration Procedure (Codes) provide streamlined arbitration procedures for claimants seeking damages of \$25,000 or less. The SEC approved amendments to the Codes to raise the dollar limit for simplified arbitration from \$25,000 to \$50,000.<sup>1</sup>

The amendments are effective on July 23, 2012, for all cases filed on or after the effective date.

The text of the amendments is set forth in Attachment A.

Questions concerning this *Notice* should be directed to:

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- ▶ Margo A. Hassan, Assistant Chief Counsel, Dispute Resolution, at (212) 858-4481 or [margo.hassan@finra.org](mailto:margo.hassan@finra.org).

#### Background & Discussion

Currently, FINRA offers streamlined arbitration procedures for claimants seeking damages of \$25,000 or less. Under Rules 12800 and 13800 (simplified arbitration rules), unless a party requests a hearing, a single arbitrator resolves the dispute and issues an award based on the written submissions of the parties. In a customer case, only the customer has the option to request a hearing (an industry party may not request a hearing). In an industry case, only the claimant (whether a firm or an individual) has the option to request a hearing (other parties may not request a hearing). FINRA also streamlines discovery for cases administered under these rules.

The SEC approved amendments to the Codes to raise the limit for claims

#### June 2012

##### Notice Type

- ▶ Rule Amendment

##### Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Registered Representatives

##### Key Topics

- ▶ Arbitration
- ▶ Code of Arbitration Procedure
- ▶ Simplified Arbitration

##### Referenced Rules & Notices

- ▶ FINRA Rule 12401
- ▶ FINRA Rule 12800
- ▶ FINRA Rule 13401
- ▶ FINRA Rule 13800

eligible under the simplified arbitration rules from \$25,000 to \$50,000. However, if any pleading (such as a counterclaim) increases the amount in dispute to more than \$50,000, FINRA would no longer administer the claim under the simplified arbitration rules. FINRA also made conforming amendments to Rules 12401 and 13401 (Number of Arbitrators) to reflect that FINRA will administer claims up to \$50,000 under the simplified arbitration rules.

The higher limit under the simplified arbitration rules benefits forum users in a number of ways. First, parties benefit from reduced forum fees because they can avoid hearing session fees and hearing process fees. Second, parties save the time and expense of preparing for, scheduling and traveling to a hearing when an arbitrator decides a case on the pleadings. Third, customers who are unable to retain an attorney, or are uncomfortable appearing at a hearing without representation, now have the option of having their claims decided on their written submissions. Fourth, FINRA can expedite administration of cases under the simplified arbitration rules because the arbitrator and the parties do not need to schedule a hearing.

The amendments are effective for all cases filed on or after July 23, 2012.

## Endnote

1. See Securities Exchange Act Rel. No. 66913 (May 3, 2012), 77 Federal Register 27262 (May 9, 2012) (File No. SR-FINRA-2012-012).

## ATTACHMENT A

New language is underlined; deletions are in brackets

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### Customer Code

#### 12401. Number of Arbitrators

**(a) Claims of [~~\$25,000~~] \$50,000 or Less**

If the amount of a claim is [~~\$25,000~~] \$50,000 or less, exclusive of interest and expenses, the panel will consist of one arbitrator and the claim is subject to the simplified arbitration procedures under Rule 12800.

**(b) Claims of More Than [~~\$25,000~~] \$50,000 Up To \$100,000**

If the amount of a claim is more than [~~\$25,000~~] \$50,000 but not more than \$100,000, exclusive of interest and expenses, the panel will consist of one arbitrator unless the parties agree in writing to three arbitrators.

**(c) No change.**

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#### 12800. Simplified Arbitration

**a) Applicability of Rule**

This rule applies to arbitrations involving [~~\$25,000~~] \$50,000 or less, exclusive of interest and expenses. Except as otherwise provided in this rule, all provisions of the Code apply to such arbitrations.

**(b) – (d) No change.**

**(e) Increases in Amount in Dispute**

If any pleading increases the amount in dispute to more than [~~\$25,000~~] \$50,000, the arbitration will no longer be administered under this rule, and the regular provisions of the Code will apply. If an arbitrator has been appointed, that arbitrator will remain on the panel. If a three-arbitrator panel is required or requested under Rule 12401, the remaining arbitrators will be appointed by the Director in accordance with Rule 12403(c) or Rule 12403(d). If no arbitrator has been appointed, the entire panel will be appointed in accordance with the Neutral List Selection System.

**(f) No change.**

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## Industry Code

### 13401. Number of Arbitrators

#### (a) Claims of ~~[\$25,000]~~ \$50,000 or Less

If the amount of a claim is ~~[\$25,000]~~ \$50,000 or less, exclusive of interest and expenses, the panel will consist of one arbitrator and the claim is subject to the simplified arbitration procedures under Rule 13800.

#### (b) Claims of More Than ~~[\$25,000]~~ \$50,000 Up To \$100,000

If the amount of a claim is more than ~~[\$25,000]~~ \$50,000 but not more than \$100,000, exclusive of interest and expenses, the panel will consist of one arbitrator unless the parties agree in writing to three arbitrators.

#### (c) No change.

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### 13800. Simplified Arbitration

#### a) Applicability of Rule

This rule applies to arbitrations involving ~~[\$25,000]~~ \$50,000 or less, exclusive of interest and expenses. Except as otherwise provided in this rule, all provisions of the Code apply to such arbitrations.

#### (b) – (d) No change.

#### (e) Increases in Amount in Dispute

If any pleading increases the amount in dispute to more than ~~[\$25,000]~~ \$50,000, the arbitration will no longer be administered under this rule, and the regular provisions of the Code will apply. If an arbitrator has been appointed, that arbitrator will remain on the panel. If a three-arbitrator panel is required or requested under Rule 13401, the remaining arbitrators will be appointed by the Director in accordance with Rule 13406(b). If no arbitrator has been appointed, the entire panel will be appointed in accordance with the Neutral List Selection System.

#### (f) No change.

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