

## Protecting Personal Confidential Information in Arbitration Cases

### SEC Approves Amendments to Codes of Arbitration Procedure to Require Redaction of Personal Confidential Information from Documents Filed With FINRA Dispute Resolution

Effective Date: July 28, 2014

#### Executive Summary

The SEC approved amendments to the Customer and Industry Codes of Arbitration Procedure to provide that any document that a party files with FINRA that contains an individual's Social Security number, taxpayer identification number or financial account number must be redacted to include only the last four digits of any of these numbers.<sup>1</sup> The amendments apply only to documents filed with FINRA. They do not apply to documents that parties exchange with each other or submit to the arbitrators at a hearing on the merits. In addition, the amendments do not apply to cases administered under the Simplified Arbitration rules.

The amendments are effective on July 28, 2014, for all documents filed with FINRA 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:

- ▶ Richard W. Berry, Senior Vice President and Director of Case Administration, Operations, and Regional Office Services, Dispute Resolution, at (212) 858-4307 or [richard.berry@finra.org](mailto:richard.berry@finra.org); or
- ▶ Margo A. Hassan, Assistant Chief Counsel, Dispute Resolution, at (212) 858-4481 or [margo.hassan@finra.org](mailto:margo.hassan@finra.org).

#### June 2014

##### Notice Type

- ▶ Rule Amendment

##### Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Registered Representatives

##### Key Topics

- ▶ Arbitration
- ▶ Codes of Arbitration Procedure
- ▶ Redacting Personal Confidential Information

##### Referenced Rules & Notices

- ▶ FINRA Rule 12300
- ▶ FINRA Rule 12307
- ▶ FINRA Rule 13300
- ▶ FINRA Rule 13307
- ▶ FINRA Rule 12800
- ▶ FINRA Rule 13800

## Background & Discussion

During an arbitration proceeding, parties submit pleadings and supporting documents to FINRA Dispute Resolution (DR) that may contain an individual's Social Security number, taxpayer identification number, or financial account number (personal confidential information or PCI). For example, customers often file account opening documents and account statements, which show their account numbers. Since FINRA employees regularly handle and transmit party documents containing PCI, FINRA has procedures in place to guide staff and arbitrators on how to keep confidential information safe. These procedures have enhanced the security of party documents and information. In an effort to further protect parties from identity theft and accidental loss of PCI, FINRA amended the Code of Arbitration Procedure for Customer Disputes and the Code of Arbitration Procedure for Industry Disputes to require parties to redact specified PCI from documents they file with FINRA.

Specifically, FINRA amended Rules 12300 and 13300 (Filing and Serving Documents) to provide that, in an electronic or paper filing with FINRA, any document that contains an individual's Social Security number, taxpayer identification number, or financial account number must be redacted to include only the last four digits of any of these numbers. The rules specify that a party must not include full numbers. If FINRA receives a claim,<sup>2</sup> including supporting documents, with a full Social Security, taxpayer identification or financial account number, FINRA will deem the filing deficient under Rule 12307 or Rule 13307 (Deficient Claims), as applicable, and will request that the party refile the document without the PCI within 30 days from the time the party receives notice. If a party files a document with PCI that is not covered by Rules 12307 or 13307 (a document other than a claim, such as a motion), FINRA will deem the filing to be improper and will request that the party refile the document, with the required redaction, within 30 days from the time the party receives notice. If the party refiles the document in compliance with the rules, FINRA will consider the document to be filed on the date the party initially filed it with FINRA.

There are two exceptions to the new redaction requirements. The amendments apply only to documents that parties file with FINRA (either in hard copy or electronically through, for example, the DR Portal). They do not apply to documents that parties exchange with each other, or submit to the arbitrators at a hearing on the merits. In addition, the amendments do not apply to cases administered under FINRA's Simplified Arbitration Rules 12800 and 13800.

To further protect themselves from the risk of identity theft, parties can agree to additional measures to protect PCI in the documents they share. For example, parties can agree not to use, or to redact driver license numbers and birthdates. Additionally, parties can agree to redact the entire Social Security number, taxpayer identification number or financial account number, if that is their preference. Finally, parties can use secure shredding facilities to safely dispose of documents they use at hearings.

## Effective Date

The amendments are effective on July 28, 2014, for all documents filed with FINRA on or after the effective date.

## Endnotes

1. See Securities Exchange Act Rel. No. 72269 (May 28, 2014), 79 Federal Register 32003 (June 3, 2014) (File No. SR-FINRA-2014-008).
2. The term claim means an allegation or request for relief and includes counterclaims, cross claims and third party claims.

## Attachment A

New language is underlined; Deletions are in brackets.

### Customer Code

#### 12300. Filing and Serving Documents

(a) – (f) No change

(g)(1) In an electronic or paper filing with FINRA, any document that contains an individual's Social Security number, taxpayer identification number or financial account number must be redacted to include only the last four digits of any of these numbers; a party shall not include the full numbers. If FINRA receives a claim, including supporting documents, with the full Social Security number, taxpayer identification number or financial account number, FINRA will deem the filing deficient under Rule 12307 and will request that the party refile the document in compliance with this paragraph. If a party files with FINRA any document not covered by Rule 12307, that contains full numbers as referenced above, FINRA will deem the filing improper and will request that the party refile the document within 30 days from the time the party receives notice. If a party refiles the document, the corrected documents will be considered filed on the date the party initially filed the documents with FINRA.

(2) The requirements of paragraph (g)(1) above do not apply to electronic or paper documents that parties exchange with each other and do not file with FINRA or to documents parties submit to a panel at a hearing on the merits.

(3) The requirements of paragraphs (g)(1) above do not apply to Simplified Arbitrations under Rule 12800.

### 12307. Deficient Claims

(a) The Director will not serve any claim that is deficient. The reasons a claim may be deficient include the following:

- A Submission Agreement was not filed by each claimant;
- The Submission Agreement was not properly signed and dated;
- The Submission Agreement does not name all parties named in the claim;
- The claimant did not file the correct number of copies of the Submission Agreement, statement of claim or supporting documents for service on respondents and for the arbitrators;
- The claim does not specify the customer's home address at the time of the events giving rise to the dispute;
- The claim does not specify the claimant's or the claimant's representative's current address; [or]
- The claimant did not pay all required filing fees, unless the Director deferred the fees; or
- The claim does not comply with the restrictions on filings with personal confidential information under Rule 12300(g).

(b) The Director will notify the claimant in writing if the claim is deficient. If the deficiency is corrected within 30 days from the time the claimant receives notice, the claim will be considered filed on the date the initial statement of claim was filed with the Director under Rule 12300(a). If all deficiencies are not corrected within 30 days, the Director will close the case without serving the claim, and will refund part of the filing fee in the amount indicated in the schedule under Rule 12900(c).

(c) The panel will not consider any counterclaim, cross claim or third party claim that is deficient. The reasons a counterclaim, cross claim or third party claim may be deficient include the reasons listed in paragraph (a). The Director will notify the party making the counterclaim, cross claim or third party claim of [the] any deficiencies in writing. If the deficiency is corrected within 30 days from the time the party receives notice, the counterclaim, cross claim or third party claim will be considered filed on the date the initial counterclaim, cross claim or third party claim was filed with the Director. If all deficiencies are not corrected within 30 days from the time the party making the counterclaim, cross claim or third party claim receives notice of the deficiency, the panel will proceed with the arbitration as though the deficient counterclaim, cross claim or third party claim had not been made.

## Industry Code

### 13300. Filing and Serving Documents

– (f) No change

(g)(1) In an electronic or paper filing with FINRA, any document that contains an individual’s Social Security number, taxpayer identification number or financial account number must be redacted to include only the last four digits of any of these numbers; a party shall not include the full numbers. If FINRA receives a claim, including supporting documents, with the full Social Security number, taxpayer identification number or financial account number, FINRA will deem the filing deficient under Rule 13307 and will request that the party refile the document in compliance with this paragraph. If a party files with FINRA any document not covered by Rule 13307, that contains full numbers as referenced above, FINRA will deem the filing improper and will request that the party refile the document within 30 days from the time the party receives notice. If a party refiles the document, the corrected documents will be considered filed on the date the party initially filed the documents with FINRA.

(2) The requirements of paragraph (g)(1) above do not apply to electronic or paper documents that parties exchange with each other and do not file with FINRA or to documents parties submit to a panel at a hearing on the merits.

(3) The requirements of paragraphs (g)(1) above do not apply to Simplified Arbitrations under Rule 13800.

### 13307. Deficient Claims

The Director will not serve any claim that is deficient. The reasons a claim may be deficient include the following:

- A Submission Agreement was not filed by each claimant;
- The Submission Agreement was not properly signed and dated;
- The Submission Agreement does not name all parties named in the claim;
- The claimant did not file the correct number of copies of the Submission Agreement, statement of claim or supporting documents for service on respondents and for the arbitrators;
- The claim does not specify the claimant's or the claimant's representative's current address; [or]
- The claimant did not pay all required filing fees, unless the Director deferred the fees; or
- The claim does not comply with the restrictions on filings with personal confidential information under Rule 13300(g).

(b) The Director will notify the claimant in writing if the claim is deficient. If the deficiency is corrected within 30 days from the time the claimant receives notice, the claim will be considered filed on the date the initial statement of claim was filed with the Director under Rule 13300(a). If all deficiencies are not corrected within 30 days, the Director will close the case without serving the claim, and will refund part of the filing fee in the amount indicated in the schedule under Rule 13900(c).

(c) The panel will not consider any counterclaim, cross claim or third party claim that is deficient. The reasons a counterclaim, cross claim or third party claim may be deficient include the reasons listed in paragraph (a). The Director will notify the party making the counterclaim, cross claim or third party claim of [the] any deficiencies in writing. If the deficiency is corrected within 30 days from the time the party receives notice, the counterclaim, cross claim or third party claim will be considered filed on the date the initial counterclaim, cross claim or third party claim was filed with the Director. If all deficiencies are not corrected within 30 days from the time the party making the counterclaim, cross claim or third party claim receives notice of the deficiency, the panel will proceed with the arbitration as though the deficient counterclaim, cross claim or third party claim had not been made.