

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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Text of Proposed FINRA Rules

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12000. CODE OF ARBITRATION PROCEDURE FOR CUSTOMER DISPUTES

PART I INTERPRETIVE MATERIAL, DEFINITIONS, ORGANIZATION AND AUTHORITY

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12100. Definitions

Unless otherwise defined in the Code, terms used in the Rules and interpretive material, if defined in the FINRA By-Laws, shall have the meaning as defined in the FINRA By-Laws.

(a) through (cc) No change.

(dd). Unnamed Person

The term “unnamed person” means an associated or formerly associated person who is identified in a Form U4 or Form U5 as having been the subject of an investment-related, customer-initiated arbitration that alleged that the associated person was involved in one or more sales practice violations, but who was not named as a respondent in the arbitration.

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PART VIII SIMPLIFIED ARBITRATION AND DEFAULT PROCEEDINGS

12800. Simplified Arbitration

(a) through (e) No change.

(f) Requests to Expunge Customer Dispute Information

- (1) An associated person or an unnamed person, as defined in Rule 12100(dd), may file a request for expungement of customer dispute information only at the conclusion of the investment-related, customer-initiated arbitration administered under Rule 12800.
- (2) A request for expungement of customer dispute information made under Rule 12800(f)(1) shall be filed pursuant to Rule 13805(a).

[(f)](g) Arbitrator Honoraria

No change.

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12805. Expungement of Customer Dispute Information under Rule 2080

(a) Requesting Expungement of Customer Dispute Information

(1) Associated Person Is Named as a Party

(A) If an associated person is named as a respondent in an investment-related, customer-initiated arbitration, the associated person may request expungement of customer dispute information in that case. If the associated person does not request expungement in the investment-related, customer-initiated arbitration, the associated person shall be prohibited from seeking to expunge the customer dispute information arising from the customer's statement of claim during any subsequent proceeding.

(i) The associated person may file a request to expunge customer dispute information or include the request in the answer or any pleading. The request must be filed no later than 60 days before the first scheduled hearing session, otherwise, pursuant to Rule 12309(b), the associated person must file a motion pursuant to Rule 12503, seeking an extension to file the expungement request. Along with the expungement request, the associated person must pay a filing fee of \$1,425 or the applicable filing fee provided in Rule 12900(a)(1), whichever is greater.

(ii) If the investment-related, customer-initiated arbitration closes by award, the panel must consider and decide the request for expungement of customer dispute information, pursuant to Rule 12805(b), during the investment-related, customer-initiated arbitration. The panel must issue its decision on the expungement request in the award, which must comply with the requirements of Rule 12805(b)(3).

(iii) If the investment-related, customer-initiated arbitration closes before the hearings on the merits conclude, the panel may not consider the associated person's request for expungement of customer dispute information.

(B) If the investment-related, customer-initiated arbitration closes before the hearings on the merits conclude, the associated person may file a request for expungement of customer dispute information as a new claim under Rule 13805(a) against the firm at which he or she was associated at the time of the events giving rise to the customer dispute, provided the filing of the request for expungement of this dispute is not barred pursuant to Rule 13805(a)(3).

(C) The associated person shall not file a separate claim that requests expungement of customer dispute information against the customer.

(2) Party Requests Expungement on Behalf of An Unnamed Person

(A) A party to an investment-related, customer-initiated arbitration may request expungement of customer dispute information on behalf of an unnamed person, as defined in Rule 12100(dd), with the written approval of the unnamed person.

(i) A party requesting expungement of customer dispute information on behalf of an unnamed person must file with the Director and serve on all parties no later than 60 days before the first scheduled hearing session a: (1) Form Requesting Expungement Relief on Behalf of an Unnamed Person, signed by the unnamed person whose Central Registration Depository system record would be expunged; and (2) statement requesting expungement. The signed form represents an acknowledgement by the unnamed person that he or she shall be bound by the panel's decision on the request for expungement of the customer dispute information.

1. The party may include the request to expunge customer dispute information on behalf of the unnamed person in the answer or any pleading.

2. The request must be filed no later than 60 days before the first scheduled hearing session.

3. If the party does not request expungement of customer dispute information within 60 days before the first scheduled hearing session, then pursuant to Rule 12309(b), the party must file a motion pursuant to Rule 12503, seeking an extension to file the expungement request.

4. Along with the expungement request, the party must pay a filing fee of \$1,425 or the applicable filing fee provided in Rule 12900(a)(1), whichever is greater.

(ii) If the investment-related, customer-initiated arbitration closes by award, the panel must consider and decide the request for expungement of customer dispute information, pursuant to Rule 12805(b), during the investment-related, customer-initiated arbitration. The panel must issue its decision on the expungement request in the award, which must comply with requirements of Rule 12805(b)(3).

(iii) If the investment-related, customer-initiated arbitration closes before the hearings on the merits conclude, the panel may not consider the party's request for expungement of customer dispute information on behalf of the unnamed person.

1. Within 5 days after FINRA closes the investment-related, customer-initiated arbitration, FINRA shall notify the unnamed person in writing that the arbitration has been closed.

2. The unnamed person may file the request for expungement of the customer dispute information as a new claim under Rule 13805(a) against the firm at which he or she was associated at the time of the events giving rise to the customer dispute, provided the filing of the request for expungement of customer dispute information is not barred pursuant to Rule 13805(a)(3).

3. The unnamed person shall not file a claim that requests expungement of customer dispute information against the customer.

(B) An unnamed person may file a claim requesting expungement of customer dispute information pursuant to Rule 13805(a) if a party in the investment-related, customer-initiated arbitration does not request expungement of customer dispute information on behalf of the unnamed person pursuant to Rule 12805(a)(2), provided the filing of the request for expungement of customer dispute information is not barred pursuant to Rule 13805(a)(3).

(i) The unnamed person shall not file a motion to intervene in the investment-related, customer-initiated arbitration.

(ii) The unnamed person shall not file a separate claim that requests expungement of customer dispute information against a customer.

(b) Deciding a Request for Expungement of Customer Dispute Information

In order to grant expungement of customer dispute information under Rule 2080, the panel must:

[(a)] (1) Hold a recorded hearing session [(by telephone or] in person or by videoconference[)] regarding the appropriateness of expungement.

[(b)] (2) In cases involving settlements, review settlement documents and consider the amount of payments made to any party and any other terms and conditions of a settlement.

[(c)] (3) [Indicate in the arbitration award which of the Rule 2080 grounds for expungement serve(s) as the basis for its expungement order and provide a brief written explanation of the reason(s) for its finding that one or more Rule 2080 grounds for expungement applies to the facts of the case.]

Agree unanimously to grant expungement and in the arbitration award:

(A) identify at least one of the Rule 2080(b)(1) grounds for expungement that serve(s) as the basis for expungement and provide a brief written explanation of the reason(s) for its finding that one or more Rule 2080(b)(1) grounds for expungement applies to the facts of the case; and

(B) make a finding that the customer dispute information has no investor protection or regulatory value.

[(d)] (4) Assess all forum fees for hearing sessions in which the sole topic is the determination of the appropriateness of expungement against the party requesting expungement.

(5) This rule will apply to requests for expungement of customer dispute information made under Rule 12800(f).

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13000. CODE OF ARBITRATION PROCEDURE FOR INDUSTRY DISPUTES

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PART VIII SIMPLIFIED ARBITRATION; DEFAULT PROCEEDINGS; STATUTORY EMPLOYMENT DISCRIMINATION CLAIMS; AND INJUNCTIVE RELIEF

13800. Simplified Arbitration

(a) through (e) No change.

(f) Requests to Expunge Customer Dispute Information

An associated person may only request expungement of customer dispute information under Rule 2080 by filing the request pursuant to Rule 13805(a) at the conclusion of the a case administered under this rule.

[(f)](g) Arbitrator Honoraria

No change.

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13805. Expungement of Customer Dispute Information under Rule 2080

(a) Requesting Expungement of Customer Dispute Information

(1) If an associated person files a claim that requests expungement of customer dispute information under Rule 2080, the claim must be filed against the firm at which he or she was associated at the time of the events giving rise to the customer dispute.

(2) An associated person may request expungement of customer dispute information by filing the request against a firm under Rule 13805(a)(1), provided the request is not barred pursuant to Rule 13805(a)(3). To request expungement of customer dispute information, the associated person must:

(A) file a claim with the Director, pursuant to Rule 13302; and

(B) pay a filing fee of \$1,425, or the applicable filing fee provided in Rule 13900(a)(1), whichever is greater.

(3) An associated person may not file a request for expungement of customer dispute information:

(A) if a panel or arbitrator in an investment-related, customer-initiated arbitration that involved the customer dispute information issued a decision on the associated person's request for expungement, under Rule 12805 or 13805, for the same customer dispute information;

(B) if a court of competent jurisdiction previously denied the associated person's request to expunge the same customer dispute information;

(C) if the investment-related, customer-initiated arbitration that involved the customer dispute information is not concluded;

(D) if more than one year has elapsed since FINRA closed the investment-related, customer-initiated arbitration that gave rise to the customer dispute information; or

(E) if there was no investment-related, customer-initiated arbitration involving the customer dispute information, and more than one year has elapsed since the date that the customer complaint was initially reported to the Central Registration Depository system.

(b) Deciding a Request for Expungement of Customer Dispute Information

In order to grant expungement of customer dispute information under Rule 2080, the panel must be selected pursuant to Rule 13806 and:

[(a)] (1) Hold a recorded hearing session in accordance with Rule 13805(c).

[(b)] (2) In cases involving settlements, review settlement documents and consider the amount of payments made to any party and any other terms and conditions of a settlement.

[(c)] (3) [Indicate in the arbitration award which of the Rule 2080 grounds for expungement serve(s) as the basis for its expungement order and provide a brief written explanation of the reason(s) for its finding that one or more Rule 2080 grounds for expungement applies to the facts of the case.]

Agree unanimously to grant expungement and in the arbitration award:

(A) identify at least one of the Rule 2080(b)(1) grounds for expungement that serve(s) as the basis for expungement and provide a brief written explanation of the reason(s) for its finding that one or more Rule 2080(b)(1) grounds for expungement applies to the facts of the case; and

(B) make a finding that the customer dispute information has no investor protection or regulatory value.

[(d)] (4) Assess all forum fees for hearing sessions in which the sole topic is the determination of the appropriateness of expungement against the party requesting expungement.

(5) This rule will apply to requests for expungement of customer dispute information made under Rule 13800(f).

(c) Expungement Hearing

(1) The panel must hold a recorded hearing session regarding the appropriateness of the associated person's request for expungement of customer dispute information.

(2) The associated person whose CRD record would be expunged must appear at the expungement hearing either in person or by videoconference. The panel shall determine the method of appearance.

(3) The Director shall notify the parties from the investment-related, customer-initiated arbitration or the customer complaint of the time and place of the expungement hearing, provided the contact information is available to FINRA.

(4) All customers in the investment-related, customer-initiated arbitration or customers who filed a customer complaint are entitled to appear at the expungement hearing. At the customer's option, the customer may appear by telephone.

13806. Expungement Panel to Decide Requests for Expungement of Customer Dispute Information Filed by an Associated Person under Rule 13805

(a) Applicability

This rule applies to a claim that requests expungement of customer dispute information filed by an associated person against a firm, pursuant to Rule 13805. Except as otherwise provided in this rule, all provisions of the Code apply to such arbitrations.

(b) Selection of Panel

(1) NLSS will randomly select three public chairpersons, who have the qualifications described in Rule 13806(b)(2), to decide a request for expungement of customer dispute information filed by an associated person pursuant to Rule 13805.

(2) The public chairpersons selected for the panel, pursuant to Rule 13806(b)(1), must have all of the following qualifications:

(A) Completed enhanced expungement training;

(B) Admitted to practice law in at least one jurisdiction; and

(C) Five years' experience in any one of the following disciplines:

(i) litigation;

(ii) federal or state securities regulation;

(iii) administrative law;

(iv) service as a securities regulator; or

(v) service as a judge.

(3) The first arbitrator selected by NLSS shall be the chairperson of the panel.

(4) The associated person seeking expungement of customer dispute information will not be permitted to strike any arbitrators selected by NLSS, but will be permitted to challenge any arbitrator selected for cause, pursuant to Rule 13410. If an arbitrator is removed, NLSS will randomly select a replacement.

(5) The three-person panel must decide the request for expungement of customer dispute information. The parties will not be permitted to agree to fewer than three arbitrators on the panel. The parties will not be permitted to stipulate to the use of pre-selected arbitrators.

(6) If the associated person withdraws the claim after a panel is appointed, the case will be closed with prejudice, unless the panel decides otherwise.

13807. Promissory Note Proceedings

No change.

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