

Required fields are shown with yellow backgrounds and asterisks.

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 WASHINGTON, D.C. 20549 Form 19b-4 Amendment No. (req. for Amendments *)

Filing by Financial Industry Regulatory Authority
 Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
 Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Contact Information
 Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Margo Last Name * Hassan
 Title * Associate Chief Counsel
 E-mail * margo.hassan@finra.org
 Telephone * (212) 858-4481 Fax (301) 527-4761

Signature
 Pursuant to the requirements of the Securities Exchange Act of 1934,
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.
 (Title *)
 Date 07/27/2016 SVP, Chief Counsel, FINRA Office of Dispute Resolution
 By Kenneth Andrichik
 (Name *)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code,” and together with the Customer Code, the “Codes”), to require all parties, except customers who are not represented by an attorney or other person (“*pro se* customers”), to use the FINRA Office of Dispute Resolution’s Party Portal (“Party Portal”) to file initial statements of claim and to file and serve pleadings and other documents on FINRA or any other party. Under the proposed rule change, FINRA would require parties to use the Party Portal to file and serve correspondence relating to discovery requests, but would not permit parties to file documents produced in response to discovery requests through the Party Portal. FINRA is also proposing to amend the Code of Mediation Procedure (“Mediation Code”) to permit mediation parties to agree to use the Party Portal to submit and retrieve all documents and other communications. In addition, FINRA is revising other provisions in the Codes to conform to existing practice.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

¹ 15 U.S.C. 78s(b)(1).

2. Procedures of the Self-Regulatory Organization

At its meeting on September 17, 2015, the FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be no later than 90 days following publication of the Regulatory Notice announcing Commission approval.

Questions regarding this rule filing may be directed to Margo Hassan, Associate Chief Counsel, FINRA Dispute Resolution, at (212) 858-4481.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

Background

In 2004, FINRA implemented an online, web-based arbitration claim notification and filing system that allowed a claimant² or claimant's counsel to file voluntarily an arbitration claim through that system ("online claim filing system").³ Currently, the Codes allow a claimant to file a claim⁴ either in hard copy or by using the online claim filing system.⁵ The online claim filing system allows a claimant to complete forms,

² See Rules 12100(e) and 13100(e). The term "claimant" means a party that files the statement of claim that initiates an arbitration proceeding.

³ See Notice to Members 04-56.

⁴ See Rules 12302(a) and 13302(a).

⁵ See FINRA, Arbitration Online Claim Filing, available at <http://www.finra.org/arbitration-and-mediation/online-claim-filing>.

submit documents, and pay filing fees online. Some of the benefits of using the online claim filing system are that claims are filed and processed more quickly, and the burden of using hard-copy documents by parties and staff is significantly reduced.

In June 2013, FINRA introduced a separate secure, online service called the Dispute Resolution Portal (“DR Portal”) to facilitate interactions among parties, arbitrators, mediators, and FINRA staff on arbitration case-related matters. As further discussed below, the DR Portal includes both a Party Portal and an Arbitrator and Mediator Portal. The Party Portal uses an invitation/registration process that provides a secure way to send and receive arbitration and mediation case documents. As soon as a party notifies FINRA of the name of the person who should be given access to the arbitration or mediation case file (typically the party’s representative), FINRA sends an email to the named person with an invitation to register on the Party Portal via a personalized web address link that provides complete access to the specified case. This invitation/registration process ensures that FINRA maintains a case specific level of security and access within the Party Portal. Once registered, the representative can provide other individuals (such as legal assistants and co-counsel) with access to appropriate cases on the Party Portal.

FINRA initially opened the Party Portal to a small number of firms to gain experience with the technology and to incorporate user feedback. Over time, FINRA expanded access to the Party Portal, and as of July 20, 2015, FINRA allowed all parties to use the Party Portal voluntarily in all arbitration and mediation cases filed as of that date. Through the Party Portal, parties can, among other things, receive documents from

and send documents to FINRA, receive service⁶ of a claim, submit an answer to a claim, submit additional case documents, view the status of a case, and select arbitrators.

FINRA staff solicited feedback and received suggestions from users on how to enhance the Party Portal's functionality. Through a series of quarterly releases, FINRA has upgraded the Party Portal to allow parties to, among other things, schedule hearings, receive automated messages when new documents are posted, see an indication of received documents not yet viewed, and send documents to other Party Portal case participants. FINRA received positive feedback on the Party Portal from parties who used the system voluntarily. In light of the positive user feedback and the various enhancements that FINRA has made to the system since implementing the Party Portal, FINRA believes that it would be appropriate to require parties, with limited exceptions, to use the Party Portal on a mandatory basis.

The Arbitrator and Mediator Portal is open to all FINRA arbitrators and mediators to use on a voluntary basis. In this Portal, arbitrators and mediators can view and update their profile and disclosure information, access information about their assigned cases, schedule hearing dates, and view case documents. FINRA has encouraged arbitrators and mediators to register to use the Arbitrator and Mediator Portal because it enhances efficiencies at the forum. Currently, 74 percent of arbitrators and 85 percent of mediators available to serve on cases have registered to use the Arbitrator and Mediator Portal.

⁶ Service is the process of delivering a pleading (e.g., the statement of claim or answer) or other documents to the opposing party.

Proposed Rule Change

FINRA is proposing to require parties to use the Party Portal to submit documents and view their arbitration case information and documents in most instances. There would be an exception for *pro se* customers.⁷ FINRA would invite *pro se* customers to use the Party Portal, but would not require them to do so. However, if a *pro se* customer files a claim using the Party Portal, then FINRA would require the customer to use the Party Portal for the duration of the arbitration process.

FINRA would require parties to use the Party Portal to file and serve correspondence relating to discovery requests, but would not permit parties to file documents produced in response to discovery requests through the Party Portal. FINRA believes that maintaining the correspondence in the Party Portal makes sense because it is part of the case record. However, depending on the subject of a case, discovery production can be voluminous, and FINRA does not believe it would be efficient for the Party Portal to be used as the receptacle for parties' exchanged discovery. This approach is consistent with our current practice.

Finally, under the proposed rule change, since mediation is voluntary in all instances, FINRA would permit parties to a mediation proceeding to use the Party Portal on a voluntary basis to submit and view their mediation case information and documents.

FINRA is proposing to amend each of the rules in the Codes affected by required use of the Party Portal. The changes would update the rule language to reflect how

⁷ FINRA would define *pro se* in the Customer Code as a party that is not represented by an attorney or others during an arbitration or mediation. FINRA would not define *pro se* in the Industry Code. Under the proposed rule change, FINRA would not exempt *pro se* parties from the requirement under the Industry Code to submit documents through the Party Portal.

parties comply with the Codes through use of the Party Portal. FINRA Rules 12300 and 13300 describe how parties file pleadings⁸ and documents with FINRA and serve pleadings and documents on other parties through the Party Portal. The terms “file” and “serve” – terms associated with use of the Party Portal – are used throughout the Codes. Under the proposed rule change, when a party submits pleadings or documents through the Party Portal, the party has accomplished both filing with the Director⁹ and, in most instances, service on all other parties and the arbitrators.¹⁰ Therefore, in most of the proposed rule amendments, FINRA would delete references to parties filing pleadings and documents with the Director at the same time as on other parties, and providing copies for arbitrators.

For reader convenience, the discussion below only details the proposed changes to the FINRA rules in the Customer Code. However, FINRA is proposing to make substantively similar amendments to the Industry Code. The primary difference between the proposed amendments to the Customer Code and the Industry Code is that the

⁸ FINRA Rule 12100 defines a pleading as “a statement describing a party’s causes of action or defense. Documents that are considered pleadings are: a statement of claim, an answer, a counterclaim, a cross claim, a third party claim, and any replies.”

⁹ The Director refers to the FINRA Office of Dispute Resolution Director as described in FINRA Rule 12103 (Director of Dispute Resolution).

¹⁰ For example, FINRA Rule 12304 (Answering Counterclaims) currently provides that a claimant must directly serve any answer to a counterclaim on each other party and at the same time must file the answer to the counterclaim with the Director with additional copies for the arbitrator. Under the proposed rule change, as described further in the discussion, once the claimant submits the answer through the Party Portal, the claimant has also filed the answer with the Director.

Customer Code provides an exemption from required use of the Party Portal for *pro se* customers. The Industry Code would not provide an exemption for any party.

As a result of the proposed rule change, FINRA would need to update several cross-references in the Codes. The proposed updates are noted as applicable. In addition, forum users have indicated that for ease of citation, they would prefer that FINRA use numbers and letters instead of bullets. Therefore, FINRA is proposing to replace bullets with numbers or letters in each of the rules affected by the proposed rule change. The proposed replacements are noted where applicable.

In addition to changes in the Codes, FINRA is proposing to amend the Mediation Code to permit parties to agree to use the Party Portal to submit and retrieve all documents and other communications and to view mediation case information. The proposed amendments are discussed below.

Customer Code

FINRA Rule 12100 – Definitions

FINRA is proposing to amend FINRA Rule 12100 to add new definitions and to amend several definitions in the Customer Code relating to the required use of the Party Portal.

Arbitrator and Mediator Portal – FINRA is proposing to add a new definition to the rule to define “Arbitrator and Mediator Portal” as the web-based system that allows invited arbitrators and mediators to access a secure section of FINRA’s website to submit documents and information and to view their arbitration and mediation case information and documents.¹¹

¹¹ See proposed FINRA Rule 12100(a).

Claim Notification Letter – FINRA is proposing to add a new definition to the rule to define “Claim Notification Letter” as the notice that FINRA would send respondents indicating that they have been named as a party in a statement of claim.¹² The new definition would specify that the Claim Notification Letter will provide information about accessing the Party Portal to obtain a copy of the statement of claim filed by the claimants and information about the arbitration, including the hearing location selected by the Director and the deadline for filing a statement of answer.

Day – In the current rule, FINRA defines the term “day” as a calendar day.¹³ The definition provides that if a deadline specified in the Code falls on a Saturday, Sunday or any FINRA holiday, the deadline is extended until the next business day. Under the proposed rule change, other than the statement of claim, which FINRA serves upon all respondents, parties will be able to serve documents on each other through the Party Portal on any day and at any time. Service would occur immediately after FINRA receives a document, regardless of the day or time of receipt. If, for example, a party submits a document on a Saturday, the Party Portal will immediately transmit the documents to the appropriate parties on that day. Certain deadlines in the Code are triggered by a party’s receipt of a pleading.¹⁴ FINRA does not believe it would be appropriate to trigger a deadline based on an opposing party’s weekend use of the Party Portal. Therefore, FINRA is proposing to amend the definition of “day” to clarify that if

¹² See proposed FINRA Rule 12100(f).

¹³ See FINRA Rule 12100(j).

¹⁴ See FINRA Rules 12304 and 12305 for examples of deadlines triggered by receipt of a pleading.

a party receives pleadings or other documents on a Saturday, Sunday or any FINRA holiday, the date of receipt shall be the next business day.

Non-Public Arbitrator – FINRA is proposing to amend the definition of non-public arbitrator¹⁵ to update cross-references in the rule.

Party Portal – FINRA is proposing to add a new definition to the rule to define “Party Portal” as the web-based system that is accessible by arbitration and mediation parties and their representatives. The Party Portal allows invited participants to access a secure section of FINRA’s website to submit documents and view their arbitration and mediation case information and documents.¹⁶

Pro Se – FINRA is proposing to add a new definition to the rule to define “*Pro Se*” to mean a party that is not represented by an attorney or others during an arbitration or mediation.¹⁷

Public Arbitrator – FINRA is proposing to amend the definition of Public Arbitrator¹⁸ to update cross-references in the rule.

Finally, FINRA would reletter the definitions to reflect the addition of the new terms.

FINRA Rule 12211 – Direct Communication Between Parties and Arbitrators

¹⁵ See proposed FINRA Rule 12100(r).

¹⁶ See proposed FINRA Rule 12100(t).

¹⁷ See proposed FINRA Rule 12100(x). FINRA does not define *pro se* in the Industry Code since there would not be an exemption for any *pro se* parties in intra-industry disputes.

¹⁸ See proposed FINRA Rule 12100(y).

Subject to specified limitations, FINRA allows parties that are represented by counsel to communicate directly with arbitrators during an arbitration proceeding. FINRA Rule 12211, which outlines the procedures that parties and arbitrators must follow when they agree to direct communication, currently indicates that parties may send items by regular mail, overnight courier, facsimile, or email. Under the proposed rule change, since parties would be required to use the Party Portal for transmitting documents to each other, and would continue to use other methods to send items to the arbitrators, FINRA is proposing to: (1) amend FINRA Rule 12211(e) to specify that parties are allowed to send items to the arbitrators by first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile as specified in an order issued by the arbitrators; (2) amend Rule 12211(f) to delete the requirement that the parties send copies of the materials they sent to the arbitrators to each other and the Director at the same time and in the same manner, requiring instead that they serve the materials on each other and filed with the Director through the Party Portal; and (3) amend Rule 12211(g) to clarify that parties must file copies of arbitrator orders and decisions with the Director through the Party Portal.

Rule 12211(b) provides that if at some point during an arbitration a party chooses to appear *pro se*, which the rule defines in a parenthetical as meaning “without counsel,” then the rule no longer applies. As stated above, FINRA is proposing to amend Rule 12100 to define *pro se* to mean a party that is not represented by an attorney *or others* during an arbitration or mediation. The new definition of *pro se* in Rule 12100 is inconsistent with the current definition in Rule 12211. Therefore, FINRA is proposing to

amend Rule 12211(b) to delete the reference to “*pro se*.” Instead, the rule would provide that if a party chooses to appear without counsel, then the rule would no longer apply.¹⁹

FINRA Rule 12300 – Filing and Serving Documents

FINRA is proposing to delete the content in FINRA Rule 12300 (Filing and Serving Documents) in its entirety and replace it with new language which describes how filing and service, among other things, would operate when FINRA requires parties to use the Party Portal.

Party Portal – New Rule 12300(a)(1) would provide that parties must use the Party Portal to file initial statements of claim and to file and serve pleadings and any other documents on the Director or any other party. The rule would also provide that the Director may exercise authority to permit the use of other means of filing or service in the case of an extended Party Portal outage or in other extraordinary circumstances.²⁰

Rule 12300(a)(2) would provide an exemption for *pro se* customers and would outline the procedures for *pro se* customers who do not wish to use the Party Portal. While a *pro se* customer would not be required to take any affirmative steps to opt out of using the Party Portal, if a *pro se* customer files a claim using the Party Portal, then the *pro se* customer must use the Party Portal for the duration of the arbitration process. The Party Portal would include a warning to *pro se* customers that if they file their claim

¹⁹ FINRA is proposing to amend FINRA Rule 13211 to remove the reference to *pro se* in the rule. Although FINRA is not proposing to define *pro se* in the Industry Code, FINRA believes the amendment would add clarity to the rule and avoid forum user confusion since FINRA is proposing to define *pro se* in the Customer Code.

²⁰ An example of an extraordinary circumstance would be a severe weather event that caused an extended power outage.

using the online filing facility, they will be required to use the Party Portal for the remainder of the arbitration proceeding.

Concerning *pro se* customers who opt out of using the Party Portal, Rule 12300(a) would provide that they: (1) may file claims and serve documents by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile; (2) must comply with the provisions relating to filing an initial statement of claim outlined in FINRA Rule 12302 (Filing an Initial Statement of Claim); and (3) must provide proof of service for any documents served outside of the Party Portal (except for the initial statement of claim because the Director will serve the Claim Notification Letter or initial statement of claim on the respondents).

FINRA does not want parties to use the Party Portal to submit documents they produce during discovery. Therefore, FINRA is proposing to provide in Rule 12300(a)(3) that parties shall not file with FINRA or serve on any other party, through the Party Portal, documents produced during discovery pursuant to the Rule 12500 Series. Available service methods for such documents are first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile. This approach is consistent with our current practice.

Filing – New Rule 12300(b) would provide that with the exception of *pro se* customers who opt out of using the Party Portal, parties must file initial statements of claim and all pleadings and other documents with the Director through the Party Portal. This includes pleadings and documents served on *pro se* customers and other parties by other means. The rule would provide that parties must file with the Director any written responses relating to discovery requests under Rules 12506 and 12507, but must not file

any of the documents produced in response to discovery requests as provided in Rule 12300(a)(3).

The rule would also provide that parties must file arbitrator ranking lists²¹ through the Party Portal, and that filing is accomplished on the day of submission through the Party Portal. Filing by first-class mail or overnight mail is accomplished on the date of mailing, and filing by any other means is accomplished on the date of delivery as is provided in the current rules.

Service – New Rule 12300(c) would provide that the Director will serve the Claim Notification Letter or initial statement of claim on the respondents. In practice, this means that as a first step FINRA would serve only the Claim Notification Letter on respondents that are not identified as customers. If a respondent does not access the Party Portal and view the statement of claim, FINRA would contact the respondent and ask if they received the Claim Notification Letter. If the respondent indicates that they did not receive the letter, FINRA staff would offer to serve the statement of claim in another manner such as by email or regular mail to afford the respondent an additional opportunity to receive the statement of claim and instructions on how to access the Party Portal.

Concerning customers, upon receipt of an initial statement of claim, where a customer is a claimant, FINRA would know if the customer is represented by counsel or another person. However, where a customer is a respondent, FINRA would not know if the customer intends to be represented by counsel or any other individual. Therefore, FINRA would serve all customer respondents with the initial statement of claim along

²¹ See FINRA Rules 12402(d) and 12403(c).

with the Claim Notification Letter explaining that parties other than *pro se* customers are required to use the Party Portal, and that *pro se* customers are invited to use the Party Portal.

The Claim Notification Letter would specify that except for *pro se* customers who opt out of using the Party Portal, parties must serve all pleadings and other documents, except as provided in Rule 12300(a)(3) relating to documents produced in discovery, through the Party Portal. It would explain that parties serve *pro se* parties who opt out of using the Party Portal by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Under the rule, service would be accomplished on the day of submission through the Party Portal, on the date of mailing by first-class mail or overnight mail service,²² and on the date of delivery by other means. Finally, for documents not served through the Party Portal, parties must provide proof of service to the Director through the Party Portal.

General Rules – FINRA is proposing to incorporate into proposed Rule 12300(d)(1)(A), the current provision in Rule 12300(g)(1) concerning the redaction of personal confidential information. The current provision in Rule 12300(g)(2) specifying that the redaction requirements do not apply to documents that parties exchange with each other and do not file with the Director, or to documents parties submit to a panel at a hearing would be renumbered as Rule 12300(d)(1)(B). The current provision in Rule 12300(g)(3) providing that the redaction requirements do not apply to Simplified Arbitrations would be renumbered as Rule 12300(d)(1)(C).

²² “Overnight mail” service includes, for example, overnight delivery by Federal Express. Common methods parties use at the forum for overnight mail delivery include Federal Express, United Parcel Service, and United States Postal Service. “Other means” includes, for example, hand delivery.

Finally, new Rule 12300(d)(2) would provide that a party must serve any change of email or mailing address during an arbitration on all other parties and file this information with the Director. The former rule referred only to “address” changes.

FINRA Rule 12301 – Service on Associated Persons

FINRA is proposing to amend FINRA Rule 12301 relating to service on associated persons to delete the reference to the Director serving the initial statement of claim on a respondent associated person. As explained above, under the proposed rule change, associated persons who are parties to an arbitration would be required to use the Party Portal. Therefore, FINRA would serve an associated person with a Claim Notification Letter instead of a statement of claim.

In practice, FINRA staff will know if an associated person did not access the Party Portal to view the statement of claim. In such an instance, FINRA would contact the associated person and ask if he or she received the Claim Notification Letter. If the associated person indicates that he or she did not receive the letter, FINRA staff would offer to serve the statement of claim in another manner such as by email or regular mail to afford the respondent an additional opportunity to receive the statement of claim and instructions on how to access the Party Portal.

If a member and an associated person who is currently associated with the member are named as respondents in the same arbitration, and the Director cannot complete service directly on the associated person as described above, then the proposed rule would provide that the Director may serve the member with the Claim Notification Letter on behalf of the associated person.

12302 – Filing and Serving an Initial Statement of Claim

FINRA is proposing to amend FINRA Rule 12302 to reflect how: (1) parties would file an initial statement of claim; (2) parties would submit required fees; and (3) FINRA would serve the initial statement of claim through the Party Portal.

Filing – Since most parties would be required to file an initial statement of claim through the Party Portal as provided in Rule 12300(a), FINRA is proposing to amend Rule 12302(a) to delete the reference to filing documents in hard copy or electronically through the Online Arbitration Claim Filing system. FINRA is also proposing to amend Rule 12302(b) to delete the instruction to parties to file enough copies for the Director, each arbitrator and each other party. Once a party files the initial statement of claim through the Party Portal, FINRA staff would handle service through the Party Portal or Arbitrator and Mediator Portal as applicable. If FINRA needs to provide copies of the documents in another manner, e.g., because a *pro se* customer has opted out of using the Party Portal, or an arbitrator is not using the Arbitrator and Mediator Portal, then FINRA staff would handle reproduction and distribution of the documents.

Fees – FINRA is proposing to amend Rule 12302(c) to require the claimant to pay all required filing fees by credit card or automated clearing house (“ACH”) through the Party Portal unless the party is a *pro se* customer who opts out of using the Party Portal. These payment options are currently available to forum users and requiring payment through the Party Portal would make case administration more efficient. FINRA staff would know immediately if a filing was deficient for lack of payment and would not have to ensure that checks that parties submit separately, by U.S. mail or other method, are correctly matched up to statements of claim submitted through the Party Portal.

Service – Currently, Rule 12301(d) provides that unless the statement of claim is deficient, FINRA will send a copy of the Submission Agreement, the statement of claim, and any additional materials the claimant submits, to the other parties and the arbitrators. FINRA is proposing to amend the rule to specify how staff would serve each subset of participants in the arbitration case. Specifically, FINRA would:

- Send the Claim Notification Letter to all non-customer respondent(s) pursuant to Rule 12302; and
- Send the Claim Notification Letter along with a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each customer respondent. The Director would inform the customer that if the customer is *pro se*, the customer is not required to use the Party Portal; and
- Send a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant to each arbitrator by first-class mail, overnight mail service, overnight delivery service, hand delivery, email, facsimile or through the Arbitrator and Mediator Portal, once the panel has been appointed.

Additional conforming changes – FINRA would amend the title of Rule 12302 to add a reference to “Service” since the rule addresses both filing and service of the initial statement of claim. FINRA is proposing to reletter the rule and to replace the bullets in Rule 12302(a) with numbers.

12303 – Answering the Statement of Claim

FINRA is proposing to amend FINRA Rule 12303 to reflect how respondents would answer a statement of claim using the Party Portal.

Since most parties would be required to serve each other through the Party Portal, FINRA would eliminate the instruction in Rule 12303(a) for parties to “directly” serve each other with the executed Submission Agreement and answer. FINRA would amend Rule 12303(b) to provide that if an answer contains a third party claim,²³ a respondent must serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal. The respondent must file the third party claim with the Director through the Party Portal except as provided in Rule 12300(a)(2). In addition, since parties would file their Submission Agreement and answer through the Party Portal, FINRA would amend Rule 12303(c) to delete the instruction for a party to file sufficient copies for the Director and arbitrators. Finally, FINRA is proposing to replace the bullets in Rule 12303(a) with numbers.

12304 – Answering Counterclaims

FINRA is proposing to amend FINRA Rule 12304(a) relating to answering counterclaims to eliminate the instruction for parties to “directly” serve each other with

²³ See current Rule 12100(y), which defines “Third Party Claim” to mean a claim asserted against a party not already named in the statement of claim or any other previous pleading.

the answer to a counterclaim, as well as the requirement to file sufficient copies for the Director and arbitrators.

12305 – Answering Cross Claims

As with answering counterclaims, FINRA is proposing to amend FINRA Rule 12305(a) relating to answering cross claims to eliminate the instruction for parties to “directly” serve each other with the answer to a cross claim, as well as the requirement to file sufficient copies for the Director and arbitrators because filing instructions would be covered by proposed Rule 12300.

12306 – Answering Third Party Claims

FINRA is proposing to amend FINRA Rule 12306 to reflect how FINRA would handle a third party claim in the Party Portal.

As explained in the above discussion on Rule 12303, if a respondent’s answer contains a third party claim, the respondent serves the third party with the claim and all documents previously served by the parties or filed with FINRA outside of the Party Portal. Once FINRA is notified of the third party claim, FINRA can invite the third party to use the Party Portal.

Since most parties would be using the Party Portal, FINRA would eliminate the instruction in Rule 12306(a) for parties to “directly” serve each other with the executed Submission Agreement and answer. Similarly, FINRA would amend Rule 12306(b) to provide that if an answer to a third party claim also contains a third party claim, a respondent would be required serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the

Party Portal. In addition, since parties would file their Submission Agreement and answer through the Party Portal, FINRA would amend Rule 12306(c) to delete the instruction for a party to file sufficient copies for the Director and arbitrators. Finally, FINRA is proposing to replace the bullets in Rule 12306(a) with numbers.

12307 – Deficient Claims

The Customer Code provides that the Director will not serve any claim that is deficient. FINRA Rule 12307(a) sets forth various reasons that a claim might be deficient. FINRA is proposing to amend Rule 12307(a) to delete a deficiency that would not be applicable in the Party Portal – that 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. FINRA is also proposing to amend the rule relating to the deficiency concerning a failure to specify the customer’s home address at the time of the events giving rise to the dispute. FINRA would replace home address with “city and state,” to conform to the current practice.²⁴

FINRA is also proposing to replace the bullets in Rule 12307(a) with numbers and to correct cross-references in the Rule.

12309 – Amending Pleadings

FINRA Rule 12309 specifies procedures for parties to amend pleadings. Rule 12309(a) applies to amendments made to a statement of claim or any other pleading before FINRA appoints a panel of arbitrators. Rule 12309(c) applies to amendments made to add a party to the case once the ranked arbitrator lists are due to the Director. In

²⁴ Industry Code Rule 13307 differs from the Customer Code rule because there is no reference to a customer’s home address.

both sections, FINRA is proposing to amend the rule to reflect how amendments operate in the Party Portal.

As stated above, Rule 12309(a) describes how parties amend pleadings before FINRA appoints a panel. FINRA is proposing to amend Rule 12309(a) to clarify that panel appointment occurs when the Director sends notice to the parties of the names of the arbitrators on the panel.

FINRA would amend Rule 12309(a)(1) to eliminate the requirement for parties to file sufficient copies of an amended pleading for the arbitrators and other parties, and to provide that the Director will serve either the Claim Notification Letter, or the amended statement of claim, as applicable, under Rules 12300 and 12301. The rule would also provide that if an amended pleading adds a party to the arbitration, the party amending the pleading must serve the new party with the amended pleading and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal. The party amending the pleading must file the amended pleading with the Director through the Party Portal except as provided in Rule 12300(a)(2).

Rule 12309(c) explains that after ranked arbitrator lists are due to the Director, parties may not amend the pleadings to add new parties until FINRA appoints a panel and the panel grants a motion to add a new party. Motions to add a party after panel appointment must be served on all parties, including the party that is the subject of the motion. The process for serving the new party under Rule 12309(c) is the same as it is in Rule 12309(a). FINRA is proposing to amend Rule 12309(c) to provide that the party

seeking to amend the pleading to add a party may serve the party to be added by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Service by first-class mail or overnight mail service would be accomplished on the date of mailing. Service by any other means would be accomplished on the date of delivery. FINRA would permit the party to be added to file a response with the Director and serve the response on all other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Since the arbitrators may ultimately decline the motion to add a new party, FINRA believes it makes sense to allow service by methods other than the Party Portal while the arbitrators consider the motion.²⁵

12310 – Answering Amended Claims

FINRA Rule 12310 describes how parties answer amended claims. Rule 12310(b) provides that if a claim is amended after it has been answered, but before a panel has been appointed, the respondent has 20 days from “the time the amended claim is served” to serve an amended answer. Since parties would be serving each other through the Party Portal, FINRA is proposing to amend Rule 12310(b) to delete the phrase “the time the amended claim is served” to provide instead that the respondent has 20 days from “receipt of the amended claim” to serve an amended answer. FINRA uses time of receipt in the rules relating to parties’ time to respond to answers, among other matters, and believes consistent language would add clarity to the rule.²⁶

²⁵ FINRA Rule 13309(c) in the Industry Code contains an erroneous cross-reference to Rule 13404(c). FINRA is proposing to amend Rule 13309(c) to refer to Rule 13404(d) which relates to the time frame when ranked lists are due.

²⁶ See FINRA Rules 12303(Answering the Statement of Claim), 12304 (Answering Counterclaims), 12305 (Answering Cross Claims), and 12306 (Answering Third Party Claims).

FINRA is also proposing to amend Rule 12310(d) relating to serving an amended answer to delete the reference to “directly” serving each other party, and providing copies of the pleading for the arbitrators.

Finally, FINRA is proposing to add clarity to Rule 12310(e) concerning when a new party’s answer is due, by stating that the new party’s “time to” answer is governed by Rules 12303 or Rule 12306 (which include a 45 day period for answers).

12400 – Neutral List Selection System and Arbitrator Rosters

FINRA is proposing to amend FINRA Rule 12400(b) relating to its arbitrator rosters and Rule 12400(c) concerning eligibility for chairperson roster to update cross-references and replace bullets with numbers.

12402 – Cases with One Arbitrator and 12403 – Cases with Three Arbitrators

FINRA is proposing to amend FINRA Rules 12402(d)(3) and 12403(c)(3) concerning striking and ranking arbitrators to provide that parties must complete arbitrator ranking through the Party Portal unless a party is a *pro se* customer who opted out of using the Party Portal. The rule would list the approved methods for *pro se* customers to return ranked lists. FINRA is also proposing to amend to Rule 12402(e) to replace bullets with numbers.²⁷

²⁷ The Industry Code rules relating to arbitrator appointment, while substantially similar to the Customer Code rules, are not identical to the Customer Code and are numbered differently. FINRA is proposing to amend FINRA Rule 13404(d) concerning striking and ranking arbitrators, to provide that parties must complete arbitrator ranking through the Party Portal. FINRA is proposing to amend FINRA Rule 13406 relating to appointment of arbitrators to update a cross-reference and to replace bullets with letters. FINRA is also proposing to amend FINRA Rule 13411 concerning replacing arbitrators to update a cross-reference.

12404 – Additional Parties

FINRA Rule 12404 describes procedures for newly added parties to rank and strike arbitrators. FINRA is proposing to amend Rule 12404(a) to reflect that since parties would complete the ranking and striking process in the Party Portal, they would no longer “return” lists to the Director. FINRA would also amend this provision to correct a typographical error by adding “(s)” to the term “list” in the paragraph’s last sentence because in cases with three arbitrators, parties return three lists of arbitrators, not just one.

Rule 12404(b) explains that after ranked arbitrator lists are due to the Director, parties may not amend pleadings to add new parties until FINRA appoints a panel and the panel grants a motion to add a new party. Motions to add a party must be served on all parties. FINRA is proposing to amend Rule 12404(b) to provide that the party seeking to amend the pleading must serve the party to be added by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Service by first-class mail or overnight mail service would be accomplished on the date of mailing. Service by any other means would be accomplished on the date of delivery. FINRA would permit the party to be added to file a response with the Director and serve the response on all other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Since the arbitrators may ultimately decline the motion to add a new party, FINRA believes it makes sense to allow service by methods other than the Party Portal while the arbitrators consider the motion.

12500 – Initial Prehearing Conference

FINRA Rule 12500(c) describes the subject matter of the initial prehearing conference and provides that parties may forgo the conference if they provide certain information (as described in accompanying bullets) in writing to the Director. FINRA is proposing to amend the rule to delete the requirement that parties provide copies of the written submission for the arbitrators. FINRA is also proposing to replace the bullets with numbers.

12502 – Recording Prehearing Conferences and 12606 – Record of Proceedings

FINRA Rule 12502 provides that FINRA does not record prehearing conferences unless the panel orders a recording, and FINRA Rule 12606(a) specifies that FINRA records hearings. Both rules provide that the Director will provide copies of a tape, digital, or other recording to parties for a nominal fee. FINRA is proposing to amend the rules to delete the reference to a fee because FINRA currently provides parties with copies of recordings free of charge. Rule 12606(a) also provides that the panel may order parties to provide a transcription of the recording. FINRA is proposing to amend Rule 12606(a) to clarify that if the arbitrators order the parties to provide a transcript, the parties must provide copies for the arbitrators and must file the transcript with the Director and serve it on the other parties. Rule 12606(b) provides that parties may make stenographic records of a hearing. FINRA is proposing to amend Rule 12606(b) to clarify that if the stenographic record is the official record of the proceeding, the parties must provide copies for the arbitrators and must file the transcript with the Director and serve it on the other parties.

Some FINRA arbitrators have indicated that they prefer to review long documents in hard copy. Therefore, to ensure efficiency in case administration, FINRA would continue to require parties to provide copies of transcripts for the arbitrators.

12503 – Motions

FINRA Rule 12503 specifies how parties make motions at the forum. Under the proposed rule change, parties would be required to file motions with the Director and serve other parties through the Party Portal. Therefore, FINRA is proposing to amend Rule 12503(a)(2) to delete the requirement that parties serve motions on each other directly, at the same time and in the same manner, and provide FINRA with copies for each arbitrator. FINRA would make the same deletions to Rule 12503(b) relating to responding to motions and Rule 12503(c) concerning replying to responses to motions.

FINRA is also proposing to amend Rule 12503(a)(4) to delete the text specifying how parties make motions to amend a pleading to add a party to a case, because these motions would be addressed in Rule 12309(c) (discussed above). FINRA would add a cross-reference to Rule 12309(c).

12506 – Document Production Lists

FINRA Rule 12506(a) provides that when the Director serves respondents with the statement of claim, the Director notifies parties of the location of the FINRA Discovery Guide and Document Production Lists on FINRA's website. In view of the Party Portal, FINRA is proposing to amend the rule to delete the reference to “when the Director serves the statement of claim.” The rule would continue to state that the Director will notify parties of the location of the FINRA Discovery Guide and Document Production Lists on FINRA's website.

FINRA Rule 12506(b) specifies, among other matters, the time for parties to respond to the Document Production Lists. FINRA wants parties to file their explanations about why they are not timely producing documents and why they are objecting to production. FINRA believes that having this correspondence in the Party Portal would be efficient for FINRA staff and the parties. However, FINRA does not want the parties to file with the Director the documents and information that they produce during discovery. Therefore, FINRA is proposing to amend Rule 12506(b) to specify that parties must serve each other with documents produced pursuant to the rule by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile as provided in Rule 12300(a)(3). The rule would also provide that parties are required to file any written responses relating to discovery, such as objections to producing items in the Document Production Lists, with the Director through the Party Portal.

FINRA is also proposing to amend to Rule 12506(b) to replace bullets with letters.²⁸

12507 – Other Discovery Requests

FINRA Rule 12507(a) provides that parties may request additional documents from a party by serving the party directly with a written request. The rule requires the requesting party to serve copies of the request on all other parties at the same time. Since

²⁸ The FINRA Discovery Guide and related Document Production Lists apply only to customer arbitrations. Therefore, the Industry Code does not contain Document Production Lists. The discovery rules in the Industry Code that are substantially similar to Rule 12507 in the Customer Code are Rule 13506 (Discovery Requests) and Rule 13507(Responding to Discovery Requests). The proposed amendments to Rules 13506 and 13507 are substantively identical to those in Rule 12507.

parties would be serving each other through the Party Portal, FINRA is proposing to amend the rule to delete the requirement for direct service in Rule 12507(a)(1) and the requirement to serve all other parties at the same time in Rule 12507(a)(2).

FINRA Rule 12507(b) specifies how parties may respond to an additional discovery request. The parties can: (1) produce the documents or information (Rule 12507(b)(1)(A)); (2) identify specific documents that will not be produced within the required time and state when the documents will be produced (Rule 12507(b)(1)(B)); or (3) object to the request (Rule 12507(b)(1)(C)). As explained earlier, FINRA does not want parties to file with the Director the documents and information that they produce during discovery. Therefore, FINRA is proposing to amend Rule 12507(b)(1)(A) to specify that if a party produces documents or information pursuant to a request, the party must serve all other parties with copies of the requested documents or information by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

However, FINRA wants to receive party explanations about why they are not timely producing documents and why they are objecting to production. Therefore, FINRA would amend Rule 12507(b)(1)(B) concerning non-production to provide that a party must file a response with the Director and serve it on all other parties (through the Party Portal). FINRA would also amend Rule 12507(b)(1)(C) concerning objections to provide that a party must file the objection with the Director and serve it on all other parties (through the Party Portal).

Finally, FINRA is proposing to replace the bullets in Rule 12507 with numbers.

12508 – Objecting to Discovery; Waiver of Objection

FINRA Rule 12508 addresses party objections to producing documents and information during discovery. To reflect how parties will be serving each other through the Party Portal, FINRA is proposing to amend the rule to delete the requirement that parties serve their objections on each other at the same time and in the same manner. Since FINRA wants to receive party explanations about why they are objecting to production, FINRA is proposing to amend the rule to delete the statement that objections should not be filed with the Director.

12512 – Subpoenas

FINRA Rule 12512 specifies that arbitrators may issue subpoenas to parties and non-parties for the production of documents and evidence, and outlines how FINRA handles motions for subpoenas at the forum. To reflect how motion practice would operate through the Party Portal, FINRA is proposing to amend Rule 12512(b) to delete the requirements that parties provide copies of the subpoena for the arbitrator, and serve the motion on each other at the same time and in the same manner. FINRA would make the same amendment to Rule 12512(c) concerning party objections to subpoenas.

Rule 12512(d) addresses service of an executed subpoena. FINRA is proposing to amend the rule to delete the requirement that parties serve the subpoena on each other at the same time and in the same manner. In addition, since non-parties do not have access to the Party Portal, FINRA would amend the rule to specify that when an arbitrator issues a subpoena to a non-party, the party must serve the subpoena on the non-party by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

Rule 12512(e) provides for a non-party's objection to a subpoena. If a non-party receiving a subpoena objects to the scope or propriety of the subpoena, FINRA permits the non-party to file written objections with the Director. Under the rule, the party that requested the subpoena may respond to the objection. FINRA is proposing to amend the rule to provide that the non-party may file the objection by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and that the party must serve the response on the non-party and file proof of service with the Director.

Rule 12512(f) outlines procedures for parties to follow when they receive subpoenaed documents from non-parties. Specifically, the rule provides that any party that receives documents in response to a subpoena served on a non-party has five days to provide notice of the receipt to the other parties. Other parties to the case may request copies of the documents, and the party in receipt of the documents must provide them within 10 calendar days of receipt of the request. FINRA is proposing to amend the rule to specify that a party that receives documents from a non-party in response to a subpoena must serve the other parties with notice that the party received the documents. Other parties to the case may request copies of the subpoenaed documents. Since FINRA does not want the parties to submit the documents to the Director, FINRA would amend the rule to provide that the party must serve the documents on the other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. The rule would also expressly prohibit parties from filing the documents with the Director.

12513 – Authority to Direct Appearances of Associated Person Witnesses and Production of Documents Without Subpoenas

FINRA Rule 12513 authorizes arbitrators to order the appearance of firm employees and associated persons, and the production of documents from firms and their employees and associated persons without issuing a subpoena. FINRA is proposing to amend several provisions in the rule to reflect how FINRA would handle a party's motion for an arbitrator order using the Party Portal.

FINRA is proposing to amend Rule 12513(b) concerning filing the motion to delete the requirement that a party provide a copy for the arbitrator and that the party serve the motion on all other parties at the same time and in same manner as on the Director. FINRA is proposing to make the same changes to Rule 12513(c) relating to an opposing party's objection to the motion, and to Rule 12513(d) relating to party service of an order.

In addition, since FINRA will not invite a non-party to use the Party Portal, FINRA is proposing to amend Rule 12513(d) to provide that if a party obtains an arbitrator's order for a non-party's production, then the party must serve the order on the non-party. FINRA would also amend Rule 12513(e) to provide that if the non-party files an objection to the arbitrator's order, and the party requesting the order wants to file a response to the objection, then the party must serve the response on the non-party and provide the Director with proof of service. Finally, FINRA is proposing to amend Rule 12513(f) to provide that any party receiving documents from a non-party must serve notice on all other parties. If any other party requests copies of the documents, the requesting party must serve them by first-class mail, overnight mail service, overnight

delivery service, hand delivery, email or facsimile. The amendments would also specify that parties must not file with the Director the documents produced pursuant to the order.

12514 – Prehearing Exchange of Documents and Witness Lists, and Explained Decision Requests

FINRA Rule 12514 sets forth procedures for exchanging documents and witness lists prior to the first scheduled hearing date and for making joint party requests for an explained decision. FINRA is proposing to amend Rule 12514(b) to delete the requirement that parties file their witness lists with the Director at the same time as they notify other parties and provide the Director with enough copies for the arbitrators. Instead, Rule 12514(b) would require that all parties file their witness lists only with the Director. FINRA would also amend Rule 12514(d) to provide that parties must file with the Director requests for an explained decision as opposed to submitting them to the arbitrators.

12701 – Settlement

FINRA Rule 12701 requires parties to notify the Director of settlements. FINRA is proposing to amend Rule 12701(a) to reflect use of the Party Portal by replacing “notify” with “file notice with” the Director.

12800 – Simplified Arbitration

FINRA Rule 12800 provides special procedures for the administration of disputes involving \$50,000 or less, including procedures for parties to request documents and other information from each other. FINRA is proposing to amend Rule 12800(d) to provide that parties receiving the request must produce the requested documents or information to all other parties by serving the requested documents or information by

first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. The proposed rule would specify that parties must not file the documents with the Director.

12801 – Default Proceedings

FINRA Rule 12801 specifies procedures for initiating default proceedings against certain respondents (e.g., terminated members). Since parties would be using the Party Portal to file notice with the Director and serve other parties with their request to initiate a default proceeding, FINRA is proposing to amend Rule 12801(b) to delete the requirements for parties to notify the Director in writing, and send a copy of the notification to other parties at the same time and in the same manner. FINRA is also proposing to amend Rule 12801(a) to replace bullets with numbers.

12901 – Member Surcharge

FINRA Rule 12901 provides that FINRA will assess surcharges against members under specified circumstances. Rule 12901(a)(3) states that if the claim is filed by a member, the surcharge is due when the claim is filed. If the claim is filed against a member, or against an associated person employed by a member at the time of the events giving rise to the dispute, the surcharge is due when the claim is served. FINRA is proposing to amend the rule to provide that if a claim is filed against a member or associated person, the surcharge is due when the Director serves the Claim Notification Letter or the initial statement of claim. FINRA is also proposing to amend Rule 12901(a) and 12901(b) to replace bullets with letters.

12094 – Awards

FINRA Rule 12904 concerns arbitrator awards and includes, among other matters, procedures for the Director to serve awards on parties. The rule provides that the Director serves an award using any method available and convenient to the parties and the Director, and that is reasonably expected to cause the award to be delivered to all parties, or their representative, on the same day. Under the rule, the Director may serve an award by first class, registered or certified mail, hand delivery, and facsimile or other electronic transmission. Since the Director will serve the award through the Party Portal in most instances, FINRA is proposing to amend Rule 12904(c) to provide only that the Director will serve the award on each party, or their representative.

Industry Code Specific Amendments

As explained earlier, while the discussion details the proposed amendments to the FINRA rules in the Customer Code, FINRA is also proposing to make substantively similar amendments to the Industry Code. In addition to the amendments discussed, FINRA is proposing to amend rules in the Industry Code that are unique to intra-industry disputes.

13802 – Statutory Employment Discrimination Claims

FINRA is proposing to amend FINRA Rule 13802(a) relating to statutory employment discrimination claims to update a cross-reference concerning the definition of statutory employment discrimination. FINRA would also amend Rule 13802(c) to replace bullets with numbers.

13804 – Temporary Injunctive Orders; Requests for Permanent Injunctive Relief

The Industry Code also has special procedures for handling temporary injunctions with respect to an industry or clearing dispute. FINRA is proposing to amend FINRA Rule 13804(a) to provide that parties seeking temporary injunctive relief from a court must file with the Director a statement of claim requesting permanent injunctive and all other relief with respect to the same dispute through the Party Portal, and must serve the statement of claim requesting permanent injunctive and all other relief on all other parties by overnight delivery service, hand delivery, email or facsimile. The rule would require parties to serve all parties at the same time and in the same manner, unless the parties agree otherwise.

Cases involving injunctive relief operate on an accelerated time schedule. It takes FINRA staff some time to review an initial submission and invite respondent parties to use the Party Portal. In view of the need to expedite these matters, FINRA believes that parties should serve each other outside of the Party Portal until FINRA establishes the identities of all relevant parties and their representatives, and invites them to access the Party Portal.

Mediation Code

Under the proposed rule change, FINRA would permit parties to a mediation proceeding to use the Party Portal on a voluntary basis. FINRA is proposing to amend the Mediation Code to reflect use of the Party Portal.

14100 – Definitions

FINRA is proposing to amend FINRA Rule 14100 to define “Arbitrator and Mediator Portal” and “Party Portal.” The definitions would be identical to the definitions in the Codes. FINRA would re-letter the definitions because of the new additions.

14109 – Mediation Ground Rules

FINRA also is proposing to amend FINRA Rule 14109 to provide that the parties may agree to use the Party Portal to submit all documents and other communications to each other, to retrieve all documents and other communications, and view mediation case information.

Effective Date of Proposed Rule Change

As noted in Item 2 of the filing, if the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be no later than 90 days following publication of the Regulatory Notice announcing Commission approval.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,²⁹ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is consistent with Section 15A(b)(6) because it would enhance efficiencies for forum users and would expedite case administration by FINRA.

²⁹ 15 U.S.C. 78o-3(b)(6).

4. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Most parties are currently using the Party Portal voluntarily to file claims and retrieve documents. Thus, under the proposal, the impact on forum users would be minimal.

By requiring parties to file their claims online, the proposal would expedite the case intake process and would ensure better data accuracy. Prior to implementation of the proposal, however, FINRA would be required to: (1) update staff procedures to ensure consistency with the new rules; (2) provide instructions for customers in plain English on how to access the Party Portal and use its features; and (3) make some technological changes to various computer systems to incorporate the functions under the proposal that are not currently available to parties.

Economic Impact Assessment

The proposal is intended to introduce an enhanced technology platform into the dispute resolution process to create efficiencies in collecting, preserving and distributing documents, which would expedite case administration and add new features for parties. Parties that would be required to use the Party Portal would benefit from these efficiencies; *pro se* customers would be exempted (provided they opt out of using the Party Portal).

When FINRA activated the Party Portal, FINRA initially limited the number of firms permitted to use the Party Portal to file and receive case documents, among other things, as a proof of concept. Customers initiating claims against one of the invited firms

were given the option of using the Party Portal to administer their case. Soon after the parties began using the Party Portal, and learned of the benefits and cost savings realized through the technology, customers and firms indicated a desire to use the Party Portal. As of May 11, 2016, there are 18 firms that use the Party Portal to receive service of the statement of claim and to administer their cases electronically in every instance. In addition, in most of the remaining cases administered at the forum, firms and associated persons are opting to use the Party Portal for case administration after they receive the statement of claim. As of July 20, 2015, FINRA opened the Party Portal to accept all parties in all new cases that wish to use it on a voluntary basis.

As of May 11, 2016, FINRA has processed 4,932 cases through the Party Portal. FINRA has invited 13,562 parties (customers, and firms and associated persons) to register and use the Party Portal. Of the 13,562 parties, 76 percent of customers, including *pro se* customers, have been using the Party Portal voluntarily and 82 percent of firms and associated persons, which includes firm representatives, have been using the Party Portal voluntarily (78 percent in total). FINRA has processed over 16,000 party documents through the Party Portal, including answers, motions, and correspondence. Over 83 percent of parties have used the Party Portal to view their case-related correspondence.

Based on the parties' experience to date with the Party Portal, along with the feedback provided from current users of this platform, FINRA believes those parties required to use the Party Portal would realize the anticipated benefits of the proposal. Further, the adoption of the Party Portal by parties on a voluntary basis suggests that they see benefit from its availability and use.

Under the proposal, most parties would no longer be required to send paper copies of pleadings or other documents to FINRA. Thus, these parties would experience cost savings related to the preparation and mailing of such submissions. Further, parties would be able to serve each other immediately through the Party Portal, rather than through other means, which, under current rules, may involve mailing hard copies to all parties at the same time. FINRA acknowledges that those customers or firms that have not used the Party Portal previously may incur some time and effort to learn the Party Portal system, but the technology requirements (*i.e.*, a computer with internet access) will be minimal, and, therefore, should not impede a party's access to the dispute resolution process.

FINRA staff understands that requiring *pro se* customers to use the Party Portal might impose a higher burden on these individuals given their potentially limited access to and experience with the required technology. Thus, staff is proposing to allow *pro se* customers to opt out of using the Party Portal. However, *pro se* customers may choose to use the Party Portal, which would allow them to benefit equally from the efficiencies that the Party Portal is anticipated to create. Staff notes that, as of May 11, 2016, 3,599 *pro se* customers or customer representatives have been invited to register, with 4,711 agreeing to do so (a 76 percent registration rate).

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.³⁰

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 5. Text of the proposed rule change.

³⁰ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2016-029)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to Use of the Dispute Resolution Party Portal in Arbitration and Mediation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 27, 2016, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code,” and together with the Customer Code, the “Codes”), to require all parties, except customers who are not represented by an attorney or other person (“*pro se* customers”), to use the FINRA Office of Dispute Resolution’s Party Portal (“Party Portal”) to file initial statements of claim and to file and serve pleadings and other documents on FINRA or any other party. Under the proposed rule change, FINRA would require parties to use the Party Portal to file and serve correspondence relating to discovery requests, but would not permit parties to file documents produced in response to discovery requests through the Party Portal. FINRA is also proposing to amend the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Code of Mediation Procedure (“Mediation Code”) to permit mediation parties to agree to use the Party Portal to submit and retrieve all documents and other communications. In addition, FINRA is revising other provisions in the Codes to conform to existing practice.

The text of the proposed rule change is available on FINRA’s website at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

In 2004, FINRA implemented an online, web-based arbitration claim notification and filing system that allowed a claimant³ or claimant’s counsel to file voluntarily an arbitration claim through that system (“online claim filing system”).⁴ Currently, the Codes allow a claimant to file a claim⁵ either in hard copy or by using the online claim

³ See Rules 12100(e) and 13100(e). The term "claimant" means a party that files the statement of claim that initiates an arbitration proceeding.

⁴ See Notice to Members 04-56.

⁵ See Rules 12302(a) and 13302(a).

filing system.⁶ The online claim filing system allows a claimant to complete forms, submit documents, and pay filing fees online. Some of the benefits of using the online claim filing system are that claims are filed and processed more quickly, and the burden of using hard-copy documents by parties and staff is significantly reduced.

In June 2013, FINRA introduced a separate secure, online service called the Dispute Resolution Portal (“DR Portal”) to facilitate interactions among parties, arbitrators, mediators, and FINRA staff on arbitration case-related matters. As further discussed below, the DR Portal includes both a Party Portal and an Arbitrator and Mediator Portal. The Party Portal uses an invitation/registration process that provides a secure way to send and receive arbitration and mediation case documents. As soon as a party notifies FINRA of the name of the person who should be given access to the arbitration or mediation case file (typically the party’s representative), FINRA sends an email to the named person with an invitation to register on the Party Portal via a personalized web address link that provides complete access to the specified case. This invitation/registration process ensures that FINRA maintains a case specific level of security and access within the Party Portal. Once registered, the representative can provide other individuals (such as legal assistants and co-counsel) with access to appropriate cases on the Party Portal.

FINRA initially opened the Party Portal to a small number of firms to gain experience with the technology and to incorporate user feedback. Over time, FINRA expanded access to the Party Portal, and as of July 20, 2015, FINRA allowed all parties to use the Party Portal voluntarily in all arbitration and mediation cases filed as of that

⁶ See FINRA, Arbitration Online Claim Filing, available at <http://www.finra.org/arbitration-and-mediation/online-claim-filing>.

date. Through the Party Portal, parties can, among other things, receive documents from and send documents to FINRA, receive service⁷ of a claim, submit an answer to a claim, submit additional case documents, view the status of a case, and select arbitrators.

FINRA staff solicited feedback and received suggestions from users on how to enhance the Party Portal's functionality. Through a series of quarterly releases, FINRA has upgraded the Party Portal to allow parties to, among other things, schedule hearings, receive automated messages when new documents are posted, see an indication of received documents not yet viewed, and send documents to other Party Portal case participants. FINRA received positive feedback on the Party Portal from parties who used the system voluntarily. In light of the positive user feedback and the various enhancements that FINRA has made to the system since implementing the Party Portal, FINRA believes that it would be appropriate to require parties, with limited exceptions, to use the Party Portal on a mandatory basis.

The Arbitrator and Mediator Portal is open to all FINRA arbitrators and mediators to use on a voluntary basis. In this Portal, arbitrators and mediators can view and update their profile and disclosure information, access information about their assigned cases, schedule hearing dates, and view case documents. FINRA has encouraged arbitrators and mediators to register to use the Arbitrator and Mediator Portal because it enhances efficiencies at the forum. Currently, 74 percent of arbitrators and 85 percent of mediators available to serve on cases have registered to use the Arbitrator and Mediator Portal.

⁷ Service is the process of delivering a pleading (e.g., the statement of claim or answer) or other documents to the opposing party.

Proposed Rule Change

FINRA is proposing to require parties to use the Party Portal to submit documents and view their arbitration case information and documents in most instances. There would be an exception for *pro se* customers.⁸ FINRA would invite *pro se* customers to use the Party Portal, but would not require them to do so. However, if a *pro se* customer files a claim using the Party Portal, then FINRA would require the customer to use the Party Portal for the duration of the arbitration process.

FINRA would require parties to use the Party Portal to file and serve correspondence relating to discovery requests, but would not permit parties to file documents produced in response to discovery requests through the Party Portal. FINRA believes that maintaining the correspondence in the Party Portal makes sense because it is part of the case record. However, depending on the subject of a case, discovery production can be voluminous, and FINRA does not believe it would be efficient for the Party Portal to be used as the receptacle for parties' exchanged discovery. This approach is consistent with our current practice.

Finally, under the proposed rule change, since mediation is voluntary in all instances, FINRA would permit parties to a mediation proceeding to use the Party Portal on a voluntary basis to submit and view their mediation case information and documents.

FINRA is proposing to amend each of the rules in the Codes affected by required use of the Party Portal. The changes would update the rule language to reflect how

⁸ FINRA would define *pro se* in the Customer Code as a party that is not represented by an attorney or others during an arbitration or mediation. FINRA would not define *pro se* in the Industry Code. Under the proposed rule change, FINRA would not exempt *pro se* parties from the requirement under the Industry Code to submit documents through the Party Portal.

parties comply with the Codes through use of the Party Portal. FINRA Rules 12300 and 13300 describe how parties file pleadings⁹ and documents with FINRA and serve pleadings and documents on other parties through the Party Portal. The terms “file” and “serve” – terms associated with use of the Party Portal – are used throughout the Codes. Under the proposed rule change, when a party submits pleadings or documents through the Party Portal, the party has accomplished both filing with the Director¹⁰ and, in most instances, service on all other parties and the arbitrators.¹¹ Therefore, in most of the proposed rule amendments, FINRA would delete references to parties filing pleadings and documents with the Director at the same time as on other parties, and providing copies for arbitrators.

For reader convenience, the discussion below only details the proposed changes to the FINRA rules in the Customer Code. However, FINRA is proposing to make substantively similar amendments to the Industry Code. The primary difference between the proposed amendments to the Customer Code and the Industry Code is that the

⁹ FINRA Rule 12100 defines a pleading as “a statement describing a party’s causes of action or defense. Documents that are considered pleadings are: a statement of claim, an answer, a counterclaim, a cross claim, a third party claim, and any replies.”

¹⁰ The Director refers to the FINRA Office of Dispute Resolution Director as described in FINRA Rule 12103 (Director of Dispute Resolution).

¹¹ For example, FINRA Rule 12304 (Answering Counterclaims) currently provides that a claimant must directly serve any answer to a counterclaim on each other party and at the same time must file the answer to the counterclaim with the Director with additional copies for the arbitrator. Under the proposed rule change, as described further in the discussion, once the claimant submits the answer through the Party Portal, the claimant has also filed the answer with the Director.

Customer Code provides an exemption from required use of the Party Portal for *pro se* customers. The Industry Code would not provide an exemption for any party.

As a result of the proposed rule change, FINRA would need to update several cross-references in the Codes. The proposed updates are noted as applicable. In addition, forum users have indicated that for ease of citation, they would prefer that FINRA use numbers and letters instead of bullets. Therefore, FINRA is proposing to replace bullets with numbers or letters in each of the rules affected by the proposed rule change. The proposed replacements are noted where applicable.

In addition to changes in the Codes, FINRA is proposing to amend the Mediation Code to permit parties to agree to use the Party Portal to submit and retrieve all documents and other communications and to view mediation case information. The proposed amendments are discussed below.

Customer Code

FINRA Rule 12100 – Definitions

FINRA is proposing to amend FINRA Rule 12100 to add new definitions and to amend several definitions in the Customer Code relating to the required use of the Party Portal.

Arbitrator and Mediator Portal – FINRA is proposing to add a new definition to the rule to define “Arbitrator and Mediator Portal” as the web-based system that allows invited arbitrators and mediators to access a secure section of FINRA’s website to submit documents and information and to view their arbitration and mediation case information and documents.¹²

¹² See proposed FINRA Rule 12100(a).

Claim Notification Letter – FINRA is proposing to add a new definition to the rule to define “Claim Notification Letter” as the notice that FINRA would send respondents indicating that they have been named as a party in a statement of claim.¹³ The new definition would specify that the Claim Notification Letter will provide information about accessing the Party Portal to obtain a copy of the statement of claim filed by the claimants and information about the arbitration, including the hearing location selected by the Director and the deadline for filing a statement of answer.

Day – In the current rule, FINRA defines the term “day” as a calendar day.¹⁴ The definition provides that if a deadline specified in the Code falls on a Saturday, Sunday or any FINRA holiday, the deadline is extended until the next business day. Under the proposed rule change, other than the statement of claim, which FINRA serves upon all respondents, parties will be able to serve documents on each other through the Party Portal on any day and at any time. Service would occur immediately after FINRA receives a document, regardless of the day or time of receipt. If, for example, a party submits a document on a Saturday, the Party Portal will immediately transmit the documents to the appropriate parties on that day. Certain deadlines in the Code are triggered by a party’s receipt of a pleading.¹⁵ FINRA does not believe it would be appropriate to trigger a deadline based on an opposing party’s weekend use of the Party Portal. Therefore, FINRA is proposing to amend the definition of “day” to clarify that if

¹³ See proposed FINRA Rule 12100(f).

¹⁴ See FINRA Rule 12100(j).

¹⁵ See FINRA Rules 12304 and 12305 for examples of deadlines triggered by receipt of a pleading.

a party receives pleadings or other documents on a Saturday, Sunday or any FINRA holiday, the date of receipt shall be the next business day.

Non-Public Arbitrator – FINRA is proposing to amend the definition of non-public arbitrator¹⁶ to update cross-references in the rule.

Party Portal – FINRA is proposing to add a new definition to the rule to define “Party Portal” as the web-based system that is accessible by arbitration and mediation parties and their representatives. The Party Portal allows invited participants to access a secure section of FINRA’s website to submit documents and view their arbitration and mediation case information and documents.¹⁷

Pro Se – FINRA is proposing to add a new definition to the rule to define “*Pro Se*” to mean a party that is not represented by an attorney or others during an arbitration or mediation.¹⁸

Public Arbitrator – FINRA is proposing to amend the definition of Public Arbitrator¹⁹ to update cross-references in the rule.

Finally, FINRA would reletter the definitions to reflect the addition of the new terms.

¹⁶ See proposed FINRA Rule 12100(r).

¹⁷ See proposed FINRA Rule 12100(t).

¹⁸ See proposed FINRA Rule 12100(x). FINRA does not define *pro se* in the Industry Code since there would not be an exemption for any *pro se* parties in intra-industry disputes.

¹⁹ See proposed FINRA Rule 12100(y).

FINRA Rule 12211 – Direct Communication Between Parties and Arbitrators

Subject to specified limitations, FINRA allows parties that are represented by counsel to communicate directly with arbitrators during an arbitration proceeding. FINRA Rule 12211, which outlines the procedures that parties and arbitrators must follow when they agree to direct communication, currently indicates that parties may send items by regular mail, overnight courier, facsimile, or email. Under the proposed rule change, since parties would be required to use the Party Portal for transmitting documents to each other, and would continue to use other methods to send items to the arbitrators, FINRA is proposing to: (1) amend FINRA Rule 12211(e) to specify that parties are allowed to send items to the arbitrators by first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile as specified in an order issued by the arbitrators; (2) amend Rule 12211(f) to delete the requirement that the parties send copies of the materials they sent to the arbitrators to each other and the Director at the same time and in the same manner, requiring instead that they serve the materials on each other and filed with the Director through the Party Portal; and (3) amend Rule 12211(g) to clarify that parties must file copies of arbitrator orders and decisions with the Director through the Party Portal.

Rule 12211(b) provides that if at some point during an arbitration a party chooses to appear *pro se*, which the rule defines in a parenthetical as meaning “without counsel,” then the rule no longer applies. As stated above, FINRA is proposing to amend Rule 12100 to define *pro se* to mean a party that is not represented by an attorney *or others* during an arbitration or mediation. The new definition of *pro se* in Rule 12100 is inconsistent with the current definition in Rule 12211. Therefore, FINRA is proposing to

amend Rule 12211(b) to delete the reference to “*pro se*.” Instead, the rule would provide that if a party chooses to appear without counsel, then the rule would no longer apply.²⁰

FINRA Rule 12300 – Filing and Serving Documents

FINRA is proposing to delete the content in FINRA Rule 12300 (Filing and Serving Documents) in its entirety and replace it with new language which describes how filing and service, among other things, would operate when FINRA requires parties to use the Party Portal.

Party Portal – New Rule 12300(a)(1) would provide that parties must use the Party Portal to file initial statements of claim and to file and serve pleadings and any other documents on the Director or any other party. The rule would also provide that the Director may exercise authority to permit the use of other means of filing or service in the case of an extended Party Portal outage or in other extraordinary circumstances.²¹

Rule 12300(a)(2) would provide an exemption for *pro se* customers and would outline the procedures for *pro se* customers who do not wish to use the Party Portal. While a *pro se* customer would not be required to take any affirmative steps to opt out of using the Party Portal, if a *pro se* customer files a claim using the Party Portal, then the *pro se* customer must use the Party Portal for the duration of the arbitration process. The Party Portal would include a warning to *pro se* customers that if they file their claim

²⁰ FINRA is proposing to amend FINRA Rule 13211 to remove the reference to *pro se* in the rule. Although FINRA is not proposing to define *pro se* in the Industry Code, FINRA believes the amendment would add clarity to the rule and avoid forum user confusion since FINRA is proposing to define *pro se* in the Customer Code.

²¹ An example of an extraordinary circumstance would be a severe weather event that caused an extended power outage.

using the online filing facility, they will be required to use the Party Portal for the remainder of the arbitration proceeding.

Concerning *pro se* customers who opt out of using the Party Portal, Rule 12300(a) would provide that they: (1) may file claims and serve documents by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile; (2) must comply with the provisions relating to filing an initial statement of claim outlined in FINRA Rule 12302 (Filing an Initial Statement of Claim); and (3) must provide proof of service for any documents served outside of the Party Portal (except for the initial statement of claim because the Director will serve the Claim Notification Letter or initial statement of claim on the respondents).

FINRA does not want parties to use the Party Portal to submit documents they produce during discovery. Therefore, FINRA is proposing to provide in Rule 12300(a)(3) that parties shall not file with FINRA or serve on any other party, through the Party Portal, documents produced during discovery pursuant to the Rule 12500 Series. Available service methods for such documents are first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile. This approach is consistent with our current practice.

Filing – New Rule 12300(b) would provide that with the exception of *pro se* customers who opt out of using the Party Portal, parties must file initial statements of claim and all pleadings and other documents with the Director through the Party Portal. This includes pleadings and documents served on *pro se* customers and other parties by other means. The rule would provide that parties must file with the Director any written responses relating to discovery requests under Rules 12506 and 12507, but must not file

any of the documents produced in response to discovery requests as provided in Rule 12300(a)(3).

The rule would also provide that parties must file arbitrator ranking lists²² through the Party Portal, and that filing is accomplished on the day of submission through the Party Portal. Filing by first-class mail or overnight mail is accomplished on the date of mailing, and filing by any other means is accomplished on the date of delivery as is provided in the current rules.

Service – New Rule 12300(c) would provide that the Director will serve the Claim Notification Letter or initial statement of claim on the respondents. In practice, this means that as a first step FINRA would serve only the Claim Notification Letter on respondents that are not identified as customers. If a respondent does not access the Party Portal and view the statement of claim, FINRA would contact the respondent and ask if they received the Claim Notification Letter. If the respondent indicates that they did not receive the letter, FINRA staff would offer to serve the statement of claim in another manner such as by email or regular mail to afford the respondent an additional opportunity to receive the statement of claim and instructions on how to access the Party Portal.

Concerning customers, upon receipt of an initial statement of claim, where a customer is a claimant, FINRA would know if the customer is represented by counsel or another person. However, where a customer is a respondent, FINRA would not know if the customer intends to be represented by counsel or any other individual. Therefore, FINRA would serve all customer respondents with the initial statement of claim along

²² See FINRA Rules 12402(d) and 12403(c).

with the Claim Notification Letter explaining that parties other than *pro se* customers are required to use the Party Portal, and that *pro se* customers are invited to use the Party Portal.

The Claim Notification Letter would specify that except for *pro se* customers who opt out of using the Party Portal, parties must serve all pleadings and other documents, except as provided in Rule 12300(a)(3) relating to documents produced in discovery, through the Party Portal. It would explain that parties serve *pro se* parties who opt out of using the Party Portal by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Under the rule, service would be accomplished on the day of submission through the Party Portal, on the date of mailing by first-class mail or overnight mail service,²³ and on the date of delivery by other means. Finally, for documents not served through the Party Portal, parties must provide proof of service to the Director through the Party Portal.

General Rules – FINRA is proposing to incorporate into proposed Rule 12300(d)(1)(A), the current provision in Rule 12300(g)(1) concerning the redaction of personal confidential information. The current provision in Rule 12300(g)(2) specifying that the redaction requirements do not apply to documents that parties exchange with each other and do not file with the Director, or to documents parties submit to a panel at a hearing would be renumbered as Rule 12300(d)(1)(B). The current provision in Rule 12300(g)(3) providing that the redaction requirements do not apply to Simplified Arbitrations would be renumbered as Rule 12300(d)(1)(C).

²³ “Overnight mail” service includes, for example, overnight delivery by Federal Express. Common methods parties use at the forum for overnight mail delivery include Federal Express, United Parcel Service, and United States Postal Service. “Other means” includes, for example, hand delivery.

Finally, new Rule 12300(d)(2) would provide that a party must serve any change of email or mailing address during an arbitration on all other parties and file this information with the Director. The former rule referred only to “address” changes.

FINRA Rule 12301 – Service on Associated Persons

FINRA is proposing to amend FINRA Rule 12301 relating to service on associated persons to delete the reference to the Director serving the initial statement of claim on a respondent associated person. As explained above, under the proposed rule change, associated persons who are parties to an arbitration would be required to use the Party Portal. Therefore, FINRA would serve an associated person with a Claim Notification Letter instead of a statement of claim.

In practice, FINRA staff will know if an associated person did not access the Party Portal to view the statement of claim. In such an instance, FINRA would contact the associated person and ask if he or she received the Claim Notification Letter. If the associated person indicates that he or she did not receive the letter, FINRA staff would offer to serve the statement of claim in another manner such as by email or regular mail to afford the respondent an additional opportunity to receive the statement of claim and instructions on how to access the Party Portal.

If a member and an associated person who is currently associated with the member are named as respondents in the same arbitration, and the Director cannot complete service directly on the associated person as described above, then the proposed rule would provide that the Director may serve the member with the Claim Notification Letter on behalf of the associated person.

12302 – Filing and Serving an Initial Statement of Claim

FINRA is proposing to amend FINRA Rule 12302 to reflect how: (1) parties would file an initial statement of claim; (2) parties would submit required fees; and (3) FINRA would serve the initial statement of claim through the Party Portal.

Filing – Since most parties would be required to file an initial statement of claim through the Party Portal as provided in Rule 12300(a), FINRA is proposing to amend Rule 12302(a) to delete the reference to filing documents in hard copy or electronically through the Online Arbitration Claim Filing system. FINRA is also proposing to amend Rule 12302(b) to delete the instruction to parties to file enough copies for the Director, each arbitrator and each other party. Once a party files the initial statement of claim through the Party Portal, FINRA staff would handle service through the Party Portal or Arbitrator and Mediator Portal as applicable. If FINRA needs to provide copies of the documents in another manner, e.g., because a *pro se* customer has opted out of using the Party Portal, or an arbitrator is not using the Arbitrator and Mediator Portal, then FINRA staff would handle reproduction and distribution of the documents.

Fees – FINRA is proposing to amend Rule 12302(c) to require the claimant to pay all required filing fees by credit card or automated clearing house (“ACH”) through the Party Portal unless the party is a *pro se* customer who opts out of using the Party Portal. These payment options are currently available to forum users and requiring payment through the Party Portal would make case administration more efficient. FINRA staff would know immediately if a filing was deficient for lack of payment and would not have to ensure that checks that parties submit separately, by U.S. mail or other method, are correctly matched up to statements of claim submitted through the Party Portal.

Service – Currently, Rule 12301(d) provides that unless the statement of claim is deficient, FINRA will send a copy of the Submission Agreement, the statement of claim, and any additional materials the claimant submits, to the other parties and the arbitrators. FINRA is proposing to amend the rule to specify how staff would serve each subset of participants in the arbitration case. Specifically, FINRA would:

- Send the Claim Notification Letter to all non-customer respondent(s) pursuant to Rule 12302; and
- Send the Claim Notification Letter along with a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each customer respondent. The Director would inform the customer that if the customer is *pro se*, the customer is not required to use the Party Portal; and
- Send a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant to each arbitrator by first-class mail, overnight mail service, overnight delivery service, hand delivery, email, facsimile or through the Arbitrator and Mediator Portal, once the panel has been appointed.

Additional conforming changes – FINRA would amend the title of Rule 12302 to add a reference to “Service” since the rule addresses both filing and service of the initial statement of claim. FINRA is proposing to reletter the rule and to replace the bullets in Rule 12302(a) with numbers.

12303 – Answering the Statement of Claim

FINRA is proposing to amend FINRA Rule 12303 to reflect how respondents would answer a statement of claim using the Party Portal.

Since most parties would be required to serve each other through the Party Portal, FINRA would eliminate the instruction in Rule 12303(a) for parties to “directly” serve each other with the executed Submission Agreement and answer. FINRA would amend Rule 12303(b) to provide that if an answer contains a third party claim,²⁴ a respondent must serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal. The respondent must file the third party claim with the Director through the Party Portal except as provided in Rule 12300(a)(2). In addition, since parties would file their Submission Agreement and answer through the Party Portal, FINRA would amend Rule 12303(c) to delete the instruction for a party to file sufficient copies for the Director and arbitrators. Finally, FINRA is proposing to replace the bullets in Rule 12303(a) with numbers.

12304 – Answering Counterclaims

FINRA is proposing to amend FINRA Rule 12304(a) relating to answering counterclaims to eliminate the instruction for parties to “directly” serve each other with

²⁴ See current Rule 12100(y), which defines “Third Party Claim” to mean a claim asserted against a party not already named in the statement of claim or any other previous pleading.

the answer to a counterclaim, as well as the requirement to file sufficient copies for the Director and arbitrators.

12305 – Answering Cross Claims

As with answering counterclaims, FINRA is proposing to amend FINRA Rule 12305(a) relating to answering cross claims to eliminate the instruction for parties to “directly” serve each other with the answer to a cross claim, as well as the requirement to file sufficient copies for the Director and arbitrators because filing instructions would be covered by proposed Rule 12300.

12306 – Answering Third Party Claims

FINRA is proposing to amend FINRA Rule 12306 to reflect how FINRA would handle a third party claim in the Party Portal.

As explained in the above discussion on Rule 12303, if a respondent’s answer contains a third party claim, the respondent serves the third party with the claim and all documents previously served by the parties or filed with FINRA outside of the Party Portal. Once FINRA is notified of the third party claim, FINRA can invite the third party to use the Party Portal.

Since most parties would be using the Party Portal, FINRA would eliminate the instruction in Rule 12306(a) for parties to “directly” serve each other with the executed Submission Agreement and answer. Similarly, FINRA would amend Rule 12306(b) to provide that if an answer to a third party claim also contains a third party claim, a respondent would be required serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the

Party Portal. In addition, since parties would file their Submission Agreement and answer through the Party Portal, FINRA would amend Rule 12306(c) to delete the instruction for a party to file sufficient copies for the Director and arbitrators. Finally, FINRA is proposing to replace the bullets in Rule 12306(a) with numbers.

12307 – Deficient Claims

The Customer Code provides that the Director will not serve any claim that is deficient. FINRA Rule 12307(a) sets forth various reasons that a claim might be deficient. FINRA is proposing to amend Rule 12307(a) to delete a deficiency that would not be applicable in the Party Portal – that 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. FINRA is also proposing to amend the rule relating to the deficiency concerning a failure to specify the customer’s home address at the time of the events giving rise to the dispute. FINRA would replace home address with “city and state,” to conform to the current practice.²⁵

FINRA is also proposing to replace the bullets in Rule 12307(a) with numbers and to correct cross-references in the Rule.

12309 – Amending Pleadings

FINRA Rule 12309 specifies procedures for parties to amend pleadings. Rule 12309(a) applies to amendments made to a statement of claim or any other pleading before FINRA appoints a panel of arbitrators. Rule 12309(c) applies to amendments made to add a party to the case once the ranked arbitrator lists are due to the Director. In

²⁵ Industry Code Rule 13307 differs from the Customer Code rule because there is no reference to a customer’s home address.

both sections, FINRA is proposing to amend the rule to reflect how amendments operate in the Party Portal.

As stated above, Rule 12309(a) describes how parties amend pleadings before FINRA appoints a panel. FINRA is proposing to amend Rule 12309(a) to clarify that panel appointment occurs when the Director sends notice to the parties of the names of the arbitrators on the panel.

FINRA would amend Rule 12309(a)(1) to eliminate the requirement for parties to file sufficient copies of an amended pleading for the arbitrators and other parties, and to provide that the Director will serve either the Claim Notification Letter, or the amended statement of claim, as applicable, under Rules 12300 and 12301. The rule would also provide that if an amended pleading adds a party to the arbitration, the party amending the pleading must serve the new party with the amended pleading and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal. The party amending the pleading must file the amended pleading with the Director through the Party Portal except as provided in Rule 12300(a)(2).

Rule 12309(c) explains that after ranked arbitrator lists are due to the Director, parties may not amend the pleadings to add new parties until FINRA appoints a panel and the panel grants a motion to add a new party. Motions to add a party after panel appointment must be served on all parties, including the party that is the subject of the motion. The process for serving the new party under Rule 12309(c) is the same as it is in Rule 12309(a). FINRA is proposing to amend Rule 12309(c) to provide that the party

seeking to amend the pleading to add a party may serve the party to be added by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Service by first-class mail or overnight mail service would be accomplished on the date of mailing. Service by any other means would be accomplished on the date of delivery. FINRA would permit the party to be added to file a response with the Director and serve the response on all other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Since the arbitrators may ultimately decline the motion to add a new party, FINRA believes it makes sense to allow service by methods other than the Party Portal while the arbitrators consider the motion.²⁶

12310 – Answering Amended Claims

FINRA Rule 12310 describes how parties answer amended claims. Rule 12310(b) provides that if a claim is amended after it has been answered, but before a panel has been appointed, the respondent has 20 days from “the time the amended claim is served” to serve an amended answer. Since parties would be serving each other through the Party Portal, FINRA is proposing to amend Rule 12310(b) to delete the phrase “the time the amended claim is served” to provide instead that the respondent has 20 days from “receipt of the amended claim” to serve an amended answer. FINRA uses time of receipt in the rules relating to parties’ time to respond to answers, among other matters, and believes consistent language would add clarity to the rule.²⁷

²⁶ FINRA Rule 13309(c) in the Industry Code contains an erroneous cross-reference to Rule 13404(c). FINRA is proposing to amend Rule 13309(c) to refer to Rule 13404(d) which relates to the time frame when ranked lists are due.

²⁷ See FINRA Rules 12303(Answering the Statement of Claim), 12304 (Answering Counterclaims), 12305 (Answering Cross Claims), and 12306 (Answering Third Party Claims).

FINRA is also proposing to amend Rule 12310(d) relating to serving an amended answer to delete the reference to “directly” serving each other party, and providing copies of the pleading for the arbitrators.

Finally, FINRA is proposing to add clarity to Rule 12310(e) concerning when a new party’s answer is due, by stating that the new party’s “time to” answer is governed by Rules 12303 or Rule 12306 (which include a 45 day period for answers).

12400 – Neutral List Selection System and Arbitrator Rosters

FINRA is proposing to amend FINRA Rule 12400(b) relating to its arbitrator rosters and Rule 12400(c) concerning eligibility for chairperson roster to update cross-references and replace bullets with numbers.

12402 – Cases with One Arbitrator and 12403 – Cases with Three Arbitrators

FINRA is proposing to amend FINRA Rules 12402(d)(3) and 12403(c)(3) concerning striking and ranking arbitrators to provide that parties must complete arbitrator ranking through the Party Portal unless a party is a *pro se* customer who opted out of using the Party Portal. The rule would list the approved methods for *pro se* customers to return ranked lists. FINRA is also proposing to amend to Rule 12402(e) to replace bullets with numbers.²⁸

²⁸ The Industry Code rules relating to arbitrator appointment, while substantially similar to the Customer Code rules, are not identical to the Customer Code and are numbered differently. FINRA is proposing to amend FINRA Rule 13404(d) concerning striking and ranking arbitrators, to provide that parties must complete arbitrator ranking through the Party Portal. FINRA is proposing to amend FINRA Rule 13406 relating to appointment of arbitrators to update a cross-reference and to replace bullets with letters. FINRA is also proposing to amend FINRA Rule 13411 concerning replacing arbitrators to update a cross-reference.

12404 – Additional Parties

FINRA Rule 12404 describes procedures for newly added parties to rank and strike arbitrators. FINRA is proposing to amend Rule 12404(a) to reflect that since parties would complete the ranking and striking process in the Party Portal, they would no longer “return” lists to the Director. FINRA would also amend this provision to correct a typographical error by adding “(s)” to the term “list” in the paragraph’s last sentence because in cases with three arbitrators, parties return three lists of arbitrators, not just one.

Rule 12404(b) explains that after ranked arbitrator lists are due to the Director, parties may not amend pleadings to add new parties until FINRA appoints a panel and the panel grants a motion to add a new party. Motions to add a party must be served on all parties. FINRA is proposing to amend Rule 12404(b) to provide that the party seeking to amend the pleading must serve the party to be added by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Service by first-class mail or overnight mail service would be accomplished on the date of mailing. Service by any other means would be accomplished on the date of delivery. FINRA would permit the party to be added to file a response with the Director and serve the response on all other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Since the arbitrators may ultimately decline the motion to add a new party, FINRA believes it makes sense to allow service by methods other than the Party Portal while the arbitrators consider the motion.

12500 – Initial Prehearing Conference

FINRA Rule 12500(c) describes the subject matter of the initial prehearing conference and provides that parties may forgo the conference if they provide certain information (as described in accompanying bullets) in writing to the Director. FINRA is proposing to amend the rule to delete the requirement that parties provide copies of the written submission for the arbitrators. FINRA is also proposing to replace the bullets with numbers.

12502 – Recording Prehearing Conferences and 12606 – Record of Proceedings

FINRA Rule 12502 provides that FINRA does not record prehearing conferences unless the panel orders a recording, and FINRA Rule 12606(a) specifies that FINRA records hearings. Both rules provide that the Director will provide copies of a tape, digital, or other recording to parties for a nominal fee. FINRA is proposing to amend the rules to delete the reference to a fee because FINRA currently provides parties with copies of recordings free of charge. Rule 12606(a) also provides that the panel may order parties to provide a transcription of the recording. FINRA is proposing to amend Rule 12606(a) to clarify that if the arbitrators order the parties to provide a transcript, the parties must provide copies for the arbitrators and must file the transcript with the Director and serve it on the other parties. Rule 12606(b) provides that parties may make stenographic records of a hearing. FINRA is proposing to amend Rule 12606(b) to clarify that if the stenographic record is the official record of the proceeding, the parties must provide copies for the arbitrators and must file the transcript with the Director and serve it on the other parties.

Some FINRA arbitrators have indicated that they prefer to review long documents in hard copy. Therefore, to ensure efficiency in case administration, FINRA would continue to require parties to provide copies of transcripts for the arbitrators.

12503 – Motions

FINRA Rule 12503 specifies how parties make motions at the forum. Under the proposed rule change, parties would be required to file motions with the Director and serve other parties through the Party Portal. Therefore, FINRA is proposing to amend Rule 12503(a)(2) to delete the requirement that parties serve motions on each other directly, at the same time and in the same manner, and provide FINRA with copies for each arbitrator. FINRA would make the same deletions to Rule 12503(b) relating to responding to motions and Rule 12503(c) concerning replying to responses to motions.

FINRA is also proposing to amend Rule 12503(a)(4) to delete the text specifying how parties make motions to amend a pleading to add a party to a case, because these motions would be addressed in Rule 12309(c) (discussed above). FINRA would add a cross-reference to Rule 12309(c).

12506 – Document Production Lists

FINRA Rule 12506(a) provides that when the Director serves respondents with the statement of claim, the Director notifies parties of the location of the FINRA Discovery Guide and Document Production Lists on FINRA's website. In view of the Party Portal, FINRA is proposing to amend the rule to delete the reference to “when the Director serves the statement of claim.” The rule would continue to state that the Director will notify parties of the location of the FINRA Discovery Guide and Document Production Lists on FINRA's website.

FINRA Rule 12506(b) specifies, among other matters, the time for parties to respond to the Document Production Lists. FINRA wants parties to file their explanations about why they are not timely producing documents and why they are objecting to production. FINRA believes that having this correspondence in the Party Portal would be efficient for FINRA staff and the parties. However, FINRA does not want the parties to file with the Director the documents and information that they produce during discovery. Therefore, FINRA is proposing to amend Rule 12506(b) to specify that parties must serve each other with documents produced pursuant to the rule by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile as provided in Rule 12300(a)(3). The rule would also provide that parties are required to file any written responses relating to discovery, such as objections to producing items in the Document Production Lists, with the Director through the Party Portal.

FINRA is also proposing to amend to Rule 12506(b) to replace bullets with letters.²⁹

12507 – Other Discovery Requests

FINRA Rule 12507(a) provides that parties may request additional documents from a party by serving the party directly with a written request. The rule requires the requesting party to serve copies of the request on all other parties at the same time. Since

²⁹ The FINRA Discovery Guide and related Document Production Lists apply only to customer arbitrations. Therefore, the Industry Code does not contain Document Production Lists. The discovery rules in the Industry Code that are substantially similar to Rule 12507 in the Customer Code are Rule 13506 (Discovery Requests) and Rule 13507(Responding to Discovery Requests). The proposed amendments to Rules 13506 and 13507 are substantively identical to those in Rule 12507.

parties would be serving each other through the Party Portal, FINRA is proposing to amend the rule to delete the requirement for direct service in Rule 12507(a)(1) and the requirement to serve all other parties at the same time in Rule 12507(a)(2).

FINRA Rule 12507(b) specifies how parties may respond to an additional discovery request. The parties can: (1) produce the documents or information (Rule 12507(b)(1)(A)); (2) identify specific documents that will not be produced within the required time and state when the documents will be produced (Rule 12507(b)(1)(B)); or (3) object to the request (Rule 12507(b)(1)(C)). As explained earlier, FINRA does not want parties to file with the Director the documents and information that they produce during discovery. Therefore, FINRA is proposing to amend Rule 12507(b)(1)(A) to specify that if a party produces documents or information pursuant to a request, the party must serve all other parties with copies of the requested documents or information by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

However, FINRA wants to receive party explanations about why they are not timely producing documents and why they are objecting to production. Therefore, FINRA would amend Rule 12507(b)(1)(B) concerning non-production to provide that a party must file a response with the Director and serve it on all other parties (through the Party Portal). FINRA would also amend Rule 12507(b)(1)(C) concerning objections to provide that a party must file the objection with the Director and serve it on all other parties (through the Party Portal).

Finally, FINRA is proposing to replace the bullets in Rule 12507 with numbers.

12508 – Objecting to Discovery; Waiver of Objection

FINRA Rule 12508 addresses party objections to producing documents and information during discovery. To reflect how parties will be serving each other through the Party Portal, FINRA is proposing to amend the rule to delete the requirement that parties serve their objections on each other at the same time and in the same manner. Since FINRA wants to receive party explanations about why they are objecting to production, FINRA is proposing to amend the rule to delete the statement that objections should not be filed with the Director.

12512 – Subpoenas

FINRA Rule 12512 specifies that arbitrators may issue subpoenas to parties and non-parties for the production of documents and evidence, and outlines how FINRA handles motions for subpoenas at the forum. To reflect how motion practice would operate through the Party Portal, FINRA is proposing to amend Rule 12512(b) to delete the requirements that parties provide copies of the subpoena for the arbitrator, and serve the motion on each other at the same time and in the same manner. FINRA would make the same amendment to Rule 12512(c) concerning party objections to subpoenas.

Rule 12512(d) addresses service of an executed subpoena. FINRA is proposing to amend the rule to delete the requirement that parties serve the subpoena on each other at the same time and in the same manner. In addition, since non-parties do not have access to the Party Portal, FINRA would amend the rule to specify that when an arbitrator issues a subpoena to a non-party, the party must serve the subpoena on the non-party by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

Rule 12512(e) provides for a non-party's objection to a subpoena. If a non-party receiving a subpoena objects to the scope or propriety of the subpoena, FINRA permits the non-party to file written objections with the Director. Under the rule, the party that requested the subpoena may respond to the objection. FINRA is proposing to amend the rule to provide that the non-party may file the objection by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and that the party must serve the response on the non-party and file proof of service with the Director.

Rule 12512(f) outlines procedures for parties to follow when they receive subpoenaed documents from non-parties. Specifically, the rule provides that any party that receives documents in response to a subpoena served on a non-party has five days to provide notice of the receipt to the other parties. Other parties to the case may request copies of the documents, and the party in receipt of the documents must provide them within 10 calendar days of receipt of the request. FINRA is proposing to amend the rule to specify that a party that receives documents from a non-party in response to a subpoena must serve the other parties with notice that the party received the documents. Other parties to the case may request copies of the subpoenaed documents. Since FINRA does not want the parties to submit the documents to the Director, FINRA would amend the rule to provide that the party must serve the documents on the other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. The rule would also expressly prohibit parties from filing the documents with the Director.

12513 – Authority to Direct Appearances of Associated Person Witnesses and Production of Documents Without Subpoenas

FINRA Rule 12513 authorizes arbitrators to order the appearance of firm employees and associated persons, and the production of documents from firms and their employees and associated persons without issuing a subpoena. FINRA is proposing to amend several provisions in the rule to reflect how FINRA would handle a party's motion for an arbitrator order using the Party Portal.

FINRA is proposing to amend Rule 12513(b) concerning filing the motion to delete the requirement that a party provide a copy for the arbitrator and that the party serve the motion on all other parties at the same time and in same manner as on the Director. FINRA is proposing to make the same changes to Rule 12513(c) relating to an opposing party's objection to the motion, and to Rule 12513(d) relating to party service of an order.

In addition, since FINRA will not invite a non-party to use the Party Portal, FINRA is proposing to amend Rule 12513(d) to provide that if a party obtains an arbitrator's order for a non-party's production, then the party must serve the order on the non-party. FINRA would also amend Rule 12513(e) to provide that if the non-party files an objection to the arbitrator's order, and the party requesting the order wants to file a response to the objection, then the party must serve the response on the non-party and provide the Director with proof of service. Finally, FINRA is proposing to amend Rule 12513(f) to provide that any party receiving documents from a non-party must serve notice on all other parties. If any other party requests copies of the documents, the requesting party must serve them by first-class mail, overnight mail service, overnight

delivery service, hand delivery, email or facsimile. The amendments would also specify that parties must not file with the Director the documents produced pursuant to the order.

12514 – Prehearing Exchange of Documents and Witness Lists, and Explained Decision Requests

FINRA Rule 12514 sets forth procedures for exchanging documents and witness lists prior to the first scheduled hearing date and for making joint party requests for an explained decision. FINRA is proposing to amend Rule 12514(b) to delete the requirement that parties file their witness lists with the Director at the same time as they notify other parties and provide the Director with enough copies for the arbitrators. Instead, Rule 12514(b) would require that all parties file their witness lists only with the Director. FINRA would also amend Rule 12514(d) to provide that parties must file with the Director requests for an explained decision as opposed to submitting them to the arbitrators.

12701 – Settlement

FINRA Rule 12701 requires parties to notify the Director of settlements. FINRA is proposing to amend Rule 12701(a) to reflect use of the Party Portal by replacing “notify” with “file notice with” the Director.

12800 – Simplified Arbitration

FINRA Rule 12800 provides special procedures for the administration of disputes involving \$50,000 or less, including procedures for parties to request documents and other information from each other. FINRA is proposing to amend Rule 12800(d) to provide that parties receiving the request must produce the requested documents or information to all other parties by serving the requested documents or information by

first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. The proposed rule would specify that parties must not file the documents with the Director.

12801 – Default Proceedings

FINRA Rule 12801 specifies procedures for initiating default proceedings against certain respondents (e.g., terminated members). Since parties would be using the Party Portal to file notice with the Director and serve other parties with their request to initiate a default proceeding, FINRA is proposing to amend Rule 12801(b) to delete the requirements for parties to notify the Director in writing, and send a copy of the notification to other parties at the same time and in the same manner. FINRA is also proposing to amend Rule 12801(a) to replace bullets with numbers.

12901 – Member Surcharge

FINRA Rule 12901 provides that FINRA will assess surcharges against members under specified circumstances. Rule 12901(a)(3) states that if the claim is filed by a member, the surcharge is due when the claim is filed. If the claim is filed against a member, or against an associated person employed by a member at the time of the events giving rise to the dispute, the surcharge is due when the claim is served. FINRA is proposing to amend the rule to provide that if a claim is filed against a member or associated person, the surcharge is due when the Director serves the Claim Notification Letter or the initial statement of claim. FINRA is also proposing to amend Rule 12901(a) and 12901(b) to replace bullets with letters.

12094 – Awards

FINRA Rule 12904 concerns arbitrator awards and includes, among other matters, procedures for the Director to serve awards on parties. The rule provides that the Director serves an award using any method available and convenient to the parties and the Director, and that is reasonably expected to cause the award to be delivered to all parties, or their representative, on the same day. Under the rule, the Director may serve an award by first class, registered or certified mail, hand delivery, and facsimile or other electronic transmission. Since the Director will serve the award through the Party Portal in most instances, FINRA is proposing to amend Rule 12904(c) to provide only that the Director will serve the award on each party, or their representative.

Industry Code Specific Amendments

As explained earlier, while the discussion details the proposed amendments to the FINRA rules in the Customer Code, FINRA is also proposing to make substantively similar amendments to the Industry Code. In addition to the amendments discussed, FINRA is proposing to amend rules in the Industry Code that are unique to intra-industry disputes.

13802 – Statutory Employment Discrimination Claims

FINRA is proposing to amend FINRA Rule 13802(a) relating to statutory employment discrimination claims to update a cross-reference concerning the definition of statutory employment discrimination. FINRA would also amend Rule 13802(c) to replace bullets with numbers.

13804 – Temporary Injunctive Orders; Requests for Permanent Injunctive Relief

The Industry Code also has special procedures for handling temporary injunctions with respect to an industry or clearing dispute. FINRA is proposing to amend FINRA Rule 13804(a) to provide that parties seeking temporary injunctive relief from a court must file with the Director a statement of claim requesting permanent injunctive and all other relief with respect to the same dispute through the Party Portal, and must serve the statement of claim requesting permanent injunctive and all other relief on all other parties by overnight delivery service, hand delivery, email or facsimile. The rule would require parties to serve all parties at the same time and in the same manner, unless the parties agree otherwise.

Cases involving injunctive relief operate on an accelerated time schedule. It takes FINRA staff some time to review an initial submission and invite respondent parties to use the Party Portal. In view of the need to expedite these matters, FINRA believes that parties should serve each other outside of the Party Portal until FINRA establishes the identities of all relevant parties and their representatives, and invites them to access the Party Portal.

Mediation Code

Under the proposed rule change, FINRA would permit parties to a mediation proceeding to use the Party Portal on a voluntary basis. FINRA is proposing to amend the Mediation Code to reflect use of the Party Portal.

14100 – Definitions

FINRA is proposing to amend FINRA Rule 14100 to define “Arbitrator and Mediator Portal” and “Party Portal.” The definitions would be identical to the definitions in the Codes. FINRA would re-letter the definitions because of the new additions.

14109 – Mediation Ground Rules

FINRA also is proposing to amend FINRA Rule 14109 to provide that the parties may agree to use the Party Portal to submit all documents and other communications to each other, to retrieve all documents and other communications, and view mediation case information.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,³⁰ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is consistent with Section 15A(b)(6) because it would enhance efficiencies for forum users and would expedite case administration by FINRA.

B. Self-Regulatory Organization’s Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Most parties are currently using the Party Portal voluntarily to file claims and retrieve documents. Thus, under the proposal, the impact on forum users would be minimal.

³⁰ 15 U.S.C. 78o-3(b)(6).

By requiring parties to file their claims online, the proposal would expedite the case intake process and would ensure better data accuracy. Prior to implementation of the proposal, however, FINRA would be required to: (1) update staff procedures to ensure consistency with the new rules; (2) provide instructions for customers in plain English on how to access the Party Portal and use its features; and (3) make some technological changes to various computer systems to incorporate the functions under the proposal that are not currently available to parties.

Economic Impact Assessment

The proposal is intended to introduce an enhanced technology platform into the dispute resolution process to create efficiencies in collecting, preserving and distributing documents, which would expedite case administration and add new features for parties. Parties that would be required to use the Party Portal would benefit from these efficiencies; *pro se* customers would be exempted (provided they opt out of using the Party Portal).

When FINRA activated the Party Portal, FINRA initially limited the number of firms permitted to use the Party Portal to file and receive case documents, among other things, as a proof of concept. Customers initiating claims against one of the invited firms were given the option of using the Party Portal to administer their case. Soon after the parties began using the Party Portal, and learned of the benefits and cost savings realized through the technology, customers and firms indicated a desire to use the Party Portal. As of May 11, 2016, there are 18 firms that use the Party Portal to receive service of the statement of claim and to administer their cases electronically in every instance. In addition, in most of the remaining cases administered at the forum, firms and associated

persons are opting to use the Party Portal for case administration after they receive the statement of claim. As of July 20, 2015, FINRA opened the Party Portal to accept all parties in all new cases that wish to use it on a voluntary basis.

As of May 11, 2016, FINRA has processed 4,932 cases through the Party Portal. FINRA has invited 13,562 parties (customers, and firms and associated persons) to register and use the Party Portal. Of the 13,562 parties, 76 percent of customers, including *pro se* customers, have been using the Party Portal voluntarily and 82 percent of firms and associated persons, which includes firm representatives, have been using the Party Portal voluntarily (78 percent in total). FINRA has processed over 16,000 party documents through the Party Portal, including answers, motions, and correspondence. Over 83 percent of parties have used the Party Portal to view their case-related correspondence.

Based on the parties' experience to date with the Party Portal, along with the feedback provided from current users of this platform, FINRA believes those parties required to use the Party Portal would realize the anticipated benefits of the proposal. Further, the adoption of the Party Portal by parties on a voluntary basis suggests that they see benefit from its availability and use.

Under the proposal, most parties would no longer be required to send paper copies of pleadings or other documents to FINRA. Thus, these parties would experience cost savings related to the preparation and mailing of such submissions. Further, parties would be able to serve each other immediately through the Party Portal, rather than through other means, which, under current rules, may involve mailing hard copies to all parties at the same time. FINRA acknowledges that those customers or firms that have

not used the Party Portal previously may incur some time and effort to learn the Party Portal system, but the technology requirements (*i.e.*, a computer with internet access) will be minimal, and, therefore, should not impede a party's access to the dispute resolution process.

FINRA staff understands that requiring *pro se* customers to use the Party Portal might impose a higher burden on these individuals given their potentially limited access to and experience with the required technology. Thus, staff is proposing to allow *pro se* customers to opt out of using the Party Portal. However, *pro se* customers may choose to use the Party Portal, which would allow them to benefit equally from the efficiencies that the Party Portal is anticipated to create. Staff notes that, as of May 11, 2016, 3,599 *pro se* customers or customer representatives have been invited to register, with 4,711 agreeing to do so (a 76 percent registration rate).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2016-029 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2016-029. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street,

NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2016-029 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Robert W. Errett
Deputy Secretary

³¹ 17 CFR 200.30-3(a)(12).

Exhibit 5

(Deletions are Bracketed; Additions are Underlined)

CODE OF ARBITRATION PROCEDURE FOR CUSTOMER DISPUTES

* * * * *

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) Arbitrator and Mediator Portal

The term "Arbitrator and Mediator Portal" means the web-based system that allows invited arbitrators and mediators to access a secure section of FINRA's website to submit documents and information and view their arbitration and mediation case information and documents.

(~~a~~) b) Associated Person

The term "associated person" or "associated person of a member" means a person associated with a member, as that term is defined in paragraph (~~r~~)u).

(~~b~~)c) Award

No change.

(~~c~~)d) Board

No change.

(~~d~~)e) Claim

No change.

(f) Claim Notification Letter

The term "Claim Notification Letter" means the notice provided by the Director to respondent(s) that they have been named as a party in a statement of claim. The notice will provide information about accessing the Party Portal to obtain a copy of the statement of claim

filed by the claimant(s) and information about the arbitration, including the hearing location selected by the Director and the deadline for filing a statement of answer.

([e]g) Claimant

No change.

([f]h) Code

No change.

([g]i) Counterclaim

No change.

([h]j) Cross Claim

No change.

([i]k) Customer

No change.

([j]l) Day

Except as otherwise provided, the term "day" means calendar day. If a deadline specified in the Code falls on a Saturday, Sunday or any FINRA holiday, the deadline is extended until the next business day. If a party receives pleadings or other documents on a Saturday, Sunday or any FINRA holiday, the date of receipt shall be the next business day.

([k]m) Director

No change.

([l]n) Dispute

No change.

([m]o) Hearing

No change.

([n]p) Hearing Session

No change.

([o]q) Member

No change.

([p]r) Non-Public Arbitrator

The term "non-public arbitrator" means a person who is otherwise qualified to serve as an arbitrator, and meets any of the following criteria:

(1) No change.

(2) is an attorney, accountant, or other professional who has, within the past five years, devoted 20 percent or more of his or her professional time, in any single calendar year, to any entities listed in paragraph ([p]r)(1) and/or to any persons or entities associated with any of the entities listed in paragraph ([p]r)(1); or

(3) – (4) No change.

For purposes of the non-public arbitrator definition, the term "professional time" shall not include mediation services performed by mediators who are also arbitrators, provided that the mediator acts in the capacity of a mediator and does not represent a party in the mediation.

([q]s) Panel

No change.

(t) Party Portal

The term "Party Portal" means the web-based system that is accessible by arbitration and mediation parties and their representatives. The Party Portal allows invited participants to access a secure section of FINRA's website to submit documents and view their arbitration and mediation case information and documents.

([r]u) Person Associated with a Member

No change.

([s]y) Pleadings

No change.

([t]w) Prehearing Conference

No change.

(x) Pro Se

For purposes of the Code, the term “pro se” refers to a party that is not represented by an attorney or others during an arbitration or mediation.

([u]y) Public Arbitrator

The term "public arbitrator" means a person who is otherwise qualified to serve as an arbitrator, and is not disqualified from service as an arbitrator, as enumerated by any of the criteria below.

Permanent Disqualifications Based on a Person's Own Activities

(1) No change.

(2) A person shall not be designated as a public arbitrator, who was, for a total of 15 years or more, an attorney, accountant, or other professional who has devoted 20 percent or more of his or her professional time annually, to any entities listed in paragraph ([u]y)(1) and/or to any persons or entities associated with any of the entities listed in paragraph [(u]y)(1).

(3) – (4) No change.

Temporary Disqualifications Based on a Person's Own Activities

(5) No change.

(6) A person shall not be designated as a public arbitrator who is an attorney, accountant, or other professional who has devoted 20 percent or more of his or her professional time, in any single calendar year, to any entities listed in paragraph ([u]y)(1) and/or to any persons or entities associated with any of the entities listed in paragraph ([u]y)(1) unless the calendar year ended more than five calendar years ago.

(7) – (8) No change.

Temporary Disqualifications Based on the Activities of Others at a Person's Employer

(9) A person shall not be designated as a public arbitrator who is an attorney, accountant, or other professional whose firm derived \$50,000 or more, or at least 10 percent of its annual revenue, in any single calendar year during the course of the past two calendar years, from any entities listed in paragraph ([u]y)(1) and/or to any persons or entities associated with any of the entities listed in paragraph ([u]y)(1), or from a bank or other financial institution where persons effect transactions in securities including government or municipal securities, commodities, futures, or options. A person whom FINRA would not designate as a public arbitrator under this subparagraph shall also not be designated as a public arbitrator for two calendar years after ending employment at the firm.

(10) No change.

Temporary Disqualification Based on the Financial Industry Affiliation of an Immediate Family Member

For purposes of the public arbitrator definition, the term "revenue" shall not include mediation fees received by mediators who are also arbitrators, provided that the mediator acts in the capacity of a mediator and does not represent a party in the mediation.

([v]z) Respondent

No change.

([w]aa) Statement of Claim

No change.

([x]bb) Submission Agreement

No change.

([y]cc) Third Party Claim

No change.

* * * *

PART II GENERAL ARBITRATION RULES

12211. Direct Communication Between Parties and Arbitrators

(a) No change

(b) Only parties that are represented by counsel may use direct communication under this rule. If, during the proceeding, a party chooses to appear [pro se (]without counsel[)], this rule shall no longer apply.

(c) – (d) No change.

(e) Parties may send items to the arbitrators by [regular mail, overnight courier, facsimile, or email] first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile as specified in the Direct Communication Order. All the arbitrators and parties must have facsimile or email capability before such a delivery method may be used.

(f) Copies of all materials sent to arbitrators must also be [sent at the same time and in the same manner to] served on all parties and filed with the Director, pursuant to Rule 12300. [Materials that exceed 15 pages, however, shall be sent to the Director only by regular mail or overnight courier.]

(g) The [Director must receive] parties must file with the Director, pursuant to Rule 12300, copies of any orders and decisions made as a result of direct communications among the parties and the arbitrators.

(h) – (i) No change.

* * * *

PART III INITIATING AND RESPONDING TO CLAIMS

12300. Filing and Serving Documents

[(a) Initial statements of claim must be filed with the Director, with enough copies for each other party and each arbitrator. The number of arbitrators is determined in accordance

with Rule 12401. The Director will serve the statement of claim on the other parties, and send copies of the statement of claim to each arbitrator.

(b) The parties must serve all other pleadings and other documents directly on each other party. Parties must serve all pleadings on all parties at the same time and in the same manner, unless the parties agree otherwise.

(c) Unless the Code provides otherwise, parties must also file all pleadings and other documents with the Director, with additional copies for each arbitrator. Pleadings and other documents must be filed with the Director at the same time and in the same manner in which they are served on the other parties. Parties filing pleadings and other documents with the Director must include a certificate of service stating the names of the parties served, the date and method of service, and the address(es) to which service was made.

(d) Pleadings and other documents may be filed and served by: first class mail; overnight mail or delivery service; hand delivery; facsimile; or any other method, including electronic mail, that is approved or required by the panel.

(e) Filing and service are accomplished on the date of mailing either by first-class postage prepaid mail or overnight mail service, or, in the case of other means of service, on the date of delivery. Whenever pleadings and other documents must be filed with the Director and served on the other parties, filing and service must occur on the same day and in the same manner, unless the parties agree or the panel directs otherwise.

(f) A party must inform the Director and all other parties in writing of any change of address during an arbitration.

(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.]

(a) Party Portal

(1) Parties must use the Party Portal to file initial statements of claim and to file and serve pleadings and any other documents on the Director or any other party except as provided in paragraphs (a)(2) and (a)(3). The Director may exercise authority to permit the use of other means of filing or service in the case of an extended Party Portal outage or in other extraordinary circumstances.

(2) Pro Se customers are not required to use the Party Portal to file initial statements of claim or to file and serve pleadings and any other documents on the Director or any other party. However, if a pro se customer files a claim using the Party Portal, the pro se customer must use the Party Portal for the duration of the arbitration process. If a pro se customer opts out of using the Party Portal the following apply:

(A) the pro se customer may file an arbitration claim with the Director by any method described in Rule 12300(a)(2)(C);

(B) the pro se customer must comply with the requirements of Rules 12302(a) and (b) when filing the claim with the Director;

(C) filing and service methods available are first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile;

(D) filing and service by first-class mail or overnight mail service is accomplished on the date of mailing, and filing or service by any other means is accomplished on the date of delivery;

(E) except for the initial statement of claim, the *pro se* customer must provide proof of service for any documents served outside of the Party Portal;
and

(F) the Director will serve the Claim Notification Letter or initial statement of claim on the respondents pursuant to Rule 12302.

(3) Parties shall not file with FINRA or serve on any other party, through the Party Portal, documents produced during discovery pursuant to the Rule 12500 Series. Available service methods for such documents are first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile.

(b) Filing

(1) Except as noted in Rules 12300(a)(2) and 12300(a)(3), parties must file initial statements of claim and all pleadings and other documents with the Director through the Party Portal. Parties must file with the Director any written responses relating to discovery requests under Rules 12506 and 12507, but shall not file any of the documents produced in response to discovery requests as provided in Rule 12300(a)(3).

(2) Except as noted in Rule 12300(a)(2), parties must file arbitrator ranking lists pursuant to Rules 12402(d) and 12403(c) with the Director through the Party Portal.

(3) Filing under Rule 12300(b) is accomplished on the day of submission through the Party Portal. Filing by first-class mail or overnight mail service is accomplished on the date of mailing. Filing by any other means is accomplished on the date of delivery.

(c) Service

(1) The Director will serve the Claim Notification Letter or initial statement of claim on the respondent(s) pursuant to Rule 12302.

(2) Except as noted in Rules 12300(a)(2) and 12300(a)(3), parties must serve all pleadings and other documents through the Party Portal.

(3) Parties must serve all pleadings and other documents on *pro se* customers who opt out of the Party Portal pursuant to Rule 12300(a)(2), by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

(4) Service under Rule 12300(c) is accomplished on the day of submission through the Party Portal. Service by first-class mail or overnight mail service is accomplished on the date of mailing. Service by any other means is accomplished on the date of delivery.

(5) For documents not served through the Party Portal, parties must file proof of service with the Director through the Party Portal. Under Rule 12300(a)(2), if a *pro se* customer opts out of using the Party Portal, the *pro se* customer is not required to use the Party Portal to serve pleadings and any other documents.

(d) General Rules for Filing and Serving Documents

(1) Redaction of Personal Confidential Information

(A) In filings with the Director, a party must redact any document that contains an individual's Social Security number, taxpayer identification number or financial account number to include only the last four digits of any of these numbers. If the Director receives a claim, including supporting documents, with the full Social Security number, taxpayer identification number or financial account number, the Director 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 the Director any document not covered by Rule 12307 that

contains full numbers as referenced above, the Director 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 the Director.

(B) The requirements of paragraph (d)(1)(A) above do not apply to documents that parties exchange with each other and do not file with the Director, or to documents parties submit to a panel at a hearing on the merits.

(C) The requirements of paragraphs (d)(1)(A) above do not apply to Simplified Arbitrations under Rule 12800.

(2) Update Contact Information

A party must serve any change of email or mailing address during an arbitration on all other parties and file this information with the Director.

12301. Service on Associated Persons

(a) The Director will serve [the initial statement of claim] the Claim Notification Letter on an associated person directly at the person's residential address or usual place of abode. If service cannot be completed at the person's residential address or usual place of abode, the Director will serve [the initial statement of claim] the Claim Notification Letter on the associated person at the person's business address.

(b) If a member and a person currently associated with the member are named as respondents to the same arbitration, and the Director cannot complete service as provided in paragraph (a), then the Director may serve the member with the [initial statement of claim] the Claim Notification Letter on behalf of the associated person. If service is made on the member, the member must serve the associated person, even if the member will not be representing the associated person in the arbitration. If the member is not representing the associated person in

the arbitration, the member must notify, and provide the associated person's current address to, all parties and the Director.

12302. Filing and Serving an Initial Statement of Claim

(a) Filing Claim with the Director

To initiate an arbitration, a claimant must file the following with the Director:

- [•] (1) Signed and dated Submission Agreement; and
- [•] (2) A statement of claim specifying the relevant facts and remedies requested.

The claimant may include any additional documents supporting the statement of claim.

[The claimant may file the documents: (1) in hard copy; or (2) electronically through the Online Arbitration Claim Filing system that can be accessed at www.finra.org.]

(b) [Number of Copies]

[If not submitted electronically, the claimant must file enough copies of the statement of claim, and the signed Submission Agreement, and any additional materials, for the Director, each arbitrator and each other party.]

[(c)] Fees

At the time the statement of claim is filed, the claimant must pay all required filing fees by credit card or automated clearing house (ACH) through the Party Portal unless the party is a pro se customer who opts out of using the Party Portal as provided in Rule 12300(a).

[(d)]c) Service by Director

[Unless the statement of claim is deficient under Rule 12307, the Director will send a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each other party, and to each arbitrator once the panel has been appointed.]

Unless the statement of claim is deficient under Rule 12307, the Director will effect service as follows:

- (1) the Director will send the Claim Notification Letter to all non-customer respondent(s) pursuant to Rule 12302; and

(2) the Director will send the Claim Notification Letter along with a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each customer respondent. The Director will inform the customer that if the customer is *pro se*, the customer is not required to use the Party Portal; and

(3) the Director will send a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant to each arbitrator by first-class mail, overnight mail service, overnight delivery service, hand delivery, email, facsimile, or through the Arbitrator and Mediator Portal, once the panel has been appointed.

12303. Answering the Statement of Claim

(a) Respondent(s) must [directly] serve each other party with the following documents within 45 days of receipt of the statement of claim:

[•](1) Signed and dated Submission Agreement; and

[•](2) An answer specifying the relevant facts and available defenses to the statement of claim.

The respondent may include any additional documents supporting the answer to the statement of claim. Parties that fail to answer in the time provided may be subject to default proceedings under Rule 12801.

(b) The answer to the statement of claim may include any counterclaims against the claimant, cross claims against other respondents, or third party claims, specifying all relevant facts and remedies requested, as well as any additional documents supporting such claim.

[When serving] If the answer contains a third party claim, the respondent must serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal except as provided in Rule 12300(a)(2). The respondent must file the third party claim with the Director through the Party Portal except as provided in

Rule 12300(a)(2). [the respondent must provide each new respondent with copies of all documents previously served by any party, or sent to the parties by the Director.]

(c) At the same time that the answer to the statement of claim is served on the other parties, the respondent must file copies of the Submission Agreement, the answer to the statement of claim, and any additional documents, with the Director, pursuant to Rule 12300(b) [with enough copies for the Director and each arbitrator].

(d) No change.

12304. Answering Counterclaims

(a) Except as provided in Rule 12300(a)(2), a [A] claimant must [directly] serve any answer to a counterclaim on each other party through the Party Portal within 20 days of receipt of the counterclaim. At the same time, the claimant must file the answer to the counterclaim with the Director [with additional copies for each arbitrator].

(b) No change.

12305. Answering Cross Claims

(a) Except as provided in Rule 12300(a)(2), a [A] respondent must [directly] serve an answer to a cross claim on each other party through the Party Portal within 20 days from the date that the respondent's answer to the statement of claim is due, or from the receipt of the cross claim, whichever is later. At the same time, the respondent must file the answer to the cross claim with the Director [with additional copies for each arbitrator].

(b) No change.

12306. Answering Third Party Claims

(a) A party responding to a third party claim must [directly] serve all other parties with the following documents within 45 days of receipt of the third party claim:

[•] (1) Signed and dated Submission Agreement; and

[•] (2) An answer specifying the relevant facts and available defenses to the third party claim.

The respondent may include any additional documents supporting the answer to the third party claim.

(b) The answer to the third party claim may also include any counterclaims, cross claims, or third party claims, specifying all relevant facts and remedies requested. The answer may also include any additional documents supporting such claim. [When serving] If the answer contains a third party claim, the respondent must serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal except as provided in Rule 12300(a)(2). The respondent must file the third party claim with the Director through the Party Portal except as provided in Rule 12300(a)(2). [the respondent must provide each new respondent with copies of all documents previously served by any party, or sent to the parties by the Director.]

(c) At the same time that the answer to the third party claim is served on the other parties, the third party respondent must also file copies of the Submission Agreement, the answer to the third party claim, and any additional documents, with the Director[, with additional copies for each arbitrator].

(d) No change.

12307. Deficient Claims

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

- [•] (1) A Submission Agreement was not filed by each claimant;
- [•] (2) The Submission Agreement was not properly signed and dated;
- [•] (3) 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;]

[• (4) The claim does not specify the customer's city and state [home address] at the time of the events giving rise to the dispute;

[• (5) The claim does not specify the claimant's or the claimant's representative's current address;

[• (6) The claimant did not pay all required filing fees, unless the Director deferred the fees; or

[• (7) The claim does not comply with the restrictions on filings with personal confidential information under Rule 12300(d)(1) [(g)(1)].

(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(b)[(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) No change.

12309. Amending Pleadings

(a) Before Panel Appointment

Except as provided in paragraph (c), a party may amend a pleading at any time before the panel has been appointed. Panel appointment occurs when the Director sends notice to the parties of the names of the arbitrators on the panel.

(1) To amend a statement of claim that has been filed but not yet served by the Director, the claimant must file the amended claim with the Director[, with additional copies for each arbitrator and each other party]. The Director will then serve the Claim

Notification Letter or amended statement of claim in accordance with Rules 12300 and 12301.

(2) To amend any other pleading, a party must serve the amended pleading on each party[. At the same time, the party must file the amended pleading with] and file the amended pleading with the Director[, with additional copies for each arbitrator]. If a pleading is amended to add a party to the arbitration, the party amending the pleading must serve the new party with the amended pleading and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal except as provided in Rule 12300(a)(2). The party amending the pleading must file the amended pleading with the Director through the Party Portal except as provided in Rule 12300(a)(2). [the party amending the pleading must provide each new party with copies of all documents previously served by any party, or sent to the parties by the Director.]

(b) After Panel Appointment

No change.

(c) Amendments to Add Parties

Once the ranked arbitrator lists are due to the Director under Rule 12402(d) or Rule 12403(c), no party may amend a pleading to add a new party to the arbitration until a panel has been appointed and the panel grants a motion to add the party. Motions to add a party after panel appointment must be served on all parties, including the party to be added.[.] The party seeking to amend the pleading may serve the party to be added by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Service by first-class mail or overnight mail service is accomplished on the date of mailing. Service by any other means is accomplished on the date of delivery. [and t] The party to be added may respond to the motion in accordance with Rule 12503 without waiving any rights or objections under the

Code. The response may be filed with the Director and served on all other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

(d) Responding to an Amended Pleading

No change.

12310. Answering Amended Claims

(a) No change.

(b) If a claim is amended after it has been answered, but before a panel has been appointed, the respondent has 20 days from [the time] receipt of the amended claim [is served] to serve an amended answer.

(c) No change.

(d) The amended answer must be [directly] served on each other party. At the same time, the amended answer must also be filed with the Director[, with additional copies for each arbitrator].

(e) If the amended claim adds a new party to the arbitration, the new party's time to answer is governed by Rules 12303 or 12306.

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PART IV APPOINTMENT, DISQUALIFICATION, AND AUTHORITY OF ARBITRATORS

12400. Neutral List Selection System and Arbitrator Rosters

(a) Neutral List Selection System

No change.

(b) Arbitrator Rosters

FINRA maintains the following roster of arbitrators:

- [•] (1) A roster of non-public arbitrators as defined in Rule 12100([p]r);
- [•] (2) A roster of public arbitrators as defined in Rule 12100([u]y); and
- [•] (3) No change.

(c) Eligibility for Chairperson Roster

In customer disputes, chairpersons must be public arbitrators. Arbitrators are eligible for the chairperson roster if they have completed chairperson training provided by FINRA and:

[•](1) Have a law degree and are a member of a bar of at least one jurisdiction and have served as an arbitrator through award on at least two arbitrations administered by a self-regulatory organization in which hearings were held; or

[•](2) Have served as an arbitrator through award on at least three arbitrations administered by a self-regulatory organization in which hearings were held.

12402. Cases with One Arbitrator

(a) - (c) No change.

(d) Striking and Ranking Arbitrators

(1) - (2) No change.

(3) The ranked list must be completed via the Party Portal or, if the party is a *pro se* customer who opted out of using the Party Portal pursuant to Rule 12300(a), returned to the Director by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile no more than 20 days after the date upon which the Director sent the lists to the parties. If the Director does not receive a party's ranked list within that time, the Director will proceed as though the party did not want to strike any arbitrator or have any preferences among the listed arbitrators.

(4) No change.

(e) The Director will prepare a combined ranked list of arbitrators based on the parties' numerical rankings, as follows:

[•](1) The Director will add the rankings of all claimants together, and the rankings of all respondents together, to produce a separate combined ranked list for the claimants and the respondents.

[•](2) The Director will then add the combined rankings of claimants and the respondents together, to produce a single combined ranking number for each arbitrator, excluding all arbitrators stricken by a party.

(f) - (g) No change.

12403. Cases with Three Arbitrators

Composition of Panels

(a) - (b) No change.

(c) Striking and Ranking Arbitrators

(1) No change.

(2) No change.

(3) The ranked lists must be completed via the Party Portal or, if the party is a *pro se* customer who opted out of using the Party Portal pursuant to Rule 12300(a), returned to the Director by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile no more than 20 days after the date upon which the Director sent the lists to the parties. If the Director does not receive a party's ranked lists within that time, the Director will proceed as though the party did not want to strike any arbitrator or have any preferences among the listed arbitrators. A party's failure to comply with the 20-day timeframe may result in the appointment of a panel consisting of two public arbitrators and one non-public arbitrator.

(4) No change.

(d) - (h) No change.

12404. Additional Parties

(a) If a party is added to an arbitration after the Director sends the lists generated by the Neutral List Selection System to the parties, but before [parties must return] the ranked lists are due to the Director, the Director will send the lists to the newly added party, with employment history for the past 10 years and other background information for each arbitrator listed. The

newly added party may rank and strike the arbitrators in accordance with Rules 12402(d) or 12403(c). If the Director receives the ranked lists from the newly added party [returns the lists] within 20 days after the date upon which the Director sent the lists to the party, the Director will include the new party's lists when combining rankings under Rules 12402(e) or 12403(d). If the Director does not receive the list(s) within that time, the Director will proceed as though the party did not want to strike any arbitrator or have any preference among the listed arbitrators.

(b) Once the ranked lists are due to the Director under Rules 12402(d)(3) or Rule 12403(c)(3), no party may amend a pleading to add a new party to the arbitration until a panel is appointed and grants a motion to add the party. Motions to add a party must be served on all parties. The party amending the pleading must serve [including] the party to be added[,] by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Service by first-class mail or overnight mail service is accomplished on the date of mailing. Service by any other means is accomplished on the date of delivery. [and t] The party to be added may respond to the motion in accordance with Rule 12503 without waiving any rights or objections under the Code. The response may be filed with the Director and served on all other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. If the panel grants the motion to add the party, the newly added party may not strike and rank the arbitrators, but may challenge an arbitrator for cause in accordance with Rule 12407.

* * * *

PART V PREHEARING PROCEDURES AND DISCOVERY

12500. Initial Prehearing Conference

(a) - (b) No change.

(c) At the Initial Prehearing Conference, the panel will set discovery, briefing, and motions deadlines, schedule subsequent hearing sessions, and address other preliminary matters. The parties may agree to forgo the Initial Prehearing Conference only if they jointly

provide the Director with the following information, in writing[, with additional copies for each arbitrator,] before the Initial Prehearing Conference is scheduled to be held:

[•] (1) A statement that the parties accept the panel;

[•] (2) Whether any other prehearing conferences will be held, and if so, for each prehearing conference, a minimum of four mutually agreeable dates and times, and whether the chairperson or the full panel will preside;

[•] (3) A minimum of four sets of mutually agreeable hearing dates;

[•] (4) A discovery schedule;

[•] (5) A list of all anticipated motions, with filing and response due dates; and

[•] (6) A determination regarding whether briefs will be submitted, and, if so, the due date for the briefs and any reply briefs.

* * * *

12502. Recording Prehearing Conferences

(a) No change.

(b) If a prehearing conference is recorded, it may be recorded using any of the methods discussed under Rule 12606. The Director will provide a copy of the recording to any party upon request [for a nominal fee].

12503. Motions

(a) Motions

(1) No change.

(2) Written motions are not required to be in any particular form, and may take the form of a letter, legal motion, or any other form that the panel decides is acceptable. Written motions must be served [directly] on each other party[, at the same time and in the same manner]. Written motions must also be filed with the Director[, with additional copies for each arbitrator, at the same time and in the same manner in which they are served on the parties].

(3) No change.

(4) Motions to amend a pleading after panel appointment pursuant to Rule 12309(b) must be accompanied by copies of the proposed amended pleading when the motion is served on the other parties and filed with the Director. If the panel grants the motion, the amended pleading does not have to be served again, unless the panel determines otherwise. [If a party moves] Motions to amend a pleading to add a party are made pursuant to Rule 12309(c).[, the motion must be served on all parties, including the party to be added, and the party to be added may respond to the motion in accordance with Rule 12309(c) without waiving any rights or objections under the Code.]

(b) Responding to Motions

Parties have 10 days from the receipt of a written motion to respond to the motion, unless the moving party agrees to an extension of time, or the Director or the panel decides otherwise. Responses to written motions must be served [directly] on each other party[, at the same time and in the same manner]. Responses to written motions must also be filed with the Director[, with additional copies for each arbitrator, at the same time and in the same manner in which they are served on the parties].

(c) Replying to Responses to Motions

Parties have 5 days from the receipt of a response to a motion to reply to the response unless the responding party agrees to an extension of time, or the Director or the panel decides otherwise. Replies to responses must be served [directly] on each other party[, at the same time and in the same manner]. Replies to responses must also be filed with the Director[, with additional copies for each arbitrator, at the same time and in the same manner in which they are served on the parties].

(d) No change.

* * * *

12506. Document Production Lists

(a) Applicability of Document Production Lists

[When the Director serves the statement of claim, the] The Director will notify parties of the location of the FINRA Discovery Guide and Document Production Lists on FINRA's website, but will provide a copy to the parties upon request. Document Production Lists 1 and 2 describe the documents that are presumed to be discoverable in all arbitrations between a customer and a member or associated person.

(b) Time for Responding to Document Production Lists

(1) Unless the parties agree otherwise, within 60 days of the date that the answer to the statement of claim is due, or, for parties added by amendment or third party claim, within 60 days of the date that their answer is due, parties must either:

[•](A) Produce to all other parties all documents in their possession or control that are described in Document Production Lists 1 and 2 servicing the requested documents or information by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile as provided in Rule 12300(a)(3);

[•](B) Identify and explain the reason that specific documents described in Document Production Lists 1 and 2 cannot be produced within the required time, and state when the documents will be produced, and serve this response on all parties and file this response with the Director; or

[•](C) Object as provided in Rule 12508 and serve this response on all parties and file this response with the Director.

(2) A party must act in good faith when complying with subparagraph (1) of this rule. "Good faith" means that a party must use its best efforts to produce all documents required or agreed to be produced. If a document cannot be produced in the required time, a party must establish a reasonable timeframe to produce the document.

(c) No change.

12507. Other Discovery Requests

(a) Making Other Discovery Requests

(1) Parties may also request additional documents or information from any party by serving a written request [directly] on the party. Requests for information are generally limited to identification of individuals, entities, and time periods related to the dispute; such requests should be reasonable in number and not require narrative answers or fact finding. Standard interrogatories are generally not permitted in arbitration.

(2) Other discovery requests may be served:

[•] (A) On the claimant, or any respondent named in the initial statement of claim, 45 days or more after the Director serves the statement of claim; and

[•] (B) On any party subsequently added to the arbitration, 45 days or more after the statement of claim is served on that party.

[At the same time, t] The party must serve copies of the request on all other parties. Any request for documents or information not described in applicable Document Production Lists should be specific, and relate to the matter in controversy.

(b) Responding to Other Discovery Requests

(1) Unless the parties agree otherwise, within 60 days from the date a discovery request other than the Document Production Lists is received, the party receiving the request must either:

[•] (A) Produce the requested documents or information to all other parties by serving the requested documents or information by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile;

[•] (B) Identify and explain the reason that specific requested documents or information cannot be produced within the required time, [and] state when the

documents will be produced, and serve this response on all parties and file this response with the Director; or

[•] (C) Object as provided in Rule 12508 and serve this response on all parties and file this response with the Director.

(2) No change.

12508. Objecting to Discovery; Waiver of Objection

(a) If a party objects to producing any document described in Document Production Lists 1 or 2 or any document or information requested under Rule 12507, it must specifically identify which document or requested information it is objecting to and why. Objections must be in writing, and must be served on all other parties [at the same time and in the same manner. Objections should not be filed with the Director]. Parties must produce all applicable listed documents, or other requested documents or information not specified in the objection by serving the requested documents or information under Rule 12300.

(b) - (c) No change.

* * * *

12512. Subpoenas

(a) No change.

(b) A party may make a written motion requesting that an arbitrator issue a subpoena to a party or a non-party. The motion must include a draft subpoena and must be filed with the Director[, with an additional copy for the arbitrator.] The requesting party must serve the motion and draft subpoena on each other party[, at the same time and in the same manner as on the Director]. The requesting party may not serve the motion or draft subpoena on a non-party.

(c) If a party receiving a motion and draft subpoena objects to the scope or propriety of the subpoena, that party shall, within 10 calendar days of service of the motion, file written objections with the Director[, with an additional copy for the arbitrator], and shall serve copies on

all other parties [at the same time and in the same manner as on the Director]. The party that requested the subpoena may respond to the objections within 10 calendar days of receipt of the objections. After considering all objections, the arbitrator responsible for deciding discovery-related motions shall rule promptly on the issuance and scope of the subpoena.

(d) If the arbitrator issues a subpoena, the party that requested the subpoena must serve the subpoena [at the same time and in the same manner] on all parties and, if applicable, on any non-party receiving the subpoena. The party must serve the subpoena on the non-party by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

(e) If a non-party receiving a subpoena objects to the scope or propriety of the subpoena, the non-party may, within 10 calendar days of service of the subpoena, file written objections with the Director. The non-party may file the objection by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. The Director shall forward a copy of the written objections to the arbitrator and all other parties. The party that requested the subpoena may respond to the objections within 10 calendar days of receipt of the objections. The party must serve the response on the non-party and file proof of service with the Director pursuant to Rule 12300(c)(5). After considering all objections, the arbitrator responsible for issuing the subpoena shall rule promptly on the objections.

(f) Any party that receives documents in response to a subpoena served on a non-party shall [provide] serve notice [to] on all other parties within five days of receipt of the documents. Thereafter, any party may request copies of such documents and, if such a request is made, the documents must be provided within 10 calendar days following receipt of the request by serving them by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Parties must not file the documents with the Director.

(g) No change.

12513. Authority of Panel to Direct Appearances of Associated Person Witnesses and Production of Documents Without Subpoenas

(a) Upon motion of a party, the panel may order the following without the use of subpoenas:

[•] (1) The appearance of any employee or associated person of a member of FINRA; or

[•] (2) The production of any documents in the possession or control of such persons or members.

(b) The motion must include a draft order and must be filed with the Director[, with an additional copy for the arbitrator]. The requesting party must serve the motion and draft order on each other party[, at the same time and in the same manner as on the Director]. The requesting party may not serve the motion or draft order on a non-party.

(c) If a party receiving a motion and draft order objects to the scope or propriety of the order, that party shall, within 10 calendar days of service of the motion, file written objections with the Director[, with an additional copy for the arbitrator,] and shall serve copies on all other parties [at the same time and in the same manner as on the Director]. The party that requested the order may respond to the objections within 10 calendar days of receipt of the objections. After considering all objections, the arbitrator responsible for deciding discovery-related motions shall rule promptly on the issuance and scope of the order.

(d) If the arbitrator issues an order, the party that requested the order must serve the order [at the same time and in the same manner] on all parties and, if applicable, on any non-party receiving the order. The party must serve the order on the non-party.

(e) If a non-party receiving an order objects to the scope or propriety of the order, the non-party may, within 10 calendar days of service of the order, file written objections with the Director. The non-party may file the objection by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. The Director shall forward a copy

of the written objections to the arbitrator and all other parties. The party that requested the order may respond to the objections within 10 calendar days of receipt of the objections. The party must serve the response on the non-party and file proof of service with the Director pursuant to Rule 12300(c)(5). After considering all objections, the arbitrator responsible for issuing the order shall rule promptly on the objections.

(f) Any party that receives documents in response to an order served on a non-party shall [provide] serve notice [to] on all other parties within five days of receipt of the documents. Thereafter, any party may request copies of such documents and, if such a request is made, the documents must be provided within 10 calendar days following receipt of the request by serving them by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Parties must not file the documents with the Director.

(g) No change.

12514. Prehearing Exchange of Documents and Witness Lists, and Explained Decision Requests

(a) No change.

(b) Witness Lists

At least 20 days before the first scheduled hearing date, all parties must provide each other party with the names and business affiliations of all witnesses they intend to present at the hearing. [At the same time, a] All parties must file their witness lists with the Director[, with enough copies for each arbitrator].

(c) No change.

(d) Explained Decision Request

At least 20 days before the first scheduled hearing date, all parties must [submit to the panel] file with the Director any joint request for an explained decision under Rule 12904(g).

* * * *

PART VI HEARINGS; EVIDENCE; CLOSING THE RECORD

12606. Record of Proceedings

(a) Tape, Digital, or Other Recording

(1) Except as provided in paragraph (b), the Director will make a tape, digital, or other recording of every hearing. The Director will provide a copy of the recording to any party upon request [for a nominal fee].

(2) The panel may order the parties to provide a transcription of the recording. If the panel orders a transcription, copies of the transcription must be provided to each arbitrator, [and] served on each party, and filed with the Director. The panel will determine which party or parties must pay the cost of making the transcription and copies.

(3) No change.

(b) Stenographic Record

(1) No change.

(2) If the stenographic record is the official record of the proceeding, a copy must be provided to [the Director,] each arbitrator, [and] served on each other party, and filed with the Director. The cost of making and copying the stenographic record will be borne by the party electing to make the stenographic record, unless the panel decides that one or more other parties should bear all or part of the costs.

* * * *

PART VII TERMINATION OF AN ARBITRATION BEFORE AWARD

12701. Settlement

(a) Parties to an arbitration may agree to settle their dispute at any time. Parties who settle must [notify] file notice with the Director. The Director will continue to administer the arbitration, and fees may continue to accrue, until the Director receives written notice of the settlement. The parties do not need to disclose the terms of the settlement agreement to the

Director or to FINRA Dispute Resolution, but members and associated persons may have reporting obligations under the rules of FINRA.

(b) No change.

* * * *

PART VIII SIMPLIFIED ARBITRATION AND DEFAULT PROCEEDINGS

12800. Simplified Arbitration

(a) - (c) No change.

(d) Discovery and Additional Evidence

(1) No change.

(2) The parties may request documents and other information from each other.

All requests for the production of documents and other information must be served on all other parties, and filed with the Director, within 30 days from the date that the last answer is due. Any response or objection to a discovery request must be served on all other parties and filed with the Director within 10 days of the receipt of the requests. The parties receiving the request must produce the requested documents or information to all other parties by serving the requested documents or information by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Parties must not file the documents with the Director. The arbitrator will resolve any discovery disputes.

(e) - (f) No change.

12801. Default Proceedings

(a) Applicability of Rule

A claimant may request default proceedings against any respondent that falls within one of the following categories and fails to file an answer within the time provided by the Code[.]:

[•] (1) A member whose membership has been terminated, suspended, canceled, or revoked;

[•] (2) A member that has been expelled from the FINRA;

[•] (3) A member that is otherwise defunct; or

[•] (4) An associated person whose registration is terminated, revoked, or suspended.

(b) Initiating Default Proceedings

(1) To initiate default proceedings against one or more respondents that fail to file a timely answer, the claimant [must notify the Director in writing and] must [send a copy of] serve the notification [to] on all other parties and [at the same time and in the same manner as the] file a written notification [was sent to] with the Director. If there is more than one claimant, all claimants must agree in writing to proceed under this rule against a defaulting respondent before this rule may be used.

(2) If the Director receives written notice from the claimant and determines that the requirements for proceeding under this rule have been met, the Director will:

[•](A) Notify all parties that the claim against the defaulting respondent will proceed under this rule; and

[•](B) Appoint a single arbitrator in accordance with the Neutral List Selection System to consider the statement of claim and other documents presented by the claimant.

(c) - (f) No change.

* * * *

PART IX FEES AND AWARDS

12901. Member Surcharge

(a) Member Surcharge

(1) A surcharge in the amount indicated in the schedule below will be assessed against each member that:

[•](A) Files a claim, counterclaim, cross claim, or third party claim under the Code;

[•](B) Is named as a respondent in a claim, counterclaim, cross claim, or third party claim filed and served under the Code; or

[•](C) Employed, at the time the dispute arose, an associated person who is named as a respondent in a claim, counterclaim, cross claim, or third party claim filed and served under the Code.

(2) No change.

(3) If the claim is filed by the member, the surcharge is due when the claim is filed. If the claim is filed against the member, or against an associated person employed by the member at the time of the events giving rise to the dispute, the surcharge is due when the Director serves the Claim Notification Letter or the initial statement of claim [claim is served] in accordance with Rule 12300.

(4) No change.

(b) Refund of Member Surcharge

(1) The Director will refund the surcharge paid by a member in an arbitration filed by a customer if the panel:

[•](A) Denies all of a customer's claims against the member or associated person; and

[•](B) Allocates all fees assessed pursuant to Rule 12902(a) against the customer.

* * * *

12904. Awards

(a) - (b) No change.

(c) The Director will serve [a copy of] the award on each party, or the representative of the party. [The Director will serve the award by using any method available and convenient to

the parties and the Director, and that is reasonably expected to cause the award to be delivered to all parties, or their representative, on the same day. Methods the Director may use include, but are not limited to, first class, registered or certified mail, hand delivery, and facsimile or other electronic transmission.]

(d) - (j) No change.

* * * *

CODE OF ARBITRATION PROCEDURE FOR INDUSTRY DISPUTES

PART I INTERPRETIVE MATERIAL, DEFINITIONS, ORGANIZATION AND AUTHORITY

* * * *

13100. 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) Arbitrator and Mediator Portal

The term "Arbitrator and Mediator Portal" means the web-based system that allows invited arbitrators and mediators to access a secure section of FINRA's website to submit documents and information and view their arbitration and mediation case information and documents.

([a]b) Associated Person

The term "associated person" or "associated person of a member" means a person associated with a member, as that term is defined in paragraph ([r]u).

([b]c) Award

No change.

([c]d) Board

No Change.

([d]e) Claim

No change.

(f) Claim Notification Letter

The term "Claim Notification Letter" means notice provided by the Director to respondent(s) that they have been named as a party in a statement of claim. The notice will provide information about accessing the Party Portal to obtain a copy of the statement of claim filed by the claimant(s) and information about the arbitration, including the hearing location selected by the Director and the deadline for filing a statement of answer.

([e]g) Claimant

No change.

([f]h) Code

No change.

([g]i) Counterclaim

No change.

([h]j) Cross Claim

No change.

([i]k) Customer

No change.

([j]l) Day

Except as otherwise provided, the term "day" means calendar day. If a deadline specified in the Code falls on a Saturday, Sunday or any FINRA holiday, the deadline is extended until the next business day. If a party receives pleadings or other documents on a Saturday, Sunday or any FINRA holiday, the date of receipt shall be the next business day.

([k]m) Director

No change.

([l]n) Dispute

No change.

([m]o) Hearing

No change.

([n]p) Hearing Session

No change.

([o]g) Member

No change.

([p]r) Non-Public Arbitrator

The term "non-public arbitrator" means a person who is otherwise qualified to serve as an arbitrator, and meets any of the following criteria:

(1) No change.

(2) is an attorney, accountant, or other professional who has, within the past five years, devoted 20 percent or more of his or her professional time, in any single calendar year, to any entities listed in paragraph ([p]r)(1) and/or to any persons or entities associated with any of the entities listed in paragraph ([p]r)(1); or

(3) - (4) No change.

For purposes of the non-public arbitrator definition, the term "professional time" shall not include mediation services performed by mediators who are also arbitrators, provided that the mediator acts in the capacity of a mediator and does not represent a party in the mediation.

([q]s) Panel

No change.

(t) Party Portal

The term "Party Portal" means the web-based system that is accessible by arbitration and mediation parties and their representatives. The Party Portal allows invited participants to access a secure section of FINRA's website to submit documents and view their arbitration and mediation case information and documents.

([r]u) Person Associated with a Member

No change.

([s]y) Pleadings

No change.

([t]w) Prehearing Conference

No change.

([u]x) Public Arbitrator

The term "public arbitrator" means a person who is otherwise qualified to serve as an arbitrator, and is not disqualified from service as an arbitrator, as enumerated by any of the criteria below.

Permanent Disqualifications Based on a Person's Own Activities

(1) No change.

(2) A person shall not be designated as a public arbitrator, who was, for a total of 15 years or more, an attorney, accountant, or other professional who has devoted 20 percent or more of his or her professional time annually, to any entities listed in paragraph ([u]x)(1) and/or to any persons or entities associated with any of the entities listed in paragraph [(u]x)(1).

(3) – (4) No change.

Temporary Disqualifications Based on a Person's Own Activities

(5) No change.

(6) A person shall not be designated as a public arbitrator who is an attorney, accountant, or other professional who has devoted 20 percent or more of his or her professional time, in any single calendar year, to any entities listed in paragraph ([u]x)(1) and/or to any persons or entities associated with any of the entities listed in paragraph ([u]x)(1) unless the calendar year ended more than five calendar years ago.

(7) – (8) No change.

Temporary Disqualifications Based on the Activities of Others at a Person's Employer

(9) A person shall not be designated as a public arbitrator who is an attorney, accountant, or other professional whose firm derived \$50,000 or more, or at least 10 percent of its annual revenue, in any single calendar year during the course of the past two calendar years, from any entities listed in paragraph ([u]x)(1) and/or to any persons or entities associated with any of the entities listed in paragraph ([u]x)(1), or from a bank or other financial institution where persons effect transactions in securities including government or municipal securities, commodities, futures, or options. A person whom FINRA would not designate as a public arbitrator under this subparagraph shall also not be designated as a public arbitrator for two calendar years after ending employment at the firm.

(10) No change.

Temporary Disqualification Based on the Financial Industry Affiliation of an Immediate Family Member

For purposes of the public arbitrator definition, the term "revenue" shall not include mediation fees received by mediators who are also arbitrators, provided that the mediator acts in the capacity of a mediator and does not represent a party in the mediation.

([v]y) Related Claim

No change.

([w]z) Respondent

No change.

([x]aa) Statement of Claim

No change.

([y]bb) Statutory Employment Discrimination Claim

No change.

([z]cc) Submission Agreement

No change.

([aa]dd) Temporary Injunctive Order

No change.

([bb]ee) Third Party Claim

No change.

* * * *

PART II GENERAL ARBITRATION RULES

13211. Direct Communication Between Parties and Arbitrators

(a) No change

(b) Only parties that are represented by counsel may use direct communication under this rule. If, during the proceeding, a party chooses to appear [pro se (]without counsel)], this rule shall no longer apply.

(c)– (d) No change

(e) Parties may send items to the arbitrators by [regular mail, overnight courier, facsimile, or email] first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile as specified in the Direct Communication Order. All the arbitrators and parties must have facsimile or email capability before such a delivery method may be used.

(f) Copies of all materials sent to arbitrators must also be [sent at the same time and in the same manner to] served on all parties and filed with the Director, pursuant to Rule 13300. [Materials that exceed 15 pages, however, shall be sent to the Director only by regular mail or overnight courier.]

(g) The [Director must receive] parties must file with the Director, pursuant to Rule 13300, copies of any orders and decisions made as a result of direct communications among the parties and the arbitrators.

(h) – (i) No change.

* * * *

PART III INITIATING AND RESPONDING TO CLAIMS

13300. Filing and Serving Documents

[(a) Initial statements of claim must be filed with the Director, with enough copies for each other party and each arbitrator. The number of arbitrators is determined in accordance with Rule 13401. The Director will serve the statement of claim on the other parties, and send copies of the statement of claim to each arbitrator.

(b) The parties must serve all other pleadings and other documents directly on each other party. Parties must serve all pleadings on all parties at the same time and in the same manner, unless the parties agree otherwise.

(c) Unless the Code provides otherwise, parties must also file all pleadings and other documents with the Director, with additional copies for each arbitrator. Pleadings and other documents must be filed with the Director at the same time and in the same manner in which they are served on the other parties. Parties filing pleadings and other documents with the Director must include a certificate of service stating the names of the parties served, the date and method of service, and the address(es) to which service was made.

(d) Pleadings and other documents may be filed and served by: first class mail; overnight mail or delivery service; hand delivery; facsimile; or any other method, including electronic mail, that is approved or required by the panel.

(e) Filing and service are accomplished on the date of mailing either by first-class postage prepaid mail or overnight mail service, or, in the case of other means of service, on the date of delivery. Whenever pleadings and other documents must be filed with the Director and served on the other parties, filing and service must occur on the same day and in the same manner, unless the parties agree or the panel directs otherwise.

(f) A party must inform the Director and all other parties in writing of any change of address during an arbitration.

(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.]

(a) Party Portal

(1) Parties must use the Party Portal to file initial statements of claim and to file and serve pleadings and any other documents on the Director or any other party except as provided in paragraph (a)(2). The Director may exercise authority to permit the use of other means of filing or service in the case of an extended Party Portal outage or in other extraordinary circumstances.

(2) Parties shall not file with FINRA or serve on any other party, through the Party Portal, documents produced during discovery pursuant to the Rule 13500 series.

Available service methods for such documents are first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile.

(b) Filing

(1) Except as noted in Rule 13300(a)(2), parties must file initial statements of claim and all pleadings and other documents with the Director through the Party Portal. Parties must file with the Director any written responses relating to discovery requests under Rule 13507, but shall not file any of the documents produced in response to discovery requests as provided in Rule 13300(a)(2).

(2) Parties must file arbitrator ranking lists pursuant to Rule 13404 with the Director through the Party Portal.

(3) Filing under Rule 13300(b) is accomplished on the day of submission through the Party Portal.

(c) Service

(1) The Director will serve the Claim Notification Letter on the respondent(s) pursuant to Rule 13302.

(2) Except as noted in Rule 13300(a)(2), parties must serve all pleadings and other documents through the Party Portal.

(3) Service under Rule 13300(c) is accomplished on the day of submission through the Party Portal.

(4) For documents not served through the Party Portal, parties must file proof of service with the Director through the Party Portal.

(d) General Rules for Filing and Serving Documents

(1) Redaction of Personal Confidential Information

(A) In filings with the Director, a party must redact any document that contains an individual's Social Security number, taxpayer identification number or financial account number to include only the last four digits of any of these

numbers. If the Director receives a claim, including supporting documents, with the full Social Security number, taxpayer identification number or financial account number, the Director 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 the Director any document not covered by Rule 13307, that contains full numbers as referenced above, the Director 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 the Director.

(B) The requirements of paragraph (d)(1)(A) above do not apply to documents that parties exchange with each other and do not file with the Director or to documents parties submit to a panel at a hearing on the merits.

(C) The requirements of paragraphs (d)(1)(A) above do not apply to Simplified Arbitrations under Rule 13800.

(2) Update Contact Information

A party must serve any change of email or mailing address during an arbitration on all other parties and file this information with the Director.

13301. Service on Associated Persons

(a) The Director will serve [the initial statement of claim] the Claim Notification Letter on an associated person directly at the person's residential address or usual place of abode. If service cannot be completed at the person's residential address or usual place of abode, the Director will serve [the initial statement of claim] the Claim Notification Letter on the associated person at the person's business address.

(b) If a member and a person currently associated with the member are named as respondents to the same arbitration, and the Director cannot complete service as provided in

paragraph (a), then the Director may serve the member with the [initial statement of claim] the Claim Notification Letter on behalf of the associated person. If service is made on the member, the member must serve the associated person, even if the member will not be representing the associated person in the arbitration. If the member is not representing the associated person in the arbitration, the member must notify, and provide the associated person's current address to, all parties and the Director.

13302. Filing and Serving an Initial Statement of Claim

(a) Filing Claim with the Director

To initiate an arbitration, a claimant must file the following with the Director:

-] (1) Signed and dated Submission Agreement; and
-] (2) A statement of claim specifying the relevant facts and remedies requested.

The claimant may include any additional documents supporting the statement of claim. [The claimant may file the documents: (1) in hard copy; or (2) electronically through the Online Arbitration Claim Filing system that can be accessed at www.finra.org.]

(b) [Number of Copies]

[If not submitted electronically, the claimant must file enough copies of the statement of claim, and the signed Submission Agreement, and any additional materials, for the Director, each arbitrator and each other party.]

[c] Fees

At the time the statement of claim is filed, the claimant must pay all required filing fees by credit card or automated clearing house (ACH) through the Party Portal.

[(d)c] Service by Director

Unless the statement of claim is deficient under Rule 13307, the Director will [send a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each other party, and to each arbitrator once the panel has been appointed] serve the Claim Notification Letter on the respondent(s) pursuant to Rule 13302. The Director

will send a copy of the Submission Agreement, the statement of claim, and any additional materials filed by the claimant to each arbitrator by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile or through the Arbitrator and Mediator Portal, once the panel has been appointed.

13303. Answering the Statement of Claim

(a) Respondent(s) must [directly] serve each other party with the following documents within 45 days of receipt of the statement of claim:

[•](1) Signed and dated Submission Agreement; and

[•](2) An answer specifying the relevant facts and available defenses to the statement of claim.

The respondent may include any additional documents supporting the answer to the statement of claim. Parties that fail to answer in the time provided may be subject to default proceedings under Rule 13801.

(b) The answer to the statement of claim may include any counterclaims against the claimant, cross claims against other respondents, or third party claims, specifying all relevant facts and remedies requested, as well as any additional documents supporting such claim. [When serving] If the answer contains a third party claim, the respondent must serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal. The respondent must file the third party claim with the Director through the Party Portal. [the respondent must provide each new respondent with copies of all documents previously served by any party, or sent to the parties by the Director.]

(c) At the same time that the answer to the statement of claim is served on the other parties, the respondent must file copies of the Submission Agreement, the answer to the

statement of claim, and any additional documents, with the Director, pursuant to Rule 13300(b) [with enough copies for the Director and each arbitrator].

(d) No change.

13304. Answering Counterclaims

(a) A claimant must [directly] serve any answer to a counterclaim on each other party through the Party Portal within 20 days of receipt of the counterclaim. At the same time, the claimant must file the answer to the counterclaim with the Director [with additional copies for each arbitrator].

(b) No change.

13305. Answering Cross Claims

(a) A respondent must [directly] serve an answer to a cross claim on each other party through the Party Portal within 20 days from the date that the respondent's answer to the statement of claim is due, or from the receipt of the cross claim, whichever is later. At the same time, the respondent must file the answer to the cross claim with the Director [with additional copies for each arbitrator].

(b) No change.

13306. Answering Third Party Claims

(a) A party responding to a third party claim must [directly] serve all other parties with the following documents within 45 days of receipt of the third party claim:

[•] (1) Signed and dated Submission Agreement; and

[•] (2) An answer specifying the relevant facts and available defenses to the third party claim.

The respondent may include any additional documents supporting the answer to the third party claim.

(b) The answer to the third party claim may also include any counterclaims, cross claims, or third party claims, specifying all relevant facts and remedies requested. The answer may also

include any additional documents supporting such claim. [When serving] If the answer contains a third party claim, the respondent must serve the third party with the answer containing the third party claim and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand deliver, email or facsimile, and must file proof of service with the Director through the Party Portal. The respondent must file the third party claim with the Director through the Party Portal [the respondent must provide each new respondent with copies of all documents previously served by any party, or sent to the parties by the Director.]

(c) At the same time that the answer to the third party claim is served on the other parties, the third party respondent must also file copies of the Submission Agreement, the answer to the third party claim, and any additional documents, with the Director[, with additional copies for each arbitrator].

(d) No change.

13307. Deficient Claims

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

[•] (1) A Submission Agreement was not filed by each claimant;

[•] (2) The Submission Agreement was not properly signed and dated;

[•] (3) 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;]

[•] (4) The claim does not specify the claimant's or the claimant's representative's current address;

[•] (5) The claimant did not pay all required filing fees, unless the Director deferred the fees; or

[(6) The claim does not comply with the restrictions on filings with personal confidential information under Rule 13300([g]d)(1)).

(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(b). 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) No change

13309. Amending Pleadings

(a) Before Panel Appointment

Except as provided in paragraph (c), a party may amend a pleading at any time before the panel has been appointed. Panel appointment occurs when the Director sends notice to the parties of the names of the arbitrators on the panel.

(1) To amend a statement of claim that has been filed but not yet served by the Director, the claimant must file the amended claim with the Director [, with additional copies for each arbitrator and each other party]. The Director will then serve the Claim Notification Letter [or amended claim in accordance with Rules 13300 and 13301].

(2) To amend any other pleading, a party must serve the amended pleading on each party [. At the same time, the party must file the amended pleading with] and file the amended pleading with the Director [, with additional copies for each arbitrator]. If a pleading is amended to add a party to the arbitration, the party amending the pleading must serve the new party with the amended pleading and all documents previously served by any party, or sent to the parties by the Director, by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile, and must file proof of service with the Director through the Party Portal. The party amending the

pleading must file the amended pleading with the Director through the Party Portal. [the party amending the pleading must provide each new party with copies of all documents previously served by any party, or sent to the parties by the Director.]

(b) After Panel Appointment

No change.

(c) Amendments to Add Parties

Once the ranked arbitrator lists are due to the Director under Rule 13404([c]d), no party may amend a pleading to add a new party to the arbitration until a panel has been appointed and the panel grants a motion to add the party. Motions to add a party after panel appointment must be served on all parties, including the party to be added.[.] The party seeking to amend the pleading may serve the party to be added by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Service by first-class mail or overnight mail service is accomplished on the date of mailing. Service by any other means is accomplished on the date of delivery. [and t] The party to be added may respond to the motion in accordance with Rule 13503 without waiving any rights or objections under the Code. The response may be filed with the Director and served on all other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

(d) Responding to an Amended Pleading

No change.

13310. Answering Amended Claims

(a) No change.

(b) If a claim is amended after it has been answered, but before a panel has been appointed, the respondent has 20 days from [the time] receipt of the amended claim [is served] to serve an amended answer.

(c) No change.

(d) The amended answer must be [directly] served on each other party. At the same time, the amended answer must also be filed with the Director [, with additional copies for each arbitrator].

(e) If the amended claim adds a new party to the arbitration, the new party's time to answer is governed by Rule 13303 or Rule 13306.

* * * *

PART IV APPOINTMENT, DISQUALIFICATION, AND AUTHORITY OF ARBITRATORS

13400. Neutral List Selection System and Arbitrator Rosters

(a) Neutral List Selection System

No change.

(b) Arbitrator Rosters

FINRA maintains the following roster of arbitrators:

[•] (1) A roster of non-public arbitrators as defined in Rule 13100([p]r);

[•] (2) A roster of public arbitrators as defined in Rule 13100([u]x); and

[•] (3) No change.

(c) Eligibility for Chairperson Roster

Arbitrators are eligible to serve as chairperson of panels submitted for arbitration under the Code if they have completed chairperson training provided by FINRA and:

[•](1) Have a law degree and are a member of a bar of at least one jurisdiction and have served as an arbitrator through award on at least two arbitrations administered by a self-regulatory organization in which hearings were held; or

[•](2) Have served as an arbitrator through award on at least three arbitrations administered by a self-regulatory organization in which hearings were held.

* * * *

13404. Striking and Ranking Arbitrators

(a) - (c) No change.

(d) The ranked lists must be [returned to the Director] completed via the Party Portal no more than 20 days after the date upon which the Director sent the lists to the parties. If the Director does not receive a party's ranked lists within that time, the Director will proceed as though the party did not want to strike any arbitrator or have any preferences among the listed arbitrators.

* * * *

13406. Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List

For disputes involving statutory employment discrimination claims, see Rule 13802.

(a) Appointment of Arbitrators in Disputes Between Members

(1) If the panel consists of one arbitrator, the Director will appoint the highest-ranked available arbitrator from the combined non-public chairperson list.

(2) If the panel consists of three arbitrators, the Director will appoint a three-arbitrator panel consisting of:

[•](A) The two highest-ranked available arbitrators from the combined non-public arbitrator list; and

[•](B) The highest-ranked available arbitrator from the combined non-public chairperson list, who will serve as chairperson of the panel.

(b) Appointment of Arbitrators in Disputes Between Associated Persons or Between or Among Members and Associated Persons

(1) If the panel consists of one arbitrator, the Director will appoint the highest-ranked available arbitrator from the combined public chairperson list.

(2) If the panel consists of three arbitrators, the Director will appoint a three-arbitrator panel consisting of:

[•](A) The highest-ranked available arbitrator from the combined non-public arbitrator list;

[•](B) The highest-ranked available arbitrator from the combined public arbitrator list; and

[•](C) The highest-ranked available arbitrator from the combined public chairperson list, who will serve as chairperson of the panel.

(c) If the number of arbitrators available to serve from the combined list(s) is not sufficient to fill an initial panel, the Director will appoint one or more arbitrators of the required classification to complete the panel from names generated randomly by the Neutral List Selection System. If the Director must appoint a non-public arbitrator, the Director may not appoint a non-public arbitrator as defined in Rule 13100([p]r)(2) or (3), unless the parties agree otherwise. The Director will provide the parties information about the arbitrators as provided in Rule 13403 and the parties will have the right to challenge the arbitrators as provided in Rule 13410.

(d) No change.

13407. Additional Parties

(a) If a party is added to an arbitration after the Director sends the lists generated by the Neutral List Selection System to the parties, but before [parties must return] the ranked lists are due to the Director, the Director will send the lists to the newly added party, with employment history for the past 10 years and other background information for each arbitrator listed. The newly added party may rank and strike the arbitrators in accordance with Rule 13404. If the Director receives the ranked lists from the newly added party [returns the lists] within 20 days after the date upon which the Director sent the lists to the party, the Director will include the new party's lists when combining rankings under Rule 13405. If the Director does not receive the list(s) within that time, the Director will proceed as though the party did not want to strike any arbitrator, or have any preference among the listed arbitrators.

(b) Once the ranked lists are due to the Director under Rule 13404, no party may amend a pleading to add a new party to the arbitration until a panel is appointed and grants a motion to

add the party. Motions to add a party must be served on all parties.[,] The party amending the pleading must serve [including] the party to be added[,] by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Service by first-class mail or overnight mail service is accomplished on the date of mailing. Service by any other means is accomplished on the date of delivery. [and t] The party to be added may respond to the motion in accordance with Rule 13503 without waiving any rights or objections under the Code. The response may be filed with the Director and served on all other parties by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. If the panel grants the motion to add the party, the newly added party may not strike and rank the arbitrators, but may challenge an arbitrator for cause in accordance with Rule 13410.

* * * *

13411. Replacement of Arbitrators

(a) - (c) No change.

(d) If the Director must appoint a non-public arbitrator under paragraph (c), the Director may not appoint a non-public arbitrator as defined in Rule 13100([p]r)(2) or (3), unless the parties agree otherwise.

* * * *

PART V PREHEARING PROCEDURES AND DISCOVERY

13500. Initial Prehearing Conference

(a) - (b) No change.

(c) At the Initial Prehearing Conference, the panel will set discovery, briefing, and motions deadlines, schedule subsequent hearing sessions, and address other preliminary matters. The parties may agree to forgo the Initial Prehearing Conference only if they jointly provide the Director with the following information, in writing[, with additional copies for each arbitrator,] before the Initial Prehearing Conference is scheduled to be held:

[•] (1) A statement that the parties accept the panel;

[•] (2) Whether any other prehearing conferences will be held, and if so, for each prehearing conference, a minimum of four mutually agreeable dates and times, and whether the chairperson or the full panel will preside;

[•] (3) A minimum of four sets of mutually agreeable hearing dates;

[•] (4) A discovery schedule;

[•] (5) A list of all anticipated motions, with filing and response due dates; and

[•] (6) A determination regarding whether briefs will be submitted, and, if so, the due date for the briefs and any reply briefs.

* * * *

13502. Recording Prehearing Conferences

(a) No change.

(b) If a prehearing conference is recorded, it may be recorded using any of the methods discussed under Rule 13606. The Director will provide a copy of the recording to any party upon request [for a nominal fee].

13503. Motions

(a) Motions

(1) No change.

(2) Written motions are not required to be in any particular form, and may take the form of a letter, legal motion, or any other form that the panel decides is acceptable. Written motions must be served [directly] on each other party[, at the same time and in the same manner]. Written motions must also be filed with the Director[, with additional copies for each arbitrator, at the same time and in the same manner in which they are served on the parties].

(3) No change.

(4) Motions to amend a pleading after panel appointment pursuant to Rule 13309(b) must be accompanied by copies of the proposed amended pleading when the

motion is served on the other parties and filed with the Director. If the panel grants the motion, the amended pleading does not have to be served again, unless the panel determines otherwise. [If a party moves] Motions to amend a pleading to add a party are made pursuant to Rule 13309(c).[, the motion must be served on all parties, including the party to be added, and the party to be added may respond to the motion in accordance with Rule 13309(c) without waiving any rights or objections under the Code.]

(b) Responding to Motions

Parties have 10 days from the receipt of a written motion to respond to the motion, unless the moving party agrees to an extension of time, or the Director or the panel decides otherwise. Responses to written motions must be served [directly] on each other party[, at the same time and in the same manner]. Responses to written motions must also be filed with the Director[, with additional copies for each arbitrator, at the same time and in the same manner in which they are served on the parties].

(c) Replying to Responses to Motions

Parties have 5 days from the receipt of a response to a motion to reply to the response unless the responding party agrees to an extension of time, or the Director or the panel decides otherwise. Replies to responses must be served [directly] on each other party[, at the same time and in the same manner]. Replies to responses must also be filed with the Director[, with additional copies for each arbitrator, at the same time and in the same manner in which they are served on the parties].

(d) No change.

* * * *

13506. Discovery Requests

(a) Requests for Documents or information

Parties may request documents or information from any party by serving a written request [directly] on the party. Requests for information are generally limited to identification of individuals, entities, and time periods related to the dispute; such requests should be reasonable in number and not require narrative answers or fact finding. Standard interrogatories are generally not permitted in arbitration.

(b) Making Discovery Requests

Discovery requests may be served:

[•](1) On the claimant, or any respondent named in the initial statement of claim, 45 days or more after the Director serves the statement of claim; and

[•](2) On any party subsequently added to the arbitration, 45 days or more after the statement of claim is served on that party.

[At the same time, t] The party must serve copies of the request on all other parties. Any request for documents or information should be specific and relate to the matter in controversy.

13507. Responding to Discovery Requests

(a) Unless the parties agree otherwise, within 60 days from the date a discovery request is received, the party receiving the request must either:

[•](1) Produce the requested documents or information to all other parties by serving the requested documents or information by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile;

[•](2) Identify and explain the reason that specific requested documents or information cannot be produced within the required time, [and] state when the documents will be produced, and serve this response on all parties and file this response with the Director; or

[•](3) Object as provided in Rule 13508 and serve this response on all parties and file this response with the Director.

(b) - (c) No change.

13508. Objecting to Discovery Requests; Waiver of Objection

(a) If a party objects to producing any document or information requested under Rule 13506, it must specifically identify which document or requested information it is objecting to and why. Objections must be in writing, and must be served on all other parties [at the same time and in the same manner. Objections should not be filed with the Director]. Parties must produce all applicable listed documents, or other requested documents or information not specified in the objection by serving the requested documents or information under Rule 13300.

(b) - (c) No change.

13512. Subpoenas

(a) No change.

(b) A party may make a written motion requesting that an arbitrator issue a subpoena to a party or a non-party. The motion must include a draft subpoena and must be filed with the Director [, with an additional copy for the arbitrator]. The requesting party must serve the motion and draft subpoena on each other party [, at the same time and in the same manner as on the Director]. The requesting party may not serve the motion or draft subpoena on a non-party.

(c) If a party receiving a motion and draft subpoena objects to the scope or propriety of the subpoena, that party shall, within 10 calendar days of service of the motion, file written objections with the Director [, with an additional copy for the arbitrator], and shall serve copies on all other parties [at the same time and in the same manner as on the Director]. The party that requested the subpoena may respond to the objections within 10 calendar days of receipt of the objections. After considering all objections, the arbitrator responsible for deciding discovery-related motions shall rule promptly on the issuance and scope of the subpoena.

(d) If the arbitrator issues a subpoena, the party that requested the subpoena must serve the subpoena [at the same time and in the same manner] on all parties and, if applicable, on any non-party receiving the subpoena. The party must serve the subpoena on the non-party by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

(e) If a non-party receiving a subpoena objects to the scope or propriety of the subpoena, the non-party may, within 10 calendar days of service of the subpoena, file written objections with the Director. The non-party may file the objection by first-class mail overnight mail service, overnight delivery service, hand delivery, email or facsimile. The Director shall forward a copy of the written objections to the arbitrator and all other parties. The party that requested the subpoena may respond to the objections within 10 calendar days of receipt of the objections. The party must serve the response on the non-party and file proof of service with the Director pursuant to Rule 13300(c)(4). After considering all objections, the arbitrator responsible for issuing the subpoena shall rule promptly on the objections.

(f) Any party that receives documents in response to a subpoena served on a non-party shall [provide] serve notice [to] on all other parties within five days of receipt of the documents. Thereafter, any party may request copies of such documents and, if such a request is made, the documents must be provided within 10 calendar days following receipt of the request by serving them by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Parties must not file the documents with the Director.

(g) No change.

13513. Authority of Panel to Direct Appearances of Associated Person Witnesses and Production of Documents Without Subpoenas

(b) Upon motion of a party, the panel may order the following without the use of subpoenas:

[•] (1) The appearance of any employee or associated person of a member of FINRA; or

[•] (2) The production of any documents in the possession or control of such persons or members.

(b) The motion must include a draft order and must be filed with the Director[, with an additional copy for the arbitrator]. The requesting party must serve the motion and draft order on each other party [, at the same time and in the same manner as on the Director]. The requesting party may not serve the motion or draft order on a non-party.

(c) If a party receiving a motion and draft order objects to the scope or propriety of the order, that party shall, within 10 calendar days of service of the motion, file written objections with the Director [, with an additional copy for the arbitrator,] and shall serve copies on all other parties [at the same time and in the same manner as on the Director]. The party that requested the order may respond to the objections within 10 calendar days of receipt of the objections. After considering all objections, the arbitrator responsible for deciding discovery-related motions shall rule promptly on the issuance and scope of the order.

(d) If the arbitrator issues an order, the party that requested the order must serve the order [at the same time and in the same manner] on all parties and, if applicable, on any non-party receiving the order. The party must serve the order on the non-party by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile.

(e) If a non-party receiving an order objects to the scope or propriety of the order, the non-party may, within 10 calendar days of service of the order, file written objections with the Director. The non-party may file the objection by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. The Director shall forward a copy of the written objections to the arbitrator and all other parties. The party that requested the order may respond to the objections within 10 calendar days of receipt of the objections. The party must serve the response on the non-party and file proof of service with the Director

pursuant to Rule 13300(c)(4). After considering all objections, the arbitrator responsible for issuing the order shall rule promptly on the objections.

(f) Any party that receives documents in response to an order served on a non-party shall [provide] serve notice to all other parties within five days of receipt of the documents. Thereafter, any party may request copies of such documents and, if such a request is made, the documents must be provided within 10 calendar days following receipt of the request by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Parties must not file the documents with the Director.

(g) No change.

13514. Prehearing Exchange of Documents and Witness Lists, and Explained Decision Requests

(a) Documents and Other Materials

No change.

(b) Witness Lists

At least 20 days before the first scheduled hearing date, all parties must provide each other party with the names and business affiliations of all witnesses they intend to present at the hearing. [At the same time, a] All parties must file their witness lists with the Director [, with enough copies for each arbitrator].

(c) No change.

(d) Explained Decision Request

At least 20 days before the first scheduled hearing date, all parties must [submit to the panel] file with the Director any joint request for an explained decision under Rule 13904(g).

* * * *

PART VI HEARINGS; EVIDENCE; CLOSING THE RECORD

13606. Record of Proceedings

(a) Tape, Digital, or Other Recording

(1) Except as provided in paragraph (b), the Director will make a tape, digital, or other recording of every hearing. The Director will provide a copy of the recording to any party upon request [for a nominal fee].

(2) The panel may order the parties to provide a transcription of the recording. If the panel orders a transcription, copies of the transcription must be provided to each arbitrator, [and] served on each party, and filed with the Director. The panel will determine which party or parties must pay the cost of making the transcription and copies.

(3) No change.

(b) Stenographic Record

(1) No change.

(2) If the stenographic record is the official record of the proceeding, a copy must be provided to [the Director,] each arbitrator, [and] served on each other party, and filed with the Director. The cost of making and copying the stenographic record will be borne by the party electing to make the stenographic record, unless the panel decides that one or more other parties should bear all or part of the costs.

* * * *

PART VII TERMINATION OF AN ARBITRATION BEFORE AWARD

13701. Settlement

(a) Parties to an arbitration may agree to settle their dispute at any time. Parties who settle must [notify] file notice with the Director. The Director will continue to administer the arbitration, and fees may continue to accrue, until the Director receives written notice of the settlement. The parties do not need to disclose the terms of the settlement agreement to the

Director or to FINRA Dispute Resolution, but members and associated persons may have reporting obligations under the rules of FINRA.

(b) No change.

* * * *

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

13800. Simplified Arbitration

(a) - (c) No change.

(d) Discovery and Additional Evidence

The parties may request documents and other information from each other. All requests for the production of documents and other information must be served on all other parties, and filed with the Director, within 30 days from the date that the last answer is due. Any response or objection to a discovery request must be served on all other parties and filed with the Director within 10 days of the receipt of the requests. The parties receiving the request must produce the requested documents or information to all other parties by serving the requested documents or information by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. Parties must not file the documents with the Director. The arbitrator will resolve any discovery disputes.

(e) - (f) No change.

13801. Default Proceedings

(a) Applicability of Rule

A claimant may request default proceedings against any respondent that falls within one of the following categories and fails to file an answer within the time provided by the Code[.]:

[•] (1) A member whose membership has been terminated, suspended, canceled, or revoked;

[•] (2) A member that has been expelled from the FINRA;

[•] (3) A member that is otherwise defunct; or

[•] (4) An associated person whose registration is terminated, revoked, or suspended.

(b) Initiating Default Proceedings

(1) To initiate default proceedings against one or more respondents that fail to file a timely answer, the claimant [must notify the Director in writing and] must [send a copy of] serve the notification [to] on all other parties and [at the same time and in the same manner as the] file a written notification [was sent to] with the Director. If there is more than one claimant, all claimants must agree in writing to proceed under this rule against a defaulting respondent before this rule may be used.

(2) If the Director receives written notice from the claimant and determines that the requirements for proceeding under this rule have been met, the Director will:

[•](A) Notify all parties that the claim against the defaulting respondent will proceed under this rule; and

[•](B) Appoint a single arbitrator in accordance with the Neutral List Selection System to consider the statement of claim and other documents presented by the claimant.

(c) - (f) No change.

13802. Statutory Employment Discrimination Claims

(a) Applicability of Rule

This rule applies to arbitrations involving a claim of statutory employment discrimination as defined in Rule 13100([y]bb). Except as otherwise provided in this rule, all provisions of the Code apply to such arbitrations.

(b) No change.

(c) Composition of Panel

(1) – (2) No change.

(3) Special Statutory Discrimination Claim Qualifications

A single arbitrator or chairperson of a three-arbitrator panel in a case involving a statutory discrimination claim must have the following qualifications:

- (A) law degree (Juris Doctor or equivalent);
- (B) membership in the Bar of any jurisdiction;
- (C) substantial familiarity with employment law; and
- (D) ten or more years of legal experience, of which at least five years

must be in either:

[•](i) law practice;

[•](ii) law school teaching;

[•](iii) government enforcement of equal employment opportunity statutes;

[•](iv) experience as a judge, arbitrator, or mediator; or

[•](v) experience as an equal employment opportunity officer or in-house counsel of a corporation.

In addition, a chair or single arbitrator with the above experience may not have represented primarily the views of employers or of employees within the last five years. For purposes of this rule, the term "primarily" shall be interpreted to mean 50% or more of the arbitrator's business or professional activities within the last five years.

(4) No change.

(d) – (f) No change.

* * * *

13804. Temporary Injunctive Orders; Requests for Permanent Injunctive Relief

(a) Temporary Injunctive Orders

(1) No change.

(2) A party seeking a temporary injunctive order from a court with respect to an industry or clearing dispute required to be submitted to arbitration under the Code must, at the same time, file with the Director a statement of claim requesting permanent injunctive and all other relief with respect to the same dispute through the Party Portal [in the manner specified under the Code]. The party seeking temporary injunctive relief must also serve the statement of claim requesting permanent injunctive and all other relief on all other parties by overnight delivery service, hand delivery, email or facsimile. Service must be made on all parties at the same time and in the same manner, unless the parties agree otherwise[, in the same manner and at the same time as the statement of claim is filed with the Director].

(3) After the Director has invited all relevant parties to access the Party Portal, all parties must serve and file all other documents through the Party Portal. [Filings and service under this rule must be made by facsimile, overnight delivery service or messenger. Service must be made on all parties at the same time and in the same manner, unless the parties agree otherwise.] A party obtaining a court-issued temporary injunctive order must [notify] serve the other parties and file a notice of the issuance of the order with the Director within one business day.

(b) - (c) No change.

* * * *

PART IX FEES AND AWARDS

13901. Member Surcharge

(a) A surcharge in the amount indicated in the schedule below will be assessed against each member that:

[•](1) Files a claim, counterclaim, cross claim, or third party claim under the Code;

[•](2) Is named as a respondent in a claim, counterclaim, cross claim, or third party claim filed and served under the Code; or

[•](3) Employed, at the time the dispute arose, an associated person who is named as a respondent in a claim, counterclaim, cross claim, or third party claim filed and served under the Code.

(b) No change.

(c) If the claim is filed by the member, the surcharge is due when the claim is filed. If the claim is filed against the member, or against an associated person employed by the member at the time of the events giving rise to the dispute, the surcharge is due when the Director serves the Claim Notification Letter or the initial statement of claim [claim is served] in accordance with Rule 13300.

(d) - (e) No change.

* * * *

13904. Awards

(a) - (b) No change.

(c) The Director will serve [a copy of] the award on each party, or the representative of the party. [The Director will serve the award by using any method available and convenient to the parties and the Director, and that is reasonably expected to cause the award to be delivered to all parties, or their representative, on the same day. Methods the Director may use include, but are not limited to, first class, registered or certified mail, hand delivery, and facsimile or other electronic transmission.]

(d) - (j) No change.

* * * *

CODE OF MEDIATION PROCEDURE

14100. Definitions

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

(a) Arbitrator and Mediator Portal

The term “Arbitrator and Mediator Portal” means the web-based system that allows invited arbitrators and mediators to access a secure section of FINRA’s website to submit documents and information and view their arbitration and mediation case information and documents.

([a] b) Board

No change.

([b]c) Code

No change.

([c]d) Director

No change.

([d]e) Matter

No change.

([e]f) NAMC

No change.

([f]g) FINRA

No change.

([g]h) FINRA Customer Code

No change.

([h]i) FINRA Industry Code

No change.

(j) Party Portal

The term “Party Portal” means the web-based system that is accessible by arbitration and mediation parties and their representatives. The Party Portal allows invited participants to

access a secure section of FINRA's website to submit documents and view their arbitration and mediation case information and documents.

(l)(k) Submission Agreement

No change.

* * * *

14109. Mediation Ground Rules

(a) - (g) No change.

(h) The parties may agree to use the Party Portal to submit all documents and other communications to each other, to retrieve all documents and other communications, and view mediation case information.