

Arbitrator Chairperson Honoraria and Arbitration Fees

FINRA Amends Arbitration Codes to Increase Arbitrator Chairperson Honoraria and Certain Arbitration Fees

Effective Date: April 19, 2021

Summary

FINRA has amended its Codes of Arbitration Procedure for Customer and Industry Disputes (Codes) to: (1) increase the additional hearing-day honorarium chairs receive for each hearing on the merits from \$125 to \$250 and (2) create a new \$125 chair honorarium for each prehearing conference in which the chair participates.¹ To fund the increase in payments to chairs, the amendments make minimal increases to certain arbitration fees.

The amendments, set forth in [Attachment A](#), are effective for cases filed on or after April 19, 2021.

Questions concerning this *Notice* should be directed to:

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Background & Discussion

FINRA makes honoraria payments to arbitrators for the services arbitrators provide to FINRA's dispute resolution forum.² Arbitrators receive \$300 for each hearing session in which they participate.³ In recognition of the chair's increased experience and extra responsibilities during an arbitration, chairs currently receive an additional \$125 for each hearing day, regardless of the number of hearing sessions held per day. However, chairs do not receive an additional honorarium for prehearing conferences even though chairs are required to lead the prehearing conferences and perform additional tasks in connection with the prehearings, such as setting discovery, briefing and motion deadlines, scheduling subsequent hearing sessions, and drafting prehearing orders.⁴

February 12, 2021

Notice Type

- ▶ Rule Amendment

Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Registered Representatives
- ▶ Senior Management

Key Topics

- ▶ Arbitration
- ▶ Arbitrators
- ▶ Codes of Arbitration Procedure
- ▶ Dispute Resolution
- ▶ Filing Fee
- ▶ Hearing Session Fees
- ▶ Honoraria
- ▶ Member Surcharge
- ▶ Process Fee

Referenced Rules & Notices

- ▶ FINRA Rule 12214
- ▶ FINRA Rule 12900
- ▶ FINRA Rule 12901
- ▶ FINRA Rule 12902
- ▶ FINRA Rule 12903
- ▶ FINRA Rule 13214
- ▶ FINRA Rule 13900
- ▶ FINRA Rule 13901
- ▶ FINRA Rule 13902
- ▶ FINRA Rule 13903

Increase to Chairperson Honoraria

FINRA has amended FINRA Rules 12214 and 13214 to increase the hearing-day honorarium from \$125 to \$250 to better compensate the chair for the additional training and responsibilities required of the position. In addition, the amendments establish a new honorarium to pay a chair an additional \$125 for each prehearing conference that the chair leads. Chairs will receive this additional compensation even if an arbitration case closes without a hearing.⁵ Thus, if the chair participates in a prehearing conference, but the parties settle the case (as often occurs), the chair will still receive compensation for serving as chair.

Increases to Arbitration Fees

Member Surcharge

The Codes provide that a member surcharge will be assessed against each member that: (1) files a claim, counterclaim, cross claim or third party claim under the Codes; (2) is named as a respondent in a claim, counterclaim, cross claim, or third party claim filed and served under the Codes; 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 Codes.⁶ The member is assessed one surcharge per arbitration case, based on the aggregate claim amount, when it is brought into the case, whether through a claim, counterclaim, cross claim or third party claim.⁷ FINRA has amended FINRA Rules 12901 and 13901 to increase the member surcharge for claim amounts larger than \$250,000 and claims for non-monetary or unspecified damages.⁸

Filing Fees

Under the Codes, if a customer, associated person, member, or other non-member files a claim, counterclaim, cross claim or third party claim, they must pay a filing fee to initiate an arbitration.⁹ The filing fee is based on the claim amount or type of damages requested. FINRA has amended FINRA Rules 12900 and 13900 to increase the filing fees for customers, associated persons, members or other non-members who file claims of more than \$500,000, and claims for non-monetary or unspecified damages.¹⁰

Process Fees

The Codes provide that each member that is a party to an arbitration or employed an associated person who is a party to an arbitration in which the claim amount is more than \$25,000 must pay a process fee based on the amount of the claim.¹¹ FINRA assesses the member the applicable process fee when the parties are sent the arbitrator lists or notification of the hearing. FINRA has amended FINRA Rules 12903 and 13903 to increase the member process fees for claim amounts larger than \$250,000, and for claims for non-monetary or unspecified damages.¹²

Hearing Session Fees

FINRA assesses hearing session fees against the parties for each hearing and prehearing session conducted by a panel.¹³ In the award, the panel determines the amount of the hearing session fees that each party is required to pay. The arbitrators may apportion the fees in any manner, including assessing the entire amount against one party. As the panel can allocate hearing session fees to customer claimants, FINRA has amended FINRA Rules 12902 and 13902 to increase the hearing session fees for claims of more than \$500,000 and for claims for non-monetary or unspecified damages, and would be small.¹⁴ The amendments do not apply to hearings with one arbitrator, so that the forum remains accessible and affordable to customer claimants with small claims.

Effective Date

The amendments are effective for arbitration cases filed on or after April 19, 2021.

Endnotes

1. See Securities Exchange Act Release No. 90705 (December 17, 2020), 85 FR 84053 (December 23, 2020) (Order Approving File No. SR-FINRA-2020-035).
2. See FINRA Rules 12214 and 13214.
3. A “hearing session” is any meeting between the parties and arbitrator(s) of four hours or less, including a hearing or a prehearing conference. A typical day has two hearing sessions. See FINRA Rules 12100(p) and 13100(p).
4. See FINRA Rules 12500(c) and 13500(c).
5. The term “hearing” means the hearing on the merits of an arbitration under FINRA Rules 12600 and 13600. See FINRA Rules 12100(o) and 13100(o).
6. See FINRA Rules 12901 and 13901.
7. The surcharge is the responsibility of the member party and cannot be allocated (“non-allocable”) to any other party. See FINRA Rules 12901(a)(6) and 13901(f); see also FINRA Rules 12701(b) and 13701(b).
8. The increases to the member surcharge range from \$125 for claim amounts between \$250,000.01 to \$500,000 to \$300 for claim amounts over \$10,000,000. The member surcharge for a non-monetary or unspecified claim increases by \$100.
9. See FINRA Rules 12900(a)(1) and 13900(a)(1).
10. The increases to the filing fees range from \$15 for claim amounts between \$500,000.01 to \$1,000,000 and \$50 for claim amounts over \$5,000,000. The filing fee for a non-monetary or unspecified claim increases by \$25. The filing fee increases apply to customers, associated persons or other non-members who file a claim under FINRA Rule 12900(a)(1), as well as to associated persons who file a claim under FINRA Rule 13900(a).
11. Like the member surcharge, the member is assessed only one process fee, which is non-allocable to other parties to the arbitration. See FINRA Rules 12903(d) and 13903(d). See also *supra* note 7.
12. The increases to the member process fee range from \$125 for claim amounts between \$250,000.01 to \$500,000 to \$300 for claim amounts over \$10,000,000. The member process fee for a non-monetary or unspecified claim increases by \$100.
13. See FINRA Rules 12902(a) and 13902(a). See also *supra* note 3.
14. The hearing session fee increases range from \$25 for claim amounts between \$500,000.01 to \$1,000,000 to \$75 for claim amounts over \$5,000,000. The hearing session fee for a non-monetary or unspecified claim increases by \$25.