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Page 1 of * 39		SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No. * SR 2022 - * 033 Amendment No. (req. for Amendments *) 1	
Filing by Financial Industry Regulatory Authority Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934					
Initial * <input type="checkbox"/>		Amendment * <input checked="" type="checkbox"/>		Withdrawal <input type="checkbox"/>	
Pilot <input type="checkbox"/>		Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	
		Section 19(b)(2) * <input checked="" type="checkbox"/>		Section 19(b)(3)(A) * <input type="checkbox"/>	
				Section 19(b)(3)(B) * <input type="checkbox"/>	
				Rule	
		<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 Section 806(e)(1) * <input type="checkbox"/>			Section 806(e)(2) * <input type="checkbox"/>		
			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 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"/>		
Description Provide a brief description of the action (limit 250 characters, required when Initial is checked *). <div></div>					
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 * Kristine Last Name * Vo Title * Assistant General Counsel E-mail * kristine.vo@finra.org Telephone * (212) 858-4106 Fax					
Signature Pursuant to the requirements of the Securities Exchange of 1934, Financial Industry Regulatory Authority has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized. Date 04/11/2023 (Title *) By Victoria Crane Vice President and Associate General Counsel (Name *) NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed. Victoria Crane Digitally signed by Victoria Crane Date: 2023.04.11 14:58:19 -04'00'					

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS 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 *

Add Remove View

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 Advanced 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 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

Add Remove View

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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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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 Sent As Paper Document

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

Add Remove View

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.

FINRA-2022-033 Partial A-1.docx
FINRA-2022-033 Partial A-1 Exhibit 4.docx
FINRA-2022-033 Partial A-1 Exhibit 5.docx

On December 23, 2022, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change, SR-FINRA-2022-033, that would amend the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) (together, “Codes”) to make changes to provisions relating to the arbitrator list selection process in response to recommendations in the report of independent counsel Lowenstein Sandler LLP (“Proposal”).¹ The Proposal would also make clarifying and technical changes to requirements in the Codes for holding prehearing conferences and hearing sessions, initiating and responding to claims, motion practice, claim and case dismissals, and providing a hearing record.

The Commission published the Proposal for public comment in the Federal Register on January 12, 2023, and received five comments in response.² PIABA, Cornell, PACE and St. John’s expressed general support for the Proposal.³ The commenters also expressed concerns about certain aspects of the Proposal and suggested modifications.

FINRA is submitting by separate letter its response to comments on the Proposal contemporaneously with this Partial Amendment No. 1. As discussed in FINRA’s Response to Comments, FINRA has determined to make the following amendments to the Proposal.

Combining Claims

The Proposal would codify current practice regarding combining claims by amending the Codes to provide that if a panel has been appointed to the lowest numbered

¹ See Securities Exchange Act Release No. 96607 (January 6, 2023), 88 FR 2144 (January 12, 2023) (Notice of Filing of File No. SR-FINRA-2022-033) (“Proposal”).

² See Letter from Hugh Berkson, President, Public Investors Advocate Bar Association, to Vanessa Countryman, Secretary, SEC, dated February 1, 2023 (“PIABA”); letter from William A. Jacobson, Clinical Professor and Director & Dustin Hartuv, Erik Olson & Jianing Zhao, Students, Cornell Securities Law Clinic, Cornell University Law School, to Vanessa Countryman, Secretary, SEC, dated February 2, 2023 (“Cornell”); letter from Carolina Carasa & Roberto Quiroga, Student Interns & Elissa Germaine, Supervising Attorney, Fairbridge Investor Rights Clinic at the Elisabeth Haub School of Law, PACE University, to Vanessa Countryman, Secretary, SEC, dated February 2, 2023 (“PACE”); letter from Gavriel Rosenbaum, Julia Shea, Jacob Wetter, Legal Interns & Christine Lazaro, Director of the Securities Arbitration Clinic and Professor of Clinical Legal Education, St. John’s University School of Law, to Vanessa Countryman, Secretary, SEC, dated February 2, 2023 (“St. John’s”); and letter from George Friedman, dated February 3, 2023 (“Friedman”).

³ Friedman took no position on the Proposal.

case (i.e., the case with the earliest filing date), the panel in that case may: (a) combine separate but related claims into one arbitration and (b) reconsider the Director's decision upon motion of a party.⁴ In addition, if a panel has been appointed to the highest numbered case (i.e., the case with the latest filing date), but not to the lowest numbered case, the panel appointed to the highest numbered case may: (a) combine separate but related claims into one arbitration and (b) reconsider the Director's decision upon motion of a party.⁵ PIABA, PACE, St. John's and Cornell generally supported the proposed amendment.

The Proposal only contemplated two cases with combinable claims as this is the most common scenario. Cornell, however, suggested that FINRA "specify further what happens if a panel has only been appointed to cases numbered in the middle (i.e., neither the lowest nor the highest numbered case) if more than two combinable claims are involved." Although this scenario would be rare, FINRA notes that under the proposed amendment, the default would be for the panel appointed to the lowest numbered case with a panel to preside over the combined case. Thus, if, for example, there were four cases and a panel has been appointed to the two middle cases, the panel appointed to the lowest numbered middle case (i.e., the case with the earliest filing date) would preside.

FINRA intended for the Proposal to provide transparency and consistency regarding the current practice by codifying it in the rules. In response to Cornell's comment and to provide additional clarity, FINRA has determined to amend proposed Rules 12314(b) and 13314(b) in Partial Amendment No. 1 to provide that if a panel has been appointed to one or more cases, the panel appointed to the lowest numbered case with a panel may: (1) combine separate but related claims into one arbitration and (2) reconsider the Director's decision upon motion of a party. Partial Amendment No. 1 would also remove proposed paragraph (b)(2) of Rules 12314 and 13314 as this paragraph would no longer be necessary.

⁴ See proposed Rules 12314(b)(1) and 13314(b)(1).

⁵ See proposed Rules 12314(b)(2) and 13314(b)(2).

EXHIBIT 4

Exhibit 4 shows the changes proposed in this Partial Amendment No. 1, with the proposed changes in the original filing shown as if adopted. Proposed new language in this Partial Amendment No. 1 is underlined; proposed deletions in this Partial Amendment No. 1 are in brackets.

* * * * *

12000. CODE OF ARBITRATION PROCEDURE FOR CUSTOMER DISPUTES

* * * * *

12100. 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) through (ee) No Change.

* * * * *

12206. Time Limits

(a) through (d) No Change.

* * * * *

12300. Filing and Serving Documents

(a) through (d) No Change.

* * * * *

12303. Answering the Statement of Claim

(a) through (d) No Change.

* * * * *

12309. Amending Pleadings or Filing Third Party Claims

(a) through (d) No Change.

* * * * *

12314. Combining Claims

(a) No Change.

(b) Panel's Authority to Combine Claims

[(1)] If a panel has been appointed to [the lowest numbered case] one or more cases, the panel [in that case] appointed to the lowest numbered case with a panel may:

[(A)] combine separate but related claims into one arbitration; and

[(B)] reconsider the Director's decision under paragraph (a) upon motion of a party.

[(2)] If a panel has been appointed to the highest numbered case but not to the lowest numbered case, the panel appointed to the highest numbered case may:

(A) combine separate but related claims into one arbitration; and

(B) reconsider the Director's decision under paragraph (a) upon motion of a party.]

* * * * *

12402. Cases with One Arbitrator

(a) through (g) No Change.

12403. Cases with Three Arbitrators

Composition of Panels

(a) through (h) No Change.

* * * * *

12407. Removal of Arbitrator by Director

(a) through (c) No Change.

* * * * *

12500. Initial Prehearing Conference

(a) through (d) No Change.

12501. Other Prehearing Conferences

(a) through (d) No Change.

* * * * *

12503. Motions

(a) through (d) No Change.

12504. Motions to Dismiss

(a) through (e) No Change.

* * * * *

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

Decision Requests

(a) through (d) No Change.

* * * * *

12600. Required Hearings

(a) through (d) No Change.

* * * * *

12606. Record of Proceedings

(a) through (b) No Change.

* * * * *

12700. Dismissal of Proceedings Prior to Award

(a) through (c) No Change.

* * * * *

12800. Simplified Arbitration

(a) through (f) No Change.

* * * * *

13000. CODE OF ARBITRATION PROCEDURE FOR INDUSTRY DISPUTES

* * * * *

13100. 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) through (gg) No Change.

* * * * *

13206. Time Limits

(a) through (d) No Change.

* * * * *

13300. Filing and Serving Documents

(a) through (d) No Change.

* * * * *

13303. Answering the Statement of Claim

(a) through (d) No Change.

* * * * *

13309. Amending Pleadings or Filing Third Party Claims

(a) through (d) No Change.

* * * * *

13314. Combining Claims

(a) No Change.

(b) Panel's Authority to Combine Claims

[(1)] If a panel has been appointed to [the lowest numbered case] one or more cases, the panel [in that case] appointed to the lowest numbered case with a panel may:

[(A)]1) combine separate but related claims into one arbitration; and

[(B)]2) reconsider the Director's decision under paragraph (a) upon motion of a party.

[(2) If a panel has been appointed to the highest numbered case but not to the lowest numbered case, the panel appointed to the highest numbered case may:

(A) combine separate but related claims into one arbitration; and

(B) reconsider the Director's decision under paragraph (a) upon motion of a party.]

* * * * *

13403. Generating and Sending Lists to the Parties

(a) through (c) No Change.

* * * * *

13410. Removal of Arbitrator by Director

(a) through (c) No Change.

* * * * *

13500. Initial Prehearing Conference

(a) through (d) No Change.

13501. Other Prehearing Conferences

(a) through (d) No Change.

* * * * *

13503. Motions

(a) through (e) No Change.

13504. Motions to Dismiss

(a) through (e) No Change.

* * * * *

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

(a) through (d) No Change.

* * * * *

13600. Required Hearings

(a) through (d) No Change.

* * * * *

13606. Record of Proceedings

(a) through (b) No Change.

* * * * *

13700. Dismissal of Proceedings Prior to Award

(a) through (b) No Change.

* * * * *

13800. Simplified Arbitration

(a) through (f) No Change.

* * * * *

EXHIBIT 5

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

* * * * *

12000. CODE OF ARBITRATION PROCEDURE FOR CUSTOMER DISPUTES

* * * * *

12100. 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) through (o) No Change.

(p) Hearing Session

The term “hearing session” means any meeting between the parties and arbitrator(s) of four hours or less, including a hearing or a prehearing conference. In one day, the next hearing session begins after four hours of hearing time has elapsed.

(q) through (ee) No Change.

* * * * *

12206. Time Limits

(a) Time Limitation on Submission of Claims

No claim shall be eligible for submission to arbitration under the Code where six years have elapsed from the occurrence or event giving rise to the claim. The panel will resolve any questions regarding the eligibility of a claim under this [r]Rule.

(b) Dismissal under Rule

Dismissal of a claim under this [r]Rule does not prohibit a party from pursuing the claim in court. By filing a motion to dismiss a claim under this [r]Rule, the moving party agrees that if the panel dismisses a claim under this [r]Rule, the non-moving party may withdraw any remaining related claims without prejudice and may pursue all of the claims in court.

(1) through (3) No Change.

(4) The panel may not grant a motion under this [r]Rule unless [an in-person or telephonic] a prehearing conference on the motion is held or waived by the parties. Prehearing conferences [to consider motions] under this [r]Rule will be recorded as set forth in Rule 12606 and will generally be held by video conference unless the parties agree to, or the panel grants a motion for, another type of hearing session.

(5) through (10) No Change.

(c) through (d) No Change.

* * * * *

12300. Filing and Serving Documents

(a) through (c) No Change.

(d) General Rules for Filing and Serving Documents

(1) Redaction of Personal Confidential Information

(A) No Change.

(B) The requirements of paragraph (d)(1)(A) of this Rule [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) No Change.

* * * * *

12303. Answering the Statement of Claim

(a) No Change.

(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. If the answer contains a third party claim, the respondent must execute a Submission Agreement that lists the name of the third party and serve the third party with the answer containing the third party claim, the Submission Agreement, 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 and the Submission Agreement with the Director through the Party Portal except as provided in Rule 12300(a)(2).

(c) through (d) No Change.

* * * * *

12309. Amending Pleadings or Filing Third Party Claims

(a) Before Panel Appointment

Except as provided in paragraph (c) of this Rule, a party may amend a pleading or file a third party claim 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] appointed to the panel.

(1) Amending Statement of Claim Not Yet Served

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. The Director will then serve the Claim Notification Letter or amended statement of claim in accordance with Rules 12300 and 12301.

(2) Amending Any Other Pleading

To amend any other pleading, a party must serve the amended pleading on each party and file the amended pleading with the Director.

(3) Amendments to Add a Party or to File a Third Party Claim; Service on New Party

If a pleading is amended to add a party to the arbitration or to file a third party claim before ranked arbitrator lists are due to the Director, the party amending the pleading or filing a third party claim must serve the new party with the amended pleading or 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). 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. The party amending the pleading or filing a third party claim must file the amended pleading or third party claim with the Director through the Party Portal except as provided in Rule 12300(a)(2).

(b) After Panel Appointment

(1) Panel Grants Motion to Amend a Pleading or File a Third Party Claim

[Once a panel has been appointed, a] A party may amend a pleading or file a third party claim[: (1)] if the panel grants a motion to amend a pleading or file a third party claim in accordance with Rule 12503. Motions to amend a pleading or file a third party claim must include [a copy of] the proposed amended pleading or third party claim. If the panel grants the motion to amend the pleading or file the third party claim, the amended pleading or third party claim does not need to be re-served on the other parties, the Director, or the panel, unless the panel determines otherwise[: or].

(2) Member or Associated Person Becomes Inactive

A customer may amend a pleading or file a third party claim if FINRA notifies a customer that a member or an associated person has become inactive as set forth in Rule 12202. The customer may amend a pleading or file a third party claim within 60 days of receiving notice. The customer must serve the amended pleading or third party claim on each party and file the amended pleading or third party claim with the Director.

(c) Amendments to Add [Parties] a Party or File a Third Party Claim Once Ranked Arbitrator Lists are Due

(1) Motion to Add a Party or File a Third Party Claim

Once the ranked arbitrator lists are due to the Director under Rule 12402(d) or Rule 12403(c), [a] no party may [only] amend a pleading to add a new party to the arbitration or file a third party claim [if:] until [(1)] a panel has been appointed and the panel grants a motion to add the party or file the third party claim. Motions to add a party or file a third party claim after panel appointment must be served on all parties, including the party to be added. The party seeking to amend the pleading or file the third party claim 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. 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 [; or].

(2) Member or Associated Person Becomes Inactive

Once the ranked arbitrator lists are due to the Director under Rule 12402(d) or Rule 12403(c), a customer may amend a pleading to add a new party to the arbitration or file a third party claim if FINRA notifies a customer that a member or an associated person has become inactive as set forth in Rule 12202.

The customer may amend a pleading to add a new party to the arbitration or file a third party claim within 60 days of receiving notice. The customer 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. The customer must serve the amended pleading or third party claim on each other party and file the amended pleading or third party claim with the Director.

(d) Responding to an Amended Pleading

Except as provided in Rule 12310, [A]ny party may file a response to an amended pleading, provided the response is filed and served within 20 days of receipt of the amended pleading, unless the Director or panel determines otherwise.

* * * * *

12314. Combining Claims

(a) Director's Authority to Combine Claims

Before ranked arbitrator lists are due to the Director under Rule 12402(d) or Rule 12403(c), the Director may combine separate but related claims into one arbitration.

[Once]

(b) Panel's Authority to Combine Claims

If a panel has been appointed to one or more cases, the panel appointed to the lowest numbered case with a panel may:

- (1) combine separate but related claims into one arbitration; and
- (2) reconsider the Director's decision under paragraph (a) upon motion of a party.

* * * * *

12402. Cases with One Arbitrator

(a) No Change.

(b) Generating Lists

(1) No Change.

(2) The list selection algorithm will exclude arbitrators from the list[s] based upon current conflicts of interest identified within the list selection algorithm.

(3) The Director will exclude arbitrators from the list based upon a review of current conflicts of interest not identified within the list selection algorithm. If an arbitrator is removed due to such conflicts, the list selection algorithm will randomly select an arbitrator to complete the list.

(c) through (g) No Change.

12403. Cases with Three Arbitrators

Composition of Panels

(a) Generating Lists

(1) through (3) No Change.

(4) The Director will exclude arbitrators from the lists based upon a review of current conflicts of interest not identified within the list selection algorithm. If an arbitrator is removed due to such conflicts, the list selection algorithm will randomly select an arbitrator to complete the list.

(b) through (h) No Change.

* * * * *

12407. Removal of Arbitrator by Director

(a) Before First Hearing Session Begins

After the Director sends the list(s) generated by the list selection algorithm to the parties, but [B]before the first hearing session begins, the Director may remove an arbitrator for conflict of interest or bias, either upon request of a party or on the Director's own initiative.

(1) through (2) No Change.

(b) No Change.

(c) Written Explanations

The Director shall provide to the parties a written explanation of the Director's decision to grant or deny a party's request to remove an arbitrator pursuant to paragraph (a) or (b) of this Rule.

* * * * *

12500. Initial Prehearing Conference

(a) After the panel is appointed, the Director will schedule an Initial Prehearing Conference before the panel, except as provided in paragraph (c) of this [r]Rule.

(b) The Initial Prehearing Conference will generally be held by [telephone] video conference unless the parties agree to, or the panel grants a motion for, another type of hearing session. Unless the parties agree otherwise, the Director must notify each party of the time and place of the Initial Prehearing Conference at least 20 days before it takes place.

(c) through (d) No Change.

12501. Other Prehearing Conferences

(a) through (b) No Change.

(c) The panel will determine the time and place of any additional prehearing conferences. Prehearing conferences will generally be held by [telephone] video conference unless the parties agree to, or the panel grants a motion for, another type of hearing session. Unless the full panel is required under Rule 12503, prehearing conferences may be held before a single arbitrator, generally the chairperson.

(d) No Change.

* * * * *

12503. Motions

(a) Motions

(1) through (3) No Change.

(4) Motions to amend a pleading after panel appointment pursuant to Rule 12309(b) must [be accompanied by copies of] include 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. Motions to amend a pleading to add a party are made pursuant to Rule 12309(c).

(b) through (c) No Change.

(d) Sending Motions, Responses, and Replies and Additional Motion

Submissions to the Panel

The Director will send all motions, responses, and replies to the panel after the last reply date has elapsed, unless otherwise directed by the panel. After the last reply

date has elapsed, if the Director receives additional submissions on the motion, the Director will forward the submissions to the panel upon receipt and the panel will then determine whether to accept them.

(e) Authority to Decide Motions

(1) No Change.

(2) Motions relating to [combining or separating claims or arbitrations, or] changing the hearing location, are decided by the Director before a panel is appointed, and by the panel after the panel is appointed.

(3) Motions relating to separating claims or arbitrations are decided in accordance with Rules 12312 or 12313.

(4) Motions relating to combining claims are decided in accordance with Rule 12314.

(5) Discovery-related motions are decided by one arbitrator, generally the chairperson. The arbitrator may refer such motions to the full panel either at his or her own initiative, or at the request of a party. The arbitrator must refer motions relating to privilege to the full panel at the request of a party.

([4]6) Motions for arbitrator recusal under Rule 12406 are decided by the arbitrator who is the subject of the request.

([5]7) The full panel decides all other motions, including motions relating to the eligibility of a claim under Rule 12206, unless the Code provides or the parties agree otherwise.

12504. Motions to Dismiss

(a) Motions to Dismiss Prior to Conclusion of Case in Chief

(1) through (4) No Change.

(5) The panel may not grant a motion under this [r]Rule unless a [an in-person or telephonic] prehearing conference on the motion is held or waived by the parties. Prehearing conferences [to consider motions] under this [r]Rule will be recorded as set forth in Rule 12606 and will generally be held by video conference unless the parties agree to, or the panel grants a motion for, another type of hearing session.

(6) through (11) No Change.

(b) Motions to Dismiss After Conclusion of Case in Chief

A motion to dismiss made after the conclusion of a party's case in chief is not subject to the procedures set forth in paragraph (a). If the panel grants a motion to dismiss all claims, the decision must contain the elements enumerated under Rule 12904(e) and must be made publicly available as an award.

(c) through (e) No Change.

* * * * *

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

(a) Documents and Other Materials

At least 20 days before the first scheduled hearing date, all parties must provide all other parties with copies of all documents and other materials in their possession or control that they intend to use at the hearing that have not already been produced. The

parties should not file the documents with the Director or the arbitrators before the hearing. If the parties create lists of documents and other materials in their possession or control that they intend to use at the hearing and have not already been produced, the parties may serve the lists on all other parties, but shall not combine the lists with the witness lists filed with the Director pursuant to Rule 12514(b).

(b) through (d) No Change.

* * * * *

12600. Required Hearings

(a) No Change.

(b) The hearing will generally be held in person unless the parties agree to, or the panel grants a motion for, another type of hearing session.

(c) The panel will decide the time and date of the hearing at the initial prehearing conference or otherwise in another manner.

[(c)](d) The Director will notify the parties of the time and place at least 20 days before the hearing begins, unless the parties agree to a shorter time.

* * * * *

12606. Record of Proceedings

(a) Tape, Digital, or Other Recording

(1) Except as provided in paragraph (b) of this Rule, the Director will make a tape, digital, or other recording of every hearing. Executive sessions (i.e., discussions among arbitrators outside the presence of the parties and their representatives, witnesses, and stenographers) held by the panel will not be

recorded. The Director will provide a copy of the recording to any party upon request.

(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, served on each party, and filed with the Director pursuant to Rule 12300 by the party or parties ordered to make the transcription. 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 by the party or parties that elected to make the stenographic record to each arbitrator, served on each other party, and filed with the Director pursuant to Rule 12300 in an electronic format. 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.

* * * * *

12700. Dismissal of Proceedings Prior to Award

(a) No Change.

(b) The panel may dismiss a claim or an arbitration:

[•] (1) Upon motion of a party under Rule 12206 or Rule 12504; or

[•] (2) On its own initiative under Rule 12212(c) or Rule 12601(c).

(c) The panel may dismiss without prejudice a claim or an arbitration for lack of sufficient service upon a respondent.

* * * * *

12800. Simplified Arbitration

(a) through (b) No Change.

(c) Hearings

(1) through (2) No Change.

(3) If the customer requests a hearing, the customer must select between one of two hearing options under this [r]Rule.

(A) Option One — the regular provisions of the Code relating to prehearings and hearings, including all fee provisions.

(B) Option Two — a special proceeding, subject to the regular provisions of the Code relating to prehearings and hearings, including all fee provisions, except as modified by subparagraphs (i) through (viii) of this paragraph:

(i) a special proceeding will be held by video conference, unless the customer requests at least 60 days before the first scheduled hearing that it be held by telephone [unless], or the parties agree to another [method of appearance] type of hearing session;

(ii) through (viii) No Change.

(d) through (f) No Change.

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13000. CODE OF ARBITRATION PROCEDURE FOR INDUSTRY DISPUTES

* * * * *

13100. 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) through (o) No Change.

(p) Hearing Session

The term “hearing session” means any meeting between the parties and arbitrator(s) of four hours or less, including a hearing or a prehearing conference. In one day, the next hearing session begins after four hours of hearing time has elapsed.

(q) through (gg) No Change.

* * * * *

13206. Time Limits

(a) Time Limitation on Submission of Claims

No claim shall be eligible for submission to arbitration under the Code where six years have elapsed from the occurrence or event giving rise to the claim. The panel will resolve any questions regarding the eligibility of a claim under this [r]Rule.

(b) Dismissal under Rule

Dismissal of a claim under this [r]Rule does not prohibit a party from pursuing the claim in court. By filing a motion to dismiss a claim under this [r]Rule, the moving party agrees that if the panel dismisses a claim under this [r]Rule, the non-moving party may

withdraw any remaining related claims without prejudice and may pursue all of the claims in court.

(1) through (3) No Change.

(4) The panel may not grant a motion under this [r]Rule unless [an in-person or telephonic] a prehearing conference on the motion is held or waived by the parties. Prehearing conferences [to consider motions] under this [r]Rule will be recorded as set forth in Rule 13606 and will generally be held by video conference unless the parties agree to, or the panel grants a motion for, another type of hearing session.

(5) through (10) No Change.

(c) through (d) No Change.

* * * * *

13300. Filing and Serving Documents

(a) through (c) No Change.

(d) General Rules for Filing and Serving Documents

(1) Redaction of Personal Confidential Information

(A) No Change.

(B) The requirements of paragraph (d)(1)(A) of this Rule [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) No Change.

* * * * *

13303. Answering the Statement of Claim

(a) No Change.

(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. If the answer contains a third party claim, the respondent must execute a Submission Agreement that lists the name of the third party and serve the third party with the answer containing the third party claim, the Submission Agreement, 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 13300(a)(2). The respondent must file the third party claim and the Submission Agreement with the Director through the Party Portal except as provided in Rule 13300(a)(2).

(c) through (d) No Change.

* * * * *

13309. Amending Pleadings or Filing Third Party Claims

(a) Before Panel Appointment

Except as provided in paragraph (c) of this Rule, a party may amend a pleading or file a third party claim 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] appointed to the panel.

(1) Amending Statement of Claim Not Yet Served

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. The Director will then serve the Claim Notification Letter or amended statement of claim in accordance with Rules 13300 or 13301.

(2) Amending Any Other Pleading

To amend any other pleading, a party must serve the amended pleading on each party and file the amended pleading with the Director.

(3) Amendments to Add a Party or to File a Third Party Claim; Service on New Party

If a pleading is amended to add a party to the arbitration or to file a third party claim before ranked arbitrator lists are due to the Director, the party amending the pleading or filing a third party claim must serve the new party with the amended pleading or 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. 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. The party amending the pleading or filing a third party claim must file the amended pleading or third party claim with the Director through the Party Portal.

(b) After Panel Appointment

[Once a panel has been appointed, a] A party may only amend a pleading or file a third party claim if the panel grants a motion to amend a pleading or third party claim in accordance with Rule 13503. Motions to amend a pleading or third party claim must include [a copy of] the proposed amended pleading. If the panel grants the motion to amend the pleading or third party claim, the amended pleading or third party claim does not need to be re-served on the other parties, the Director, or the panel, unless the panel determines otherwise.

(c) Amendments to Add [Parties] a Party or File a Third Party Claim Once Ranked Arbitrator Lists are Due

Once the ranked arbitrator lists are due to the Director under Rule 13404(d), no party may amend a pleading to add a new party to the arbitration or file a third party claim until a panel has been appointed and the panel grants a motion to add the party or file a third party claim. Motions to add a party or file a third party claim 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. 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

Except as provided in Rule 13310, [A]ny party may file a response to an amended pleading, provided the response is filed and served within 20 days of receipt of the amended pleading, unless the Director or the panel determines otherwise.

* * * * *

13314. Combining Claims

(a) Director's Authority to Combine Claims

Before ranked arbitrator lists are due to the Director under Rule 13404(d), the Director may combine separate but related claims into one arbitration. [Once]

(b) Panel's Authority to Combine Claims

If a panel has been appointed to one or more cases, the panel appointed to the lowest numbered case with a panel may:

(1) combine separate but related claims into one arbitration; and

(2) reconsider the Director's decision under paragraph (a) upon motion of a party.

* * * * *

13403. Generating and Sending Lists to the Parties

(a) Lists Generated in Disputes Between Members

(1) through (4) No Change.

(5) The Director will exclude arbitrators from the lists based upon a review of conflicts of interest not identified within the list selection algorithm. If

an arbitrator is removed due to such conflicts, the list selection algorithm will generate a replacement arbitrator.

(b) Lists Generated in Disputes Between Associated Persons or Between or Among Members and Associated Persons

(1) through (4) No Change.

(5) The Director will exclude arbitrators from the lists based upon a review of conflicts of interest not identified within the list selection algorithm. If an arbitrator is removed due to such conflicts, the list selection algorithm will randomly select an arbitrator to complete the list.

(c) No Change.

* * * * *

13410. Removal of Arbitrator by Director

(a) Before First Hearing Session Begins

After the Director sends the lists generated by the list selection algorithm to the parties, but [B]before the first hearing session begins, the Director may remove an arbitrator for conflict of interest or bias, either upon request of a party or on the Director's own initiative.

(1) through (2) No Change.

(b) No Change.

(c) Written Explanations

The Director shall provide to the parties a written explanation of the Director's decision to grant or deny a party's request to remove an arbitrator pursuant to paragraph (a) or (b) of this Rule.

* * * * *

13500. Initial Prehearing Conference

(a) After the panel is appointed, the Director will schedule an Initial Prehearing Conference before the panel, except as provided in paragraph (c) of this [r]Rule.

(b) The Initial Prehearing Conference will generally be held by [telephone] video conference unless the parties agree to, or the arbitrator grants a motion for, another type of hearing session. Unless the parties agree otherwise, the Director must notify each party of the time and place of the Initial Prehearing Conference at least 20 days before it takes place.

(c) through (d) No Change.

13501. Other Prehearing Conferences

(a) through (b) No Change.

(c) The panel will determine the time and place of any additional prehearing conferences. Prehearing conferences will generally be held by [telephone] video conference unless the parties agree to, or the panel grants a motion for, another type of hearing session. Unless the full panel is required under Rule 13503, prehearing conferences may be held before a single arbitrator, generally the chairperson.

(d) No Change.

* * * * *

13503. Motions

(a) Motions

(1) through (3) No Change.

(4) Motions to amend a pleading after panel appointment pursuant to Rule 13309(b) must [be accompanied by copies of] include 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. Motions to amend a pleading to add a party are made pursuant to Rule 13309(c).

(b) through (c) No Change.

(d) Sending Motions, Responses, and Replies and Additional Motion

Submissions to the Panel

The Director will send motions, responses, and replies to the panel after the last reply date has elapsed, unless otherwise directed by the panel. After the last reply date has elapsed, if the Director receives additional submissions on the motion, the Director will forward the submissions to the panel upon receipt and the panel will determine whether to accept them.

(e) Authority to Decide Motions

(1) No Change.

(2) Motions relating to [combining or separating claims or arbitrations, or] changing the hearing location, are decided by the Director before a panel is appointed, and by the panel after the panel is appointed.

(3) Motions relating to separating claims or arbitrations are decided in accordance with Rules 13312 and 13313.

(4) Motions relating to combining claims are decided in accordance with Rule 13314.

(5) Discovery-related motions are decided by one arbitrator, generally the chairperson. The arbitrator may refer such motions to the full panel either at his or her own initiative, or at the request of a party. The arbitrator must refer motions relating to privilege to the full panel at the request of a party.

([4]6) Motions for arbitrator recusal under Rule 13409 are decided by the arbitrator who is the subject of the request.

([5]7) The full panel decides all other motions, including motions relating to the eligibility of a claim under Rule 13206, unless the Code provides or the parties agree otherwise.

13504. Motions to Dismiss

(a) Motions to Dismiss Prior to Conclusion of Case in Chief

(1) through (4) No Change.

(5) The panel may not grant a motion under this [r]Rule unless a [an in-person or telephonic] prehearing conference on the motion is held or waived by the parties. Prehearing conferences [to consider motions] under this [r]Rule will be recorded as set forth in Rule 13606 and will generally be held by video conference unless the parties agree to, or the panel grants a motion for, another type of hearing session.

(6) through (11) No Change.

(b) Motions to Dismiss After Conclusion of Case in Chief

A motion to dismiss made after the conclusion of a party's case in chief is not subject to the procedures set forth in paragraph (a). If the panel grants a

motion to dismiss all claims, the decision must contain the elements enumerated under Rule 13904(e) and must be made publicly available as an award.

(c) through (e) No Change.

* * * * *

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

(a) Documents and Other Materials

At least 20 days before the first scheduled hearing date, all parties must provide all other parties with copies of all documents and other materials in their possession or control that they intend to use at the hearing that have not already been produced. The parties should not file the documents with the Director or the arbitrators before the hearing. If the parties create lists of documents and other materials in their possession or control that they intend to use at the hearing that have not already been produced, the parties may serve the lists on all other parties, but shall not combine the lists with the witness lists filed with the Director pursuant to Rule 13514(b).

(b) through (d) No Change.

* * * * *

13600. Required Hearings

(a) No Change.

(b) The hearing will generally be held in person unless the parties agree to, or the panel grants a motion for, another type of hearing session.

(c) The panel will decide the time and date of the hearing at the initial prehearing conference or otherwise in another manner.

[(c)](d) The Director will notify the parties of the time and place at least 20 days before the hearing begins, unless the parties agree to a shorter time.

* * * * *

13606. Record of Proceedings

(a) Tape, Digital, or Other Recording

(1) Except as provided in paragraph (b) of this Rule, the Director will make a tape, digital, or other recording of every hearing. Executive sessions (i.e., discussions among arbitrators outside the presence of the parties, their representatives, witnesses, and stenographers) held by the panel will not be recorded. The Director will provide a copy of the recording to any party upon request.

(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, served on each party, and filed with the Director pursuant to Rule 13300 by the party or parties ordered to make the transcription. 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 by the party or parties that elected to make the stenographic record to each arbitrator, served on each other party, and filed with

the Director pursuant to Rule 13300 in an electronic format. 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.

* * * * *

13700. Dismissal of Proceedings Prior to Award

(a) No Change.

(b) The panel may dismiss a claim or an arbitration:

[•] (1) Upon motion of a party under Rule 13206 or Rule 13504; or

[•] (2) On its own initiative under Rule 13212(c) or Rule 13601(c).

(c) The panel may dismiss without prejudice a claim or arbitration for lack of sufficient service upon a respondent.

* * * * *

13800. Simplified Arbitration

(a) through (b) No Change.

(c) Hearings

(1) through (2) No Change.

(3) If the claimant requests a hearing, the claimant must select between one of two hearing options under this [r]Rule.

(A) Option One — the regular provisions of the Code relating to prehearings and hearings, including all fee provisions.

(B) Option Two — a special proceeding, subject to the regular provisions of the Code relating to prehearings and hearings, including all

fee provisions, except as modified by subparagraphs (i) through (vii) of this paragraph:

(i) a special proceeding will be held by video conference,
unless the claimant requests at least 60 days before the first scheduled
hearing that it be held by telephone [unless], or the parties agree to
another [method of appearance] type of hearing session;

(ii) through (vii) No Change.

(d) through (f) No Change.

* * * * *