

Attachment A

New language is underlined; deletions are in brackets.

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12000. CODE OF ARBITRATION PROCEDURE FOR CUSTOMER DISPUTES

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12402. Cases with One Arbitrator

(a) through (b) No Change.

(c) Sending Lists to Parties

(1) The Director will send the list generated by the list selection algorithm to all parties at the same time, within approximately [30]20 days after the last answer is due, regardless of the parties' agreement to extend any answer due date. The parties will also receive, for each arbitrator listed, a disclosure report containing employment history[for the past 10 years] and other background information[for each arbitrator listed].

(2) Requests for Additional Information About Arbitrators

(A) [If a]A party may request[s] additional information about an arbitrator[,] at any stage of the proceeding by filing with the Director [will]and serving all other parties with a written request, which may omit any information that would reveal the identity of the party making the request[the additional information from the arbitrator, and will send any response to all of the parties at the same time].

(B) Within ten days of receipt of the request, an opposing party may object to a request for additional information by filing objections with

the Director and serving the objections on all other parties. After five days have elapsed from the service of any objections and provided that the request for additional information has not been withdrawn, the Director will forward the request together with any objections to the arbitrator who is the subject of the request.

(C) If no opposing party objects to the request for additional information, the Director and the parties shall not disclose the identity of the requesting party to the arbitrator.

(D) The Director will send any response from the arbitrator to all of the parties at the same time.

(E) When a party requests additional information, the Director may, but is not required to, toll the time for parties to return the ranked lists under Rule 12402(d)(3).

(d) Striking and Ranking Arbitrators

(1) Each separately represented party may strike up to four of the arbitrators from the list for any reason[by crossing through the names of the arbitrators]. At least six names must remain on the list.

(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. Absent extraordinary circumstances, the Director will not grant a party's request for an extension to complete the ranked list that is filed after the deadline has elapsed.

(4) No Change.

(e) through (g) No Change.

12403. Cases with Three Arbitrators

Composition of Panels

(a) Generating Lists

(1) through (2) No Change.

(3) In preparing the public list, the list selection algorithm will provide two chances for selection to public arbitrators that are not chair-qualified, and will provide one chance for selection to chair-qualified public arbitrators. An individual arbitrator cannot appear more than once on the public list selected for the same case.

([3]4) The list selection algorithm will exclude arbitrators from the lists based upon current conflicts of interest identified within the list selection algorithm.

([4]5) 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) Sending Lists to Parties

(1) The Director will send the lists generated by the list selection algorithm to all parties at the same time, within approximately [30]20 days after the last answer is due, regardless of the parties' agreement to extend any answer due date. The parties will also receive, for each arbitrator listed, a disclosure report containing employment history[for the past 10 years] and other background information[for each arbitrator listed].

(2) Requests for Additional Information About Arbitrators

(A) [If a]A party may request[s] additional information about an arbitrator[,] at any stage of the proceeding by filing with the Director[will] and serving all other parties with a written request, which may omit any information that would reveal the identity of the party making the request[the additional information from the arbitrator, and will send any response to all of the parties at the same time].

(B) Within ten days of receipt of the request, an opposing party may object to a request for additional information by filing objections with the Director and serving the objections on all other parties. After five days have elapsed from the service of any objections and provided that the request for additional information has not been withdrawn, the Director will forward the request together with any objections to the arbitrator who is the subject of the request.

(C) If no opposing party objects to the request for additional information, the Director and the parties shall not disclose the identity of the requesting party to the arbitrator or panel.

(D) The Director will send any response from the arbitrator to all of the parties at the same time.

(E) When a party requests additional information, the Director may, but is not required to, toll the time for parties to return the ranked lists under Rule 12403(c)(3).

(c) Striking and Ranking Arbitrators

(1) Non-Public Arbitrator List

(A) Each separately represented party may strike any or all of the arbitrators from the non-public arbitrator list for any reason[by crossing through the names of the arbitrators].

(B) No Change.

(2) Chairperson and Public Lists

(A) Each separately represented party may strike up to four of the arbitrators from the chairperson list and up to six of the arbitrators from the public arbitrator list for any reason[by crossing through the names of the arbitrators]. At least six names must remain on the chairperson list and nine names must remain on the public arbitrator list.

(B) 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. Absent extraordinary circumstances, the Director will not grant a party's request for an extension to complete the ranked lists that is filed after the deadline has elapsed.

(4) No Change.

(d) through (h) No Change.

12404. Additional Parties

(a) If a party is added to an arbitration after the Director sends the lists generated by the list selection algorithm to the parties, but before the ranked lists are due to the Director, the Director will send the lists to the newly added party, and for each arbitrator listed, a disclosure report containing[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 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. Absent extraordinary circumstances, the Director will not grant a party's request for an extension to complete the ranked lists that is filed after the deadline has elapsed.

(b) No Change.

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12407. Removal of Arbitrator by Director

(a) through (c) No Change.

(d) By Agreement of the Parties

(1) Except as provided in paragraph (d)(2) of this Rule, at any stage of the arbitration proceeding, the Director may remove an arbitrator if all of the named parties agree in writing to the arbitrator's removal.

(2) The parties may not agree to remove an arbitrator who is considering a request to expunge customer dispute information pursuant to Rule 12800 or 12805, as applicable, except that a party shall be permitted to challenge any arbitrator selected for cause pursuant to paragraph (a)(1) or (b) of this Rule.

(e) Confidentiality of Requests to Remove Arbitrators

(1) A party may not inform the arbitrator or panel of another party's request to remove an arbitrator under paragraphs (a) or (b) of this rule.

(2) If a party discloses to the arbitrator or panel an opposing party's request to remove an arbitrator under paragraphs (a) or (b) of this rule, the party that requested removal of the arbitrator may file with the Director within five days of being made aware of the disclosure a written motion for removal of the arbitrator in accordance with Rule 12503. If the requesting party does not file a motion for removal of the arbitrator within five days of being made aware of the disclosure, then the requesting party shall forfeit the opportunity to request removal of the arbitrator because of the disclosure. Absent extraordinary

circumstances, the Director shall grant the motion if the party that made the request to remove the arbitrator timely files the motion.

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13000. CODE OF ARBITRATION PROCEDURE FOR INDUSTRY DISPUTES

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13403. Generating and Sending Lists to the Parties

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

(a) No Change.

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

(1) through (3) No Change.

(4) In preparing the public list, the list selection algorithm will provide two chances for selection to public arbitrators that are not chair-qualified, and will provide one chance for selection to chair-qualified public arbitrators. An individual arbitrator cannot appear more than once on the public list selected for the same case.

([4]5) The list selection algorithm will exclude arbitrators from the lists based upon current conflicts of interest identified within the list selection algorithm.

([5]6) 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) Sending Lists to Parties

(1) The Director will send the lists generated by the list selection algorithm to all parties at the same time, within approximately [30]20 days after the last answer is due, regardless of the parties' agreement to extend any answer due date. The parties will also receive, for each arbitrator listed, a disclosure report containing employment history[for the past 10 years] and other background information[for each arbitrator listed].

(2) Requests for Additional Information About Arbitrators

(A) [If a]A party may request[s] additional information about an arbitrator[,] at any stage of the proceeding by filing with the Director[will] and serving all other parties with a written request, which may omit any information that would reveal the identity of the party making the request[the additional information from the arbitrator, and will send any response to all of the parties at the same time].

(B) Within ten days of receipt of the request, an opposing party may object to a request for additional information by filing objections with the Director and serving the objections on all other parties. After five days have elapsed from the service of any objections and provided that the request for additional information has not been withdrawn, the Director will forward the request together with any objections to the arbitrator who is the subject of the request.

(C) If no opposing party objects to the request for additional information, the Director and the parties shall not disclose the identity of the requesting party to the arbitrator or panel.

(D) The Director will send any response from the arbitrator to all of the parties at the same time.

(E) When a party requests additional information, the Director may, but is not required to, toll the time for parties to return the ranked lists under Rule 13404(d).

13404. Striking and Ranking Arbitrators

(a) Except for lists generated pursuant to Rule 13403(a)(2), each separately represented party may strike up to four of the arbitrators from each list for any reason[by crossing through the names of the arbitrators]. At least six names must remain on each list.

(b) For lists generated pursuant to Rule 13403(a)(2), each separately represented party may strike up to eight of the arbitrators from the non-public list and up to four of the arbitrators from the non-public chairperson list for any reason[by crossing through the names of the arbitrators]. At least 12 names must remain on the non-public list and at least six names must remain on the non-public chairperson list.

(c) No Change.

(d) The ranked lists must be 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. Absent extraordinary circumstances, the Director will not grant a party's request for an extension to complete the ranked lists that is filed after the deadline has elapsed.

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

For disputes involving statutory employment discrimination claims, sexual assault claims, and sexual harassment claims, see Rule 13802.

(a) through (b) No Change.

(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 list selection algorithm. If the Director must appoint a non-public arbitrator, the Director may not appoint a non-public arbitrator as defined in Rule 13100[(r)(2) or (3)](x)(2) through (11), 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 list selection algorithm to the parties, but before the ranked lists are due to the Director, the Director will send the lists to the newly added party, and for each arbitrator listed, a disclosure report containing[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 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. Absent extraordinary circumstances, the Director will not grant a party's request for an extension to complete the ranked lists that is filed after the deadline has elapsed.

(b) No Change.

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13410. Removal of Arbitrator by Director

(a) through (c) No Change.

(d) By Agreement of the Parties

(1) Except as provided in paragraph (d)(2) of this Rule, at any stage of the arbitration proceeding, the Director may remove an arbitrator if all of the named parties agree in writing to the arbitrator's removal.

(2) The parties may not agree to remove an arbitrator who is considering a request to expunge customer dispute information pursuant to Rule 13805, except that a party shall be permitted to challenge any arbitrator selected for cause pursuant to paragraphs (a)(1) or (b) of this Rule.

(e) Confidentiality of Requests to Remove Arbitrators

(1) A party may not inform the arbitrator or panel of another party's request to remove an arbitrator under paragraphs (a) or (b) of this rule.

(2) If a party discloses to the arbitrator or panel an opposing party's request to remove an arbitrator under paragraphs (a) or (b) of this rule, the party that requested removal of the arbitrator may file with the Director within five days of being made aware of the disclosure a written motion for removal of the arbitrator in accordance with Rule 13503. If the requesting party does not file a

motion for removal of the arbitrator within five days of being made aware of the disclosure, then the requesting party shall forfeit the opportunity to request removal of the arbitrator because of the disclosure. Absent extraordinary circumstances, the Director shall grant the motion if the party that made the request to remove the arbitrator timely files the motion.

13411. Replacement of Arbitrators

(a) through (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[(r)(2) or (3)](x)(2) through (11), unless the parties agree otherwise.

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13804. Temporary Injunctive Orders; Requests for Permanent Injunctive Relief

(a) No Change.

(b) Hearing on Request for Permanent Injunctive Relief

(1) through (2) No Change.

(3) Selection of Arbitrators and Chairperson

(A)(i) In cases in which all of the members of the panel are non-public, the Director will generate and provide to the parties a list of seven arbitrators from the FINRA roster of non-public arbitrators. The Director will send to the parties, for each arbitrator listed, a disclosure report containing [the]employment history[for the past 10 years for each listed arbitrator] and other background

information. At least three of the arbitrators listed shall be lawyers with experience litigating cases involving injunctive relief.

(ii) No Change.

(B)(i) In cases in which the panel consists of a majority of public arbitrators, the Director will generate and provide to the parties a list of nine arbitrators from the FINRA roster of arbitrators. The Director shall send to the parties, for each arbitrator listed, a disclosure report containing employment history[for the past 10 years for each listed arbitrator] and other background information. At least a majority of the arbitrators listed shall be public arbitrators, and at least four of the arbitrators listed shall be lawyers with experience litigating cases involving injunctive relief.

(ii) No Change.

(C) through (D) No Change.

(4) through (6) No Change.

(c) No Change.

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