

Regulatory Notice

25-16

Arbitrator List Selection Process

FINRA Adopts Amendments to the Arbitration Codes to Make Clarifying, Technical and Procedural Changes to the Arbitrator List Selection Process

Effective Date: January 26, 2026

Summary

FINRA has amended its Codes of Arbitration Procedure (Codes) to better balance the process for generating the list of public arbitrators sent to the parties in certain customer and industry disputes that have a three-arbitrator panel. In addition, FINRA has made ministerial Code changes to codify certain current practices; establish new timeframes for certain actions; and align provisions of the Codes related to expungement of customer dispute information.

The amendments become effective January 26, 2026.

- ▶ The amendments to Rules 12403(a)(3) and 13403(b)(4) apply to arbitrator lists generated on or after January 26, 2026.
- ▶ The amendments to Rules 12402(c)(2), 12403(b)(2) and 13403(c)(2) apply to requests for additional information about an arbitrator filed on or after January 26, 2026.
- ▶ The amendments to Rules 12407(e) and 13410(e) apply to motions to remove an arbitrator after disclosure of a party-initiated challenge filed on or after January 26, 2026.

The text of the amendments is set forth in [Attachment A](#).

Questions concerning this *Notice* should be directed to:

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Notice Type

- ▶ Rule Amendment

Suggested Routing

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

Key Topics

- ▶ Arbitration
- ▶ Arbitrator List Selection Process
- ▶ Codes of Arbitration Procedure
- ▶ Dispute Resolution

Referenced Rules & Notices

- ▶ FINRA Rule 12000 Series
- ▶ FINRA Rule 13000 Series
- ▶ Notice to Members 01-13

Background & Discussion

I. Generating Public Lists in Cases With Three Arbitrators

Prior to the amendments, the process for generating the list of public arbitrators¹ sent to the parties in certain customer and industry disputes that have a three-arbitrator panel, had the technical effect of giving certain public arbitrators greater chances of being selected for a list than other public arbitrators, based solely on whether they were “chair-qualified.”² The amendments revise the Codes to provide that, when generating a list of arbitrators from the FINRA public arbitrator roster (“Public List”) in cases with three arbitrators, public arbitrators who are not chair-qualified will have two chances for selection.³ The amendments do not change the process for generating the list of chair-qualified public arbitrators or appointing chairpersons, or enable public arbitrators who are not chair-qualified to now serve as chairpersons.

As background, decisions in the FINRA Dispute Resolution Services (DRS) arbitration forum are made by independent arbitrators. To ensure fairness to all parties during arbitrator list selection, FINRA uses a computer algorithm, known as the “list selection algorithm,” to generate lists of arbitrators on a random basis from its rosters of arbitrators for the selected hearing location.⁴ DRS maintains three rosters of arbitrators: public arbitrators,⁵ non-public arbitrators⁶ and arbitrators who are eligible to serve as chairperson⁷ of a panel.⁸

The number and composition of the arbitrator lists that are generated using the list selection algorithm varies depending on the nature of the dispute and whether it will be heard by a panel of three arbitrators or by a single arbitrator. With respect to both customer disputes with three arbitrators and industry disputes involving associated persons with three arbitrators⁹—the two types of disputes affected by the amendments to the procedures for generating lists of public arbitrators—DRS uses the list selection algorithm to generate three lists: (1) a list of 10 public arbitrators from the FINRA chairperson roster (“Chairperson List”); (2) a list of 15 arbitrators (in customer disputes) or 10 arbitrators (in industry disputes involving associated persons) from the Public List; and (3) a list of 10 arbitrators from the FINRA non-public arbitrator roster (“Non-Public List”).¹⁰

When generating the three lists, the list selection algorithm will first generate a Chairperson List from FINRA’s roster of chair-qualified public arbitrators.¹¹ When the list selection algorithm selects the chair-qualified public arbitrators for the Chairperson List for an arbitration, those chair-qualified public arbitrators will not be eligible to be selected for a Public List for the arbitration and, therefore, will be automatically removed from the list selection algorithm before the Public List is generated for the arbitration.¹² However, the chair-qualified public arbitrators who are not selected by the list selection algorithm for the Chairperson List for

an arbitration will be eligible to be selected for the Public List for the arbitration.¹³ Thus, chair-qualified public arbitrators have two chances to be selected for lists for an arbitration: they may be selected for the Chairperson List, and if they are not selected for the Chairperson List, they may be selected for the Public List.

As noted above, prior to the amendments, public arbitrators who are not chair-qualified did not have the same opportunity. Rather, public arbitrators who are not chair-qualified could only be selected for a Public List and, therefore, had only one chance to be selected for a list of arbitrators.¹⁴ As a result, public arbitrators who are not chair-qualified were less likely to be selected for a list than chair-qualified public arbitrators. The amendments address this imbalance and increase the chances for public arbitrators who are not chair-qualified to be selected for the Public List by including their names twice on the roster of available public arbitrators used to randomly generate a Public List.¹⁵ The procedures for generating lists are not otherwise changing.

In addition, as discussed below, the amendments codify certain current practices to increase transparency in the forum; establish new timeframes for objecting to requests for additional information from arbitrators, withdrawing such requests for additional information and filing motions to remove arbitrators after disclosures of causal challenges; and align provisions of the Codes related to expungement of customer dispute information.

II. Shortening the Time for Sending Arbitrator Lists to Parties

Prior to the amendments, the Codes provided that the Director¹⁶ would send lists of arbitrators generated by the list selection algorithm to all parties at the same time, within approximately 30 days after the last answer is due, regardless of the parties' agreement to extend any answer due date. The amendments revise the Codes to decrease the number of days within which the Director sends the lists to the parties from 30 days to 20 days.¹⁷

III. Providing Arbitrator Disclosure Reports to Parties

Prior to the amendments, the Codes provided that the parties would receive employment history for the past 10 years and other background information for each arbitrator on the arbitrator list. In practice, however, DRS requests from arbitrators their full employment history beginning after the end of the arbitrators' disclosed education, and sends this employment history and other background information to the parties in a "disclosure report." The amendments codify this practice by removing "for the past 10 years" from the relevant rules in the Codes and clarifying that employment history and background information will be provided in a "disclosure report."¹⁸

IV. Requesting Additional Information About Arbitrators

The Codes require each arbitrator to make a reasonable effort to learn of, and disclose to DRS, any circumstances that might preclude the arbitrator from rendering an objective and impartial determination in a proceeding.¹⁹ This obligation is continuous, requiring an arbitrator who accepts appointment to an arbitration proceeding to disclose to DRS and the parties, at any stage of the proceeding, any such interests, relationships or circumstances that arise, or that the arbitrator recalls or discovers.²⁰

In addition, the Codes provide that if a party requests additional information about an arbitrator, the Director will request the additional information from the arbitrator and will send any response to all of the parties at the same time.²¹ In practice, the parties can request additional information about an arbitrator at any point during the arbitration proceeding. If an opposing party does not object to the request for additional information, DRS will permit the request for additional information to be submitted to the arbitrator anonymously. If there is an objection, however, DRS will disclose to the arbitrator the identity of the party submitting the request and forward any requests and objections to the arbitrator who is the subject of the request.

The amendments codify DRS' current practice by revising the Codes to provide that a party may request additional information about an arbitrator "at any stage of the proceeding" by filing with the Director and serving all other parties with a written request that may omit any identifying information.²² The amendments prohibit the Director and the parties from disclosing the identity of the requesting party if no objection is filed.²³ If an opposing party wants to object to a request for additional information, the amendments provide that the opposing party may file an objection with the Director and serve the objection on all other parties within 10 days of receipt of the request for additional information.²⁴ A requesting party may withdraw a request for additional information, but after five days have elapsed from the service of any objections and if 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.²⁵

V. Allowing Parties to Strike Arbitrators from Lists for Any Reason

Once the parties receive the lists of arbitrators generated by the list selection algorithm, they have the opportunity to strike a certain number of arbitrators.²⁶ The amendments revise Rule 12403(c)(1)(A) to expressly make clear that each separately represented party may strike any or all of the arbitrators from the Non-Public List "for any reason," which aligns Rule 12403(c)(1)(A) with other provisions in the Codes that describe the striking process.²⁷

VI. Conducting List Selection Electronically

Prior to the amendments, the Codes provided that each separately represented party may strike arbitrators from the list or lists of arbitrators “by crossing through the names of the arbitrators.” In practice, however, parties generally use the Party Portal, the web-based system that is accessible by arbitration and mediation parties and their representatives, to complete arbitrator list selection electronically.²⁸ To update and align the Codes with the method by which parties generally select arbitrators, the amendments remove the phrase “by crossing through the names of the arbitrators” from the relevant rules in the Codes.²⁹

VII. Extending the Time to Complete Ranked Lists

The Codes provide that, after striking arbitrators and ranking the remaining arbitrators according to preference, each separately represented party must complete and return their ranked lists to the Director (generally via the Party Portal)³⁰ either within 20 days or no more than 20 days after the date upon which the Director sent the lists to the parties.³¹ However, FINRA has observed that parties frequently file requests with the Director to extend the 20-day deadline only after it has elapsed, which the Director typically declines absent a showing of extraordinary circumstances. The amendments codify current practice by revising the Codes to provide that 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.³²

VIII. Allowing Parties to Agree to Remove an Arbitrator

DRS makes clear in its training materials for arbitrators that, pursuant to the requirements of the ABA's Code of Ethics for Arbitrators in Commercial Disputes, an arbitrator must withdraw from a panel if all of the parties request that the arbitrator do so.³³ This requirement is also supported by *Notice to Members 01-13*, which announced approval of amendments to the Director's authority to remove arbitrators for cause and described how arbitrators could be removed when “all the parties agree that the arbitrator should be removed.”³⁴ The amendments codify the current guidance by amending Rules 12407 and 13410 to provide that, 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.³⁵ The amendments also provide that the parties may not agree to remove an arbitrator who is considering a request to expunge customer dispute information, except that a party shall be permitted to challenge any arbitrator selected for cause pursuant to Rule 12407(a)(1) or (b), or Rule 13410(a)(1) or (b).³⁶

IX. Prohibiting Disclosure of Party-Initiated Challenges to Remove Arbitrators

Rules 12407 and 13410 permit parties to challenge arbitrators for cause. DRS currently advises parties during arbitrator list selection that they may not inform an arbitrator or panel of an opposing party's request to remove an arbitrator for cause. The amendments codify DRS' practice by expressly providing that a party may not inform the panel or arbitrator of another party's request to remove an arbitrator for cause.³⁷ If a party discloses to the arbitrator or panel an opposing party's request to remove an arbitrator for cause, the amendments provide the party that requested removal of an arbitrator with the option to file a written motion with the Director for removal of the arbitrator within five days of being made aware of the disclosure.³⁸ If the requesting party does not make a motion for removal of the arbitrator within five days of being made aware of the disclosure, the amendments provide that the requesting party forfeits the opportunity to request removal of the arbitrator because of the disclosure.³⁹ Finally, if the party that made the request to remove the arbitrator timely files a motion for removal of the arbitrator based on the disclosure, the amendments provide that, absent extraordinary circumstances, the Director shall grant the motion.⁴⁰

Effective Date

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- ▶ The amendments to Rules 12402(c)(2), 12403(b)(2) and 13403(c)(2) apply to requests for additional information about an arbitrator filed on or after January 26, 2026.
- ▶ The amendments to Rules 12407(e) and 13410(e) apply to motions to remove an arbitrator after disclosure of a party-initiated challenge filed on or after January 26, 2026.

Endnotes

- 1 In general, a public arbitrator is a person who is otherwise qualified to serve as an arbitrator and is not disqualified from service as a public arbitrator due to their current or past ties to the financial industry. *See* Rules 12100(aa) and 13100(x).
- 2 An arbitrator is eligible to serve as a chairperson if they have completed FINRA's chairperson training 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 one arbitration administered by a self-regulatory organization (SRO) in which hearings were held; or (2) have served as an arbitrator through award on at least three arbitrations administered by an SRO in which hearings were held. *See* Rules 12400(c) and 13400(c).
- 3 *See* Securities Exchange Act Release No. 101993 (December 19, 2024), 89 FR 106635, 106636–37 (December 30, 2024) (Notice of Filing of File No. SR-FINRA-2024-022); Securities Exchange Act Release No. 103753 (August 20, 2025), 90 FR 41449, 41453–55 (August 25, 2025) (Order Approving File No. SR-FINRA-2024-022).
- 4 *See* Rules 12400(a) and 13400(a).
- 5 *See supra* note 1.
- 6 A non-public arbitrator is a person who is otherwise qualified to serve as an arbitrator and is disqualified from service as a public arbitrator due to their current or previous association with the financial industry. *See* Rules 12100(t) and 13100(r).
- 7 *See supra* note 2.
- 8 *See* Rules 12400(b) and 13400(b).
- 9 The panel will consist of three arbitrators in both customer and industry disputes when: (1) the amount of the claim is more than \$50,000 but not more than \$100,000, exclusive of interest and expenses, and the parties agree in writing to three arbitrators; or (2) the amount of the claim is more than \$100,000, exclusive of interest and expenses, is unspecified, or the claim does not request money damages, unless the parties agree in writing to one arbitrator. *See* Rules 12401 and 13401.
- 10 *See* Rules 12403(a)(1) and 13403(b)(2).
- 11 *See* Rules 12403(a)(2) and 13403(b)(3).
- 12 *See id.*
- 13 *See id.*
- 14 *See id.*
- 15 *See* Rules 12403(a)(3) and 13403(b)(4). To effect this change, the list selection algorithm will include the names of public arbitrators who are not chair-qualified twice on the roster of available public arbitrators used to randomly generate a Public List. For more information on how the list selection algorithm currently generates a Public List, *see* [How Parties Select Arbitrators](#). Although the amendments give public arbitrators who are not chair-qualified two chances to be selected for a Public List, Rules 12403(a)(3) and 13403(b)(4) provide that an individual arbitrator cannot appear more than once on the Public List selected for the same case.
- 16 The term “Director” means the Director of DRS. Unless a provision of the Codes provides that the Director may not delegate a specific function, the term includes FINRA staff to whom the Director has delegated authority. *See* Rules 12100(m) and 13100(m).
- 17 Rules 12402(c)(1), 12403(b)(1) and 13403(c)(1).

- 18 Rules 12402(c)(1), 12403(b)(1), 12404(a), 13403(c)(1), 13407(a), and 13804(b)(3)(A)(i) and (B)(i).
- 19 See Rules 12405(a) and 13408(a).
- 20 See Rules 12405(b) and 13408(b).
- 21 The amendments move this language without any substantive changes. See Rules 12402(c)(2)(D), 12403(b)(2)(D) and 13403(c)(2)(D). The Codes also provide that when a party requests additional information, the Director may, but is not required to, toll the time for parties to return the ranked lists. The amendments also move this language without any substantive changes. See Rules 12402(c)(2)(E), 12403(b)(2)(E) and 13403(c)(2)(E).
- 22 Rules 12402(c)(2)(A), 12403(b)(2)(A) and 13403(c)(2)(A).
- 23 Rules 12402(c)(2)(C), 12403(b)(2)(C) and 13403(c)(2)(C). Rules 12212 and 13212 (Sanctions) provide a panel with broad discretion in addressing a party's failure to comply with a provision in the Codes, including the prohibition on disclosing the identity of a party requesting additional information about an arbitrator. For example, unless prohibited by law, sanctions may include: "assessing monetary penalties payable to one or more parties; precluding a party from presenting evidence; making an adverse inference against a party; assessing postponement and/or forum fees; and assessing attorneys' fees, costs, and expenses." See Rules 12212 and 13212. The panel also may initiate a disciplinary referral at the conclusion of an arbitration, or dismiss a claim, defense or arbitration with prejudice as a sanction for material and intentional failure to comply with an order of the panel if prior warnings or sanctions have proven ineffective. *Id.*
- 24 Rules 12402(c)(2)(B), 12403(b)(2)(B) and 13403(c)(2)(B).
- 25 *Id.*
- 26 See Rule 12402(d)(1) (allowing each separately represented party in a customer dispute with one arbitrator to strike up to four of the arbitrators from the list); Rule 12403(c)(1)(A) (allowing each separately represented party in a customer dispute with three arbitrators to strike any or all of the arbitrators from a Non-Public List); Rule 12403(c)(2)(A) (allowing each separately represented party in a customer dispute with three arbitrators to strike up to four of the arbitrators from a Chairperson List and up to six of the arbitrators from a Public List); Rule 13404(a) (allowing each separately represented party in an industry dispute to strike up to four of the arbitrators from each list, except for lists generated, pursuant to Rule 13403(a)(2), in disputes between members with a panel of three non-public arbitrators); and Rule 13404(b) (allowing each separately represented party in a dispute between members with a panel of three non-public arbitrators to strike up to eight of the arbitrators from a Non-Public List and up to four of the arbitrators from a non-public Chairperson List).
- 27 See Rules 12402(d)(1), 12403(c)(2)(A), and 13404(a) and (b).
- 28 See Rules 12100(v) and 13100(t).
- 29 Rules 12402(d)(1), 12403(c)(1)(A) and (c)(2)(A), and 13404(a) and (b).
- 30 If a party is a *pro se* customer who opted out of using the Party Portal, pursuant to Rule 12300(a)(2), the party may return their ranked list to the Director by first-class mail, overnight mail service, overnight delivery service, hand delivery, email or facsimile. See Rules 12402(d)(3) and 12403(c)(3).
- 31 Rules 12404(a) and 13407(a) provide that the parties must return their ranked lists "within 20

days” after the date upon which the Director sent the lists to the parties. Rules 12402(d)(3), 12403(c)(3) and 13404(d) provide that the parties must return their ranked lists “no more than 20 days” after the date upon which the Director sent the lists to the parties.

32 Rules 12402(d)(3), 12403(c)(3), 12404(a), 13404(d) and 13407(a).

33 See FINRA, [Required Basic Arbitrator Training Program](#); [ABA Code of Ethics for Arbitrators in Commercial Disputes](#), Canon II(G) (explaining that “[i]f an arbitrator is requested by all parties to withdraw, the arbitrator must do so.”).

34 See [Notice to Members 01-13](#) (February 2001); see also Securities Exchange Act Release No. 43291 (September 14, 2000), 65 FR 57413 (September 22, 2000) (Notice of Filing of File No. SR-NASD-00-34).

35 Rules 12407(d)(1) and 13410(d)(1). Requests to remove an arbitrator may not be granted when there are extraordinary circumstances which make removal inappropriate (e.g., requests based on discriminatory grounds).

36 Rules 12407(d)(2) and 13410(d)(2).

37 Rules 12407(e)(1) and 13410(e)(1). Rules 12212 and 13212 (Sanctions) provide a panel with broad discretion in addressing a party’s failure to comply with any provision in the Codes, including but not limited to the prohibition on disclosing to the arbitrator or panel an opposing party’s request to remove an arbitrator for cause. See *supra* note 23.

38 See Rules 12407(e)(2) and 13410(e)(2).

39 See *id.*

40 See *id.*