



FINRA Dispute Resolution Task Force Recommendations Final Status Report

To ensure that the FINRA dispute resolution forum meets the evolving needs of parties, FINRA [formed](#) a task force in June 2014, the [FINRA Dispute Resolution Task Force](#), to consider possible enhancements to its arbitration and mediation forum. The Task Force was composed of individuals from the public and industry sectors who represent a broad range of interests in securities dispute resolution. FINRA charged this group to work together to suggest strategies to enhance the transparency, impartiality, and efficiency of FINRA's securities dispute resolution forum for all participants.

On December 16, 2015, the Task Force issued its final report with 51 recommendations ([Final Report and Recommendations of the FINRA Dispute Resolution Task Force](#)). FINRA's standing Board advisory committee on dispute resolution – the National Arbitration and Mediation Committee (NAMC) – reviewed and considered each recommendation. The NAMC is composed of investor and industry representatives, arbitrators and academics. In addition, in implementing the Task Force recommendations, FINRA also consulted with various interested parties, including investor and industry counsel. As detailed below, FINRA has taken action on all of the 51 recommendations. Thus, this is intended to be the final status report on the implementation of the Task Force recommendations, subject to material future changes on specific items.

A. Recommendations Relating to Arbitrators

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	An increase in the compensation paid to arbitrators pursuant to FINRA Rules 12600, 12805, 13600, and 13805 from \$300 to \$500 per session. ¹	Alternative approach implemented	<ul style="list-style-type: none"> • The Securities and Exchange Commission (SEC) approved amendments to FINRA's Codes of Arbitration Procedure (Codes) to charge parties who request a cancellation of a prehearing conference within three business days a \$100 per-arbitrator fee. • The amendment also provides for a \$100 honorarium to each arbitrator scheduled to attend the cancelled prehearing conference. • These amendments became effective for all cases filed on or after October 29, 2018. See <i>Regulatory Notice 18-33</i> (September 2018).
2	Biennial increases in arbitrator compensation tied to the Consumer Price Index. ²	Not implemented	<ul style="list-style-type: none"> • Since honoraria increases are generally supported by fees to forum users, FINRA does not believe that honoraria increases should be automatic.

¹ See Final Report recommendations relating to Arbitrators (No. 1).

² *Id.* (No. 2).

			<ul style="list-style-type: none"> • FINRA evaluates the arbitrator honoraria periodically.
3	Continued efforts to develop effective strategies to recruit aggressively applicants for the arbitrator pool, with a view to increasing both the depth and the diversity of the pool, and to monitor the results. ³	Implemented	<ul style="list-style-type: none"> • FINRA has implemented procedures to recruit additional arbitrators, including hiring additional staff for arbitrator recruitment, retaining a consultant for recruitment advice, expanding the use of social media, and direct marketing. • FINRA recruited to the roster 945 new arbitrators in 2016; 771 new arbitrators in 2017; and 1,051 new arbitrators in 2018. • FINRA's 2018 arbitrator demographic survey, conducted by an external consulting firm, showed that we had success in increasing diversity in three categories.⁴
4	Continued review and monitoring of the arbitrator qualification process to ensure that the goals of processing an application within 120 days and training arbitrators within 120 days of approval are achieved. ⁵	Implemented	<ul style="list-style-type: none"> • FINRA established performance criteria to ensure that arbitrator applications are reviewed promptly, and newly qualified arbitrators receive timely training. • FINRA regularly monitors performance of these measures. • The average turnaround time for an arbitrator application was 69 days in 2016; 74 days in 2017; and 89 days in 2018. • The average turnaround time for an approved arbitrator to be trained was 85 days in 2016; 103 days in 2017; and 91 days in 2018.
5	Continued review of FINRA's website, as well as its recruitment materials, to ensure that they convey a message of inclusiveness and do not discourage from applying qualified and diverse individuals with a variety of educational backgrounds and work experiences. ⁶	Implemented	<ul style="list-style-type: none"> • FINRA revised the recruitment materials on its website to ensure that they convey a message of inclusiveness. • The materials now target a broader range of industries from which FINRA welcomes arbitrator applicants. • FINRA posted a recruitment video on its website emphasizing this message.⁷
6	In those instances where all non-public arbitrators are struck from the arbitrator selection process, a new list of ten	Alternative approach implemented	<ul style="list-style-type: none"> • To address the Task Force's recommendation without delaying the panel selection process, or unduly burdening the parties, FINRA proposed to amend FINRA Rule 12403 of the Code of Arbitration Procedure for Customer Disputes

³ *Id.* (No. 3).

⁴ In 2018, FINRA saw increases in the women, Hispanic or Latino, and LGBT categories. In 2017, FINRA saw increases in the women, African-American, Asian, American Indian or Alaska Native and Multi-Racial categories. See <http://www.finra.org/arbitration-and-mediation/diversity-and-finra-arbitrator-recruitment>.

⁵ See Final Report recommendations relating to Arbitrators (No. 4).

⁶ *Id.* (No. 5).

⁷ See <https://vimeo.com/188349814>.

	public arbitrators should be generated for that seat. In that way, selection of the all public panel will be made from lists containing 30 potential arbitrators. ⁸		(Customer Code), to increase the number of public arbitrators on the list that FINRA sends parties during the arbitration panel selection process from 10 arbitrators to 15 arbitrators in cases with three arbitrators. <ul style="list-style-type: none"> The SEC approved the proposed rule change on September 14, 2016. The rule change became effective on January 3, 2017. See <i>Regulatory Notice</i> 16-44 (December 2016).
7	Challenges for cause because of multiple appointments to related cases should be allowed so long as the challenge is made promptly upon the party learning about the multiple appointments. ⁹	Alternative approach implemented	<ul style="list-style-type: none"> FINRA has determined to continue to use a flexible approach rather than permit a challenge for cause in every case. This approach enables FINRA to efficiently appoint arbitrators in situations in which hundreds or thousands of cases are filed regarding the same product in a single hearing location.
8	Arbitrators' training materials and the initial appointment letter should address the possible conflicts that can arise from serving on multiple related cases and emphasize the importance of prompt disclosure. ¹⁰	Implemented	<ul style="list-style-type: none"> FINRA revised the arbitrator appointment letter and Oath of Arbitrator to emphasize disclosure of multiple appointments. FINRA published a question and answer on the topic in the December 2016 issue of <i>The Neutral Corner</i> or <i>TNC</i> (FINRA's arbitrator and mediator newsletter) (Volume 4—2016). FINRA also addressed the topic in its arbitrator training modules (Basic Arbitrator Training, Chairperson Training, and Duty to Disclose Training).
9	Arbitrators should be required to update their arbitrator disclosure report promptly to report material new information or a material change in their status, and to review, at least annually, their arbitrator disclosure report and either confirm its accuracy or update it to take account of new information. ¹¹	Implemented	<ul style="list-style-type: none"> FINRA implemented several enhancements to procedures relating to arbitrator disclosures including issuing quarterly reminders to arbitrators to review and revise their disclosure reports, and requiring arbitrators to certify as to the accuracy of the information on their profiles. In 2017, FINRA implemented technology changes to its arbitrator disclosure reports to include the last date that the arbitrator certified as to the accuracy of the report. FINRA published articles on disclosure in the December 2016 (Volume 4—2016) and June 2017 issues of <i>TNC</i> relating to the importance of arbitrator disclosures (Volume 2—2017). FINRA published five arbitrator tips on this topic in the March (Volume 1—2018), June 2018 (Volume 2—2018) and September 2018 (Volume 3—2018) issues of <i>TNC</i>.

⁸ See Final Report recommendations relating to Arbitrators (No. 6).

⁹ *Id.* (No. 7).

¹⁰ *Id.* (No. 8).

¹¹ *Id.* (No. 9).

10	The arbitrator disclosure report should add to the existing list of current cases assigned to the arbitrator the name of counsel and city of counsel's office. ¹²	Implemented	<ul style="list-style-type: none"> • In 2017, FINRA implemented technology changes to its arbitrator disclosure reports to include the contact information for counsel on each of the open cases on which FINRA appointed an arbitrator to serve.
11	Require potential arbitrators to disclose subject matter (case-specific) disclosures earlier in the arbitrator selection process. ¹³	Alternative approach implemented (see A.9)	<ul style="list-style-type: none"> • FINRA agrees that arbitrators should make disclosures as early as possible in the proceeding and promptly when new issues arise. FINRA has determined, however, not to implement the Task Force recommendation relating to early case specific disclosures. The recommendation would require 35 potential arbitrators (all the arbitrators on the lists) to fill out the comprehensive Arbitrator Disclosure Checklist. • The process of arbitrator disclosure is time-consuming for the arbitrators, and requiring every potential arbitrator to complete the checklist process would be burdensome for arbitrators and could deter future service to the forum. It would likely slow the administration of the case and its ultimate outcome substantially.
12	Section IV of the arbitrator disclosure checklist should be revised to state "registered investment adviser." ¹⁴	Not implemented	<ul style="list-style-type: none"> • FINRA sends its Arbitrator Disclosure Checklist to the arbitrators as part of the Oath of Arbitrator for each arbitrator's cases. It reminds arbitrators to consider all possible disclosures, and requires a complete explanation of any possible conflict to the parties in a particular case. One question asks whether the arbitrator is, or was ever, associated with, including employed by or registered through, an investment adviser. • The Task Force recommended that FINRA clarify the term "investment adviser" by changing the phrase "investment adviser" to "registered investment adviser." • The Codes refer to "investment adviser," which is a broader term than "registered investment adviser." The arbitrator definitions reference the term specifically, and FINRA uses the definitions to determine whether to classify a new arbitrator as public or non-public. • FINRA believes that the Arbitrator Disclosure Checklist should be consistent with the arbitrator definitions.

¹² *Id.* (No. 10).

¹³ *Id.* (No. 11).

¹⁴ *Id.* (No. 12).

13	The IPHC (Initial Prehearing Conference) script should emphasize that the parties have the right to ask appropriate questions at that time and that the arbitrators expect questions and will not take exception to them in any manner. ¹⁵	Alternative approach implemented	<ul style="list-style-type: none"> • FINRA agreed with the Task Force that parties have the right to ask appropriate questions to arbitrators and that the arbitrators should not take exception to requests for additional information. However, based on discussions with forum users, FINRA does not believe that the IPHC is the best setting for asking for additional disclosures. • Instead of revising the IPHC script, FINRA published an article in the December 2016 issue of <i>TNC</i> that emphasizes the importance of arbitrators' prompt and complete responses to requests for additional information (Volume 4—2016).
14	Monitor the application of the recently adopted definitions of public and non-public arbitrators in light of concerns that individuals with substantial process and subject matter expertise are stricken from the list of public arbitrators. ¹⁶	Implemented	<ul style="list-style-type: none"> • The SEC approved amendments to the Codes to provide that a non-public arbitrator is a person who is otherwise qualified to serve as an arbitrator, but who is disqualified from classification as a public arbitrator. • The amendments became effective on October 9, 2017. See <i>Regulatory Notice 17-29</i> (October 2017).
15	All arbitrators should be encouraged to complete continuing education programs on a periodic basis. ¹⁷	Implemented	<ul style="list-style-type: none"> • FINRA uses <i>TNC</i>, monthly emails to neutrals and the FINRA website to remind arbitrators of training opportunities available at FINRA, including FINRA's free arbitrator training modules and accompanying written training materials, and reduced rates for FINRA regulatory/compliance training courses. • FINRA also makes arbitrators aware of upcoming programs on securities arbitration and mediation provided by bar associations through these vehicles. • FINRA worked with the American Bar Association and the Practising Law Institute to provide free training or training at a reduced cost to arbitrators.

¹⁵ *Id.* (No. 13).

¹⁶ *Id.* (No. 14).

¹⁷ *Id.* (No. 15).

16	Compulsory training requirements should be considered for arbitrators with a record of poor evaluations, as well as inexperienced arbitrators and arbitrators who have not been recently selected for panels and who do not arbitrate regularly. ¹⁸	Implemented	<ul style="list-style-type: none"> • FINRA agrees with the Task Force that in certain instances FINRA should require an arbitrator to take additional training. FINRA has updated its staff procedures relating to counseling arbitrators and requiring additional training.
17	Increased training for chairpersons. ¹⁹	Implemented	<ul style="list-style-type: none"> • FINRA has developed a roster of experienced chairpersons for new chairpersons to use as a resource and implemented a mentoring program for new chairpersons. • In November 2016, FINRA posted a Neutral Workshop on chair issues.²⁰
18	NAMC should engage an outside consultant to study and design the specific type of arbitrator training coursework to be offered. ²¹	Alternative approach implemented	<ul style="list-style-type: none"> • FINRA has made recent enhancements to the arbitrator training coursework, including: (1) replacing certain text and videos with interactive elements, graphics, and group exercises to generate better discussion; and (2) adding a detailed table of contents to allow users to jump from topic to topic to monitor their progress. • In 2019, FINRA plans to engage an outside vendor to make further enhancements to the arbitrator training coursework.
19	Increased education regarding the usefulness of arbitrator evaluations, as well as efforts to encourage chairpersons to emphasize the importance of filling out the evaluations to the parties at the conclusion of the hearing and to the panel members during subsequent deliberations. ²²	Implemented	<ul style="list-style-type: none"> • FINRA updated the Arbitrator Experience Survey (peer review), the Basic Arbitrator Training, the Arbitrator's Guide, and presentation materials for the live video and onsite classroom trainings to increase education regarding the usefulness of arbitrator evaluations. • In 2019, FINRA plans to implement a DR Neutral Portal-based Arbitrator Experience Survey to make it easier: (1) for arbitrators to use; (2) for FINRA staff to send reminders to arbitrators with a link to the Survey; and (3) for FINRA staff to extract data.²³

¹⁸ *Id.* (No. 16).

¹⁹ *Id.* (No. 17).

²⁰ See <http://www.finra.org/arbitration-and-mediation/neutral-workshop-audio-and-video-files>.

²¹ See Final Report recommendations relating to Arbitrators (No. 18).

²² *Id.* (No. 19).

²³ The DR Neutral Portal provides arbitrators and mediators with a secure, online location to, among other things: (1) view and update profile and disclosure information; (2) access information about assigned cases, including upcoming hearings and payment information; (3) schedule hearing dates; (4) view case documents; (5) submit documents; and (6) view information about all cases on which the arbitrator or mediator has served regardless of whether the case resulted in an award.

20	Develop a procedure for advising arbitrators about a proposed rule change and how they can comment on it and notifying them of adoption of proposed rule changes. ²⁴	Implemented	<ul style="list-style-type: none"> • FINRA implemented procedures to advise arbitrators through notices in <i>TNC</i>, the Dispute Resolution web page and an arbitrator subscription feed.
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B. Recommendations Relating to Explained Decisions

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	The FINRA rule should be amended to require explained decisions unless any party notifies FINRA, prior to the IPHC, that it does not want an explained decision. ²⁵	Alternative approach implemented.	<ul style="list-style-type: none"> • The Task Force believed that expanding the use of explained decisions could increase transparency in the system and that increased confidence in the fairness of the system would likely flow from increased transparency
2	The current brief, fact-based format of the explanation should be retained, but with the addition of some summary explanation of the reasons behind any damage calculation. ²⁶		<ul style="list-style-type: none"> • To remove a potential obstacle to parties requesting an explained decision when they want one, on February 21, 2018, FINRA amended the Codes to eliminate the \$400 fee for an explained decision. FINRA continues to pay the \$400 honorarium to the chairperson who drafts the decision.
3	Before any plan to expand the use of explained decisions is implemented, FINRA must develop and administer a training program on how to write explained decisions. Chairpersons must complete the training promptly after they are notified that an explained decision is expected in an assigned case. ²⁷		

²⁴ See Final Report recommendations relating to Arbitrators (No. 20).

²⁵ See Final Report recommendations relating to Explained Awards (No. 1).

²⁶ *Id.* (No. 2).

²⁷ *Id.* (No. 3).

C. Recommendations Relating to Expungement

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	Creation of a pool of trained, experienced arbitrators to conduct expungement hearings in settled cases and in all cases where claimants did not name the associated person as a respondent. ²⁸	In progress	<ul style="list-style-type: none"> On December 6, 2017, FINRA published <i>Regulatory Notice 17-42</i> seeking comment on proposed amendments to the Codes relating to requests to expunge customer dispute information. The comment period expired on February 5, 2018. FINRA received over 70 comment letters and is considering next steps.
2	Development of enhanced arbitrator training with regard to the expungement process, including clearer guidance on the Rule 2080 grounds for expungement, which will be required of chairpersons who conduct expungement hearings for cases that were decided after a hearing. ²⁹		
3	Review of procedures for notifying state regulators of expungement requests. ³⁰	In progress	<ul style="list-style-type: none"> The FINRA Board has approved proposed amendments to FINRA Rule 12805 of the Customer Code and FINRA Rule 13805 of the Industry Code, to provide, among other matters, that FINRA will notify the appropriate state securities regulators of all requests for expungement relief.

D. Recommendation Relating to Small Claims

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	Development of an intermediate form of adjudication for small claims—more than the papers, but less than a full hearing—in which the claimant and respondent appear before an arbitrator and have the opportunity to explain	Implemented	<ul style="list-style-type: none"> On May 17, 2018, the SEC approved a proposed rule change to amend the Codes to provide an additional hearing option for parties in arbitration with claims of \$50,000 or less, excluding interest and expenses. The new option, a Special Proceeding for Simplified Arbitration, allows for a telephonic hearing with time limits and other conditions.

²⁸ See Final Report recommendations relating to Expungement (No. 1).

²⁹ *Id.* (No. 2).

³⁰ *Id.* (No. 3).

<p>their positions and respond to their adversary's positions.³¹</p>		<ul style="list-style-type: none"> • These amendments are effective for all cases filed on or after September 17, 2018. See <i>Regulatory Notice</i> 18-21 (July 2018). • To train arbitrators appointed on Special Proceedings, FINRA produced a video training module and provided training materials on its webpage and publications,³² including <i>TNC (Volume 3—2018)</i>.
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E. Recommendations Relating to Mediation

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	An automatic mediation process for cases filed in arbitration, subject to an opt-out by any party. ³³	Alternative approach implemented	<ul style="list-style-type: none"> • FINRA has implemented initiatives to address the Task Force's recommendation for promoting mediation at earlier stages of the arbitration case, including providing a check box for parties to indicate an interest in mediating whenever submitting a document through the DR Portal. • FINRA staff operating the Securities Helpline for Seniors have been trained to guide investors on the availability of mediation. • In 2018, FINRA staff increased the regularity of phone calls to arbitration parties reminding them of the mediation option.
2	Financial incentive for parties who have achieved a final and complete resolution of their dispute through mediation, by refunding part of their mediation and arbitration fees. ³⁴	Alternative approach implemented	<ul style="list-style-type: none"> • FINRA enhanced financial incentives currently in place for parties in mediation, such as expanding the timeframe of Mediation Settlement Month in which FINRA and its mediators significantly reduced mediation fees to encourage parties to experience the benefits of mediation for the first time and to reinforce the value and effectiveness of mediation for those who have mediated already. • Mediation Settlement Month ran an additional 30 days in 2018, from September 15 to November 15.
3	A formal, mandatory continuing education program for new mediators and a continuing education program for all mediators. ³⁵	Alternative approach implemented	<ul style="list-style-type: none"> • FINRA implemented initiatives to bolster its training materials, including sending an email in the third quarter 2017 to all mediators informing them of existing training modules addressing specific mediation situations. • FINRA published an article in the December 2017 issue of <i>TNC</i> containing advanced techniques for conducting telephonic mediation (Volume 4—2017).

³¹ See Final Report recommendations relating to Small Claims (No. 1).

³² See <http://www.finra.org/arbitration-and-mediation/special-proceedings-simplified-arbitration> and see https://www.finra.org/sites/default/files/Hearing_Procedure_Script-Special_Proceeding.pdf.

³³ See Final Report recommendations relating to Mediation (No. 1).

³⁴ *Id.* (No. 2).

³⁵ *Id.* (No. 3).

			<ul style="list-style-type: none"> • FINRA created a resources page where mediators, as well as arbitrators looking for mediator training, can find information on educational programs.³⁶
4	More opportunities for inexperienced mediators to gain experience and training. ³⁷	Implemented	<ul style="list-style-type: none"> • FINRA encourages parties to use the Mediation Program for Small Arbitration Claims and Settlement Month, which allow qualified mediators who normally may not be selected by parties in a regular mediation docket case to gain experience and training. • FINRA staff reminded mediators to provide references on their mediator disclosures to encourage parties to consider using them. • FINRA staff held a “meet and greet” in New York City that allowed counsel to meet mediators on FINRA’s roster. • In 2019, FINRA plans to facilitate live, electronic “meet and greets” between counsel and mediators from various regions (e.g., Skype, Google Hangout) and provide parties with recorded introductions of mediators on FINRA’s roster.
5	A formal mentoring program in which experienced mediators would permit new mediators to shadow them and perhaps co-mediate with them. ³⁸	In progress	<ul style="list-style-type: none"> • In 2019, FINRA plans to encourage seasoned mediators to embrace a mentoring program in which experienced mediators would permit new mediators to shadow them.
6	Aggressive efforts to recruit, train, and encourage the use of more diverse mediators. ³⁹	Implemented	<ul style="list-style-type: none"> • FINRA eliminated the annual fee that mediators remit to remain eligible to serve as FINRA mediators in order to assist in recruiting and retaining a diverse roster of mediators. • FINRA participated in recruitment events to target diverse and skilled mediators. • FINRA’s 2018 mediator demographic survey, conducted by an external consulting firm, showed that we had success in increasing diversity in five categories.⁴⁰
7	Mediator training should include alternatives to mediation and the requirements for handling them correctly. ⁴¹	Implemented	<ul style="list-style-type: none"> • FINRA published an article in the December 2017 issue of <i>TNC</i> containing advanced techniques for conducting telephonic mediation (Volume 4—2017). • FINRA published an article in the June 2018 issue of <i>TNC</i> defining alternatives to mediation such as Med-Arb and Arb-Med and providing practice techniques for effectively using these approaches (Volume 2—2018).

³⁶ See <http://www.finra.org/arbitration-and-mediation/mediator-resources>.

³⁷ See Final Report recommendations relating to Mediation (No. 4).

³⁸ *Id.* (No. 5).

³⁹ *Id.* (No. 6).

⁴⁰ In 2018, FINRA saw increases in the women, African-American, Hispanic or Latino, Asian, and LGBT categories. See <http://www.finra.org/arbitration-and-mediation/diversity-and-finra-arbitrator-recruitment>.

⁴¹ See Final Report recommendations relating to Mediation (No. 7).

F. Recommendation Relating to Motions to Dismiss

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	Rule 12504(a) should be amended to include one additional category for which motions to dismiss may be made before the conclusion of the case in chief: situations where the dispute has been previously concluded through adjudication or arbitration and memorialized in an order, judgment, award or decision. ⁴²	Implemented	<ul style="list-style-type: none"> • FINRA proposed amendments to the Codes to provide that arbitrators may act upon a motion to dismiss a party or claim prior to the conclusion of a party's case in chief if the arbitrators determine that the non-moving party previously brought a claim regarding the same dispute against the same party that was fully and finally adjudicated on the merits and memorialized in an order, judgment, award, or decision. • The SEC approved the proposed rule change on November 10, 2016. The rule change became effective on January 23, 2017. <i>See Regulatory Notice 17-02</i> (January 2017).

G. Recommendations Relating to Case Management – Procedural Issues

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	Review of procedures to encourage expeditious scheduling of hearings. ⁴³	Implemented	<ul style="list-style-type: none"> • FINRA implemented procedures to increase the efficiency of administering Simplified Arbitration cases including, among other things, sending the Oath of Arbitrator and the pleadings to the arbitrator earlier in the process, and using management reports to track and speed up the resolution of motions. • Simplified case turnaround time in 2017 decreased seven percent from 2016 and remained steady in 2018 (in 2016, turnaround time decreased 15 percent from 2015). • FINRA is now applying the new procedures to all cases.
2	With respect to expedited hearings for senior and seriously ill parties, implementing procedures to insure that once the expedited process is selected, the goals of achieving an expedited process and hearing are achieved. ⁴⁴	Implemented	<ul style="list-style-type: none"> • FINRA implemented procedures to increase the efficiency of administering expedited cases concerning senior or seriously ill parties including: (1) reducing the time staff takes to send arbitrator lists to the parties after the answer is due; (2) reducing the time that arbitrators have to accept such cases; (3) updating management tracking reports to note expedited cases; and (4) sending a checklist to parties asking them to stipulate to a number of steps that will reduce the time it takes FINRA to administer a case (<i>e.g.</i>, agreeing to reduce the number of days to return arbitrator rankings to FINRA).

⁴² See Final Report recommendations relating to Motions to Dismiss (No. 1).

⁴³ See Final Report recommendations relating to Case Management – Procedural Issues (No. 1).

⁴⁴ *Id.* (No. 2).

			<ul style="list-style-type: none"> • FINRA also published an article in <i>TNC</i> on the topic of expedited cases for senior or seriously ill parties (Volume 2—2016). • FINRA also updated information on this topic in its arbitrator training modules (Basic Arbitrator Training and Chairperson Training).
3	Amend FINRA Rules 12402 and 12403 to use the first answer due date as opposed to the last answer due date. ⁴⁵	Alternative approach implemented	<ul style="list-style-type: none"> • FINRA proposed amendments to the Codes to provide that the Director of FINRA’s Office of Dispute Resolution will send the list or lists generated by the Neutral List Selection System 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. • FINRA believes that by sending the arbitrator list or lists after the original due date for the last answer, regardless of any extension, it can shorten the time it takes for an arbitration to conclude in those instances. Party agreements to extend answer due dates would no longer affect the timing of providing the arbitrator list or lists to the parties. • The SEC approved the proposed rule change on June 19, 2017. The rule change became effective for cases filed on or after September 18, 2017. See <i>Regulatory Notice 17-25</i> (August 2017).
4	Take steps to emphasize to arbitrators the need to avoid late recusals and the perceived problem of double-booking. ⁴⁶	Implemented	<ul style="list-style-type: none"> • FINRA published an article in <i>TNC</i> on avoiding late arbitrator recusals (Volume 1—2016). • FINRA programmed enhancements to its case management system that allow FINRA staff to track late recusals and created an arbitrator-specific report that managers can generate from the system to monitor the issue.
5	Develop a formal disciplinary process to deal with arbitrators who engage in last-minute recusals without good cause. ⁴⁷		
6	Revise the document production list of presumptively discoverable documents for the firm/associated person to require production of	In progress	<ul style="list-style-type: none"> • On July 27, 2018, FINRA published <i>Regulatory Notice 18-22</i> (July 2018) seeking comment on proposed amendments to the Discovery Guide’s Firm/Associated Persons Document Production List to require firms and associated persons, upon request, to produce documents concerning third party insurance coverage.⁴⁹

⁴⁵ *Id.* (No. 3).

⁴⁶ *Id.* (No. 4).

⁴⁷ *Id.* (No. 5).

⁴⁹ See <https://www.finra.org/industry/notices/18-22>.

	all insurance policies that may be applicable to claimants' claims. ⁴⁸		<ul style="list-style-type: none"> The comment period ended on September 24, 2018 with 112 comment letters. FINRA is considering the comments.
7	Revise the IPHC script to make clear that the parties may agree to modify hearing procedures, including the use of any type of technology, in the interest of efficiency and cost effectiveness, subject to the arbitrators' discretion for good cause. ⁵⁰	Implemented	<ul style="list-style-type: none"> FINRA revised its IPHC script to state that the parties are encouraged to use technology to facilitate hearings. The script states that parties may agree to modify hearing procedures by using technology that promotes efficiency and cost-effectiveness (e.g., videoconferencing and electronic exhibits), subject to the arbitrators' approval. FINRA published an arbitrator tip on this topic in the September 2016 issue of <i>TNC</i> (Volume 3—2016).
8	Develop a feature on the DR Party Portal which allows a party to view all costs on an on-going basis. ⁵¹	Implemented	<ul style="list-style-type: none"> FINRA is programming system changes to the DR Party Portal⁵² that will allow parties in 2019 to view costs accrued in a case on an on-going basis. In the interim, if a party has questions about fees accrued, FINRA sends the party a fee summary.
9	Adding language to the IPHC script to strongly discourage the practice of phantom retention of experts. ⁵³	Implemented	<ul style="list-style-type: none"> FINRA revised its IPHC script and form letters to state that a party should only identify the name of an expert witness that the party has actually retained. FINRA also included an article in <i>TNC</i> on the topic of identifying expert witnesses (Volume 2—2016).

H. Recommendations Relating to Public Availability of Information

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	Take steps to improve the informational content of awards, including (a) educating arbitrators on the importance of a detailed summary of the issues and products involved in each award and (b) providing a template or examples of the items an arbitrator should consider including in an award summary. In particular, arbitrators should be trained to describe briefly the claims and defenses presented at the hearing, rather than to set	Alternative approach in progress	<ul style="list-style-type: none"> FINRA currently includes decisions on all dispositive motions in final awards. FINRA is considering enhancements to arbitrator disclosure reports to indicate how a panel decided a motion to dismiss or an injunctive

⁴⁸ See Final Report recommendations relating to Case Management – Procedural Issues (No. 6).

⁵⁰ *Id.* (No. 7).

⁵¹ *Id.* (No. 8).

⁵² The DR Party Portal provides arbitration forum users with a secure, online location for claim filing and interactions relating to case administration. Parties use the DR Party Portal to, among other things, file claims, pay filing fees, receive documents from and send documents to FINRA, receive service of claims, submit answers to claims, submit additional case documents, view the status of cases, select arbitrators, schedule hearings and send documents to other DR Party Portal case participants.

⁵³ See Final Report recommendations relating to Case Management – Procedural Issues (No. 9).

	forth the claims and defenses contained in the pleadings. ⁵⁴		issue in a case that later closed by settlement.
2	Certain substantive decisions, such as injunctive orders or final dismissals, should be treated as awards and be available in FINRA's Arbitration Awards Online (AAO) database. ⁵⁵		

I. Recommendations Relating to Transparency

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	FINRA should adopt a policy of promoting, to the maximum extent possible, transparency about its dispute resolution forum. ⁵⁶	Implemented	<ul style="list-style-type: none"> • FINRA expanded the statistics updated monthly on the FINRA website and updated charts to display case filing volume for the 15 most often cited controversy and security types over a five-year period. The information is further distinguished between customer cases and intra-industry cases. • FINRA added a map that provides the number of cases and arbitrators (by classification type) in each arbitration hearing location. The arbitrators by type is further broken down by the number of local and non-local arbitrators.
2	FINRA should reinstate its prior practice of disclosing on its website the names of NAMC members. ⁵⁷	Implemented	<ul style="list-style-type: none"> • FINRA publishes the names and affiliations of the members of the NAMC on FINRA's website.⁵⁸

J. Recommendation Relating to Frivolous Motions to Vacate

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	Continue to monitor this area and, in particular, be alert to motions to vacate explained decisions. ⁵⁹	Implemented	<ul style="list-style-type: none"> • FINRA staff implemented a procedure for reviewing motions to vacate and possible referral to FINRA's Enforcement Department for further review. • FINRA posted a Neutral Workshop in December 2017 on tips to help avoid motions to vacate and to bring finality to the award.⁶⁰

⁵⁴ See Final Report recommendations relating to Public Availability of Information (No. 1).

⁵⁵ *Id.* (No. 2).

⁵⁶ See Final Report recommendations relating to Transparency (No. 1).

⁵⁷ *Id.* (No. 2).

⁵⁸ See <http://www.finra.org/arbitration-and-mediation/national-arbitration-and-mediation-committee-namc>.

⁵⁹ See Final Report recommendations relating to Frivolous Motions to Vacate (No. 1).

⁶⁰ See <http://www.finra.org/arbitration-and-mediation/neutral-workshop-audio-and-video-files>.

K. Recommendation Relating to Professionalism

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	Conduct a study on non-attorney representatives. ⁶¹	In progress	<ul style="list-style-type: none"> • On October 18, 2017, FINRA published <i>Regulatory Notice</i> 17-34 seeking comment on the efficacy of allowing compensated non-attorneys to represent parties in arbitration. • The comment period ended on December 18, 2017 with 59 comment letters. • The FINRA Board has approved filing with the SEC proposed amendments to the Codes and the Code of Mediation Procedure to prohibit compensated non-attorney representatives (NARs) from practicing in the FINRA arbitration and mediation forum.

L. Recommendation Relating to Funding to Law School Arbitration Clinics

	RECOMMENDATION	ACTION TAKEN	DETAILS
1	Consider funding of law school arbitration clinics through FINRA fines and penalties. ⁶²	Not implemented	<ul style="list-style-type: none"> • The Financial Guiding Principles adopted by the FINRA Board in 2018⁶³ provide more transparency about how we manage our financial resources to ensure we fulfill our regulatory responsibilities and further our mission. With respect to fine monies, these Principles also adopted enhanced governance procedures, usage restrictions and transparency requirements. • Beginning with the 2018 fiscal year, the FINRA Board or its Finance, Operations and Technology Committee may authorize the use of fine monies only for one of four enumerated purposes: (1) capital/initiatives or nonrecurring strategic expenditures that promote more effective and efficient regulatory oversight by FINRA (including leveraging technology and data in a secure manner) or that enable improved compliance by member firms; (2) activities to educate investors, promote compliance by member firms through education, compliance resources or similar projects, or ensure our employees are highly trained in the markets, products and businesses we regulate; (3) capital/initiatives required by new legal, regulatory or audit requirements; and (4) replenishing reserves in years where such reserves drop below levels reasonably appropriate to preserve FINRA's long-term ability to fund its regulatory obligations.

⁶¹ See Final Report recommendations relating to Professionalism (No. 1).

⁶² See Final Report recommendations relating to Funding Law School Arbitration Clinics (No. 1).

⁶³ See <https://www.finra.org/about/interim-report-use-2017-fine-monies>.