

FINRA Dispute Resolution Task Force Issues

December 2014

1. Access to FINRA Forum

- Mandatory nature of arbitration; FINRA Rule 12200
- Definition of “customer”
- Inclusion of investment advisers/firms
- Class action waivers
- Cost/funding

2. Arbitrators

- Disclosures; information on arbitrator disclosure reports
- All-public panel option
- Classification of arbitrators
- Depth and quality of arbitrator pool
- Evaluations
- Assignment of arbitrators to multiple cases
- DR Portal

3. Case Management Issues—Substance

- Motions to dismiss
- Eligibility rule

4. Case Management Issues—Procedure

- Last-minute recusals; mandatory adjournment
- Mandatory direct communication
- Discovery issues
- Use of technology to lower costs and improve efficiency
- Professionalism of practitioners
- FINRA accounting for costs

5. Reasoned Awards

6. Expungement

- When is it appropriate to expunge information from a broker's record?
- How should the expungement process work?

7. Large Claims

- Can the forum be made more attractive to large claims?
- Issues of institutional investors (forum selection clauses)

8. Small Claims

- Can a better process be devised to handle small claims, especially pro se claimants?
- Costs of arbitrating small claims
- Funding to law school clinics
- Pro bono initiatives
- Use of technology (e.g., telephonic hearings)

9. Mediation

- Should greater use of mediation be encouraged?
- Opt out instead of opt in

10. Educating Participants and Public About the Arbitration Process and Transparency

- Arbitration awards; FINRA Rule 12904
- Expansion of FINRA award database to include other awards (e.g., JAMS, AAA, etc.)
- More information on FINRA website
- How should FINRA solicit and use information from forum users on an ongoing basis?
- Indemnification agreements/brokers' countersuits against investors
- Unpaid awards

11. Motions to Vacate Arbitration Awards

Are some attacks on arbitration awards frivolous?