

## Hearing Locations

### Amendments to the Arbitration Rules on Hearing Locations

Effective Date: May 3, 2010

#### Executive Summary

Effective May 3, 2010, amendments to the Codes of Arbitration Procedure for Customer and Industry Disputes expand the criteria for selecting a hearing location for an arbitration proceeding.<sup>1</sup>

The text of the amendments to the rules is set forth in Attachment A.

Questions concerning this *Notice* should be directed to:

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#### Background and Discussion

##### Hearing Location Criteria Under the Customer Code

Currently, Rule 12213(a) of the Code of Arbitration Procedure for Customer Disputes (Customer Code) states that generally, the Director of FINRA Dispute Resolution (Director) will select the hearing location closest to the customer's residence at the time of the events giving rise to the dispute. For example, if a customer in an arbitration proceeding lives in Hoboken, New Jersey, the Director will select the New York City hearing location, because this hearing location is closer to the customer's residence<sup>2</sup> than the FINRA hearing location in Newark, New Jersey.

#### April 2010

##### Notice Type

- Rule Amendment

##### Suggested Routing

- Compliance
- Legal
- Senior Management

##### Key Topic(s)

- Arbitration
- Code of Arbitration Procedure
- Hearing Location

##### Referenced Rules & Notices

- Rule 12213(a)
- Rule 13213(a)

FINRA amended Rule 12213(a) to expand the criteria for selecting a hearing location. Specifically, the rule now states that the Director will select the hearing location closest to the customer's residence at the time of the events giving rise to the dispute, unless the hearing location closest to the customer's residence is in a different state. In that case, the customer may request a hearing location in the state where the customer resided at the time of the events giving rise to the dispute. Applying the amended rule to the example above, if the customer requests the Newark, New Jersey, hearing location, the Director generally will grant the request, even though the closest hearing location to the customer's residence is the New York City location.

Under the rule, the Director will continue to select the hearing location closest to the customer's residence at the time of the events giving rise to the dispute. However, the Director will grant a customer's request for a different hearing location in the customer's state of residence, if the customer makes the request before the arbitrator or arbitrators are selected. After the arbitration panel is appointed, the customer must submit to the panel any request to change the hearing location.

### **Hearing Location Criteria Under the Industry Code**

Rule 13213(a) of the Code of Arbitration Procedure for Industry Disputes (Industry Code) currently states, in relevant part, that in cases involving an associated person, the Director will generally select the hearing location closest to where the associated person was employed at the time of the dispute.

To maintain uniformity between the Codes, FINRA amended Rule 13213(a) to permit an associated person to select a hearing location in the state where the person was employed at the time of the events giving rise to the dispute,<sup>3</sup> if the closest hearing location to the place of employment is in a different state. Specifically, the rule now states that the Director will select the hearing location closest to where the associated person was employed at the time of the events giving rise to the dispute, unless the hearing location closest to the associated person's employment is in a different state. In that case, the associated person may request a hearing location in the state where the person was employed at the time of the events giving rise to the dispute.

Under the rule, the Director will continue to select the hearing location closest to where the associated person was employed at the time of the events giving rise to the dispute. However, the Director will grant an associated person's request for a different hearing location in the associated person's state of employment, if the associated person makes the request before the arbitrator or arbitrators are selected. After the arbitration panel is appointed, the associated person must submit to the panel any request to change the hearing location.

## Effective Date Provisions

The amendments will become effective on May 3, 2010, and will apply to claims filed on or after that date.

## Endnotes

- 1 Exchange Act Release No. 61497 (Feb. 4, 2010), 75 Federal Register 6769 (Feb. 10, 2010) (File No. SR-FINRA-2009-073).
- 2 Hoboken, New Jersey, is less than a mile by ferry across the Hudson River from FINRA's New York City hearing location.
- 3 The amendment to Rule 13213(a) broadens the criteria for selecting the appropriate hearing location under the Industry Code by referring to "the time of the events giving rise to the dispute." This amendment clarifies current practice and makes the rule language under the Industry Code consistent with the same rule under the Customer Code.

## ATTACHMENT A

New language is underlined.

### Code of Arbitration Procedure for Customer Disputes

and

### Code of Arbitration Procedure for Industry Disputes

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#### Customer Code

##### 12213. Hearing Locations

###### (a) U.S. Hearing Location

(1) The Director will decide which of FINRA's hearing locations will be the hearing location for the arbitration. Generally, the Director will select the hearing location closest to the customer's residence at the time of the events giving rise to the dispute, unless the hearing location closest to the customer's residence is in a different state, in which case the customer may request a hearing location in the customer's state of residence at the time of the events giving rise to the dispute.

(2) - (4) No change.

(b) No change.

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## Industry Code

### 13213. Hearing Locations

#### (a) U.S. Hearing Location

(1) The Director will decide which of FINRA's hearing locations will be the hearing location for the arbitration. In cases involving an associated person, the Director will generally select the hearing location closest to where the associated person was employed at the time of the events giving rise to the dispute, unless the hearing location closest to the associated person's employment is in a different state, in which case the associated person may request a hearing location in his or her state of employment at the time of the events giving rise to the dispute.

In cases involving members only or more than one associated person, the Director will consider a variety of factors, including:

- The parties' signed agreement to arbitrate, if any;
- Which party initiated the transaction or business in issue; and
- The location of essential witnesses and documents.

(2) - (4) No change.

(b) No change.

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