

Dispute Resolution Party Portal

SEC Approves Amendments to the Customer and Industry Codes of Arbitration Procedure Regarding Required Use of the Dispute Resolution Party Portal

Effective Date: April 3, 2017

Executive Summary

The Securities and Exchange Commission (SEC) approved¹ amendments to the Customer and Industry Codes of Arbitration Procedure (Codes) to require all parties, except customers who are not represented by an attorney or other person (*pro se* customers), to use the FINRA Office of Dispute Resolution's Party Portal (Party Portal) to file initial statements of claim and to file and serve most pleadings and other documents on FINRA or any other party. FINRA is also amending the Code of Mediation Procedure (Mediation Code) to permit mediation parties to agree to use the Party Portal to submit and retrieve all documents and other communications.

The amendments are effective for all cases filed on or after April 3, 2017.

The text of the amended rules is available on [FINRA's website](#).

Questions concerning this *Notice* should be directed to:

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Notice Type

- ▶ Rule Amendment

Suggested Routing

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

Key Topics

- ▶ Arbitration
- ▶ Codes of Arbitration Procedure
- ▶ Code of Mediation Procedure
- ▶ Dispute Resolution Party Portal
- ▶ Mediation

Referenced Rules & Notices

- ▶ FINRA Rule 12000 Series
- ▶ FINRA Rule 13000 Series
- ▶ FINRA Rule 14000 Series

Background & Discussion

FINRA's Party Portal provides arbitration forum users with a secure, online location for claim filing and interactions relating to case administration. Parties use the 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 Party Portal case participants. Currently, parties use the Party Portal on a voluntary basis.

FINRA is amending the Codes to require all parties, except *pro se* customers, to use the Party Portal to submit documents and view their arbitration case information. FINRA is also amending the Mediation Code to permit mediation parties to agree to use the Party Portal to submit and retrieve all documents and other communications. The key amendments are described in this *Notice*.

Arbitration

Parties must use the Party Portal to file initial statements of claim and to file and serve pleadings and any other documents on the Director of the Office of Dispute Resolution (Director) or any other party in most instances. The Director may exercise authority to permit the use of other means of filing or service in the case of an extended Party Portal outage or in other extraordinary circumstances. When a party submits pleadings or documents through the Party Portal, the party has accomplished both filing with the Director and, in most instances, service on all other parties and the arbitrators. FINRA staff retains its role in managing the documents parties submit through the Party Portal (*e.g.*, collecting motion papers and responses and distributing them to arbitrators at the appropriate point in the case).

Pro Se Customer Exemption

Pro se customers may elect to use the Party Portal, but are not required to do so. FINRA defines the term *pro se* customer to mean a party that is not represented by an attorney or others during an arbitration or mediation. If a *pro se* customer files a claim using the Party Portal, the *pro se* customer must use the Party Portal for the duration of the arbitration process. The Party Portal includes a warning to *pro se* customers concerning this requirement. If a *pro se* customer opts out of using the Party Portal, the *pro se* customer may serve documents by first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile. In addition, *pro se* customers who opt out of using the Party Portal must provide proof of service for any documents served outside of the Party Portal (except for the initial statement of claim because the Director will serve the Claim Notification Letter or initial statement of claim on the respondents).

Filing Documents With FINRA

Parties must file initial statements of claim and all pleadings and other documents with the Director through the Party Portal. This includes pleadings and documents served on *pro se* customers and other parties by other means. Parties must file with the director any written responses relating to discovery requests, but must not file with the Director any of the documents produced in response to discovery requests. Parties must also file arbitrator ranking lists through the Party Portal.

Filing through the Party Portal is accomplished on the day of submission through the Party Portal. Filing by first-class mail or overnight mail or delivery service is accomplished on the date of mailing. Filing by any other means (*e.g.*, hand delivery, email, facsimile) is accomplished on the date of delivery.

Serving Documents

Initial Statement of Claim

FINRA staff will serve the initial statement of claim. FINRA will serve respondents that are not identified as customers with a Claim Notification Letter. The term “Claim Notification Letter” means the notice provided to respondents that they have been named as a party in a statement of claim. The Claim Notification Letter provides information about accessing the Party Portal to obtain a copy of the statement of claim filed by the claimants and information about the arbitration, including the hearing location selected by the Director and the deadline for filing a statement of answer. If a respondent does not access the Party Portal and view the statement of claim, FINRA staff will contact the respondent and ask if the respondent received the Claim Notification Letter. If the respondent indicates that he or she did not receive the Claim Notification Letter, FINRA staff will offer to serve the statement of claim in another manner such as by email or regular mail to afford the respondent an additional opportunity to receive the statement of claim. The transmission will include instructions on how to access the Party Portal.

In cases where a firm or associated person names a customer as a respondent in an arbitration, FINRA will not know at the outset whether the customer will be *pro se*. Therefore, FINRA staff will serve all customer respondents with the initial statement of claim along with the Claim Notification Letter explaining that parties other than *pro se* customers are required to use the Party Portal, and that *pro se* customers are invited to use the Party Portal.

All Other Pleadings and Documents

In most instances, parties must serve pleadings and other documents on other parties through the Party Portal. However, the Codes outline several exceptions. Parties may use first-class mail, overnight mail service, overnight delivery service, hand delivery, email, or facsimile to serve other parties in these instances. Service through the Party Portal is accomplished on the day of submission through the Party Portal. Service by first-class mail or overnight mail or delivery service is accomplished on the date of mailing. Service by any other means (e.g., hand delivery, email, facsimile) is accomplished on the date of delivery. Parties serving documents outside of the Party Portal must provide proof of service to the Director.

Key exceptions to service through the Party Portal include:

- ▶ *pro se* customers who do not elect to use the Party Portal;
- ▶ documents produced in response to discovery requests or pursuant to the Discovery Guide;
- ▶ answers containing third party claims;
- ▶ amended pleadings that add a party to an arbitration proceeding;
- ▶ motions to the arbitrators to amend a pleading to add a party;
- ▶ subpoenas to non-parties;
- ▶ arbitrator orders to non-parties for the appearance of employees and associated persons of a member, or the production of documents in the possession or control of such persons or members; and
- ▶ statements of claim requesting permanent injunctive relief.

Discovery

Parties must use the Party Portal to file and serve correspondence relating to discovery, but, as discussed above, must not file documents produced in response to discovery requests or pursuant to the Discovery Guide through the Party Portal. FINRA is requiring parties to file correspondence with FINRA in the Party Portal because such correspondence is part of the case record.

Filing Fees

Claimants are required to pay all filing fees by credit card or automated clearing house (ACH) through the Party Portal unless the party is a *pro se* customer who opts out of using the Party Portal. The Party Portal User Guide contains detailed instructions, including screen shots from the system, on how to pay by ACH.²

Arbitrator Selection

Parties must complete the arbitrator selection process, including striking and ranking arbitrators, through the Party Portal.

Mediation

Parties to a FINRA mediation may agree to use the Party Portal to submit all documents and other communications to each other, to retrieve all documents and other communications, and view mediation case information.

Effective Date

The amendments are effective for all cases filed on or after April 3, 2017.

Endnotes

1. See Securities Exchange Act Release No. 79296 (November 14, 2016), 81 FR 81844 (November 18, 2016) (Order Approving File No. SR-FINRA-2016-029).
2. The Party Portal User Guide is available on [FINRA's website](#). Directions on paying via ACH appear on page 57.