

ATTACHMENT A

New language is underlined; deletions are in brackets.

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12000. CODE OF ARBITRATION PROCEDURE FOR CUSTOMER DISPUTES

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12100. Definitions

Unless otherwise defined in the Code, terms used in the Code and interpretive material, if defined in the FINRA By-Laws, shall have the meaning as defined in the FINRA By-Laws.

(a) through (w) No Change.

(x) Pleadings

A pleading is a statement describing a party's causes of action or defenses. Documents that are considered pleadings are: a statement of claim, an answer, a counterclaim, a cross claim, a third party claim, a separate document requesting expungement, and any replies.

(y) through (ee) No Change.

(ff) Unnamed Person

For purposes of Rule 12800 and Rule 12805, the term “unnamed person” means an associated person, including a formerly associated person, who is identified in a Form U4, Form U5, or Form U6 as having been the subject of an investment-related, customer-initiated arbitration that alleged that the associated person or formerly associated person was involved in one or more sales practice violations, but who is not named as a respondent in the arbitration.

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12203. Denial of FINRA Forum

(a) No Change.

(b) The Director shall decline the use of the FINRA arbitration forum if the Director determines that the expungement request is ineligible for arbitration under Rule 12805.

(c) The Director may decline the use of the FINRA arbitration forum if the Director determines that the expungement request was not filed under, or considered in the arbitration forum in accordance with, Rule 12805.

~~[(b)]~~(d) Disputes that arise out of transactions in a readily identifiable market may be referred to the arbitration forum for that market, if the claimant agrees.

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12307. Deficient Claims

(a) The Director will not serve any claim that is deficient. The reasons a claim may be deficient include the following:

(1) through (5) No Change.

(6) The claimant did not pay all required filing fees, unless the Director deferred the fees; [or]

(7) The claim does not comply with the restrictions on filings with personal confidential information under Rule 12300(d)(1);

(8) A request to expunge customer dispute information from the CRD system does not include the CRD number of the party requesting expungement;

(9) A request to expunge customer dispute information from the CRD system does not include the CRD occurrence number that is the subject of the request;

(10) A request to expunge customer dispute information from the CRD system does not include the case name and docket number of the arbitration that is associated with the customer dispute information; or

(11) A request to expunge customer dispute information from the CRD system does not include an explanation of whether expungement of the same customer dispute information was (i) previously requested and, if so (ii) how it was decided.

(b) through (c) No Change.

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12604. Evidence

(a) through (b) No Change.

(c) Notwithstanding paragraph (a) of this Rule, a prior expungement award shall not be admissible.

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**PART VIII SIMPLIFIED ARBITRATION, [AND] DEFAULT PROCEEDINGS,
AND EXPUNGEMENT PROCEEDINGS**

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12800. Simplified Arbitration

(a) No Change.

(b) Single Arbitrator

All arbitrations administered under this [r]Rule will be decided by a single public arbitrator appointed from the FINRA chairperson roster in accordance with the list selection algorithm, unless the parties agree in writing otherwise. An arbitrator must evidence successful completion of, and agreement with, enhanced expungement training provided by FINRA Dispute Resolution Services prior to considering a request to expunge customer dispute information in an arbitration administered under this Rule.

(c) No Change.

(d) Requests to Expunge Customer Dispute Information

(1) When an Associated Person is Named as a Respondent

(A) An associated person named as a respondent in a simplified investment-related, customer-initiated arbitration may request expungement during the arbitration of the customer dispute information associated with the customer's statement of claim, provided the request is not barred pursuant to Rule 12805(a)(1)(B).

(B) If an associated person named as a respondent requests expungement during the simplified investment-related, customer-initiated arbitration:

(i) the request must be filed in the answer or a separate pleading requesting expungement and meet the requirements of Rule 12805(a)(1)(C)(ii). If the associated person requests expungement in a pleading other than an answer, the request must be filed within 30 days after the date FINRA notifies the associated person of the appointment of the arbitrator; and

(ii) the arbitrator from the simplified arbitration shall consider and decide the expungement request in accordance with Rule 12805(c).

(C) If the associated person named as a respondent withdraws or does not pursue an expungement request after filing the request during the simplified investment-related, customer-initiated arbitration, the arbitrator shall deny the expungement request with prejudice.

(2) On Behalf of an Unnamed Person

(A) A party to a simplified investment-related, customer-initiated arbitration may request expungement on behalf of an unnamed person during the arbitration of the customer dispute information associated with the customer's statement of claim with the written consent of the unnamed person, provided the request is not barred pursuant to Rule 12805(a)(1)(B).

(B) If a party requests expungement on behalf of an unnamed person during a simplified investment-related, customer-initiated arbitration:

(i) the request must be filed: (a) in compliance with Rules 12805(a)(1)(C)(ii), 12805(a)(2)(C)(ii), and 12805(a)(2)(D); and (b) within 30 days after the date FINRA notifies the parties of the appointment of the arbitrator; and

(ii) the arbitrator from the simplified arbitration shall consider and decide the expungement request in accordance with Rule 12805(c).

(C) If the requesting party withdraws or does not pursue an expungement request after filing the request during a simplified investment-related, customer-initiated arbitration, the arbitrator shall deny the expungement request with prejudice.

(D) If a party to the simplified investment-related, customer-initiated arbitration does not request expungement on behalf of the unnamed person, the unnamed person shall not file a motion to intervene in the simplified arbitration to request expungement of customer dispute information associated with the customer's statement of claim.

(e) Deciding Expungement Requests

(1) If an associated person named as a respondent, or a party on behalf of an unnamed person, requests expungement during a simplified investment-related, customer-initiated arbitration, the expungement request shall be decided by the arbitrator from the simplified arbitration, as follows:

(A) No Hearing or Option Two Special Proceeding. If a customer requests no hearing pursuant to Rule 12800(c)(2), or an Option Two special proceeding pursuant to Rule 12800(c)(3)(B), the arbitrator shall hold a separate expungement hearing pursuant to Rule 12805(c) to consider and decide the expungement request and issue the decision on the

expungement request in a separate, subsequent award in accordance with Rule 12805(c)(8).

(B) Option One Hearing. If a customer requests an Option One hearing pursuant to Rule 12800(c)(3)(A), the arbitrator shall consider and decide the expungement request, as follows:

(i) If the simplified arbitration closes by award after a hearing, the arbitrator shall consider and decide the expungement request during the Option One hearing in accordance with Rule 12805(c), and issue the decision on the expungement request in the same award in accordance with Rule 12805(c)(8).

(ii) If the simplified arbitration closes other than by award or by award without a hearing, the arbitrator shall hold a separate expungement hearing, pursuant to Rule 12805(c), to consider and decide the expungement request. At the conclusion of the expungement hearing, the arbitrator shall issue a separate award in accordance with Rule 12805(c)(8).

(2) If an associated person named as a respondent, or a party on behalf of an unnamed person, does not request expungement of the customer dispute information associated with the customer's statement of claim during the simplified investment-related, customer-initiated arbitration, the associated person may request expungement pursuant to Rule 13805 after the simplified arbitration has closed, provided that the request is not barred by Rule 13805(a)(2).

(f) Notifications

(1) Notification to State Securities Regulators

The Director shall notify state securities regulators, in the manner determined by the Director in collaboration with state securities regulators, of an expungement request within 15 days of receiving an expungement request that includes all the elements described in Rule 12805(a)(1)(C)(ii).

(2) Notification to Customers

The Director shall notify all customers from the simplified arbitration of an expungement hearing conducted pursuant to Rule 12800(e)(1) or Rule 13805, and the customers shall be permitted to attend and participate in the hearing in accordance with Rule 12805(c) or Rule 13805(c), as applicable.

[(d)](g) Discovery and Additional Evidence

No Change.

[(e)](h) Increases in Amount in Dispute

No Change.

[(f)](i) Arbitrator Honoraria

No Change.

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12805. Expungement of Customer Dispute Information from the Central Registration Depository (CRD) System[under Rule 2080]

This Rule applies to all requests to expunge customer dispute information from the CRD system, except that when a party requests expungement of customer dispute information during a simplified arbitration pursuant to Rule 12800(d), only those sections

of this Rule that are specifically referenced in Rule 12800(d) through (f) shall apply.

Except as otherwise provided in this Rule, all other provisions of the Code apply to such expungement requests.

(a) Requesting Expungement Under the Customer Code

(1) Requesting Expungement When Named as a Respondent

(A) Applicability

An associated person named as a respondent in an investment-related, customer-initiated arbitration may request expungement during the arbitration of the customer dispute information associated with the customer's statement of claim, unless barred by Rule 12805(a)(1)(B). If the associated person does not request expungement in the arbitration, the associated person shall be prohibited from seeking to expunge the customer dispute information associated with the customer's statement of claim in any subsequent proceeding.

(B) Limitations

An associated person shall not file a request for expungement of customer dispute information if:

(i) a panel held a hearing to consider the merits of the associated person's request for expungement of the same customer dispute information; or

(ii) a court of competent jurisdiction previously denied the associated person's request to expunge the same customer dispute information.

(C) Expungement Request

(i) An associated person must include the expungement request in the answer or a separate pleading requesting expungement. If the associated person requests expungement in a pleading other than an answer, the request must be filed no later than 60 days before the first scheduled hearing; otherwise, the associated person must file a motion pursuant to Rule 12503 requesting an extension to file the expungement request.

(ii) The expungement request must include:

- a. the applicable filing fee;
- b. the CRD number of the party requesting expungement;
- c. each CRD occurrence number that is the subject of the request;
- d. the case name and docket number associated with the customer dispute information; and
- e. an explanation of whether expungement of the same customer dispute information was (i) previously requested and, if so (ii) how it was decided.

(D) Panel Decides Expungement Request

(i) During Investment-Related, Customer-Initiated Arbitration

If an associated person requests expungement pursuant to Rule 12805(a)(1)(C) and the investment-related, customer-initiated arbitration closes by award after a hearing, the panel shall consider and decide the expungement request during the arbitration in accordance with Rule 12805(c), and issue its decision on the expungement request in the same award in accordance with Rule 12805(c)(8). If the associated person withdraws or does not pursue the expungement request, the panel shall deny the expungement request with prejudice.

(ii) Investment-Related, Customer-Initiated Arbitration Closes Other Than by Award or by Award Without a Hearing

If an associated person requests expungement pursuant to Rule 12805(a)(1)(C) and the investment-related, customer-initiated arbitration closes other than by award or by award without a hearing:

a. the panel shall not consider the associated person's request for expungement of customer dispute information; and

b. the associated person may file a request for expungement of the customer dispute information as a new claim under Rule 13805(a) against the member firm at which the person was associated at the time the customer

dispute arose, provided the expungement request is not barred pursuant to Rule 13805(a)(2).

(2) Requesting Expungement on Behalf of an Unnamed Person

(A) Applicability

With the written consent of the unnamed person, a party to an investment-related, customer-initiated arbitration may request expungement on behalf of the unnamed person during the arbitration of the customer dispute information associated with the customer's statement of claim.

(B) Limitations

A party to an investment-related, customer-initiated arbitration shall not request expungement on behalf of an unnamed person if the request is barred pursuant to Rule 12805(a)(1)(B).

(C) Expungement Request

(i) A party requesting expungement on behalf of an unnamed person must file the request with the Director in accordance with Rule 12805(a)(1)(C)(ii).

(ii) The request must include the Form Requesting Expungement on Behalf of an Unnamed Person, signed by the unnamed person and the party that is seeking expungement of customer dispute information on the unnamed person's behalf.

(iii) The request must be filed as soon as practicable, but no later than 60 days before the first scheduled hearing; otherwise,

the requesting party must file a motion pursuant to Rule 12503 requesting an extension to file the expungement request.

(D) Form Requesting Expungement on Behalf of an Unnamed Person

(i) By signing the Form Requesting Expungement on Behalf of an Unnamed Person, the unnamed person agrees that the person shall be bound by the panel's decision on the expungement request.

(ii) By signing the Form Requesting Expungement on Behalf of an Unnamed Person, the unnamed person agrees to maintain the confidentiality of any documents and information from the investment-related, customer-initiated arbitration to which the unnamed person is given access and to adhere to any confidentiality agreements or orders associated with the arbitration.

(iii) By filing and serving an expungement request, the requesting party agrees to represent the unnamed person and the unnamed person's interests and to pursue the request for expungement on behalf of the unnamed person during the investment-related, customer-initiated arbitration.

(E) Deciding Expungement Request

(i) Investment-Related, Customer-Initiated Arbitration

Closes by Award After a Hearing

If the investment-related, customer-initiated arbitration closes by award after a hearing, the panel shall consider and decide the expungement request during the arbitration in accordance with Rule 12805(c), and issue its decision on the expungement request in the same award in accordance with Rule 12805(c)(8). If the requesting party withdraws or does not pursue the expungement request, the panel shall deny the expungement request with prejudice.

(ii) Investment-Related, Customer-Initiated Arbitration

Closes Other than by Award or by Award Without a Hearing

If the investment-related, customer-initiated arbitration closes other than by award or by award without a hearing:

a. the panel shall not consider the party's request for expungement of customer dispute information on behalf of the unnamed person; and

b. the unnamed person may file a request for expungement of the customer dispute information as a new claim under Rule 13805(a) against the member firm at which the person was associated at the time the customer

dispute arose, provided the expungement request is not barred pursuant to Rule 13805(a)(2).

(iii) Unnamed Person May Not Intervene in the Investment-Related, Customer-Initiated Arbitration

a. If a party to the investment-related, customer-initiated arbitration does not request expungement on behalf of the unnamed person, the unnamed person shall not file a motion to intervene in the arbitration to request expungement of customer dispute information associated with the customer's statement of claim.

b. The unnamed person may file a request for expungement of the customer dispute information as a new claim under Rule 13805(a) against the member firm at which the person was associated at the time the customer dispute arose, provided the filing of the request is not barred pursuant to Rule 13805(a)(2).

(3) No Separate Requests For Expungement Filed Against a

Customer

An associated person shall not file a request for expungement of the customer dispute information as a new claim against a customer separate from the investment-related, customer-initiated arbitration.

(b) Notification to State Securities Regulators

The Director shall notify state securities regulators, in the manner determined by the Director in collaboration with state securities regulators, of an expungement request within 15 days of receiving an expungement request that includes all the elements described in Rule 12805(a)(1)(C)(ii).

(c) Expungement Hearing

In order to issue an award containing [grant] expungement of customer dispute information [under Rule 2080], the panel must comply with the following requirements[:].

(1) Recorded Hearing Sessions

[(a)]The panel must [H]hold one or more separate [a]recorded hearing sessions[(by telephone or in person)] regarding the [appropriateness of]expungement request. [This paragraph will apply to cases administered under Rule 12800 even if a customer did not request a hearing on the merits.]

(2) Appearance by Associated Person and Party Requesting Expungement

The associated person whose information in the CRD system is the subject of the request to expunge customer dispute information must appear in person or by video conference at the expungement hearing. A party requesting expungement on behalf of an unnamed person or the party's representative must also appear in person or by video conference at the expungement hearing. The panel shall decide the method of appearance.

(3) Customer's Attendance and Participation

(A) Entitled to Attend and Participate

All customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request are entitled to attend and participate in all aspects of the expungement hearing. The customer may provide the customer's position on the expungement request in writing.

(B) Method of Attendance and Participation

All customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request may attend and participate in the expungement hearing by telephone, in person, or by video conference.

(4) Customer Representation

All customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request are entitled to representation at the expungement hearing pursuant to Rule 12208.

(5) Customer and Customer's Representative Participation during the Expungement Hearing

(A) Customer Introduces Evidence

The panel must allow the customer or customer's representative to introduce evidence during the expungement hearing. If the customer or

customer's representative introduces evidence during the expungement hearing, a party may state objections to the introduction of the evidence.

(B) Customer's Testimony

The panel must allow the customer and witnesses called by the customer or the customer's representative to testify at the expungement hearing and be questioned by the customer or customer's representative.

If a customer or witnesses called by the customer or customer's representative testify during the expungement hearing, the associated person or party requesting expungement on behalf of an unnamed person may cross-examine them.

(C) Associated Person's or Others' Testimony and Evidence

The panel must allow the customer or the customer's representative to state objections to evidence presented during the expungement hearing. The panel must also allow the customer or the customer's representative to cross-examine the associated person, the party requesting expungement on behalf of an unnamed person and any other witnesses called during the expungement hearing.

(D) Opening and Closing Arguments by Customer or Customer's Representative

The panel must allow the customer or the customer's representative to present opening and closing arguments if the panel allows any party to present such arguments.

(6) Panel Requests Additional Documents or Evidence

The panel may request from the associated person, or party requesting expungement on behalf of an unnamed person, any documentary, testimonial or other evidence that it deems relevant to the expungement request.

(7) Review Settlement Documents

[(b) In cases involving settlements,]The panel shall review any settlement documents related to customer dispute information that is the subject of the expungement request and consider the amount of payments made to any party and any other terms and conditions of [a]the settlement. In addition, the panel shall inquire and fully consider whether a party conditioned a settlement of the arbitration upon any agreement, written or otherwise, not to oppose the request for expungement in cases in which the customer does not participate in the expungement hearing or the requesting party states that a customer has indicated that the customer will not oppose the expungement request.

(8) Award

[(c)](A) Unanimous Decision Required to Issue Award

Containing Expungement Relief

(i) In order to issue an award containing expungement relief, the panel must find unanimously that one or more of the following grounds for expungement has been established:

- a. the claim, allegation or information is factually impossible or clearly erroneous;

b. the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds; or

c. the claim, allegation or information is false.

(ii) The panel shall not issue, and the Director shall not serve, an award containing expungement relief based on grounds other than those specified in paragraph (c)(8)(A)(i) of this Rule.

(B) Required Contents of Award Containing Expungement Relief

The panel must [I]indicate in the arbitration award which of the [Rule 2080]grounds for expungement identified in paragraph (c)(8)(A)(i) of this Rule serve(s) as the basis for its expungement order, [and]provide a [brief]written explanation of the reason(s) for its finding that one or more of [Rule 2080]those grounds [for expungement applies]apply to the facts of the [case]request, and identify any specific documentary, testimonial or other evidence on which the panel relied in awarding expungement relief.

(C) Evidentiary Weight of Customer's Decision Not to Attend or Participate

The panel shall not give any evidentiary weight to a customer's decision not to attend or participate in an expungement hearing when making a determination of whether expungement is appropriate.

(9) Forum Fees

[(d)]The panel must [A] assess all forum fees for hearing sessions in which the sole topic is the determination of the appropriateness of expungement against the party or parties requesting expungement[relief].

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13000. CODE OF ARBITRATION PROCEDURE FOR INDUSTRY DISPUTES

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13100. Definitions

Unless otherwise defined in the Code, terms used in the Code and interpretive material, if defined in the FINRA By-Laws, shall have the meaning as defined in the FINRA By-Laws.

(a) through (u) No Change.

(v) Pleadings

A pleading is a statement describing a party's causes of action or defenses. Documents that are considered pleadings are: a statement of claim, an answer, a counterclaim, a cross claim, a third party claim, a separate document requesting expungement and any replies.

(w) through (gg) No Change.

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13203. Denial of FINRA Forum

(a) No Change.

(b) The Director shall decline the use of the FINRA arbitration forum if the Director determines that the expungement request is ineligible for arbitration under Rule 13805.

(c) The Director may decline the use of the FINRA arbitration forum if the Director determines that the expungement request was not filed or considered in the arbitration forum in accordance with Rule 13805.

~~[(b)]~~(d) Disputes that arise out of transactions in a readily identifiable market may be referred to the arbitration forum for that market, if the claimant agrees.

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13214. Payment of Arbitrators

(a) Except as provided in paragraph (b) of this Rule, Rule 13800, and Rule [13806]13807(f), FINRA will pay the panel an honorarium, as follows:

(1) through (6) No Change.

(b) No Change.

(c) Payment for Deciding Discovery-Related Motions, Contested Subpoena Requests, and Contested Orders for Production or Appearance without a Hearing Session

(1) FINRA will pay each arbitrator an honorarium of \$200 to decide without a hearing session: (i) a discovery-related motion, (ii) a motion that contains one or more contested subpoena requests or contested orders for production or appearance; or (iii) a motion that contains one or more contested subpoena requests and contested orders for production or appearance. This paragraph does not apply to cases administered under Rule 13800 or pursuant to Rule [13806]13807(d)(1).

(2) through (3) No Change.

(d) No Change.

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13307. Deficient Claims

(a) The Director will not serve any claim that is deficient. The reasons a claim may be deficient include the following:

(1) through (4) No Change.

(5) The claimant did not pay all required filing fees, unless the Director deferred the fees; [or]

(6) The claim does not comply with the restrictions on filings with personal confidential information under Rule 13300(d)(1);

(7) A request to expunge customer dispute information from the CRD system does not include a customer's current address;

(8) A request to expunge customer dispute information from the CRD system does not include the CRD number of the party requesting expungement;

(9) A request to expunge customer dispute information from the CRD system does not include each CRD occurrence number that is the subject of the request;

(10) A request to expunge customer dispute information from the CRD system does not include the case name and docket number of the arbitration associated with the customer dispute information, if applicable; or

(11) A request to expunge customer dispute information from the CRD system does not include an explanation of whether expungement of the same

customer dispute information was (i) previously requested and, if so (ii) how it was decided.

(b) through (c) No Change.

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13600. Required Hearings

(a) Hearings will be held, unless:

(1) The arbitration is administered under Rule 13800(c), Rule 13801, or Rule [13806]13807(e)(1);

(2) through (3) No Change.

(b) through (c) No Change.

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13604. Evidence

(a) through (b) No Change.

(c) Notwithstanding paragraph (a) of this Rule, a prior expungement award shall not be admissible.

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**PART VIII SIMPLIFIED ARBITRATION; DEFAULT PROCEEDINGS;
SEXUAL ASSAULT CLAIMS, SEXUAL HARASSMENT CLAIMS,
OR STATUTORY EMPLOYMENT DISCRIMINATION CLAIMS; [AND]
INJUNCTIVE RELIEF; EXPUNGEMENT PROCEEDINGS; AND
PROMISSORY NOTE PROCEEDINGS**

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13805. Expungement of Customer Dispute Information from the Central Registration Depository (CRD) System[under Rule 2080]

This Rule applies to all requests to expunge customer dispute information from the CRD system. Except as otherwise provided in this Rule, all provisions of the Code apply to such expungement requests.

(a) Filing an Expungement Request against a Member Firm

(1) Applicability

An associated person may request expungement of customer dispute information from the CRD system by filing a statement of claim under Rule 13302 against a member firm at which the person was associated at the time the customer dispute arose, unless barred by Rule 13805(a)(2).

(2) Limitations

(A) An associated person shall not file a claim requesting expungement of customer dispute information from the CRD system against the member firm at which the person was associated at the time the customer dispute arose if:

(i) a panel held a hearing to consider the merits of a request for expungement of the same customer dispute information;

(ii) a court of competent jurisdiction previously denied a request to expunge the same customer dispute information;

(iii) the investment-related, customer-initiated arbitration, civil litigation or customer complaint associated with the customer dispute information has not closed;

(iv) a panel or court of competent jurisdiction previously found the associated person liable in a customer arbitration or civil litigation associated with the same customer dispute information;

(v) the customer dispute information involves the same conduct that is the basis of a final regulatory action taken by a securities regulator or self-regulatory organization;

(vi) more than two years have elapsed since the investment-related, customer-initiated arbitration or civil litigation associated with the customer dispute information has closed;

(vii) there was no investment-related, customer-initiated arbitration or civil litigation associated with the customer dispute information, and more than three years have elapsed since the date that the customer complaint was initially reported to the CRD system; or

(viii) the associated person is prohibited from seeking to expunge the customer dispute information under Rule 12805(a)(1)(A).

(B) Subject to the six-year eligibility requirement of Rule 13206(a), an associated person is not barred from requesting expungement of customer dispute information pursuant to Rule 13805(a)(2) if:

(i) the request for expungement is made pursuant to Rule 13805 within two years of October 16, 2023, and the disclosure sought to be expunged is associated with an investment-related, customer-initiated arbitration or civil litigation that closed on or prior to October 16, 2023; or,

(ii) the request for expungement is made pursuant to Rule 13805 within three years of October 16, 2023, and the disclosure sought to be expunged is associated with a customer complaint initially reported to the CRD system on or prior to October 16, 2023.

(3) Expungement Request

The expungement request must be filed with the Director, pursuant to Rule 13302, and include:

(A) the applicable filing fee;

(B) the CRD number of the party requesting expungement;

(C) each CRD occurrence number that is the subject of the request;

(D) the case name and docket number associated with the customer dispute information, if applicable; and

(E) an explanation of whether expungement of the same customer dispute information was (i) previously requested and, if so (ii) how it was decided.

(4) Panel Decides Expungement Request

A three-person panel selected pursuant to Rule 13806 must hold an expungement hearing, pursuant to Rule 13805(c), to consider and decide the expungement request. At the conclusion of the expungement hearing, the panel must issue an award in accordance with Rule 13805(c)(9). If the associated person withdraws or does not pursue the expungement request, the panel shall deny the expungement request with prejudice.

(b) Notifications

(1) To Customers

(A) The associated person shall:

(i) serve all customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request with a copy of the statement of claim within 10 days of filing the statement of claim with the Director, unless the panel determines that extraordinary circumstances make such service impracticable;

(ii) serve all customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request with a copy of any answer within 10 days of the filing of each answer with the Director, unless the panel determines that extraordinary circumstances make such service impracticable;

(iii) serve the customers by first-class mail, overnight mail service, overnight delivery service, or hand delivery; and

(iv) file with the panel proof of service for the statement of claim and any answers, copies of all documents provided by the associated person to the customers, and copies of all communications sent to the customers and responses received by the associated person from the customers.

(B) The Director shall:

(i) notify all customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request of the time, date and place of any prehearing conferences and the expungement hearing using the customers' current addresses provided by the party seeking expungement; and

(ii) provide the notified customers with access to all documents relevant to the expungement request that are filed in (a) the arbitration requesting expungement relief and (b) a customer-initiated arbitration brought by the customer under the Customer Code that is a subject of the expungement request.

(2) To State Securities Regulators

(A) The Director shall notify state securities regulators, in the manner determined by the Director in collaboration with state securities regulators, of an expungement request within 15 days of receiving an expungement request that includes all the elements described in Rule 13805(a)(3).

(B) The Director shall provide state securities regulators with access, subject to confidentiality restrictions, to all documents relevant to the expungement request that are filed in (i) the arbitration requesting expungement relief and (ii) any other customer-initiated arbitration brought under the Customer Code that is associated with the customer dispute information that is a subject of the expungement request.

(3) Notification of Participation by State Securities Regulators

If an authorized representative of the notified state securities regulators notifies the Director no later than 30 days after the last answer is due under the Code that the authorized representative intends to attend and participate in the expungement hearing (i) the Director shall notify the authorized representative of the time, date and place of any prehearing conferences and the expungement hearing and (ii) the panel shall allow the authorized representative to attend and participate in the prehearing conferences and the expungement hearing in accordance with the requirements of Rule 13805(c)(6).

(c) Expungement Hearing

In order to [grant] issue an award containing expungement of customer dispute information [under Rule 2080], the panel must comply with the following requirements[:].

(1) Recorded Hearing Sessions

[(a)] The panel must [H] hold one or more [a] recorded hearing sessions [(by telephone or in person)] regarding the [appropriateness of] expungement request.

[This paragraph will apply to cases administered under Rule 13800 even if a claimant did not request a hearing on the merits.]

(2) Appearance by Associated Person

The associated person whose information in the CRD system is the subject of the request to expunge customer dispute information must appear in person or by video conference at the expungement hearing. The panel shall decide the method of appearance.

(3) Customer's Attendance and Participation

(A) Entitled to Attend and Participate

All customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request are entitled to attend and participate in all aspects of the prehearing conferences and expungement hearing. The customer may provide the customer's position on the expungement request in writing.

(B) Method of Attendance and Participation

All customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request may attend and participate at the expungement hearing by telephone, in person, or by video conference.

(4) Customer Representation

All customers whose investment-related, customer-initiated arbitrations, civil litigations, or customer complaints are a subject of the expungement request

are entitled to representation at the prehearing conferences and expungement hearing pursuant to Rule 13208.

(5) Customer and Customer's Representative Participation during the Expungement Hearing

(A) Customer Introduces Evidence

The panel must allow the customer or the customer's representative to introduce evidence during the expungement hearing. If the customer or the customer's representative introduces evidence during the expungement hearing, a party may state objections to the introduction of the evidence.

(B) Customer's Testimony

The panel must allow the customer and witnesses called by the customer or the customer's representative to testify at the expungement hearing and be questioned by the customer or the customer's representative. If a customer or witnesses called by the customer or the customer's representative testify during the expungement hearing, the associated person requesting expungement may cross-examine them.

(C) Associated Person's or Others' Testimony and Evidence

The panel must allow the customer or the customer's representative to state objections to evidence presented during the expungement hearing. The panel must also allow the customer or the customer's representative to cross-examine the associated person

requesting expungement and any other witnesses called during the expungement hearing.

(D) Opening and Closing Arguments by Customer or Customer's Representative

The panel must allow the customer or the customer's representative to present opening and closing arguments if the panel allows any party to present such arguments.

(6) Attendance and Participation of An Authorized Representative of State Securities Regulators

(A) If the required notice has been received by the Director from an authorized representative of the notified state securities regulators pursuant to Rule 13805(b)(3), the authorized representative may attend and participate in the prehearing conferences and the expungement hearing. The authorized representative may (i) provide the position or positions of the notified state securities regulators on the expungement request in writing or (ii) attend and participate at the expungement hearing in person or by video conference. The panel shall not allow the participation of the authorized representative to materially delay the scheduling of the expungement hearing.

(B) At the expungement hearing, the authorized representative may (i) introduce documentary, testimonial or other evidence; (ii) cross-examine any witnesses; and (iii) present opening and closing arguments if the panel allows any party to present such arguments.

(C) The panel must allow any persons participating in the expungement hearing to state objections to evidence presented by the authorized representative during the expungement hearing. The panel must also allow any persons participating in the expungement hearing to cross-examine any witnesses called by the authorized representative during the expungement hearing.

(7) Panel Requests Additional Documents or Evidence

The panel may request from the associated person requesting expungement, and from the member firm at which the person was associated at the time the customer dispute arose, any documentary, testimonial or other evidence that it deems relevant to the expungement request.

(8) Review Settlement Documents

[(b) In cases involving settlements,]The panel shall review any settlement documents related to customer dispute information that is the subject of the expungement request and consider the amount of payments made to any party and any other terms and conditions of [a]the settlement. In addition, the panel shall inquire and fully consider whether a party conditioned a settlement of the arbitration upon any agreement, written or otherwise, not to oppose the request for expungement in cases in which the customer does not participate in the expungement hearing or the requesting party states that a customer has indicated that the customer will not oppose the expungement request.

(9) Award

[(c)](A) Unanimous Decision Required to Issue Award

Containing Expungement Relief

(i) In order to issue an award containing expungement relief, the panel must find unanimously that one or more of the following grounds for expungement has been established:

a. the claim, allegation or information is factually impossible or clearly erroneous;

b. the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds; or

c. the claim, allegation or information is false.

(ii) The panel shall not issue, and the Director shall not serve, an award containing expungement relief based on grounds other than those specified in paragraph (c)(9)(A)(i) of this Rule.

(B) Required Contents of Award Containing Expungement Relief

The panel must [I]indicate in the arbitration award which of the [Rule 2080] grounds for expungement identified in paragraph (c)(9)(A)(i) of this Rule serve(s) as the basis for its expungement order, [and]provide a [brief] written explanation of the reason(s) for its finding that one or more [Rule 2080]of those grounds [for expungement applies]apply to the facts of the [case]request, and identify any specific documentary, testimonial or other evidence on which the panel relied in awarding expungement relief.

(C) Evidentiary Weight of Decision of Customer or Authorized Representative Not to Attend or Participate

The panel shall not give any evidentiary weight to a decision by a customer or an authorized representative of the state securities regulators not to attend or participate in an expungement hearing when making a determination of whether expungement is appropriate.

(10) Forum Fees

[(d)]The panel must [A] assess all forum fees for hearing sessions in which the sole topic is the determination of the appropriateness of expungement against the party or parties requesting expungement[relief].

13806. Panel to Decide Requests for Expungement of Customer Dispute

Information Filed by an Associated Person under Rule 13805

(a) Applicability

This Rule applies to claims that request expungement of customer dispute information filed by an associated person against a member firm, pursuant to Rule 13805. Except as otherwise provided in this Rule, all provisions of the Code apply to such claims.

(b) Selection of Panel

(1) The list selection algorithm shall randomly select three public arbitrators who are eligible for the chairperson roster and have the additional qualifications described in Rule 13806(b)(2) to decide a request for expungement of customer dispute information from the CRD system filed by an associated person pursuant to Rule 13805. The parties shall not be permitted to stipulate to the use of pre-selected arbitrators.

(2) Each arbitrator selected for the panel must have fully met the following additional qualifications:

(A) evidenced successful completion of, and agreement with, enhanced expungement training provided by FINRA Dispute Resolution Services; and

(B) service as an arbitrator through award on at least four customer-initiated arbitrations administered by FINRA Dispute Resolution Services pursuant to the Rule 12000 Series or another self-regulatory organization, in which a hearing was held, except a hearing pursuant to Rule 12800(c)(3)(B).

(3) The first arbitrator selected by the list selection algorithm shall be the chairperson of the panel.

(4) The parties requesting expungement of customer dispute information shall not be permitted to strike any arbitrators selected by the list selection algorithm nor stipulate to their removal, but shall be permitted to challenge any arbitrator selected for cause pursuant to Rule 13410. If an arbitrator is removed, the list selection algorithm shall randomly select a replacement.

(5) Notwithstanding Rules 13401(b) and (c), the parties shall not be permitted to stipulate to fewer than three arbitrators on the panel to hear the expungement request.

[13806]13807. Promissory Note Proceedings

No Change.

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