

## Simplified Customer Arbitrations

### Amendments Relating to the Applicability of the Document Production Lists to Simplified Customer Arbitrations Administered Under Rule 12800

Effective Date: March 3, 2025

#### Summary

FINRA has amended its Code of Arbitration Procedure for Customer Disputes (Customer Code) to clarify and, in some instances, amend the applicability of the Document Production Lists to simplified customer arbitrations administered under Rule 12800.

The amendments are effective for arbitration cases filed on or after March 3, 2025.

The rule text is available in [Attachment A](#).

Questions concerning this *Notice* should be directed to:

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#### Background & Discussion

FINRA Dispute Resolution Services (DRS) provides a Discovery Guide to supplement the discovery rules contained in the Customer Code and help guide the parties and arbitrators through the discovery process in customer arbitrations.<sup>1</sup> The Document Production Lists, which are included in the Discovery Guide and described in Rule 12506, outline presumptively discoverable documents that the parties should exchange, without arbitrator or DRS staff intervention.

December 17, 2024

#### Notice Type

- ▶ Rule Amendment

#### Suggested Routing

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

#### Key Topic

- ▶ Arbitration
- ▶ Codes of Arbitration Procedure
- ▶ Discovery
- ▶ Dispute Resolution
- ▶ Simplified Arbitration

#### Referenced Rules & Notices

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

The amendments affect the applicability of the Document Production Lists in simplified customer arbitrations.<sup>2</sup> There are three types of simplified customer arbitrations. If the customer does not request a hearing, the arbitrator will render an award based on the pleadings and other materials the parties submit (paper cases).<sup>3</sup> If the customer requests a hearing, the customer must select between one of two hearing options.<sup>4</sup> If the customer requests an Option One hearing under Rule 12800(c)(3)(A), the regular provisions of the Customer Code relating to prehearings and hearings, including all fee provisions, apply (regular hearing). Alternatively, the customer may request an Option Two special proceeding, an abbreviated hearing, under Rule 12800(c)(3)(B) (special proceeding).

Prior to the amendments, the Document Production Lists applied in simplified customer arbitrations in which the customer requested a regular hearing, but did not apply in paper cases and special proceedings. Accordingly, to obtain discovery in paper cases and special proceedings, the parties would have to request documents and other information from each other without the benefit of the Document Production Lists. As a result, no documents or information would be presumptively discoverable in paper cases and special proceedings, but they would be presumptively discoverable in simplified customer arbitrations in which the customer requested a regular hearing.

The amendments allow customers to decide whether to use the Document Production Lists in paper cases and special proceedings.<sup>5</sup> Specifically, the amendments provide that the Document Production Lists do not apply to arbitrations in which the customer requests no hearing, pursuant to paragraph (c)(2) of Rule 12800 (*i.e.*, paper cases), or to arbitrations in which the customer requests an Option Two special proceeding, pursuant to paragraph (c)(3)(B) of Rule 12800 (*i.e.*, special proceedings), unless the customer requests that the Document Production Lists apply to all parties when initiating an arbitration pursuant to Rule 12302 or, if the customer is a respondent, no later than the answer due date pursuant to Rule 12303, regardless of the parties' agreement to extend any answer due date.<sup>6</sup> If the customer does not timely request that the Document Production Lists apply to all parties, the amendments retain the current provision in the rule that the arbitrator has the discretion to use relevant portions of the Document Production Lists in a manner consistent with the expedited nature of simplified proceedings.<sup>7</sup> In addition, the amendments continue to permit the parties to request documents and information from each other.<sup>8</sup>

To increase parties' awareness and understanding of the discovery process in simplified customer arbitrations in which the customer requests a regular hearing, the amendments also add language to Rule 12800 to explicitly provide that the Document Production Lists apply to arbitrations in which the customer requests an Option One hearing (*i.e.*, a regular hearing).<sup>9</sup>

### Effective Date

The amendments are effective for arbitration cases filed on or after March 3, 2025.

### Endnotes

- 1 See the [Discovery Guide](#). The Discovery Guide and Document Production Lists do not apply to arbitrations administered under the Code of Arbitration Procedure for Industry Disputes.
- 2 Simplified customer arbitrations are arbitrations in which the dispute between a customer and member firm or associated person involves \$50,000 or less, exclusive of interest and expenses. See Rule 12800(a).
- 3 See Rule 12800(c)(2).
- 4 See Rule 12800(c)(3).
- 5 See Securities Exchange Act Release No. 101449 (Oct. 28, 2024), 89 FR 87435 (Nov. 1, 2024) (Order Approving File No. SR-FINRA-2024-008).
- 6 See Rule 12800(g)(1)(B).
- 7 *Id.*
- 8 See Rule 12800(g)(2). Nothing in the Discovery Guide precludes the parties from voluntarily agreeing to an exchange of documents in a manner different from that set forth in the [Discovery Guide](#).
- 9 See Rule 12800(g)(1)(A). See also [FINRA DRS Party's Reference Guide](#) (providing that the Document Production Lists apply to [simplified arbitrations](#) in which a customer requests a regular hearing).

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