

## Threshold for Single Arbitrator Cases

### SEC Approves Amendments Raising the Threshold for Single Arbitrator Cases to \$100,000

Effective Date: March 30, 2009

#### Executive Summary

Effective March 30, 2009, FINRA will raise the threshold for appointing a single chair-qualified arbitrator.<sup>1</sup> The SEC approved amendments to FINRA Rule 12401 of the Code of Arbitration Procedure for Customer Disputes and FINRA Rule 13401 of the Code of Arbitration Procedure for Industry Disputes to raise the amount in controversy for appointing a single chair-qualified arbitrator to \$100,000.<sup>2</sup>

The text of Rules 12401 and 13401 is set forth in Attachment A. The rules will apply to arbitration cases filed on or after March 30, 2009.

Questions concerning this *Notice* should be directed to:

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#### Background & Discussion

FINRA is amending Rules 12401 and 13401 to raise the amount in controversy for appointing a single arbitrator to \$100,000, exclusive of interest and expenses.<sup>3</sup> The arbitrator will be selected from the roster of arbitrators who are qualified to serve as chairpersons. This means that investors' claims for up to \$100,000 will be heard by a single public, chair-qualified arbitrator.<sup>4</sup>

#### February 2009

##### Notice Type

- Rule Amendment

##### Suggested Routing

- Compliance
- Legal

##### Key Topic(s)

- Arbitration
- Code of Arbitration Procedure
- Dispute Resolution
- Number of Arbitrators

##### Referenced Rules & Notices

- FINRA Rule 12401
- FINRA Rule 13401

Currently, if the amount of a claim is \$25,000 or less, a single arbitrator is appointed to resolve the matter. If the amount of a claim is more than \$25,000, but not more than \$50,000, a single arbitrator is appointed, unless a party asks for three arbitrators in its initial pleading. A panel of three arbitrators hears claims for over \$50,000.

As amended, Rules 12401 and 13401 provide that if the amount of a claim is \$25,000 or less, a single arbitrator is appointed to resolve the matter. If the amount of a claim is more than \$25,000, but not more than \$100,000, a single arbitrator is appointed unless the parties agree in writing to three arbitrators. If the claim is more than \$100,000, unspecified, or does not request monetary damages, the panel will consist of three arbitrators unless the parties agree in writing to one arbitrator.

The amendments streamline the dispute resolution process and decrease costs for users of the forum. Parties should experience reduced case processing times because of the efficiencies associated with scheduling conference calls and hearing dates with one arbitrator as opposed to three. Moreover, they will save time in the arbitrator selection process because they will receive one list of eight names from which to choose their arbitrator, rather than three lists of eight names (*i.e.*, they will only need to research the disclosures and histories of eight proposed arbitrators instead of 24).

The amendments become effective on March 30, 2009, and will apply to arbitration cases filed on or after the effective date.

## Endnotes

- 1 FINRA is making the rule amendments effective on March 30, 2009, to coordinate with the implementation of changes to FINRA's arbitration and mediation case management system.
- 2 Exchange Act Release No. 59340 (February 2, 2009), 74 Federal Register 6335 (February 6, 2009) (File No. SR-FINRA-2008-047).
- 3 The \$100,000 threshold will be applied to claimants' claims in the aggregate and to respondents' claims in the aggregate. FINRA will not combine claimants' claims with respondents' claims in determining whether the \$100,000 threshold has been met.
- 4 Industry disputes are resolved by a public panel or a non-public panel depending upon the parties to the controversy and the nature of the claims asserted.

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## Attachment A

### Code of Arbitration Procedure for Customer Disputes and Code of Arbitration Procedure for Industry Disputes

\* \* \*

(Deletions are Bracketed; Additions are Underlined)

#### Customer Code

##### 12401. Number of Arbitrators

###### (a) Claims of \$25,000 or Less

If the amount of a claim is \$25,000 or less, exclusive of interest and expenses, the panel will consist of one arbitrator and the claim is subject to the simplified arbitration procedures under Rule 12800.

###### (b) Claims of More Than \$25,000 Up To [\$50,000] \$100,000

If the amount of a claim is more than \$25,000 but not more than [\$50,000] \$100,000, exclusive of interest and expenses, the panel will consist of one arbitrator [unless any party requests a panel of three arbitrators in its initial pleading] unless the parties agree in writing to three arbitrators.

###### (c) Claims of More Than [\$50,000] \$100,000; Unspecified or Non-Monetary Claims

If the amount of a claim is more than [\$50,000] \$100,000, exclusive of interest and expenses, or is unspecified, or if the claim does not request money damages, the panel will consist of three arbitrators, unless the parties agree in writing to one arbitrator.

#### Industry Code

##### 13401. Number of Arbitrators

###### (a) Claims of \$25,000 or Less

If the amount of a claim is \$25,000 or less, exclusive of interest and expenses, the panel will consist of one arbitrator and the claim is subject to the simplified arbitration procedures under Rule 13800.

**(b) Claims of More Than \$25,000 Up To [\$50,000] \$100,000**

If the amount of a claim is more than \$25,000 but not more than [\$50,000] \$100,000, exclusive of interest and expenses, the panel will consist of one arbitrator [unless any party requests a panel of three arbitrators in its initial pleading] unless the parties agree in writing to three arbitrators.

**(c) Claims of More Than [\$50,000] \$100,000; Unspecified or Non-Monetary Claims**

If the amount of a claim is more than [\$50,000] \$100,000, exclusive of interest and expenses, or is unspecified, or if the claim does not request money damages, the panel will consist of three arbitrators, unless the parties agree in writing to one arbitrator.

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