The Neutral Corner

Volume 3 – 2009

Mission Statement

We publish *The Neutral Corner* to provide arbitrators and mediators with current updates on important rules and procedures within securities dispute resolution. FINRA's dedicated neutrals serve parties and other participants in the FINRA forum by taking advantage of this valuable learning tool.

WHAT'S INSIDE

Expedited Procedures for Senior or Seriously Ill Parties

By Michele Collins, Associate Director, FINRA Case Administration

In 2002, FINRA Dispute Resolution became concerned about the length of time it takes to resolve arbitrations involving senior or seriously ill parties. After completing a successful pilot program in 2004, FINRA implemented several measures to heighten arbitrator sensitivity to the special needs of such parties, including ways to expedite these proceedings.

Staff's Role

Under FINRA's program, staff will expedite the administration of arbitration proceedings in matters involving senior or seriously ill parties. Parties are eligible to participate in the program if they are at least 65 years old or have a serious health condition. In such situations, staff will initiate the arbitrator selection process, schedule the initial prehearing conference and serve the final award as quickly as possible. By mutual agreement, parties are also free to reduce the time requirements contained in the Codes of Arbitration Procedure (Codes).[1] Staff will also determine promptly whether the parties are interested in mediation.

Arbitrator's Role

FINRA also expects its arbitrators to be sensitive to the needs of senior or seriously ill parties when scheduling hearing dates, resolving discovery disputes and determining the reasonableness of postponements. At the initial prehearing conference, counsel for senior or seriously ill parties should advise the arbitration panel of the party's desire for expedited hearings. When a party makes such a request, FINRA expects the arbitration panel to schedule hearing dates and discovery deadlines that will expedite the process, yet still provide a fair amount of time for case preparation. FINRA amended the Initial Prehearing Conference Script, found in the Arbitrator's Reference Guide, to ask arbitrators to select dates that will expedite cases involving senior or seriously ill parties.

Financial Industry Regulatory Authority

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Message from the Editor

Comments, Feedback and Submissions

In addition to comments, feedback and questions regarding the material in this publication, we invite you to submit suggestions for articles and topics you would like addressed. We reserve the right to determine which articles to publish.

Please send your comments to:

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You may also email Jisook at *Jisook.Lee@finra.org*.

Expedited Procedures for Senior or Seriously Ill Parties
continued

Regional Directors decide a party's request to participate in the program. If a party subsequently challenges another party's eligibility in the program, after a panel has been appointed, arbitrators will determine whether to proceed under the program. Similar to a motion, arbitrators should carefully consider the request and all responses before making a decision.

Program Results

Since 2004, FINRA has processed 701 cases under the expedited procedures. Expedited cases closed by hearing are processed about 31 percent faster then the overall caseload closed by hearing. While we have experienced success with this program, FINRA continually looks for ways to improve the arbitration process for disputes involving senior or seriously ill parties. Currently, the National Arbitration and Mediation Committee is evaluating the program to see how it might be improved.[2]

For more information about this program, please review the Notice to Parties and Press Release on our Web site.

Endnotes:

1 Staff has no authority under these procedures to shorten the time requirements set forth in the Codes absent the agreement of all parties.

2 The National Arbitration and Mediation Committee (NAMC) includes representatives from the public, the securities industry and arbitrators and mediators serving in FINRA's Dispute Resolution forum. The NAMC actively participates in key aspects of FINRA's Dispute Resolution forum, including: recruiting, training and evaluating arbitrators and mediators; evaluating existing rules, regulations and procedures; and recommending appropriate changes to rules, regulations and procedures governing FINRA's conduct of dispute resolution matters.

Dispute Resolution News

Case Filings

Arbitration case filings from January through July 2009 reflect a 71 percent increase compared to cases filed during the same seven-month period in 2008 (from 2,614 cases in 2008 to 4,481 cases in 2009). Customer-initiated claims during this seven-month period increased even more, by 83 percent. The increase is fueled by market fluctuations and by claims involving subprime mortgages (typically claims that mutual funds were over-concentrated in these investment vehicles without adequate disclosure) and "failed auctions" for auction rate securities. Between January and July 2009, parties filed 427 subprime mortgage cases and 177 auction rate securities cases.

FINRA's Arbitration Hearing Locations

Effective August 3, 2009, FINRA realigned its hearing locations. Specifically, FINRA:

- opened new hearing locations in Jacksonville, FL and Syracuse, NY in response to constituent interest; and
- discontinued underutilized hearing locations in Clearwater, FL, Rochester, NY and New London, CT.

The three closed hearing locations are in close proximity to existing locations and will not impact pending cases in the closed hearing locations. Arbitrators serving in the locations that were closed were reassigned to nearby hearing locations.

FINRA Investor Education Foundation Supports Expansion of Law School Securities Advocacy Clinics

Established in 2003, the FINRA Investor Education Foundation (Foundation) supports innovative research and educational projects aimed at segments of the investing public that could benefit from additional resources.

In May 2009, the Foundation announced an Investor Advocacy Clinic Grant Program to provide start-up funding for investor advocacy clinics at law schools in the United States. The Foundation will, in December 2009, award up to three grants. Awards of $250,000 each will be granted to law schools committed to launching and supporting a new clinical education program that will provide legal advice and other help to investors in underserved communities. Proposals are being solicited from law schools in five geographic regions identified as "high need" by the Foundation, including Boston, Greater Los Angeles, Miami/South Florida, Greater Philadelphia and Greater Washington, DC.

Public Arbitrator Pilot Program

Summary and Progress of the Program

FINRA launched an innovative two-year Public Arbitrator Pilot Program (pilot program) for eligible claims received on or after October 6, 2008, that gives investors greater choice when selecting an arbitration panel. Investors in cases proceeding under the pilot program may choose a panel made up of three public arbitrators instead of two public arbitrators and one non-public arbitrator, as is the current rule. The pilot program will allow FINRA to determine whether a change in the way arbitration panels are selected is a

Dispute Resolution News continued

better way to serve and protect the interests of investors. To date, 11 firms have volunteered to participate in the pilot program.

During the course of the pilot program, investors can choose an all-public arbitration panel in over 550 arbitration cases. For the second year of the pilot program starting this October, FINRA will endeavor to expand the number of participating firms and to increase the case commitments from the firms already in the pilot program.

FINRA will evaluate the pilot program according to a number of criteria, including the percentage of investors who opt into the pilot program and the percentage of investors who choose an all-public panel after opting in. FINRA will compare the results of pilot program and non-pilot program investor cases, including the percentage of cases that settle before award and how quickly they settle. FINRA will also compare the length of cases, number of hearings and the use of expert witnesses in pilot program and non-pilot program cases.

Through August 7, 2009, 52 percent of customers in eligible cases have opted into the pilot program, and in 48 percent of the cases, the customer has declined to participate. In 50 percent of the cases in the pilot program, the customer has struck all of the non-public arbitrators; in 50 percent of the cases, the customers have ranked one or more non-public arbitrators.

To educate investors and other parties on the details of the pilot program, FINRA published Frequently Asked Questions about the pilot program on its Web site.

Recent Developments

On June 11, 2009, the Public Investors Arbitration Bar Association (PIABA) submitted a Rule Change Petition[1] (Petition) to the Securities and Exchange Commission (SEC). The proposed rule would allow parties in an arbitration to select an all-public panel in any investor claim in which the amount in dispute exceeds $100,000. PIABA's proposal would mandate the pilot program rules for ***all*** investor cases, rather than giving investors a choice to opt out and ensure that a non-public arbitrator would remain on the panel.

On August 3, 2009, FINRA responded to the Petition in a letter to the SEC. FINRA concurred with the underlying goal of the Petition—to ensure that FINRA's dispute resolution forum is fair for all parties. However, FINRA recommended that the pilot program, which is scheduled to end on October 5, 2010, continue through to its end date. This will allow FINRA to analyze additional data and survey results to determine whether implementing a permanent iteration of the pilot program would ultimately benefit the parties in cases heard by three arbitrators.

FINRA will keep arbitrators apprised of developments with the Petition.

Endnotes:

1 See Petition for Rulemaking Submitted to SEC, File No. 4-586, "Request rulemaking to eliminate the requirement that an arbitrator affiliated with the securities industry sit on all public investor cases arbitrated before FINRA in which the amount in controversy exceeds $100,000," submitted by Brian Smiley, President, PIABA, June 11, 2009. The Petition is available at *http://www.sec.gov/rules/petitions.shtml*.

Neutral Workshop: FINRA Mediation Redesign 2009

On July 29, 2009, FINRA posted a neutral workshop that was pre-recorded on July 10 to discuss enhancements to FINRA's mediation program and the advantages of mediating securities cases through FINRA. Mediation staff discusses the process for becoming a FINRA mediator, the new mediator fee structure and FINRA's mediation incentive program. George H. Friedman, Executive Vice President and Director of Dispute Resolution, moderates the workshop.

Workshop faculty includes:

- **Kenneth L. Andrichik**, Senior Vice President, Chief Counsel and Director of Mediation and Strategy
- **Julie Crotty**, Assistant Director of Mediation
- **Leon de Leon**, National Mediation Administrator
- **Rosari Domenick**, Senior Mediation Administrator
- **Ed Sihaga**, Senior Mediation Administrator

The workshop also reviews new rules governing the increased single arbitrator threshold, explained decisions, panel composition in industry disputes and the expedited administration of promissory note cases.

Note: FINRA's neutral workshops are now pre-recorded and archived on the Arbitration & Mediation section of *www.finra.org*.

Continuing Legal Education (CLE) Available for Mini-Courses

Each year, FINRA applies to state bars for CLE credit for the Basic and Chairperson arbitrator trainings. We recently applied for and received CLE credit for the following mini-courses in Florida:

Civility in Arbitration = 1.00 credit

Direct Communication Rule = 1.00 credit

Discovery: Abuses & Sanctions = 1.00 credit

Duty to Disclose = 1.00 credit

Expungement = 2.00 credits

Understanding the Prehearing Stage = 1.00 credit

Arbitrators in Florida may present the certificate of completion for these approved courses directly to the state CLE board and request credit. Arbitrators may try to seek CLE credit in other states by presenting the certificate of completion and providing proof that these courses have been approved in Florida. Please visit our Web site for a complete list of CLE approvals.

SEC Filing

Amendment to Definition of "Associated Person," Streamlining a Case Administration Procedure, and Clarifying that Customers Could be Assessed Hearing Fees Based on Their Own Claims for Relief in Connection with an Industry Claim

On June 5, 2009, FINRA filed a proposed rule change with the SEC to amend Rules 12100(r), 12506(a) and 12902(a) of the Code of Arbitration Procedure for Customer Disputes (Customer Code) and Rule 13100(r) of the Code of Arbitration for Industry Disputes (Industry Code) to modify the following:

1. Amend the definition of "associated person" to clarify that the definition does not include corporate entities.
2. Streamline the case administration procedure. FINRA would no longer disseminate the Discovery Guide to parties automatically when they file a claim with FINRA but would refer them to the Web site which has the Guide. However, FINRA would provide paper copies to parties who requested them.
3. Clarify that customers could be assessed hearing session fees based on their own claims for relief in connection with an industry claim.

Please visit our Web site for more information about this rule proposal.

SEC Approvals

Amendment to Clarify the Tolling Provision in the Rules Addressing Time Limits under the Codes

On May 12, 2009, the SEC approved a proposed rule change to amend Rule 12206 of the Customer Code and Rule 13206 of the Industry Code to clarify that the rules toll the applicable statutes of limitation when a person files an arbitration claim with FINRA. Specifically, FINRA is deleting the phrase "where permitted by applicable law" from Rules 12206(c) and 13206(c) because some courts have interpreted the phrase to mean that state law must permit tolling expressly, or the statutes of limitation period will not be tolled. FINRA, however, has interpreted the tolling provision of the eligibility rule to mean that any applicable statutes of limitation would be tolled in all cases when a person files an arbitration claim with FINRA. Removing the phrase would clarify the rules and make the interpretation clear.

The amended rule became effective on August 10, 2009, and applies to all cases filed on or after the effective date. Please see *Regulatory Notice 09-36* for more information about this new rule.

Panel Composition for Claims Involving an Associated Person in Industry Disputes

On June 5, 2009, the SEC approved a proposed rule change to amend Rules 13402, 13403 and 13406 of Industry Code to change the criteria for determining the panel composition when the claim involves an associated person in industry disputes. The amendments to the rules of the Industry Code:

1. require that the parties receive a majority public panel for all industry disputes involving associated persons (excluding disputes involving statutory employment discrimination claims which require a specialized all public panel);
2. clarify that in disputes involving only firms, parties will receive an all non-public panel; and
3. provide that if a party amends its pleadings to add an associated person to a previously all firm case, parties will receive a majority public panel.

The amended rules will be effective on August 31, 2009, and will apply to all cases filed on or after the effective date. Please see *Regulatory Notice 09-43* for more information about these amendments.

Procedures to Expedite the Administration of Promissory Note Cases

On June 17, 2009, the SEC approved new procedures to expedite the administration of promissory note cases. New Rule 13806 of the Industry Code applies to arbitrations solely involving a firm's claim that an associated person failed to pay money owed on a promissory note. In order to proceed under the new rule, a claimant would not be permitted to include any additional allegations in the statement of claim. Rules 13214 and 13600 of the Industry Code have been amended to make conforming changes.

Under the new procedures:

- Parties choose a single public arbitrator from the roster of arbitrators approved to hear statutory discrimination claims—unless the associated person files a counterclaim or third-party claim of more than $100,000.
- If the associated person does not file an answer, simplified discovery procedures apply, and regardless of the amount in controversy, the single arbitrator renders an award on the papers.
- If the associated person files an answer—but does not seek additional relief or assert any counterclaims or third-party claims, the single public arbitrator will decide the case after holding a hearing, regardless of the amount in controversy.
- If the associated person files a counterclaim or third-party claim, the panel composition is based on the amount of the associated person's claim. If the counterclaim or third-party claim is more than $100,000, a panel of three arbitrators will be appointed with the single arbitrator, approved to hear statutory discrimination cases, serving as the chair.

This new rule will be effective on September 14, 2009, and will apply to all cases filed on or after the effective date. Please visit our Web site for more information about this new rule.

FINRA's Revised Expungement Rules

By Michele Collins, Associate Director, FINRA Case Administration

The Central Registration Depository (CRD®) system is an online registration and licensing system that is used by the securities industry, state and federal regulators and self-regulatory organizations. The CRD system contains information regarding firms and registered persons; specifically, administrative information (*e.g.,* personal, educational and employment history) and disclosure information (*e.g.,* criminal matters, regulatory and disciplinary actions, civil judicial actions and information relating to customer disputes). Although public investors do not have access to the CRD system, some of the information in CRD is available to investors through FINRA BrokerCheck and individual state disclosure programs.

FINRA recognizes that accurate and complete reporting in the CRD system is an important aspect of investor protection, and arbitrators play a key role in its accuracy. When requested by a party, arbitrators must determine whether expungement of arbitration information is appropriate under FINRA's rules. This article provides guidance to arbitrators about FINRA's updated expungement rules and how to apply the standards when evaluating expungement requests.

Rules 12805 and 13805 of the Codes of Arbitration Procedure

On October 30, 2008, the SEC approved a rule change to adopt Rule 12805 of the Code of Arbitration Procedure for Customer Disputes (Customer Code) and Rule 13805 of the Code of Arbitration Procedure for Industry Disputes (Industry Disputes) to establish procedures that arbitrators must follow when considering requests for expungement relief under FINRA Rule 2080.[1] Please see *Regulatory Notice 08-79*. The rules became effective on January 26, 2009, and apply to expungement awards issued on or after the effective date.

Since April 2004, Rule 2080 has provided that expungement of customer complaints be granted ***only*** when the arbitrators affirmatively find that:

1. the claim, allegation or information in the customer dispute is factually impossible or clearly erroneous;
2. the registered person was not involved in the alleged misconduct; or
3. the claim, allegation or information is false.

Rule 2080 also requires that any expungement of customer dispute information from CRD ordered in an arbitration award must be confirmed by a court.

The new rule establishes the following procedures arbitrators must follow when evaluating expungement relief requests. Specifically, arbitrators must:

1. in cases involving settlements, review settlement documents and consider the amount of payment made to any party and other terms and conditions of the settlement before awarding expungement;
2. hold a recorded hearing (by telephone or in-person) before awarding expungement;

3. assess against the parties requesting expungement relief all forum fees for hearing sessions in which the sole topic is the determination of the appropriateness of expungement, so the investor-claimant does not have to bear this expense; and
4. provide a brief written explanation of the reason for ordering expungement under Rule 2080.

Guidance on the New Rules

Review Settlement Documents

Customers often receive monetary compensation to settle their claims with registered persons. In some of these cases, the terms of the settlement require the customer to consent to the entry of a stipulated award containing an order of expungement. FINRA expects arbitrators to consider the terms of the settlement agreement in conjunction with the facts of the case when determining whether an expungement order is proper under Rule 2080.

Hold an In-person or Telephonic Hearing

The requirement of a hearing ensures that arbitrators are aware of the investor protection issues at stake. This is particularly true for cases where the terms of a settlement agreement require the customer to consent to a request for expungement.

Provide a Brief Written Explanation

Courts review awards, particularly the written explanation, when deciding whether to confirm orders of expungement. Sometimes, courts will challenge an expungement order if it lacks a sufficient basis to confirm it. In a recent case, the court expressed concern that the arbitrators did not describe a single fact or circumstance for their conclusion that the claims were factually impossible or clearly erroneous (one of the standards enumerated in Rule 2080, as indicated above).[2] As a result, the court ordered a rehearing by the arbitrators to clarify the facts and circumstances that led them to order expungement.

The requirement of a written explanation provides regulators with additional insight into an arbitrator's decision to award expungement, based on what appear to be questionable facts and circumstances (*e.g.,* cases involving payment of significant monetary compensation to the customer).

Below are examples of the relevant portions of written explanations in awards ordering expungement under the new rule (with the names of the parties redacted):

With respect to Standard 2 of Rule 2080...[Associated Person] retired from the brokerage firm on February 1, 2007 while the Claimants opened their option trading account in April 2007 and all disputed claims occurred thereafter. [Associated Person] had no contact with Claimants about the disputed option trades that were the subject of the claim. (FINRA Case No. 08-02315)[3]

The Panel found that [Associated Person] accepted the securities at issue and properly delivered them to his employer. [Associated Person] was not responsible for returning the securities to Claimant. Thus, he was not responsible for [Firm's] failure to prove the securities had been returned to Claimant. (FINRA Case No. 08-00397)

Arbitrator Training

Before considering a request for expungement under the new procedures, FINRA requires arbitrators to certify that they have completed one or more of the following trainings:

- Study the Frequently Asked Questions on the new expungement procedures.
- Listen to the December 10, 2008 Neutral Workshop which addresses the new expungement procedures.
- Complete the revised online expungement training course that addresses the new procedures.
- Review FINRA's Regulatory Notice 08-79 on the new expungement procedures.

Arbitrators may certify completion of their training by submitting the survey on our Web site.

We remind arbitrators registered with broker-dealers to keep their records with CRD current. In addition to their role in ensuring that expungement of arbitration information in CRD is accurate, arbitrators have an obligation to maintain their personal CRD records.

Endnotes:

1 Following the consolidation of NASD and the member regulation, enforcement and arbitration functions of NYSE Regulation into FINRA, FINRA established a process to develop a new consolidated rulebook (Consolidated FINRA Rulebook). Effective August 17, 2009, as part of the Consolidated FINRA Rulebook, Conduct Rule 2130 became FINRA Rule 2080.

2 *Matter of Sage, Rutty & Co., Inc v. Salzberg*, Index No. 2007-01942 (N.Y. Sup. Ct. May 30, 2007).

3 Parties, as well as other users, can access FINRA awards, including those ordering expungement, through FINRA's Arbitration Awards Online database. Users can search terms such as "expungement" and "Rule 2130" for expungement awards issued prior to August 17, 2009 and "Rule 2080" for expungement awards issued on and after August 17, 2009. Users can also narrow their search using a set of date ranges for the award.

Question and Answer: Explained Decisions in Arbitration Awards

Question: How will recent amendments to allow parties to request explained awards affect my role as an arbitrator?

Answer: FINRA amended Rules 12214, 12514 and 12904 of the Customer Code and Rules 13214, 13514 and 13904 of the Industry Code to establish procedures requiring arbitrators to provide an explained decision at the parties' joint request.

Here are some important details about explained decisions that arbitrators should know:

- An explained decision is a fact-based award stating the general reasons for the arbitrators' decision. It does not need to include legal authorities or damage calculations.
- Parties will be required to submit any joint request for an explained decision at least 20 days before the first scheduled hearing date.
- The chairperson of the arbitration panel will write the explained decision and will receive an additional honorarium of $400. No other panel member will receive an honorarium for writing an explained decision. As with all other awards, arbitrators will continue to be permitted to concur, concur in part, dissent or dissent in part.
- The panel may allocate the cost of the honorarium to one party, or may allocate it between or among all parties.
- Arbitrators will continue to be permitted to decide on their own to write an explained decision. If the panel or member of the panel decides on its own to write an explained decision, in the absence of the parties' joint request, FINRA will not pay an additional honorarium to any panel member.
- Arbitrators are not required to provide an explained decision in simplified or default cases.

The amendments became effective on April 13, 2009 and apply to all arbitration cases in which an initial prehearing conference has not been held, or waived by the parties, by the effective date.

For further information, please review *Regulatory Notice 09-16* or contact your case administrator.

Question and Answer: Proper Disposal of Case Materials

Question: How should arbitrators properly dispose of duplicate materials, some of which contain confidential information, submitted to them during the course of an arbitration?

Answer: When a hearing takes place at a FINRA office, duplicate materials may be left in the hearing room—clearly marked for disposal. Staff will clean the hearing rooms and properly discard extraneous hearing materials. Each office has secured containers for staff to dispose of confidential documents that are no longer needed. A vendor collects the discarded materials and securely transports them to its facility to shred and destroy.

When a hearing occurs at a non-FINRA location, one of the arbitrators will be responsible for returning the official record to FINRA. For all other case-related materials that remain at the end of the hearing, FINRA strongly recommends that arbitrators transport and store their copies in a manner that preserves the confidentiality of the information. Arbitrators may also mail their copies to FINRA for proper disposal. If parties wish to retain secure control of the materials, they should take any duplicate materials—that are not needed for the official record—with them when leaving.

Although FINRA takes these precautions, FINRA is not responsible for the destruction of documents containing confidential information left by parties or arbitrators participating in hearings at an offsite facility. The panel announces this disclaimer while reading the hearing script at the opening of each hearing. You may review the hearing script in the Arbitrator's Reference Guide.

Mediation and Business Strategies Update

New Mediator Payment Structure Beginning September 1, 2009

FINRA's Mediation Program recently introduced enhancements to the fee structure for FINRA mediators. We designed these changes to keep the program competitive, and based them on research we conducted with mediators and party representatives.

Here's How it Works

Starting September 1, 2009, we will begin deducting a one-time flat fee of $150 per mediation case regardless of the mediator's hourly rate or the number of hours mediated. This is a change from our current practice of deducting fees per hour based on a mediator's hourly rate. To offset the costs of the reduced mediator fees per case, we are instituting a $200 annual membership fee for all mediators.

Payments are due by September 1, 2009, and enable our mediators to remain on the roster and take advantage of the reduced fees throughout the year. Mediators can submit their payments safely and easily on our Web site. Mediators may also make payment by mail by completing the Annual Membership Form and sending it with a check payable to FINRA.

FINRA will not assess a fee against mediators for cases they mediate through FINRA's Small Claims Mediation Program (cases valued under $25,000) or at reduced rates through FINRA's Mediation Settlement Month Program in October.

Benefits of Being a FINRA mediator

Although we do not guarantee that all mediators on our roster will be selected by parties to serve, we make our best efforts to put all of our mediators on lists where specific qualifications meet the needs of the parties. Over the years, FINRA's mediator roster has gained a strong reputation with the parties and their attorneys, in part because we are selective about the quality and experience of the mediators we add to our roster. We carefully screen mediators before sending them applications, and FINRA's National Arbitration and Mediation Committee (NAMC) approves all mediator applications. The NAMC approved just 20 mediators last year, carefully selecting mediators that met the criteria for inclusion on our roster. We understand the parties are highly selective about which mediators they work with, and we have developed incentives for our mediators.

- **FINRA Credential:** FINRA mediators have a competitive advantage in their overall mediation practice as a member of the leading securities mediation program. Since we screen and monitor our roster carefully, parties and their representatives value the quality and expertise of FINRA mediators.
- **Marketing Resources:** We work with a database of over 1,600 frequent users of our forum to promote the quality of our mediators, the benefits of mediating and the advantages of FINRA mediation to parties and their counsel.

Mediation and Business Strategies Update continued

- **Access to FINRA Arbitration Cases:** We reach out to the parties in every arbitration case, encouraging them to choose mediation using our mediators. We anticipate more than 7,000 claims will be filed in arbitration this year alone. Our staff also converts inquiries from disputing parties that have not yet filed arbitration claims into FINRA mediations.
- **Lists and Disclosure Reports:** When the parties ask for a list of potential mediators, we propose individuals from our roster with the necessary qualifications for each particular case and a detailed disclosure report for each mediator.
- **Time Savings:** Our Mediation Administrators work directly with the parties by responding to questions and educating them about the mediation process. This assistance saves mediators time, helps bring parties to the table to mediate and allows mediators to focus on resolving disputes.
- **Retain More Earnings:** Since FINRA will only deduct a flat fee of $150 per case after September 1, 2009, FINRA mediators will retain more of their hourly earnings for each FINRA mediation they conduct.
- **Prompt Payment:** FINRA pays its mediators once a mediation has concluded and the payment submission form has been submitted. FINRA mediators do not have to wait for the parties to pay.
- **No Collection Risk:** Mediators do not risk non-payment of fees and expenses, because FINRA collects payments directly from the parties.
- **Direct Deposit:** FINRA mediators can have payments deposited directly into their personal checking account by filling out the Direct Deposit enrollment form.
- **Indemnification:** We provide our mediators with legal counsel, if sued in relation to a FINRA mediation. We also indemnify the mediator, if held liable.
- **Administrative Assistance:** Our staff provides administrative support to our mediators—scheduling mediation sessions, coordinating locations in our facilities or elsewhere and collecting mediator fees and expenses. We ensure that all parties execute a Mediation Submission Agreement to establish the terms of the mediation in advance.
- **Facilities and Video Conference Resources:** We offer conference rooms in our offices for FINRA mediations at no extra cost, and can help coordinate FINRA mediations that the parties conduct outside of our hearing locations. FINRA also has video conference facilities at our New York, Washington, D.C., Chicago, Boca Raton and Los Angeles offices to help parties and mediators reduce travel expenses.

FINRA sent letters to the mediator roster on July 22 explaining the new payment structure and how to pay the annual fee. We encourage neutrals to listen to the July 10, 2009 Neutral Workshop about the new mediation payment structure. Please also visit our Web Site for more information about FINRA's Mediation Program.

Regional Updates

NOTE: Participants must successfully complete the online portion of the Basic Arbitrator Training Program before attending an onsite training program. Please visit the Arbitrator Training page at *www.finra.org* for more information. FINRA generally requires a minimum of nine attendees to conduct an onsite session.

Northeast Regional Update

Arbitration Outreach

On June 9, 2009, the Northeast Regional Office participated in a panel discussion entitled "Securities Arbitration & Mediation Hot Topics 2009: The Program for Attorneys, In-House Counsel, Experts, Arbitrators & Mediators" at the New York City Bar Association.

On August 12, 2009, FINRA staff participated as panelists at the Practising Law Institute's program in New York City: "Securities Arbitration in the Market Meltdown Era: Achieving Fairness in Perception and Reality." Staff answered questions about FINRA's dispute resolution procedures and discussed arbitrator training.

Arbitrator Training

During the next three months, the Northeast Regional Office will conduct the following in-person Basic Arbitrator Training programs:

Boston, MA	September 10, 2009
New York, NY	October 21, 2009
Manchester, NH	November 4, 2009
Newark, NJ	November 24, 2009

If you are interested in attending a Basic Arbitrator Training program, please contact Cicely Moise at (212) 858-3963 or Cicely.Moise@finra.org.

Midwest Regional Update

During the next three months, the Midwest Regional Office will conduct the following in-person Basic Arbitrator Training programs:

Wichita, KS	September 16, 1009
Dallas, TX	September 22, 2009
Detroit, MI	October 7, 2009
Houston, TX	October 21, 2009
Des Moines, IA	November 4, 2009

If you are interested in attending a Basic Arbitrator Training program, please contact Deborah Woods at (312) 899-4431 or Deborah.Woods@finra.org.

Regional Updates continued

West Regional Update

During the next three months, the West Regional Office will conduct the following in-person Basic Arbitrator Training programs:

Las Vegas, NV	November 17, 2009

If you are interested in attending a Basic Arbitrator Training program, please contact Hannah Yoo at (213) 229-2362 or Hannah.Yoo@finra.org.

Southeast Regional Update

Arbitration Outreach

On May 15, 2009, the Southeast Regional Office participated in the 2009 NASAA CRD/IARD Training Seminar and gave presentations on FINRA's arbitration procedures. Attendees included NASAA/state securities regulators and their staff.

Arbitrator Training

During the next three months, the Southeast Regional Office will conduct the following in-person Basic Arbitrator Training programs:

New Orleans, LA	September 9, 2009
Raleigh, NC	September 23, 2009
Columbia, SC	October 13, 2009
Orlando, FL	October 16, 2009
Boca Raton, FL	November 4, 2009
Memphis, TN	November 12, 2009
Wilmington, DE	November 18, 2009

If you are interested in attending a Basic Arbitrator Training program, please contact Lanette Cajigas at (561) 447-4911 or Lanette.Cajigas@finra.org.

Arbitrator Tips

FINRA Updates Arbitrator Reimbursement Guidelines

FINRA Dispute Resolution recently revised its Guidelines for Arbitrator Reimbursement to require arbitrators to submit receipts for **all** meal purchases, regardless of the amount. Arbitrators will receive lunch at the hearing, provided by FINRA, or be reimbursed up to a maximum of $20 for expenses (including any gratuities). Arbitrators can use their $20 allowance to purchase any food they wish (*i.e.,* coffee, breakfast, lunch, snack, etc.), as long as they remain within the $20 daily allowance.

As a reminder, arbitrators must submit travel and expense forms within 30 calendar days of the date the expense was incurred. Please review our updated Guidelines for Arbitrator Reimbursement for more information or contact your case administrator.

Direct Deposit Now Available for Arbitrators and Mediators

You may now authorize FINRA to deposit your fees and/or expense reimbursements directly into your personal checking account. Payments may NOT be directed to a personal business or company account, personal savings account, or to your firm or employer's account.[1] In authorizing FINRA to deposit funds into your personal checking account, you must also authorize FINRA to debit your personal checking account in the event FINRA erroneously deposits funds into your account. The amount debited will not exceed the original amount of the erroneous credit.

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Endnote:

1 Neutrals who choose, or are required by their firms, to have checks sent to a firm account are not eligible to use direct deposit.

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