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## 14000. CODE OF MEDIATION PROCEDURE

### 14100. 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) Board

The term "Board" means the Board of Directors of FINRA Regulation, Inc.

#### (b) Code

The term "Code" means the Code of Mediation Procedure.

#### (c) Director

The term "Director" in the [Rule 14000](#) Series refers to the Director of Mediation at the Office of Dispute Resolution. Unless the Code or any other FINRA rule provides otherwise, the term includes FINRA staff to whom the Director of Mediation has delegated authority.

#### (d) Matter

The term "matter" means a dispute, claim, or controversy.

#### (e) NAMC

The term "NAMC" means the National Arbitration and Mediation Committee of the Board.

#### (f) FINRA

Unless the Code specifies otherwise, the term "FINRA" includes FINRA, Inc., and FINRA Regulation, Inc.

#### (g) FINRA Customer Code

The term "Customer Code" means the Code of Arbitration Procedure for Customer Disputes.

#### (h) FINRA Industry Code

The term "Industry Code" means the Code of Arbitration Procedure for Industry Disputes.

#### (i) Submission Agreement

The term "Submission Agreement" means the FINRA Mediation Submission Agreement. The FINRA Mediation Submission Agreement is a document that parties must sign at the outset of a mediation in which they agree to submit to mediation under the Code.

Amended by SR-FINRA-2015-034 eff. Dec. 20, 2015.  
Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Renumbered from Rule 10401 and amended by SR-NASD-2007-022 eff. April 16, 2007.  
Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [08-57](#), [16-04](#).

### 14101. Applicability of Code

The Code applies to any matter submitted to mediation at FINRA.

Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Renumbered from Rule 10402 and amended by SR-NASD-2007-022 eff. April 16, 2007.  
Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [08-57](#).

## 14102. National Arbitration and Mediation Committee

(a) Pursuant to Section II of the Plan of Allocation and Delegation of Functions by FINRA to FINRA Regulation, Inc. ("Delegation Plan"), the Board shall appoint a National Arbitration and Mediation Committee ("NAMC").

(1) The NAMC shall consist of no fewer than ten and no more than 25 members. At least 50 percent of the NAMC shall be Non-Industry members.

(2) The Chairperson of the Board shall name the Chairperson of the NAMC.

(b) Pursuant to the Delegation Plan, the NAMC shall have the authority to recommend rules, regulations, procedures and amendments relating to arbitration, mediation, and other dispute resolution matters to the Board. All matters recommended by the NAMC to the Board must have been approved by a quorum, which shall consist of a majority of the NAMC, including at least 50 percent of the Non-Industry committee members. If at least 50 percent of the Non-Industry committee members are either (i) present at or (ii) have filed a waiver of attendance for a meeting after receiving an agenda prior to such meeting, the requirement that at least 50 percent of the Non-Industry committee members be present to constitute the quorum shall be waived. The NAMC has such other power and authority as is necessary to carry out the purposes of this Code.

(c) The NAMC may meet as frequently as necessary, but must meet at least once a year.

Amended by SR-FINRA-2015-034 eff. Dec. 20, 2015.  
Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Amended by SR-NASD-2007-026 eff. April 16, 2007.  
Renumbered from Rule 10403 and amended by SR-NASD-2007-022 eff. April 16, 2007.  
Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [08-57](#), [16-04](#).

## 14103. Director of Mediation

(a) The Board shall appoint a Director of Mediation to administer mediations under the Code. The Director will consult with the NAMC on the administration of mediations, as necessary.

(b) The Director may delegate his or her duties when appropriate, unless the Code provides otherwise.

Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Renumbered from Rule 10404 and amended by SR-NASD-2007-022 eff. April 16, 2007.  
Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [08-57](#).

## 14104. Mediation under the Code

(a) Mediation under the Code is voluntary, and requires the written agreement of all parties. No party may be compelled to participate in a mediation or to settle a matter by FINRA, or by any mediator appointed to mediate a matter pursuant to the Code.

(b) If all parties agree, any matter that is eligible for arbitration under the Customer Code or Industry Code, or any part of any such matter, or any dispute related to such matter, including procedural issues, may be submitted for mediation under the Code.

(c) A matter is submitted to mediation when the Director receives an executed Submission Agreement from each party.

(d) The Director shall have the sole authority to determine if a matter is eligible to be submitted for mediation.

Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Renumbered from Rule 10405 and amended by SR-NASD-2007-022 eff. April 16, 2007.

Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [08-57](#).

## 14105. Effect of Mediation on Arbitration Proceedings

(a) Unless the parties agree otherwise, the submission of a matter for mediation will not stay or otherwise delay the arbitration of a matter pending at FINRA. If all parties agree to stay an arbitration in order to mediate the matter, the arbitration will be stayed, notwithstanding any provision to the contrary in this Code or any other rule.

(b) If mediation is conducted through FINRA, no postponement fees will be charged for staying the arbitration in order to mediate.

Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.

Renumbered from Rule 10406 and amended by SR-NASD-2007-022 eff. April 16, 2007.

Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [08-57](#).

## 14106. Representation of Parties

### (a) Representation by Party

Parties may represent themselves in mediation held in a United States hearing location. A member of a partnership may represent the partnership; and a bona fide officer of a corporation, trust, or association may represent the corporation, trust, or association.

### (b) Representation by an Attorney

At any stage of a mediation proceeding held in a United States hearing location, all parties shall have the right to be represented by an attorney at law in good standing and admitted to practice before the Supreme Court of the United States or the highest court of any state of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States, unless state law prohibits such representation.

### (c) Representation by Others

Parties may be represented in mediation by a person who is not an attorney, unless:

- state law prohibits such representation, or
- the person is currently suspended or barred from the securities industry in any capacity, or
- the person is currently suspended from the practice of law or disbarred.

### (d) Qualifications of Representatives

Issues regarding the qualifications of a person to represent a party in mediation are governed by applicable law and may be determined by an appropriate court or other regulatory agency. In the absence of a court order, the mediation proceeding shall not be delayed pending resolution of such issues.

Adopted by SR-NASD-2006-109 eff. Dec. 24, 2007.

**Selected Notice:** [07-57](#), [08-57](#).

## 14107. Mediator Selection

(a) A mediator may be selected:

(1) By the parties from a list supplied by the Director;

(2) With the Director's approval upon receipt of the parties' joint request, from a list or other source the parties choose; or

(3) By the Director if the parties do not select a mediator after submitting a matter to mediation.

(b) For any mediator assigned or selected from a list provided by FINRA, the parties will be provided with information

relating to the mediator's employment, education, and professional background, as well as information on the mediator's experience, training, and credentials as a mediator.

(c) Any mediator selected or assigned to mediate a matter shall comply with the provisions of Customer Code [Rule 12405](#) or Industry Code [Rule 13408](#), unless, with respect to a non-FINRA mediator approved by the Director, the parties elect to waive such disclosure.

(d) No mediator may serve as an arbitrator of any matter pending in FINRA arbitration in which he served as a mediator; nor may the mediator represent any party or participant to the mediation in any subsequent FINRA arbitration relating to the subject matter of the mediation.

Amended by SR-FINRA-2012-011 eff. Aug. 6, 2012.  
Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Renumbered from Rule 14106 by SR-NASD-2006-109 eff. Dec. 24, 2007.  
Renumbered from Rule 10407 and amended by SR-NASD-2007-022 eff. April 16, 2007.  
Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [07-57](#), [08-57](#), [12-35](#).

## 14108. Limitation on Liability

FINRA, its employees, and any mediator named to mediate a matter under the Code shall not be liable for any act or omission in connection with a mediation administered under the Code.

Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Renumbered from Rule 14107 by SR-NASD-2006-109 eff. Dec. 24, 2007.  
Renumbered from Rule 10408 and amended by SR-NASD-2007-022 eff. April 16, 2007.  
Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [07-57](#), [08-57](#).

## 14109. Mediation Ground Rules

(a) The following Ground Rules govern the mediation of a matter. The parties to a mediation may agree to amend any or all of the Ground Rules at any time. The Ground Rules are intended to be standards of conduct for the parties and the mediator.

(b) Mediation is voluntary and any party may withdraw from mediation at any time prior to the execution of a written settlement agreement by giving written notice of withdrawal to the mediator, the other parties, and the Director.

(c) The mediator shall act as a neutral, impartial, facilitator of the mediation process and shall not have any authority to determine issues, make decisions or otherwise resolve the matter.

(d) Following the selection of a mediator, the mediator, all parties and their representatives will meet in person or by conference call for all mediation sessions, as determined by the mediator or by mutual agreement of the parties. The mediator shall facilitate, through joint sessions, caucuses and/or other means, discussions between the parties, with the goal of assisting the parties in reaching their own resolution of the matter. The mediator shall determine the procedure for the conduct of the mediation. The parties and their representatives agree to cooperate with the mediator in ensuring that the mediation is conducted expeditiously, to make all reasonable efforts to be available for mediation sessions, and to be represented at all scheduled mediation sessions either in person or through a person with authority to settle the matter.

(e) The mediator may meet with and communicate separately with each party or the party's representative. The mediator shall notify all other parties of any such separate meetings or other communications.

(f) The parties agree to attempt, in good faith, to negotiate a settlement of the matter submitted to mediation. Notwithstanding that a matter is being mediated, the parties may engage in direct settlement discussions and negotiations separate from the mediation process.

(g) Mediation is intended to be private and confidential.

(1) The parties and the mediator agree not to disclose, transmit, introduce, or otherwise use opinions, suggestions, proposals, offers, or admissions obtained or disclosed during the mediation by any party or the mediator as evidence in any action at law, or other proceeding, including a lawsuit or arbitration, unless authorized in writing by all other parties to the mediation or compelled by law, except that the fact that a mediation has occurred shall not be considered confidential.

(2) Notwithstanding the foregoing, the parties agree and acknowledge that the provisions of this paragraph shall not operate to shield from disclosure to FINRA or any other regulatory authority, documentary or other information that FINRA or other regulatory authority would be entitled to obtain or examine in the exercise of its regulatory responsibilities.

(3) The mediator will not transmit or otherwise disclose confidential information provided by one party to any other party unless authorized to do so by the party providing the confidential information.

Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Renumbered from Rule 14108 by SR-NASD-2006-109 eff. Dec. 24, 2007.  
Renumbered from Rule 10409 and amended by SR-NASD-2007-022 eff. April 16, 2007.  
Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [07-57](#), [08-57](#).

## 14110. Mediation Fees

### (a) Filing Fees: Cases Filed Directly in Mediation

Each party to a matter submitted directly to a mediation administered under the Code must pay an administrative fee to FINRA in the amounts indicated in the schedule below, unless such fee is specifically waived by the Director.

Amount in Controversy	Customer and Associated Person Fee	Member Fee
\$.01–\$25,000	\$ 50	\$150
\$25,000.01–\$100,000	\$150	\$300
Over \$100,000	\$300	\$500

### (b) Filing Fees: Cases Initially Filed in Arbitration

When a matter is initially filed in arbitration and subsequently submitted to mediation under the Code, each party must pay an administrative fee to FINRA in the amounts indicated in the schedule below, unless such fee is specifically waived by the Director.

Amount in Controversy	Customer and Associated Person Fee	Member Fee
\$.01–\$25,000	\$ 0	\$ 0
\$25,000.01–\$100,000	\$100	\$150
Over \$100,000	\$250	\$500

### (c) Mediator Fees and Expenses

The parties to a mediation administered under the Code must pay all of the mediator's charges, including the mediator's travel and other expenses. The charges shall be specified in the Submission Agreement and shall be apportioned equally among the parties unless they agree otherwise. Each party shall deposit with FINRA its proportional share of the anticipated mediator charges and expenses, as determined by the Director, prior to the first mediation session.

Amended by SR-FINRA-2008-021 eff. Dec. 15, 2008.  
Renumbered from Rule 14109 by SR-NASD-2006-109 eff. Dec. 24, 2007.  
Renumbered from Rule 10410 and amended by SR-NASD-2007-022 eff. April 16, 2007.  
Adopted by SR-NASD-2004-013 eff. Jan. 30, 2006.

**Selected Notices:** [05-85](#), [07-57](#), [08-57](#).