

FINRA Expungement of Customer Disputes About to Become Much More Expensive

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FINRA has sent up to the SEC a rule change request regarding the expungement of customer disputes. The full release can be found here: <https://www.finra.org/sites/default/files/2020-02/SR-FINRA-2020-005.pdf>

While it appears that the final rule change leaves out many of the most objectionable aspects of the original proposal set forth in FINRA Regulatory Notice 17-42 (<https://www.finra.org/rules-guidance/notices/17-42>), it does 2 main things that will make expungements much more expensive and possibly more difficult to obtain. First, the rule change closes the loophole that allowed a person seeking expungement to request \$1 in compensatory damages and thereby substantially reduce the fees charged in connection with an expungement. Second, the new rule will require a three-person panel for all customer expungement cases.

As such, under the new rule, the FINRA fees charged in customer expungement cases will be substantially higher — on the order of \$10,000 for a “typical” unopposed expungement with 1 pre-hearing conference and 1 final hearing session. Notwithstanding FINRA’s attempt to justify these increased fees on an economic basis, this seems to be a pretty major overreach by FINRA.

If the SEC approves the proposed rule change, the effective date will be no later than 60 days following publication of a FINRA Regulatory Notice announcing the SEC’s approval.

The bottom line is that if you are considering seeking expungement of customer dispute information through FINRA Dispute Resolution, hurry up or be prepared to pay up!