

7000. Arbitration Procedures

Rule 7010. Applicability

The Arbitration Procedures set forth in this Rule 7000 Series shall apply to all adjudications arising out of the [Protocol](#) (Rule 3000 Series).

Rule 7020. Delegation of Duties

(a) Arbitral Body.

~~(a1)~~ Subject to Rule 3249, Anti-Doping Rule Violations ~~arising out of the Rule 3000 Series~~ and violations of Rule 3229 (together, “EAD Violations”) shall be adjudicated by an [institutionally independent arbitral body](#) (the “Arbitral Body”) in accordance with the ~~Rule 3000 Series~~[Protocol](#) and these Arbitration Procedures. The Arbitral Body may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the Arbitral Body. ~~The Arbitral Body is selected by mutual agreement of the Authority and the Agency. The Arbitral Body will ordinarily assign a sole arbitrator to hear a case concerning an EAD Violation. However, the Arbitral Body may assign 3 arbitrators to hear a case involving an EAD Violation upon request by the Agency, based on the nature or complexity of the case.~~

(2) The Arbitral Body is selected by mutual agreement of the Authority and the Agency, including by contracting a third-party organization to administer the Arbitral Body. If contracting with a third-party organization, that organization (the “Third-Party Administrator”) is responsible for organizing a standing panel of Arbitrators with the necessary skills and experience from whom one or more Arbitrators shall be selected to hear and determine particular cases. The Third-Party Administrator shall also serve as the secretariat (or case manager) for the Arbitrators and for all cases heard by the Arbitrators. The Authority shall compensate the Third-Party Administrator for its work and shall compensate the Arbitrators for the time they spend on particular cases. Any reference to “Arbitral Body” in these Arbitration Procedures encompasses any such Third-Party Administrator. If the Authority and the Agency contract with a Third-Party Administrator, they may still contract directly with separate individual(s) to serve solely as Arbitrator(s) for Provisional Suspension hearings who will also be part of the Arbitral Body.

(b) Internal Adjudication Panel.

~~(b1)~~ Subject to Rule 3349, Controlled Medication Rule Violations ~~arising out of the Rule 3000 Series~~, violations of Rule 3329, ~~and~~ violations of Rule 3510 ([Whereabouts Failures](#)), and violations of Rule 3520 (together, ~~“ECM or and Other Violations”~~) shall be adjudicated by an adjudication panel (the “Internal Adjudication Panel”) in accordance with the ~~Rule 3000 Series~~[Protocol](#) and these Arbitration Procedures. The Internal Adjudication Panel may also adjudicate any other matter referred to it under the Protocol, and any other matter that might arise from time to time under the Protocol that the Agency considers should be determined by the Internal Adjudication Panel.

(2) The Internal Adjudication ~~panel is~~Panel members are selected by mutual agreement of the Authority and the Agency. ~~The Internal Adjudication Panel will ordinarily assign a single Internal Adjudication Panel member to adjudicate a case involving an ECM or Other Violation; in exceptional circumstances only, the Internal Adjudication Panel may assign 3 members to adjudicate a case upon request by the Agency.~~

~~(c) Final decisions issued by the Arbitral Body or Internal Adjudication Panel are subject to review as specified in section 3058 of the Act.~~

Rule 7030. Arbitral Body [Members](#)

(a) The Arbitral Body shall have a pool of ~~arbitrators~~[independent and impartial Arbitrators](#) consisting of a minimum of 5 members appointed by mutual agreement of the Authority and the Agency.

(each, an “Arbitrator”), or, in the case of the Third-Party Administrator, appointed by the Arbitral Body after consultation with the Authority and the Agency. To be considered “independent”, a current or

~~candidate Arbitrator~~ (b) ~~Arbitrators shall be appointed for 4-year terms. Candidate arbitrators shall complete an application in a form designated by the Authority.~~

~~(c) Candidates~~ shall not be or have been in the previous 2 years an officer, director, trustee, employee, consultant, or official, or ~~be~~ in a policy making position, for any Equine Constituencies, the Authority, or the Agency, ~~except that this requirement does not apply to~~ excluding former State Racing Commission officials or employees. Apart from appointment to the Arbitral Body, Arbitrators shall not have any business or economic interest with a party in a case.

(b) Arbitrators shall be appointed for 4-year terms. Candidate Arbitrators shall complete an application in a form designated by the Authority.

(c) Candidate Arbitrators shall be required to submit on request to a background check before appointment or at any point during their term.

(d) ~~Candidate arbitrators shall be required to submit on request to a background check before appointment and~~ Arbitrators shall commit in writing to accept appointment to all cases to which they are selected except:

(1) when they have been involved in the Provisional Hearing for the matter;

(2) when they have an actual or perceived conflict of interest; or

(3) ~~for personal hardship due to lack of availability~~ for personal hardship due to lack of availability (candidates shall agree not to decline appointment for personal hardship due to lack of availability in more than 23 cases in any 12-month period, except in exceptional circumstances).

(e) If an ~~arbitrator~~ Arbitrator dies, resigns, becomes incapacitated ~~during the arbitrator's term~~ (legal incapacity is not required), ~~or is removed for~~ fails to complete mandatory continuing education, or commits an ethical breach or material deficiency in carrying out his or her duties, ~~a new arbitrator shall~~ the Authority and the Agency may (by mutual agreement) remove the Arbitrator from the Arbitral Body. In such circumstances, a new Arbitrator may be selected and appointed for a full 4-year term, following the procedures set forth in this Rule 7030, and with the term beginning on the date of the new Arbitrator's appointment.

Rule 7040. Internal Adjudication Panel Members

(a) The Internal Adjudication Panel shall ~~consist~~ have a pool of impartial members appointed by mutual agreement of the Authority and the Agency to hear ECM and Other Violations (“IAP ~~members~~”). ~~The Internal Adjudication Panel shall have a pool of IAP members. The~~ Members”). The Authority and the Agency may appoint as many IAP ~~members~~ Members as they consider necessary to the pool of IAP ~~members~~ Members in accordance with the Arbitration Procedures. Apart from appointment to the Internal Adjudication Panel, IAP Members shall not have any business or economic interest with a party in a case. A person is not precluded from serving as an IAP Member concomitantly with his or her service as an association or state steward, provided that an association or state steward may not be appointed to a case involving an alleged violation that originates in the state(s) in which he or she works (or has worked in the previous 5 years) as an association or state steward.

(b) IAP Members shall be appointed for 2-year terms.

~~(b)~~ (c) Candidate IAP ~~members~~ Members shall be required to submit on request to a background check before appointment ~~and~~ or at any point during their term.

(d) Candidate IAP Members shall commit in writing to accept appointment to all cases to which they are selected except:

(1) when they have been involved in the Provisional Hearing for the matter;

(2) when they have an actual or perceived conflict of interest; or

(3) ~~for personal hardship due to lack of availability~~ (candidates shall agree ~~to~~ not to decline appointment ~~for personal hardship due to lack of availability~~ in more than 23 cases in any 12-month period, except in exceptional circumstances).

~~(c) IAP members are appointed for 4-year terms.~~

~~(d) Apart from appointment to the Internal Adjudication Panel, IAP members shall not have any business or economic interest with a party in a case.~~

(e) If an IAP ~~member~~ Member dies, resigns, becomes incapacitated ~~during the IAP member's term~~ (legal incapacity is not required), fails to complete mandatory continuing education, or commits an ethical breach or material deficiency in carrying out his or her duties, the Authority ~~or~~ and the Agency may (by mutual agreement) remove the IAP ~~member~~ Member from the Internal Adjudication Panel. ~~The Agency will~~ In such circumstances, a new IAP Member may be selected and appointed for a full 2-year term, following the procedures set forth in this Rule 7040, and with the term beginning on the date of the new IAP Member's appointment. The Agency shall publish a list of members of the Internal Adjudication Panel on its website.

~~(f) A person is not precluded from serving as an IAP member concomitantly with his or her service as an association or state steward, provided that doing so does not put that him or her in a position of actual or perceived conflict of interest.~~

Rule 7050. Training of Arbitrators and IAP Members

Arbitrators and IAP ~~members~~ Members shall receive at least 2 hours of continuing education each year on issues related to proper and efficient handling of cases. The education must be approved by the Authority. Failure to complete this required continuing education is grounds for immediate dismissal.

Rule 7060. ~~Initiation by the Agency~~ Commencement of Proceedings

(a) Arbitral Body.

~~(a1) EAD Violations.~~ Unless Rule 3249 applies, if the Agency charges a Covered Person with an EAD Violation and the Covered Person has properly challenged that charge or the Consequences in accordance with Rule 3248(d), the Agency shall initiate proceedings ~~with~~ by sending an initiating letter to the Arbitral Body. If a Covered Person is charged with both an EAD Violation and an ECM or Other Violation, the procedures for EAD Violations shall apply. ~~The parties to the proceeding shall be the Agency and the Covered Person(s) charged. The Owner and the Authority shall be invited to join in the proceedings as observers and, if accepted as such, receive copies of the filings in the case. In the context of EAD Violation cases, the Owner may be permitted to intervene and make written or oral submissions.~~

(2) The arbitration is deemed commenced when the Arbitral Body issues a commencement letter to the parties subsequent to its receipt of an initiating letter from the Agency.

(3) The date of commencement of the arbitration is not intended to be applicable to any legal requirement, such as the statute of limitations, any contractual limitations period, or any claims notice requirement. The term "commencement," as used in this Rule, is intended only to pertain to the operation of these Arbitration Procedures.

(b) Internal Adjudication Panel.

~~(b1) ECM and Other Violations.~~ Unless Rule 3349 applies, if the Agency charges a Covered Person with an ECM or Other Violation, the Agency shall initiate proceedings with the Internal Adjudication Panel. ~~The Covered Person may request a hearing before the Internal Adjudication Panel. However, the Internal Adjudication Panel may decide in its sole discretion to determine the matter based solely on the written submissions without a hearing, if the Internal Adjudication Panel considers itself sufficiently well-informed to render a decision on the written submissions alone.~~

(2) The proceedings shall be deemed initiated when the Internal Adjudication Panel appoints a single IAP Member (or, in exceptional cases, 3 IAP Members) from the pool of IAP Members pursuant to Rule 7160(b) and the Agency's IAP Member Selection Policy. Upon appointment, the IAP Member

shall send an acknowledgment letter to the parties identifying the appointment and setting forth the administrative procedures relevant to the proceedings, including document filing and video conferencing.

Rule 7070. Participation in Hearings

(a) The parties to the proceeding shall be the Agency and the Covered Person(s) charged- ~~with a violation of the Protocol.~~

(b) The Owner and the Authority shall be invited to join in the proceedings as observers and, ~~if accepted as such,~~ shall (if requested) receive copies of the filings in the case. ~~In the context of ECM and Other Violation cases, the Owner shall not~~The Owner (if not the Responsible Person) may, at the discretion of the Arbitrator(s) or IAP Member(s), be permitted to intervene ~~or~~to make written or oral submissions.

(c) If a third party seeks to participate in an arbitration already pending under these Arbitration Procedures or if a party to an arbitration under these Arbitration Procedures seeks to compel a third party to participate in a pending arbitration, the Arbitrator(s) or IAP Member(s) shall determine such request, taking into account all circumstances they deem relevant and applicable.

(d) If a party has failed to participate in the proceedings, and the Arbitrator(s) or IAP Member(s) reasonably believe(s) that the party will not participate in the hearing, the non-participating party shall be served with a notice of hearing at least 14 days prior to the scheduled date, unless the parties have agreed to shorter notice. The Arbitrator(s) or IAP Member(s) may proceed with the hearing ~~without the participation of any party or representative who, after due notice, fails to be present or make a submission,~~ or may alternatively determine the matter based on the written submissions alone if they consider it appropriate to do so.

(e) Hearings are not open to the media or the public. However, the Arbitrator(s) or IAP Member(s) may, on request from any of the parties, permit one or more third parties to attend the hearing if the Arbitrator(s) or IAP Member(s) consider that it is just and reasonable to do so.

Rule 7080. Number of Arbitrators or IAP Members Hearing a Case; Appointment and Authority of Chairperson

(a) Arbitral Body.

(1) ~~The Arbitral Body will ordinarily assign a sole Arbitrator to hear a case concerning an EAD Violation. However, the Arbitral Body may assign 3 Arbitrators to hear a case involving an EAD Violation upon request by the Agency or Covered Person(s) concerned, if the Arbitral Body considers it necessary to do so based on the nature or complexity of the case.~~

(2) If 3 Arbitrators are appointed to a proceeding, the Arbitral Body shall designate a Chairperson of the arbitration panel. The Chairperson or a member of the arbitration panel appointed by the Chairperson may, acting alone, determine administrative, procedural, and disclosure-related matters, including those relating to the conduct of hearings and the production of documents and testimony from third parties who have been subpoenaed in advance of the hearing.

(b) Internal Adjudication Panel.

(1) ~~A single Internal Adjudication Panel member will ordinarily be assigned to adjudicate a case involving an ECM or Other Violation. In exceptional circumstances only, 3 members may be assigned by the Agency to adjudicate a case upon its own initiative or at the request of the Covered Person(s) concerned. The Agency will make the determination based on the nature or complexity of the case.~~

(2) If 3 IAP Members are appointed to a proceeding, the Agency shall designate a Chairperson who may, acting alone, determine administrative, procedural, and disclosure-related matters for the proceeding.

Rule 7090. Preliminary and Administrative Matters

(a) Arbitral Body.

(1) At the request of any party or at the direction of the Arbitrator(s), a preliminary conference shall be conducted with the parties or their legal counsel or representatives. The preliminary conference may address any or all of the following subjects:

~~(c) Only the following persons may attend hearings as the Owner of the Covered Horse, unless otherwise agreed by the hearing panel:~~

~~(1) if the Covered Horse is owned by one individual, that individual~~exchange of information;

~~(2) if the Covered Horse is owned by more than one individual or by a partnership, corporation, limited liability company, syndicate, or other association or entity, either or both the Designated Owner or Managing Owner.~~

(ii) any request for the Arbitrator(s) to order the production of documents;

(iii) the EAD Violation charged and any agreement to clarify or narrow the issues or structure the hearing;

(iv) the scheduling of the hearing and any pre-hearing exchanges of information, exhibits, or briefs and/or written submissions;

(v) the attendance of witnesses;

(vi) the pre-marking of exhibits, the preparation of joint exhibit lists, and the resolution of the admissibility of exhibits;

(vii) the form of the final decision; and

(viii) such other matters as may be suggested by the parties or the Arbitrator(s).

(2) The preliminary conference may be conducted by telephone or video conference and may be resumed from time to time, as warranted.

(b) Internal Adjudication Panel.

Upon request of a party or on the initiative of the IAP Member(s), the IAP Member(s) may hold a preliminary conference prior to the final hearing to determine any procedural, evidentiary, disclosure-related, or other issues that might be resolved beforehand. The IAP Member(s) may hold such preliminary conferences as may be necessary to narrow the issues in dispute at the hearing. If the IAP Member(s) decide(s) to hold a preliminary conference, the preliminary conference shall be conducted by telephone or video conference.

Rule ~~7070~~7100. New or Additional Charges

(a) If after charging a Covered Person with a violation, the Agency has cause to bring any new or different charge(s) against the Covered Person, the charge shall be made in writing and filed with the other party or parties and (as applicable) the Arbitral Body or Internal Adjudication Panel ~~or Arbitral Body~~. The ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) appointed to hear the case shall decide whether the charges should be consolidated and heard in the same proceedings or whether the new or additional charge(s) should be heard separately.

(b) If new or additional charges are consolidated with a pending arbitration, the pre-hearing submissions of the parties for the new or additional charges shall be governed by Rules 7200 and 7220, as applicable.

Rule ~~7080~~7110. Expedited Procedures

(a) Pursuant to Rule 3262 or Rule 3362, in cases where the Covered Horse or Covered Person in question is not Provisionally Suspended and is likely to participate in a Covered Horserace within 45 days, the Agency may, in its sole discretion, shorten any deadlines within the Arbitration Procedures proportionately to ensure resolution prior to a Covered Horserace.

~~(a) At~~(b) Without prejudice to Rule 7110(a) above, the Arbitrator(s) or IAP Member(s) may, at the request of any party, any time period set forth in shorten any deadlines within the Arbitration Procedures may be shortened by the arbitrator(s) or IAP member(s) proportionately if doing so is

reasonably necessary to resolve any Covered Person's or Covered Horse's eligibility before a Covered Horserace, while continuing to protect the right of a Covered Person to a fair process.

~~(b) Pursuant to Rule 3262 or Rule 3362, the Agency may, in its sole discretion, shorten any deadlines within the Arbitration Procedures proportionately to ensure resolution prior to a Covered Horserace.~~

~~(c) If the Agency does not agree to the process being expedited, the arbitrator(s) or IAP member(s), as applicable, shall determine whether the adjudication process shall be expedited and the schedule pursuant to which the process shall proceed.~~

Rule ~~7090~~7120. Jurisdiction

(a) ~~An arbitrator~~The Arbitrator(s) or IAP ~~member~~Member(s) shall have the authority to rule on ~~his or her~~their own jurisdiction, including any objections with respect to the existence, scope, or validity of the applicable rules.

(b) A party must object to the jurisdiction of the ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) or to the arbitrability of a charge by the Agency no later than (i) the filing of the ~~answering statement to the charge that gives rise to the objection. The arbitrator(s) or IAP member(s)~~Covered Person's initial written submission to the Arbitrator(s) or IAP Member(s), as applicable, or (ii) if written submissions are not required by the IAP Member(s), within 3 days of the decision to waive written submissions. The Arbitrator(s) or IAP Member(s) may rule on such objections as a preliminary matter or as part of the final decision, ~~in his or her sole discretion.~~

Rule ~~7100~~7130. Consolidation

Matters involving more than one Covered Person may, in the Agency's discretion, be consolidated into a single matter. If an EAD Violation is alleged by the Agency against any of the Covered Persons who are parties in the consolidated matter, the process for EAD Violations will be followed.

Rule ~~7110~~7140. Location and Means of Conducting Hearings

(a) The Arbitrator(s) or IAP Member(s) have full authority to determine that the hearing, or any parts thereof, be conducted in person or virtually by use of an audio-visual teleconferencing system or other communications technology with participants in one or more geographical places, or in a combined (hybrid) form. If some or all of the witnesses or other participants are located remotely, the Arbitrator(s) or IAP Member(s) may make such orders and set such procedures as the Arbitrator(s) or IAP Member(s) deem(s) necessary or advisable. In ordinary circumstances:

(a1) Hearings ~~regarding EAD Violations~~before the Arbitral Body (with the exception of Provisional Hearings) shall take place in person, unless the ~~arbitrator~~Arbitrator(s) order(s) the hearing (or parts thereof) to take place virtually by use of an audio-visual teleconferencing system.

(b2) ~~Hearings regarding ECM or Other Violations~~Any hearing before the Internal Adjudication Panel shall take place by use of an audio-visual teleconferencing system, unless (in exceptional circumstances) the IAP ~~member~~Member(s) order(s) the hearing to take place in person. Any Covered Person joined as a party to a matter before the Internal Adjudication Panel has the right to request a hearing. However, the Internal Adjudication Panel may decide in its sole discretion to determine the matter based solely on the written submissions without a hearing, if the Internal Adjudication Panel considers itself sufficiently well-informed to render a decision on the written submissions alone.

~~(c) In-person hearings shall be held in the United States at a location determined by the arbitrator(s) or IAP member(s).~~

(3) If the hearing takes place in person, the Arbitrator(s) or IAP Member(s) may permit one or more witnesses or other attendees to participate by use of an audio-visual teleconferencing system, in consideration of the time and cost associated with travel to a hearing.

(b) The Arbitrator(s) or IAP Member(s) shall determine the date, time, and location of the hearing. The Arbitrator(s) or IAP Member(s) may, for the convenience of the parties or otherwise, conduct the hearing at any location. The Arbitrator(s) or IAP Member(s) and the parties shall attempt to schedule consecutive hearing days if more than one hearing day is necessary.

Rule ~~7120~~7150. Qualifications

(a) Any qualifications required for a person to be appointed as an Arbitrator or IAP Member pursuant to Rule 7160 shall be determined jointly by the Authority and the Agency. Internal Adjudication Panel members should have experience in hearing matters in either horseracing or equestrian sports.

(b) Any ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) appointed pursuant to Rule ~~7130~~7160 shall be subject to disqualification for the reasons specified in Rule ~~7140~~7170.

Rule ~~7130~~7160. Appointment of Hearing Panels To Adjudicate Cases

(a) ~~Arbitral Body~~. The ~~arbitrator~~Arbitrator(s) shall be appointed in the following manner: immediately after the initiation of a proceeding by the Agency as set forth in Rule 7060, the Arbitral Body shall appoint a single ~~arbitrator~~Arbitrator or 3 ~~arbitrators~~Arbitrators from the pool of ~~arbitrator(s)~~Arbitrators on a rotating basis, after confirming ~~that the arbitrator(s) will not decline the appointment due to personal hardship. The arbitrator~~their availability and subject to any conflicts of interest. The ~~Arbitrator~~(s) adjudicating the Provisional Hearing shall not serve as an ~~arbitrator~~Arbitrator determining the merits of the charge against the Covered Person(s). The Arbitral Body ~~shall~~should ordinarily communicate to the parties the name of the ~~arbitrator~~Arbitrator(s) appointed to hear the matter within 3 days of initiation by the Agency.

(b) ~~Internal Adjudication Panel~~. The IAP ~~member~~Member(s) shall be appointed in the following manner: ~~Immediately~~immediately after the initiation of a proceeding by the Agency as set forth in Rule 7060, the Internal Adjudication Panel shall appoint a single IAP ~~member~~Member (or, in exceptional cases ~~three, 3~~ 3 IAP ~~members~~Members) from the pool of IAP ~~members~~Members on a rotating basis, after confirming ~~that the IAP member(s) will not decline the appointment due to personal hardship~~their availability and subject to any conflicts of interest. The IAP ~~member~~Member(s) adjudicating the Provisional Hearing shall not serve as the IAP ~~member~~Member(s) determining the merits of the charge against the Covered Person. The Internal Adjudication Panel ~~shall~~should ordinarily communicate to the parties the name of the IAP ~~member~~Member(s) appointed to hear the matter within 3 days of initiation by the Agency.

(c) Once appointed, the ~~arbitrator~~Arbitrator(s) and IAP ~~member~~Member(s) shall receive an electronic copy of the charge letter, Arbitration Procedures, ~~Rule 3000 Series and related rule series, and the Billing Standards~~the Protocol, and other relevant rules.

Rule ~~7140. Disclosure and~~7170. Arbitrator and IAP Member Disclosures, Challenge Procedure, and Replacement

(a) Each ~~arbitrator~~Arbitrator and IAP ~~member~~Member appointed to hear a particular case shall, within 5 calendar days of the date of his or her appointment (with the exception of the appointment to Provisional Hearings, where it shall occur within 2 calendar days), disclose in writing to the parties any circumstance likely to affect his or her impartiality, including any bias or any financial or personal interest in the result of the case, or any relevant past or present relationship with the parties or their representatives. If there is no such circumstance, the Arbitrator or IAP Member shall affirmatively declare that in writing to the parties by the same deadline. Each Arbitrator and IAP Member shall be under a continuing duty to make relevant disclosures throughout the proceedings on becoming aware of any relevant circumstance likely to affect his or her impartiality or independence.

(b) The parties and their representatives shall notify the Arbitral Body or IAP of any challenge to the appointment of any Arbitrator(s) or IAP Member(s) within 5 calendar days of the Arbitrator's or IAP Member's disclosure under Rule 7170(a) above (with the exception of the appointment to Provisional Hearings, where it shall occur within 2 calendar days). Any such challenge must explain the circumstances the relevant party considers likely to give rise to reasonable doubt as to the Arbitrator's or IAP Member's impartiality or independence, including any bias or any financial or personal interest in the result of the arbitration or any relevant past or present relationship with the parties or their representatives.

(c) If any party subsequently becomes aware of any undisclosed information that could be the basis of a challenge for cause to the continued service of the Arbitrator or IAP Member, such challenge must be made promptly, in writing, to the Arbitrator(s) or IAP Member(s) appointed to adjudicate the case,

or the Arbitral Body or Internal Adjudication Panel. Failure to do so shall constitute a waiver of any objection to continued service by the Arbitrator or IAP Member.

(~~b~~) Upon objection of a party to the continued service of an ~~arbitrator~~Arbitrator or IAP ~~member~~Member, the Arbitral Body or Internal Adjudication Panel (as applicable) shall determine whether the ~~arbitrator~~Arbitrator or IAP ~~member~~Member is evidently partial, and (if so) the ~~arbitrator~~Arbitrator or IAP ~~member~~Member shall be disqualified. The Arbitral Body or Internal Adjudication Panel shall inform the parties of its decision, which shall be final and not subject to review or any other challenge.

(e) Subject to Rule 7170(f) below, if, for any reason, the Arbitrator or IAP Member is unable to fulfil his or her duties, a new Arbitrator or IAP Member shall be chosen in accordance with these Arbitration Procedures. The Arbitral Body or Internal Adjudication Panel will make the final determination as to whether an Arbitrator or IAP Member is unable to fulfil his or her duties, and that decision shall be final.

(f) If one member of a panel of 3 Arbitrators or IAP Members becomes unable to fulfil his or her duties after the beginning of a hearing but before the issuance of a final decision, the parties may elect (by mutual agreement) to proceed with the remaining 2 Arbitrators or IAP Members.

(g) Entities or individuals whose interests are not adverse with respect to the issues in dispute shall be treated as a single party for purposes of the Arbitrator or IAP Member selection process. The Arbitral Body or Internal Adjudication Panel shall determine whether the interests between entities or individuals are adverse for purposes of Arbitrator or IAP Member selection, considering such factors as whether they are represented by the same attorney and whether they are presenting joint or separate positions in the proceedings.

Rule ~~7150~~7180. Communication

(~~a~~) Once appointed, no party and no Person acting on behalf of any party ~~shall~~may communicate unilaterally (ex parte) concerning the case with any ~~arbitrator~~Arbitrator or IAP ~~member~~Member appointed to hear the case. All communications with the Arbitral Body or Internal Adjudication Panel or any ~~arbitrator~~Arbitrator or IAP ~~member~~Member concerning the case shall include the other party or parties.

(b) The Agency may have unilateral (ex parte) communication with the Arbitral Body or Internal Adjudication Panel as necessary to secure the services of the Arbitrator(s) or IAP Member(s) and to assure the absence of conflicts, as well as in connection with the selection of the Chairperson of the panel if applicable.

Rule ~~7160~~7190. Vacancies

If for any reason following assignment ~~to the of a~~ case, an ~~arbitrator~~Arbitrator or IAP ~~member~~Member becomes unable to perform his or her duties in ~~a particular that~~ case, the Arbitral Body or Internal Adjudication Panel (as applicable) may fill the vacancy on a rotating basis as described in these rules.

Rule ~~7170. Procedures for EAD Violations~~7200. Filing and Service of Documents

(a) All documents must be filed and served electronically with the Arbitral Body and Internal Adjudication Panel, using the electronic filing system designated by those bodies (which may include email). Any document so filed shall be considered as filed when the transmission to the electronic filing system is complete. Any document e-filed before midnight (U.S. Eastern time) shall be deemed filed on that date.

(b) Every document filed electronically with the Arbitral Body or Internal Adjudication Panel shall be deemed to have been signed by the Arbitrator(s), IAP Member(s), case manager, attorney, or declarant who submits the document, and shall bear the typed name, email address, and telephone number of the person submitting the document.

(c) The parties shall maintain and regularly monitor a valid, usable, and live email address for the receipt of documents and notifications. Any papers, notices, or process necessary or proper for the initiation or continuation of a proceeding under these rules, and any final decision made under these

rules may be served by email addressed to the party or its representative at the last known email address.

(d) Delivery of e-service documents through the relevant electronic filing system shall be considered as valid and effective service and shall have the same legal effect as an original paper document. E-service shall be deemed complete when the party initiating e-service or the Arbitral Body or Internal Adjudication Panel completes the transmission of the electronic document(s) to the relevant electronic filing system.

(f) If an electronic filing or service does not occur due to technical error in the transmission of the document, the Arbitrator or the Arbitral Body, or IAP Member or Internal Adjudication Panel, may, for good cause shown, permit the document to be deemed to have been filed or served on the date it was first attempted to be transmitted electronically. In such cases a party shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right, duty, or other act must be performed.

(g) Unless otherwise instructed by the Arbitral Body or Internal Adjudication Panel, any documents submitted by any party to the Arbitral Body or Internal Adjudication Panel shall simultaneously be provided to the other party or parties to the proceeding.

Rule 7210. Computation of Time

Rule 1010(j) shall be followed in computing any period of time prescribed under these Arbitration Procedures or otherwise set by the Arbitrator(s) or IAP Member(s).

Rule 7220. Pre-Hearing Submissions

(a) Arbitral Body.

(1) For matters involving an alleged EAD Violation where the Covered Person accepts that he or she has committed the EAD Violation charged, but disputes the Consequences:

~~(a) For matters involving an alleged EAD Violation arising from an Adverse Analytical Finding, each~~Each Covered Person's pre-hearing submission must be filed with the Arbitral Body ~~on or before 14 days after submitting a request for a hearing (or after the deadline to make such request expires), and the~~ within 14 days of the appointment of the Arbitrator(s) to the proceeding.

~~(ii) The~~ Agency's pre-hearing submission must be filed with the Arbitral Body ~~on or before~~ within 14 days ~~after~~of the last Covered Person's pre-hearing submission.

~~(iii) There shall be no reply pre-hearing submission unless ordered otherwise by the arbitrator~~Arbitrator(s), but each party may present rebuttal evidence at the hearing.

(2) For any other proceedings before the Arbitral Body:

~~(b) For matters involving an alleged EAD Violation involving a non-analytical violation or a violation of Rule 3229, the~~The Agency's initial pre-hearing submission must be filed with the Arbitral Body ~~on or before 14 days after the last Covered Person requests a hearing (or after the deadline to make such request expires)~~ within 14 days of the appointment of the Arbitrator(s) to the proceeding.

~~(ii)-~~ Each Covered Person's pre-hearing submission must be filed with the Arbitral Body ~~on or before~~ within 14 days ~~after~~of the Agency's initial pre-hearing submission, ~~and the~~.

~~(iii)The~~ Agency's reply pre-hearing submission must be filed with the Arbitral Body ~~seven~~ within 7 days ~~after~~of the last Covered Person's pre-hearing submission.

~~(c) A Covered Person's pre-hearing submission shall include a brief not to exceed 30 double-spaced single-sided pages and shall include all exhibits, schedules, witness statements, expert reports, and all other evidence (except summaries and demonstrative aides) that the Covered Person intends to rely upon at the hearing. The Covered Person's pre-hearing submission shall include a designation of witnesses providing the identity of witnesses, or name of the organization (in the case of an organization representative) expected to be called to testify at the hearing, along with signed~~

~~statements for each of those witnesses. For expert witnesses, the pre-hearing submission shall include a C.V. and expert report, identifying all opinions to which they will testify and the facts and scientific methods upon which those opinions are based, as well as to identify all scientific treatises, studies, or articles on which the expert relies in rendering their opinion(s), for each expert included in the witness designations.~~

~~(d) The Agency's~~ 3) Unless directed otherwise by the Arbitrator(s) in exceptional circumstances, each party's initial pre-hearing submission shall include a brief (in the case of Covered Persons, not to exceed 30 single-sided double-spaced pages, and in the case of the Agency, not to exceed 30 single-sided double-spaced pages for each Covered Person charged in the case) and shall include all exhibits, schedules, witness statements, expert reports, and all other evidence (except ~~impeachment evidence, summaries, and demonstrative aides,~~ and any impeachment evidence) that the ~~Agency party~~ intends to rely upon at the hearing. ~~The Agency's~~ Each party's initial pre-hearing submission shall include a designation of witnesses providing the identity of witnesses, or name of the organization (in the case of an organization representative) expected to be called by that party to testify at the hearing, along with signed statements for each of those witnesses. For expert witnesses, the initial pre-hearing submission shall include a C.V. and expert report, identifying all opinions to which the expert will testify, and the facts and scientific methods upon which those opinions are based. The submission shall identify all scientific treatises, studies, or articles on which the expert relies in rendering his or her opinion(s), for each expert included in the witness designations. ~~The Agency's~~

(4) Any reply pre-hearing submission filed by the Agency shall include all additional evidence upon which ~~the Agency~~ intends to rely for rebuttal (except impeachment evidence, summaries, and demonstrative aides) and a reply brief not to exceed 15 single-sided double-spaced pages for each Covered Person charged in the case.

~~(e)~~ 5) Each party is responsible for updating its disclosures as such information becomes available. If a party should have submitted evidence in the party's pre-hearing submission but did not submit such evidence, the ~~arbitrator~~ Arbitrator(s) shall not admit such evidence absent a showing of good cause.

~~(f) The hearing should take place no more than 60 days from the date the last Covered Person requested a hearing in a particular case.~~

~~(g) At the request of any party, or at the discretion of the arbitrator(s), the arbitrator(s) may schedule, as soon as practicable, a preliminary hearing with the parties or their representatives. The preliminary hearing shall be conducted by telephone or video conference. During the preliminary hearing, the parties and the arbitrator(s) shall discuss any preliminary matters to ensure compliance with the procedures herein.~~

~~(h)~~ 6) Upon a showing of exceptional circumstances, the arbitrator Arbitrator(s) may extend any of the deadlines set forth in this Rule 7170 7220, but only for the minimum time necessary to address the circumstance. If all parties agree to an alternative schedule in a particular case, the ~~arbitrator~~ Arbitrator(s) shall alter dates accordingly.

(b) Internal Adjudication Panel.

~~(i) If any of the dates described in Rule 7170 fall on a weekend or a Federal holiday, they shall be moved to the next business day.~~

Rule 7180. Procedures for ECM and Other Violations

(a) 1) Subject to paragraph Rule 7220(b)(2) below, the IAP member Member(s) may determine to hold a hearing and require written submissions to be filed prior to the hearing, or to require written submissions and determine the matter based solely on the written submissions without a hearing. The IAP ~~member~~ Member(s) shall have wide discretion to determine the conduct of the proceedings in order to ensure that they are commensurate to the violations at issue. The IAP ~~member~~ Member(s) may issue directions to the parties as necessary. The IAP ~~member~~ Member(s) shall also have discretion to amend any time limits as they see fit in the circumstances, but any extension of deadlines shall be granted only for the minimum time necessary to address the circumstance, as all matters before the IAP ~~member~~ Member(s) shall proceed expeditiously.

(b2) A person charged with a violation may request that the IAP ~~member~~Member waive the requirement that written submissions be filed by the parties, and permit the person charged to make an oral presentation at a hearing. The IAP ~~member~~Member may grant the request in the ~~interest~~interests of justice, if the conduct of the hearing will not prejudice any of the other parties. The IAP ~~member~~Member(s) shall provide the Agency the opportunity to respond to the oral presentation and shall have wide discretion to determine the conduct and scope of the hearing. The person charged may request that he or she be assisted by legal counsel or other representative at the hearing.

(c3) If the IAP ~~member~~Member(s) order the parties to produce written submissions, ~~and the in any matter involves an alleged~~involving an ECM or Other Violation ~~arising from an Adverse Analytical Finding, each~~where the Covered Person accepts that he or she has committed the ECM or Other Violation charged, but disputes the Consequences:

(i) ~~Each~~ Covered Person's submission must be filed with the Internal Adjudication Panel ~~on or before 7 days after submitting a request for a hearing before the Internal Adjudication Panel (or after the deadline to make such request expires), and the~~ within 7 days of the appointment of the IAP Member(s) to the proceeding.

(ii) ~~The~~ Agency's submission must be filed with the ~~Arbitral Body on or before~~Internal Adjudication Panel within 7 days ~~after of~~ the last Covered Person's submission.

(iii) There shall be no reply submissions unless ordered otherwise by the IAP ~~member~~Member(s).

(4) If the IAP Member(s) order the parties to produce written submissions in relation to any other proceedings before the Internal Adjudication Panel:

~~(d) If the IAP member(s) order the parties to produce written submissions, and the matter involves a non-analytical ECM Violation or Other Violation, the~~ The Agency's initial submission must be filed with the Internal Adjudication Panel ~~on or before 7 days after the last Covered Person requests a hearing before the Internal Adjudication Panel (or after the deadline to make such request expires~~ within 7 days of the appointment of the IAP Member(s) to the proceeding.

~~(ii)-~~ Each Covered Person's submission must be filed with the ~~Arbitral Body on or before~~Internal Adjudication Panel within 7 days ~~after of~~ the Agency's initial submission.

(iii) There shall be no reply submissions unless ordered otherwise by the IAP ~~member~~Member(s).

(e5) If the IAP ~~member~~Member(s) order the parties to produce written submissions, the submissions of each party shall ~~ordinarily~~not exceed 15 single-sided double-spaced pages (unless directed otherwise by the IAP Member(s) in exceptional circumstances) and shall include all supporting documentation on which the party relies. If any party intends to call a witness or expert to testify at the hearing, a signed witness statement and expert report (as applicable) shall be filed with the written submission.

~~(f) If any of the dates described in Rule 7180 fall on a weekend or a Federal holiday, the date shall be moved to the next business day.~~

Rule ~~7190~~7230. Exchange of ~~Information~~Documents and Evidence

(a) The parties may offer such evidence as is relevant and material to the dispute and shall produce such evidence as the Arbitrator(s) or IAP Member(s) may deem necessary to make a determination in a case. The Arbitrator(s) or IAP Member(s) may modify these obligations at the preliminary hearing.

(b) The parties shall not offer as evidence, and the Arbitrator(s) or IAP Member(s) shall neither admit into the record nor consider, prior settlement offers by the parties, except as to costs.

(c) Prior to or during the hearing, a party may request the Arbitrator(s) or IAP Members to order production of any document which the party believes to be relevant and material to the dispute. The Arbitrator(s) or IAP Member(s) may in their discretion grant or reject such a request as they deem appropriate for a fair hearing. However, requests for discovery and wide-ranging or otherwise

disproportionate document requests shall not be permitted. In considering any request for production of documents, the Arbitrator(s) or IAP Member(s) shall apply relevant principles of legal privilege.

(d) Information shall be exchanged electronically, unless otherwise agreed by the parties. The ~~arbitrator~~ Arbitrator(s) and IAP ~~member~~ Member(s) are authorized to resolve any disputes concerning the exchange of information between the parties consistent with the expedited nature of the proceedings.

(e) Arbitral Body.

(1) The Arbitrator(s) may issue subpoenas and subpoenas duces tecum pursuant to Rule 8400 for witnesses, documents, information, or other evidence upon the request of any party, keeping in mind the expedited nature of the proceedings and the procedures set forth in Rules 7200 and 7220. The Arbitrator(s) shall not issue a subpoena for a deposition, because depositions (along with formal written discovery in civil litigation) are not in keeping with the expedited nature of the arbitration procedures.

(2) In the event a party or a subpoenaed person objects to the production of a witness, the party or subpoenaed person may file an objection with the Arbitrator(s), who shall promptly rule on the objection, weighing both the burden on the producing party and witness and the need of the proponent for the witness or other evidence.

(f) Internal Adjudication Panel.

Regardless as to whether the IAP Member(s) order(s) written submissions from the parties under Rule 7220, the IAP Member should require the parties to prospectively exchange all documents and evidence they intend to rely upon in the hearing. At least 7 days before the hearing, the Internal Adjudication Panel should require the parties to file with the Internal Adjudication Panel and serve on all other parties the following: (1) a list of all witnesses they intend to call at the hearing, including any expert witnesses, if applicable; (2) a brief summary of the anticipated testimony of each witness; (3) any written expert reports that may be introduced at the hearing; and (4) a copy of all exhibits intended to be used at the hearing.

Rule 7240. Interim Rulings and Orders

The Arbitrator(s) or IAP Member(s) may make interim or partial rulings and orders and may order whatever interim measures they deem necessary to provide any party an immediate protection of rights.

Rule ~~7200. Participation~~ 7250. Provisional Hearings

~~The Arbitral Body and Internal Adjudication Panel (and their respective members) shall maintain the confidentiality of the proceedings. The arbitrator(s) or IAP member(s) may proceed without the participation of any party or representative who, after due notice, fails to be present or make a submission. If a party defaults, the arbitrator(s) or IAP member(s) may require the party who is present to submit such evidence and documents as the arbitrator(s) or IAP member(s) may require for the making of a final decision. Hearings are not open to the media or the public. However, the arbitrator(s) or IAP member(s) may permit one or more third parties to attend the hearing.~~

(a) Hearings to resolve challenges to Provisional Suspensions shall be held in accordance with Rule 3247 or Rule 3347, as applicable.

(b) If a Provisional Suspension has been imposed upon a Covered Person under the Protocol, that Covered Person has the right to a Provisional Hearing solely on the issue of whether the Provisional Suspension was properly imposed.

(c) An Arbitrator or IAP Member shall be appointed by the Arbitral Body or Internal Adjudication Panel (as applicable) to adjudicate the Provisional Hearing. The hearing shall occur as promptly as possible, but in no event more than 14 calendar days after the request of the Covered Person for a Provisional Hearing, unless the Covered Person consents to a delay. The Provisional Hearing shall be conducted by telephone or video conference. No written submissions by the parties shall be permitted, unless directed otherwise by the Arbitrator or IAP Member in exceptional circumstances. Hearsay evidence shall be admissible in a Provisional Hearing.

(d) The Arbitrator or IAP Member appointed for the Provisional Hearing shall issue an operative decision within 48 hours, with a reasoned decision to follow if deemed necessary by the Arbitrator or IAP Member (not subject to Rule 7320).

(e) The Arbitrator or IAP Member who conducts the Provisional Hearing shall not adjudicate the merits of the case.

Rule ~~7210~~7260. Representation

(a) Any party may be represented by legal counsel or other representative. ~~The legal counsel or other representative shall provide a letter of representation notifying the other party and~~ of their choice. Each party shall give prompt written notice to the Arbitral Body ~~secretariat or case manager,~~ or Internal Adjudication Panel ~~legal staff member~~ (as applicable) ~~of his or her name, phone number, email, and mailing address, and the other parties of the name, address, telephone number, and email address of~~ its representative. The legal counsel of a party shall file a notice of appearance. The representative of a party may act on the party's behalf in complying with these Arbitration Procedures. A party shall be bound by the statements made and positions taken by its legal counsel or other representative.

Rule ~~7220~~. Oaths

~~All testimony at hearings shall be taken under oath or affirmation.~~

Rule ~~7230~~. Stenographic Record

(b) A party shall give prompt written notice to the Arbitral Body ~~secretariat or case manager,~~ or Internal Adjudication Panel ~~legal staff member~~ (as applicable) and the other parties of any change in its representation, including the name, address, telephone number, and email address of the new representative. Such notice shall state that the written consent of the former representative, if any, and of the new representative, has been obtained and shall state the effective date of the new representation.

(c) The Arbitrator(s) or IAP Member(s) may withhold approval of any intended change or addition to a party's legal representative(s) where such change or addition could compromise the ability of the Arbitrator(s) or IAP Member(s) to continue to serve, the composition of the panel in the case of a tripartite panel, or the finality of any final decision (on the grounds of possible conflict or other like impediment). In deciding whether to grant or withhold such approval, the Arbitrator(s) or IAP Member(s) shall have regard to the circumstances, including the general principle that a party may be represented by a legal representative chosen by that party, the stage that the proceedings have reached, the potential prejudice resulting from the possible disqualification of one or more Arbitrator(s) or IAP Member(s), the efficiency resulting from maintaining the composition of the panel (as constituted throughout the proceedings), the views of the other party or parties, and any likely wasted costs or loss of time resulting from such change or addition.

Rule 7270. Hearing recording and transcript

(a) A hearing may be recorded by the ~~Arbitral Body or the Internal Adjudication Panel~~. The parties shall not be entitled to a copy of the recording, unless directed otherwise by the Arbitrator(s) or IAP Member(s).

~~Any~~(b) A party desiring a stenographic record of all or a portion of the hearing shall notify the other parties of the request at least 7 days in advance of the start ofmay request a transcript of the hearing recording, in which case the Agency shall identify a third party to provide transcription services or (if necessary) a court stenographer. The party requesting the hearing transcript shall bear the cost of such transcript, unless ordered otherwise by the arbitratorthe Arbitrator(s) or IAP memberMember(s).~~The Agency shall identify the court reporter to be used for transcription services, and an electronic copy of the direct that the costs of such transcript be shared by the parties. The hearing transcript shall be provided~~must be made available to the arbitratorArbitrator(s) or IAP memberMember(s) (as applicable) and to theall parties. Parties are responsible for the costs of any transcript they request.

Rule ~~7240~~7280. Interpreters

All proceedings shall take place in English. Any party wishing to have an interpreter present during proceedings shall make all arrangements directly with the interpreter. ~~Interpreters~~Unless the parties agree otherwise, interpreters shall have no prior relationship with a party or have any interest in the proceeding, ~~and the arbitrator(s) or IAP member(s) (as applicable) must approve the interpreter in advance.~~ The costs of the interpreter shall be split between the parties. Any document that is not in English shall be officially translated by a certified translator paid for by the party offering or relying upon the document.

Rule ~~7250~~7290. Conduct of Hearings

(a) Timing.

(1) Arbitral Body. The hearing should take place no more than 60 days from the date the last Covered Person requested a hearing in a particular case. The Arbitrator(s) may schedule the hearing beyond 60 days upon a showing of exceptional circumstances, but only for the minimum time necessary to address the circumstance. If all parties agree to an alternative schedule in a particular case, the Arbitrator(s) shall alter the dates accordingly.

(2) Internal Adjudication Panel. The hearing should take place no more than 30 days from the date the last Covered Person requested a hearing in a particular case. The IAP Member(s) may schedule the hearing beyond 30 days, upon a showing of exceptional circumstances, but only for the minimum time necessary to address the circumstance. If all parties agree to an alternative schedule in a particular case, the IAP Member shall alter the dates accordingly.

(b) Procedure.

(a)1 The Agency shall present evidence to support its charge. The Covered Person(s) charged shall then present evidence to support the Covered Person(s) defense. The Agency is then entitled to present rebuttal evidence. Witnesses for each party shall also submit to questions from the ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) and the adverse party. The ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) may vary this procedure, provided that the parties are treated equally and that each party has the right to be heard and is given a fair opportunity to present its case.

(2) The Arbitrator(s) or IAP Member(s) may direct the order of proof, bifurcate proceedings, and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the case.

(3) The parties may agree to waive oral hearings and submit the dispute to the Arbitrator or IAP Member for a final decision based on written submissions and other evidence as the parties may agree.

(4) Subject to paragraph (5) below, the Arbitrator(s) or IAP Member(s) shall declare the hearing closed after the conclusion of closing arguments, having determined that all relevant and material evidence and arguments have been presented, and any interim or partial decisions have been issued. Post-hearing briefs shall not be permitted, except as ordered by the Arbitrator(s) or IAP Members(s) in complex or otherwise exceptional cases. The time limit to issue the final decision shall commence upon the closing of the hearing.

(5) To avoid manifest injustice, the hearing may be reopened on the initiative of the Arbitrator(s) or IAP Member(s), or upon application of a party, at any time before the final decision is made. At the request of a party, the Arbitrator(s) or IAP Member(s) shall determine if the applicable standard has been met to reopen the hearing.

(c) Rules of Evidence

Strict conformity to the rules of evidence is not required, except that the Arbitrator(s) or IAP Member(s) shall apply applicable law relating to legal privilege. The Arbitrator(s) or IAP Member(s) shall determine the admissibility, relevance, and materiality of the evidence offered, including hearsay evidence, and may exclude evidence deemed cumulative or irrelevant. The Arbitrator(s) or IAP Member(s) shall consider evidence that they find relevant and material to the dispute, giving the evidence such weight as is appropriate. The Arbitrator(s) or IAP Member(s) may also be guided in that determination by principles contained in the Federal Rules of Evidence or any other applicable rules of

evidence. Evidentiary and other rules for proving violations of the Protocol are also set out in Rule 3120.

(d) Witnesses and experts.

(1) At the written request of a party, all other parties shall produce for the hearing all specified witnesses in their employ or under their control without need of subpoena.

(2) The parties may not call an Arbitrator or IAP Member, the Arbitral Body secretariat or case manager, or Internal Adjudication Panel legal staff member (as applicable), or any other employee or agent of the Arbitral Body or Internal Adjudication Panel, as a witness or as an expert in any pending or subsequent proceeding involving the parties and relating to the charge(s) in issue.

(3) The party who attempted to call the impermissible witness or expert shall defend and/or pay the cost (including any legal counsel fees) of defending the Arbitrator or IAP Member, the Arbitral Body secretariat or case manager, or Internal Adjudication Panel legal staff member (as applicable), or any other employee or agent of the Arbitral Body or Internal Adjudication Panel, from any subpoenas from outside parties arising from the proceedings.

(4) The Arbitrator(s) or IAP Member(s) may consider witness affidavits or other recorded testimony even if the other parties have not had the opportunity for cross-examination but will give that evidence only such weight as he or she deems appropriate.

~~(b5)~~ The ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) shall have the power to require the sequestration of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be within the discretion of the ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) to determine the propriety of the attendance of any other person other than a party and its representatives and the observers identified in Rule ~~7060~~7070.

~~(c) The arbitrator(s) or IAP member(s) may direct the order of proof, bifurcate proceedings, and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the case.~~

~~(d) The parties may agree to waive oral hearings.~~

Rule 7260. Evidence

~~(a) The parties may offer such evidence as is relevant and material to the dispute and shall produce such evidence as the arbitrator(s) or IAP member(s) may deem necessary to make a determination in a case.~~

~~(b) Prior to or during the hearing, a party may also request the arbitrator(s) or IAP member(s) to order production of any document which the party believes to be relevant and material to the dispute. The arbitrator(s) or IAP member(s) shall have discretion to grant or reject such a request as they see fit in the circumstances. However, requests for discovery and wide-ranging or otherwise disproportionate document requests shall not be permitted.~~

~~(c6)~~ The ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) may retain an expert or seek independent evidence only if (i) agreed to by all of the parties and (ii) the parties or the Agency agree(s) to pay for the cost of such expert or independent evidence. The parties shall have the right to examine any expert retained by the ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) and shall have the right to respond to any independent evidence obtained by the ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s).

(7) All testimony at hearings shall be taken under oath or affirmation.

~~(d) The arbitrator(s) or IAP member(s) shall determine the admissibility, relevance, and materiality of the evidence offered, including hearsay evidence, and may exclude evidence deemed cumulative or irrelevant. Conformity to legal rules of evidence shall not be necessary, but the Federal Rules of Evidence may be used for guidance. Evidentiary and other rules for proving violations of the Protocol are also set out in Rule 3120.~~

~~(e) The arbitrator(s) or IAP member(s) shall apply relevant principles of legal privilege, including those involving the confidentiality of communications between an attorney and client and the investigative privilege.~~

~~(f) The arbitrator(s) or IAP member(s) may issue subpoenas for witnesses, documents, information, or other evidence upon the request of any party, keeping in mind the expedited nature of the proceedings and the procedures set forth in Rules 7170 and 7180. The arbitrator(s) or IAP member(s) shall not issue a subpoena for a deposition, because depositions (along with formal written discovery in civil litigation) are not in keeping with the expedited nature of the Arbitration Procedures.~~

Rule ~~7270~~7300. Inspection

If the ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) consider it necessary to make an inspection in connection with a proceeding, the ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) shall so advise the parties. The ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) shall set the date and time ~~that~~(which ~~accordingly~~ accordingly. Any party who so desires may be present at such an inspection. If one or ~~all~~more parties are not present at the inspection, the ~~arbitrator~~Arbitrator(s) or IAP ~~member~~Member(s) shall make an oral or written report to the parties and afford them an opportunity to comment.

Rule 7280. Interim Rulings and Measures

~~The arbitrator(s) or IAP member(s) may make interim rulings and orders and may order whatever interim measures they deem necessary to provide any party an immediate protection of rights.~~

Rule 7290. Provisional Hearings

~~Hearings to resolve challenges to Provisional Suspensions shall be held in accordance with Rule 3247 or 3347, as applicable. Hearsay evidence shall be admissible in a Provisional Hearing.~~

Rule 7300. Closing of Hearing

~~Subject to Rule 7310, the arbitrator(s) or IAP member(s) shall declare the hearing closed after the conclusion of closing arguments. Post-hearing briefs shall not be permitted, except as ordered by the arbitrator(s) or IAP members(s) in complex or otherwise exceptional cases. The time limit to issue the final decision shall commence upon the closing of the hearing.~~

Rule 7310. Reopening of Hearing

~~To avoid manifest injustice, the hearing may be reopened on the initiative of the arbitrator(s) or IAP member(s), or upon application of a party, at any time before the final decision is made. At the request of a party, the arbitrator(s) or IAP member(s) will determine if the applicable standard has been met to reopen the hearing.~~

Rule ~~7320~~7310. Waiver of Rules

If a party becomes aware of a violation of or failure to comply with these Arbitration Procedures and fails promptly to object in writing, the objection will be deemed waived.

~~Any party who proceeds with the adjudication under these rules after knowledge that any provision or requirement of these rules has not been complied with and who fails to state an objection in writing shall be deemed to have waived the right to object.~~

Rule 7330. Serving of Notice

~~(a) Any papers, notices, or process necessary or proper for the initiation or continuation of a proceeding under these rules, and any final decision made under these rules may be served by mail or email addressed to the party or its representative at the last known address or by personal service in or outside the state where the arbitration is to be held.~~

~~(b) Unless otherwise instructed by the Arbitral Body or Internal Adjudication Panel, any documents submitted by any party to the Arbitral Body or Internal Adjudication Panel shall simultaneously be provided to the other party or parties to the proceeding.~~

Rule ~~7340~~7320. Final Decision

~~(a) A final decision shall be in writing and signed by the arbitrator~~Arbitrator(s) or IAP memberMember(s). If a panel of 3 Arbitrators or IAP Members has heard the dispute, the final decision of a majority of the panel shall constitute the final decision. Dissenting opinions shall not be set out in the final decision.

(b) Timing.

(1) The arbitratorArbitrator(s) shall issue the final decision on or before 14 days after the close of the hearing~~-, or, if a hearing has been waived, within 14 calendar days after the receipt by the~~ Arbitrator(s) of all materials specified by the parties (with the exception of Provisional Hearings), except as provided in Rule 7320(b)(3).

(2) The IAP memberMember(s) shall issue the final decision on or before 14 days after the last written submission contemplated in Rule ~~7180~~7220 or after the close of the hearing~~-,~~ as applicable (with the exception of Provisional Hearings).

(3) The ~~14-day~~Arbitrator(s) or IAP Member(s) may extend the applicable time limit ~~may be extended to~~ issue the final decision if additional time is needed due to the complexity of the case or exceptional circumstances.

(c) Content.

The final decision shall identify the Arbitrator(s) or IAP Member(s) who adjudicated the case, the parties, and their representatives. The final decision shall also set out all Charges brought against the Covered Person with reference to the specific Rule(s) in issue, recite the relevant facts established through the evidence presented, set out the relevant standard(s) of proof, and summarize the reasoning and decision of the Arbitrator(s) or IAP member(s), including the Consequences imposed. The final decision shall also set out the allocation of costs between the parties, if applicable (see Rule 7330). The final decision shall be signed by the Arbitrator(s) or IAP Member(s) who adjudicated the case.

(d) Publication.

Rule 7350. Scope of Final Decision

~~Arbitrators and IAP members may grant any remedy or relief authorized by the Act or the Rules issued pursuant to the Act.~~

Rule ~~7360~~. Case Resolution During Proceedings

~~If the parties settle the case during the course of the proceedings in accordance with Rule 3249 or 3349, the Arbitral Body or the Internal Adjudication Panel shall issue an order terminating the proceedings.~~

Rule 7370. Notification of Final Decision

~~(a) The final decision shall be served on all parties by first class mail, email, or personal service. Interested Parties shall also be notified of the final decision.~~

~~(b) The final decision~~Final decisions (or a summary thereof) shall be Publicly Disclosed in accordance with Rule 3620 and shall not be considered confidential, unless ~~provided otherwise in~~ the applicable disclosure rules provide otherwise.

(e) Notification.

After the final decision has been rendered, it shall be issued by electronically serving copies on the parties. Where the Agency considers it necessary or appropriate to do so, a copy of the decision may also be sent to any Interested Party.

Rule 7380. Modification of Final Decision

(f) Modification.

Within 7 days of the issuance after service of a final decision, any party, may serve upon notice to the other parties, may request and file with the Arbitral Body or Internal Adjudication Panel to a request that the Arbitrator(s) or IAP Member(s) correct any clerical, computational, typographical, or computational errors in other similar error in a final decision, or the Arbitrator(s) or IAP Member(s) may sua sponte propose to correct such errors in a final decision. A party opposing such correction shall have 5 days thereafter in which to file and serve any objection or response. The Arbitrator(s) or IAP Member(s) may make any necessary and appropriate corrections to the final decision within 7 days of receiving the opposing party's objection or response, or 7 days after his or her proposal to do so. The Arbitrator(s) or IAP Member(s) may extend the time within which to make corrections upon good cause. The corrected final decision shall be served upon the parties in the same manner as the final decision. The other parties shall ordinarily be given 5 days to respond to the request. The final decision shall be final and binding upon its issuance.

(g) Scope.

Arbitrator(s) and IAP Member(s) may grant any remedy or relief authorized by the Act or the Rules issued pursuant to the Act.

Rule 7330. Costs

(a) The Arbitral Body shall prescribe the advance costs to be paid for the proceedings, including any filing and other administrative fees and estimated costs for the services of the Arbitrator(s) adjudicating the proceedings. Any advanced costs required to be paid at the outset of the proceedings shall be paid by the Authority but may be allocated against any party in the final decision pursuant to this Rule 7330.

(b) Subject to Rule 7330(a), as part of the final decision issued in the proceedings, the Arbitrator(s) shall determine which party shall bear the costs of the proceedings (to include any advance costs paid by the Authority) or in which proportion the parties shall share them. As a general rule and without any specific request from the parties, the Arbitrator(s) may grant the prevailing party a contribution towards its legal fees and other expenses incurred in connection with the proceedings and, in particular, the costs of witnesses and interpreters. When granting such contribution, the Arbitrator(s) shall take into account the complexity and outcome of the proceedings, as well as the conduct and the financial resources of the parties.

(c) The Authority shall be solely responsible for the costs of all Internal Adjudication Panel cases.

Rule 7340. Expenses

The expenses of witnesses for any party shall be paid by the party producing such witnesses. Each party shall bear its own legal counsel fees and other expenses.

Rule 7350. Case Resolution During Proceedings

If the parties settle the case during the course of the proceedings in accordance with Rule 3249 or 3349, the parties shall provide notice of such settlement to the Arbitrator(s) or IAP Member(s) hearing the case (as applicable) who will then promptly close the matter by issuing an order terminating the proceedings.

Rule 7360. Withdrawal from Proceedings

(a) No party may terminate or withdraw from proceedings after commencement of the proceedings, except in accordance with Rules 3249 or 3349 or by written agreement of all parties to the Arbitration.

(b) A party that asserts a claim may unilaterally withdraw that claim without prejudice by serving written notice on the other parties and (as applicable) the Arbitrator(s) or IAP Members. However, the opposing parties may, within 7 calendar days of service of such notice, request that the Arbitrator(s) or IAP Members condition the withdrawal of a claim upon such terms as they may direct.

Rule ~~7390~~7370. Release of Documents for Judicial Proceedings

The Arbitral Body and Internal Adjudication Panel (as applicable) shall, upon the written request of a party, furnish to the party, at the ~~party's~~party's expense, certified copies of any papers in the Arbitral ~~Body's~~Body's or Internal Adjudication ~~Panel's~~Panel's possession that may be required in judicial proceedings relating to the proceeding. If the matter is subject to review by an administrative law judge in accordance with the Act, the Arbitral Body and Internal Adjudication Panel (as applicable) shall furnish copies of any documents requested by the administrative law judge to such judge in connection with that proceeding.

Rule ~~7400~~7380. Right of Review

~~The final decision~~Final decisions of the Arbitral Body or Internal Adjudication Panel ~~is~~are subject to review in accordance with section 3058 of the Act. Notwithstanding any provision set forth in these Arbitration Procedures, nothing herein shall alter the standards of review set forth in the Act.

Rule 7400. Enforcement of the Final Decision

Proceedings to enforce, confirm, modify, or vacate a final decision will be controlled by and conducted in conformity with the Act.

Rule 7410. Applications to Court and Exclusion of Liability

(a) ~~Arbitration~~The proceeding before the Arbitral(s) or IAP Member(s), as applicable, is intended to be the exclusive remedy in all cases arising under the ~~Rule 3000 Series~~Protocol, subject to ~~appeal~~review as described in the ~~Rule 3000 Series~~Protocol and the Act.

(b) No civil action commenced by a party relating to the subject matter of the proceeding under the Arbitration Procedures shall be deemed a waiver of any ~~party's~~party's right to adjudicate that ~~party's~~party's case under the Arbitration Procedures.

(c) Neither the Arbitral Body nor the Internal Adjudication Panel (nor any ~~arbitrator~~Arbitrator or IAP ~~member~~Member) in a proceeding under these rules is a necessary party in judicial proceedings relating to that proceeding.

(d) Parties to a proceeding under the Arbitration Procedures shall be deemed to have consented that a final decision may be entered in any Federal or State court having jurisdiction, unless the party seeks review pursuant to section 3058 of the Act.

(e) None of the Authority, Agency, Arbitral Body, Internal Adjudication Panel, ~~arbitrators, or IAP members~~Arbitrators, or IAP Members or their officers, directors, employees, or independent contractors shall be liable to any party for any act or omission in connection with any proceedings conducted under these Arbitration Procedures.

Rule 7420. ~~Costs~~Compensation of Arbitrators and IAP Members

~~(a) The Arbitral Body shall prescribe filing and other administrative fees and service charges to compensate it for the cost of providing administrative services. The fees in effect when the fee or charge is incurred shall be applicable. The Arbitral Body's filing fee and any other administrative fee or charge shall be split equally amongst the parties, and the Agency's portion shall be paid by the Authority.~~

~~(b) The Arbitral Body shall split the costs of the proceeding before an arbitrator (including arbitrator fees and expenses, but excluding attorney, witness, and party expert fees) equally amongst the parties with the Agency's portion being paid by the Authority. The Arbitral Body, in its discretion, may require advanced costs be paid by the parties to ensure payment is made.~~

~~(c) A party's failure to pay costs or advanced costs by the deadlines imposed by the Arbitral Body will, if not rectified immediately, result in a waiver of charges or defenses to charges (as applicable) and result in imposition and publication of sanctions requested by the Agency.~~

~~(d) The Authority shall be solely responsible for the administrative costs stemming from IAP member-resolved cases as described in the Arbitration Procedures.~~

Rule 7430. Expenses

~~The expenses of witnesses for any party shall be paid by the party producing such witnesses. Each party shall bear its own attorneys' fees and other expenses.~~

Rule 7440. Arbitrator's Compensation

(a) Arbitrators shall be compensated and reimbursed in a manner consistent with the Billing Standards.

~~(b) If there is disagreement concerning the terms of compensation, the disagreement shall be resolved as described in the Billing Standards. (c) Any arrangement for the compensation or reimbursement of an arbitrator shall be made through the Arbitral Body and not directly between the parties and the arbitrator.~~

~~(d) Arbitrator fees and IAP member fees shall be paid in accordance with Rule 7420.~~

(b) IAP Members shall be compensated at an hourly rate fixed by the Authority and shall be reimbursed for any reasonable expenses, provided that they are approved in advance by the Authority or the Agency.

Rule 7450. Application of Rules

~~The Rule 1000-9000 Series shall be considered part of the agreement to arbitrate and in all instances the arbitrators and IAP members are required to apply the provisions of that arbitration agreement and conform to its terms.~~

The Rule 1000-9000 Series shall apply to any proceedings brought under these Arbitration Procedures.

Rule 7440. Sanctions for Procedural Misconduct

The Arbitrator(s) or IAP Member(s) may order appropriate sanctions against a party for failure to comply with its obligations under the Arbitration Procedures or with an order of the Arbitrator(s) or IAP Member(s). These sanctions may include, but are not limited to: assessment of arbitration fees and arbitrator compensation and expenses; assessment of any other costs occasioned by the actionable conduct, including reasonable legal counsel fees; exclusion of certain evidence; drawing adverse inferences; or, in extreme cases, determining an issue or issues submitted to arbitration adversely to the party that has failed to comply.

Rule 7450. Confidentiality

(a) The Arbitral Body and Internal Adjudication Panel (and their respective members) shall maintain the confidentiality of the proceedings in accordance with Rule 3600, including the hearing, except as necessary in connection with a judicial challenge to or enforcement of a final decision, or unless otherwise required by law, or the Arbitration Procedures, or judicial decision. The Arbitrator(s) and IAP Member(s) should not discuss or communicate about a pending matter with any other third party and should make every effort to ensure that the documents and evidence at issue in the case are not accessible to any third party, whether via electronic or physical means. Arbitrators and IAP Members should use a secure email address and secure digital device or computer that only they can access so as to maintain the confidentiality of documents and information in their possession and under their control.

(b) The parties to the proceedings and their legal counsel and representatives shall maintain the confidentiality of the proceedings in accordance with Rule 3600.

(c) The Arbitrator(s) and IAP Member(s) may issue orders to protect the confidentiality of proprietary information, trade secrets, or other sensitive information.

Summary report:	
Litera Compare for Word 11.4.0.111 Document comparison done on 10/11/2023 19:06:44	
Style name: Bird & Bird Style	
Intelligent Table Comparison: Active	
Original filename: 7000. Arbitration Rules (FTC January 2023).DOCX	
Modified filename: 7000. Arbitration Rules - Nov 10, 2023.docx	
Changes:	
<u>Add</u>	517
Delete	383
Move From	86
<u>Move To</u>	86
<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	1072