

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61242; File No. SR-FINRA-2009-076)

December 28, 2009

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change Amending the FINRA Rule 9550 Series (Expedited Proceedings)

On November 5, 2009, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change amending the FINRA Rule 9550 Series (Expedited Proceedings). On November 17, 2009, FINRA filed Amendment No. 1. The proposed rule change would make the following changes:

- shorten the time within which a hearing must be held from the current 60 days after a hearing request to 30 days after the request in relation to FINRA rules Rule 9551 (Failure to Comply with Public Communication Standards), Rule 9552 (Failure to Provide Information or Keep Information Current), Rule 9553 (Failure to Pay FINRA Dues, Fees and Other Charges), Rule 9554 (Failure to Comply with an Arbitration Award or Related Settlement), and Rule 9555 (Failure to Meet the Eligibility or Qualification Standards or Prerequisites for Access to Services);
- amend Rule 9552 to shorten the period before a suspension automatically turns into an expulsion or bar from six months to three months
- amend Rule 9554, to explicitly allow FINRA to take expedited action against firms or associated persons who fail to pay restitution to a third party (usually investors who have been harmed)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

- harmonize the remedy for an individual's failure to pay an arbitration award in Rule 9554 with the remedy for the same misconduct in the FINRA By-Laws (limiting the remedy against individuals in such cases to suspension, and eliminating any reference to barring individuals).

The proposed rule change, as modified by Amendment No. 1, was published for comment in the Federal Register on November 25, 2009.³ The Commission received one comment on the proposal.⁴ This order approves the proposed rule change as modified by Amendment No. 1.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁵ In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁶ which requires, among other things, that FINRA's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposal also is consistent with Section 15A(b)(7) of the Act,⁷ which provides that FINRA members and associated persons must be appropriately disciplined for violations of provisions of the Act or FINRA rules. The Commission believes the proposed rule change is consistent with

³ See Securities Exchange Act Release No. 61026 (November 18, 2009) 74 FR 61727.

⁴ See December 15, 2009 letter to Elizabeth M. Murphy, Secretary, Commission, from Scott R. Shewan, President, Public Investors Arbitration Bar Association ("PIABA Letter") in support of the proposed rule change. PIABA states "FINRA has proposed equitable amendments and should be commended for the thoughtful treatment of the restitution issue in particular...the Commission should approve the amendments without delay." PIABA Letter at 2.

⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78o-3(b)(6).

⁷ 15 U.S.C. 78o-3(b)(7).

these purposes because it is designed to promote a reasonable, fair and efficient disciplinary process. FINRA's amendments make the timing of hearings more consistent with other hearings in the series of rules. FINRA stated that the changes to these rules are based on FINRA's experience over the last five years administering the rules.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁸, that the proposed rule change (SR-FINRA-2009-076), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon
Deputy Secretary

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).