

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59872; File No. SR-FINRA-2009-026)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Implement Non-Substantive Changes to the Code of Arbitration Procedure for Customer Disputes and the Code of Arbitration Procedure for Industry Disputes

May 6, 2009

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“SEC” or “Commission”) on April 17, 2009, the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) to correct typographical errors and implement other non-substantive

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

technical changes. The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is proposing several technical amendments to the Customer and Industry Codes that would correct typographical errors and implement other non-substantive changes. FINRA will discuss the proposed changes as they appear in the Codes, beginning with the proposed amendments to the Customer Code.

Proposed Technical Amendments to the Customer Code

Rule 12504 – Motions to Dismiss

On December 31, 2008, the Commission approved new Rules 12504 and 13504 and amendments to Rules 12206 and 13206, which establish procedures that govern motions to dismiss.⁴ FINRA is proposing to amend Rule 12504(b) to make a conforming change to the

⁴ See Securities Exchange Act Release No. 59189 (December 31, 2008), 74 FR 731 (January 7, 2009) (Order Approving File No. SR-FINRA-2007-021).

reference to “subparagraph (a)” in the rule. In other rules of the Code, FINRA refers to lettered provisions by “paragraph,” not “subparagraph.” Thus, for consistency in the Codes, FINRA is proposing to change the reference in Rule 12504(b) to “paragraph (a).”

Rule 12514 – Pre-hearing Exchange of Documents and Witness Lists Before Hearing

FINRA is proposing to conform the spelling of the term “pre-hearing” in the title of Rule 12514 to other instances in the Codes where it is spelled without the hyphen. Thus, the term “pre-hearing” would be changed to “prehearing.”

Rule 12904(g) – Explained Decisions

On February 4, 2009, the SEC approved a proposal to amend Rule 12904 of the Customer Code and Rule 13904 of the Industry Code to require arbitrators to provide an explained decision upon the joint request of the parties.⁵ FINRA is proposing to correct a typographical error in Rule 12904(g)(2). The relevant sentence of the rule states that “an explained decision is a fact-based award stating the general reasons(s) for the arbitrators’ decision.” The word “reasons(s)” should be changed to “reason(s).”

FINRA is also proposing to correct a typographical error in Rule 12904(g)(6). The paragraph states that “this paragraph (g) will not apply to simplified cases decided without a hearing under Rules 12800 or to default cases conducted under Rule 12801.” The phrase “Rules 12800” should be changed to “Rule 12800.” Further, FINRA is proposing to change the term “pre-hearing” in Rule 12904(g)(3) to “prehearing” to conform the spelling with other instances in the Codes.

⁵ See Securities Exchange Act Release No. 59358 (February 4, 2009); 74 FR 6928 (February 11, 2009) (Order Approving File No. SR-FINRA-2008-051).

Proposed Technical Amendments to the Industry Code⁶

Rule 13504 – Motions to Dismiss

For an explanation of the proposed amendment, see the relevant section under “Proposed Technical Amendments to the Customer Code” above.

Rule 13514 – Pre-hearing Exchange of Documents and Witness Lists Before Hearing

For an explanation of the proposed amendment, see the relevant section under “Proposed Technical Amendments to the Customer Code” above.

Rule 13904(g) – Explained Decisions

For an explanation of the proposed amendment, see the relevant section under “Proposed Technical Amendments to the Customer Code” above.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁷ which requires, among other things, that the Association’s rules must 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. FINRA believes that the proposed rule change will assist in the efficient administration of arbitrations by correcting typographical errors in its rules and ensuring

⁶ Most rules of the Customer and Industry Codes are identical, except for panel composition, references to document production lists that apply only in customer cases, and rules relating to employment discrimination and injunctive relief that apply only to industry claims. Wherever possible, the last three digits of the rule numbers in the Customer and Industry Codes are the same. Thus, the explanations in this filing for the proposed amendments in the Customer Code also apply to the proposed amendments in the Industry Code.

⁷ 15 U.S.C. 78o-3(b)(6).

consistent spelling of terms throughout the Codes. FINRA believes these technical, non-substantive amendments will enhance the Codes by making them easier to understand and apply.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received by FINRA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(6) thereunder.⁹ A proposed rule change filed under Rule 19b-4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ Id.

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Such waiver would permit FINRA to implement these changes without delay, making the Codes easier to understand and apply. The Commission believes it is consistent with the protection of investors and the public interest to waive the 30-day operative delay for this reason, and hereby grants such waiver.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2009-026 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2009-026. This file number should be included on the subject line if e-mail is used. To help the Commission

¹² For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you

wish to make available publicly. All submissions should refer to the File Number SR-FINRA-2009-026 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).