

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-73230; File No. SR-FINRA-2014-036)

September 26, 2014

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of Proposed Rule Change Relating to the Composition of Hearing Panels and Extended Hearing Panels in Disciplinary Proceedings

I. Introduction

On August 7, 2014, 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 to expand the pool of persons eligible to serve as Panelists on a Hearing Panel or an Extended Hearing Panel. The proposed rule change was published for comment in the Federal Register on August 21, 2014.³ The Commission received no comments on the proposed rule change. The Commission is approving the proposed rule change.

II. Description of the Proposal

FINRA proposes to amend Rule 9231 to establish a category of persons eligible to serve as Panelists on a Hearing Panel or an Extended Hearing Panel that includes persons currently serving, or having served previously, on a committee appointed or approved by the FINRA Board. FINRA also proposes to make a conforming amendment to Rule 9232, which establishes criteria for the appointment of eligible Panelists to Hearing Panels and Extended Hearing Panels. The proposed rule change would provide FINRA with a larger pool of individuals with experience and expertise that could serve as Panelists.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 72854 (August 15, 2014), 79 FR 49549.

III. Discussion and Commission Findings

After careful review, 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 and, in particular, the requirements of Section 15A of the Act.⁴

Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(8) of the Act,⁵ which requires, among other things, that FINRA's rules provide a fair procedure for the disciplining of members and persons associated with members. The Commission believes that the proposed rule change will allow FINRA to address complaints filed with the Office of Hearing Officers in a timely manner, and that the complaints will be heard by Panelists who should possess the requisite knowledge and experience to enable them to render a proper and informed judgment. The Commission believes the proposed rule change will allow the Chief Hearing Officer enough flexibility to appoint Extended Hearing Panels that are composed of qualified Panelists capable of responding to complex issues often associated with Extended Hearings, while simultaneously reducing the burdens and time constraints shouldered by all who serve as Panelists.

The Commission also 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 Commission believes that expanding the pool of eligible Panelists to include those persons

⁴ 15 U.S.C. 78o-3.

⁵ 15 U.S.C. 78o-3(b)(8).

⁶ 15 U.S.C. 78o-3(b)(6).

currently serving, or those having served previously, on a committee appointed or approved by the FINRA Board will allow qualified Panelists to promptly address allegations of misconduct by FINRA members and their associated persons. The Commission believes it is in the public interest, and consistent with the Act, that FINRA's mechanism for conducting disciplinary proceedings be designed to address allegations of misconduct properly and in a timely manner. The Commission believes that expanding the pool of applicants to include persons currently serving, or those having served previously, on a Committee appointed or approved by the FINRA Board should enhance FINRA's ability to conduct disciplinary proceedings in a fair and reasonable manner.

VI. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-FINRA-2014-036), be, and hereby is, approved.

Kevin M. O'Neill
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).