

Proposed Rule Change by Financial Industry Regulatory Authority
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed rule change to adopt Rule 12905 of the Customer Code and Rule 13905 of the Industry Code to permit submissions to arbitrators after a case has closed under limited circumstances.

Contact Information
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Margo"/>	Last Name	<input type="text" value="Hassan"/>
Title	<input type="text" value="Counsel"/>		
E-mail	<input type="text" value="margo.hassan@finra.org"/>		
Telephone	<input type="text" value="(212) 858-4481"/>	Fax	<input type="text" value="(301) 527-4761"/>

Signature
Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date	<input type="text" value="02/07/2008"/>		
By	<table border="1" style="width: 100%;"> <tr> <td style="width: 60%;"><input type="text" value="Jean I. Feeney"/> (Name)</td> <td style="width: 40%;"><input type="text" value="Vice President and Chief Counsel, Dispute Resolution"/> (Title)</td> </tr> </table>	<input type="text" value="Jean I. Feeney"/> (Name)	<input type="text" value="Vice President and Chief Counsel, Dispute Resolution"/> (Title)
<input type="text" value="Jean I. Feeney"/> (Name)	<input type="text" value="Vice President and Chief Counsel, Dispute Resolution"/> (Title)		

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ the Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to adopt Rule 12905 of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and Rule 13905 of the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) to permit submissions to arbitrators after a case has closed only under the following circumstances: (1) as ordered by a court; (2) at the request of any party within 30 days of service of an award or notice that a matter has been closed, for ministerial matters; or (3) if all parties agree and submit documents within 30 days of service of an award or notice that a matter has been closed .

Below is the text of the proposed rule change. All the text is new.

* * * * *

12905. Submissions After a Case Has Closed

(a) Parties may not submit documents to arbitrator(s) in cases that have been closed except under the following limited circumstances:

- as ordered by a court;
- at the request of any party within 30 days of service of an award or notice that a matter has been closed, for ministerial matters such as miscalculation of figures, mistake in the description of any person, thing

¹ 15 U.S.C. 78s(b)(1).

or property referred to in the award, or if the award is imperfect in a matter of form that does not affect the decision on the merits; or

- if all parties agree and submit documents within 30 days of (1) service of an award or (2) notice that a matter has been closed.

(b) Parties must make requests under this rule in writing to the Director and must include the basis relied on under this rule for the request. The Director will forward the documents, along with any responses from other parties, to the arbitrators. Unless the arbitrators rule within 20 days after the Director forwards the documents to the arbitrators, the request shall be deemed denied.

13905. Submissions After a Case Has Closed

(a) Parties may not submit documents to arbitrator(s) in cases that have been closed except under the following limited circumstances:

- as ordered by a court;
- at the request of any party within 30 days of service of an award or notice that a matter has been closed, for ministerial matters such as miscalculation of figures, mistake in the description of any person, thing or property referred to in the award, or if the award is imperfect in a matter of form that does not affect the decision on the merits; or
- if all parties agree and submit documents within 30 days of (1) service of an award or (2) notice that a matter has been closed.

(b) Parties must make requests under this rule in writing to the Director and must include the basis relied on under this rule for the request. The Director will forward the documents, along with any responses from other parties, to the arbitrators. Unless the

arbitrators rule within 20 days after the Director forwards the documents to the arbitrators, the request shall be deemed denied.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on December 4, 2007, the FINRA Board of Governors authorized the filing of the rule change with the SEC.

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Regulatory Notice announcing Commission approval.

Questions regarding this rule filing may be directed to Margo Hassan, Counsel, FINRA Dispute Resolution, at (212) 858-4481.

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

(a) Purpose

FINRA is proposing to amend its Customer Code and Industry Code to adopt new rules to permit submissions to arbitrators after a case has closed only under limited circumstances. The proposed rule change would reduce attorneys' fees and other costs associated with responding to such submissions and would support the finality of arbitration awards issued in the forum.

FINRA staff receives several requests each year from parties to submit documents to arbitrators (the panel) in cases that have been closed for long periods of time. Parties file these requests for a number of reasons, such as to obtain expungement relief that a party failed to request during the life of the case, to correct what a party perceives to be a mistake in the award, or to request that forum fee allocations be changed.

Currently, the Customer and Industry Codes do not contain deadlines for such submissions and, indeed, do not address the matter. Therefore, staff forwards to panels the requests, along with any responses from other parties, regardless of the time that has elapsed since the case was closed. The panels rarely determine to reopen a matter.

A case is deemed closed on the date FINRA serves an award or sends to the parties a letter notifying them that a case is closed (for example, by settlement). The absence of deadlines in the Customer and Industry Codes for submissions in closed cases can cause numerous problems. For example, parties might submit documents to the panel years after cases have closed. Also, arbitrators might have resigned from the roster or died by the time such submissions are made. Finally, parties might incur substantial attorneys' fees and other costs in responding to closed-case submissions.

Potential legal issues are also present. Some states empower arbitrators to correct technical or mathematical errors in their awards, but only for a short period of time following the award's issuance, and courts may remand a matter to the original arbitrators when they vacate awards in whole or in part.² Beyond these examples, however, the law generally provides that the arbitrators' authority ends when the arbitrators render their decisions.

² See New York Civil Practice Law and Rules, sections 7509 and 7511.

To address the problems associated with submissions in closed cases, FINRA is proposing to permit submissions to arbitrators after a case has closed only under the following limited circumstances:

- as ordered by a court;
- at the request of any party within 30 days of service of an award or notice that a matter has been closed, for ministerial matters such as miscalculation of figures, mistake in the description of any person, thing or property referred to in the award, or if the award is imperfect in a matter of form that does not affect the decision on the merits; or
- if all parties agree and submit documents within 30 days of (1) service of an award or (2) notice that a matter has been closed.

The 30-day limit is in line with time limits allowed under many state laws and would ensure that a majority of the arbitrators that served on the panel will be available to review the submissions. Under the second alternative, request by only one party, FINRA would follow its normal procedure of soliciting a response from the other parties before forwarding the request to the panel.

As noted in Item 2 of this filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Regulatory Notice announcing Commission approval.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,³ which requires, among other things, that FINRA 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. The proposed rule change would reduce the costs associated with responding to submissions in closed cases and support the finality of arbitration awards issued in the forum.

4. 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.

5. 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.

6. Extension of Time Period for Commission Action

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.⁴

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

³ 15 U.S.C. 78o-3(b)(6).

⁴ 15 U.S.C. 78s(b)(2).

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-005)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to Amendments to the Codes of Arbitration Procedure to Permit Submissions to Arbitrators After a Case Has Closed Under Limited Circumstances

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 on February 7, 2008, 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”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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 adopt Rule 12905 of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and Rule 13905 of the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) to permit submissions to arbitrators after a case has closed only under the following circumstances: (1) as ordered by a court; (2) at the request of any party within 30 days of service of an award or notice that a matter has been closed, for ministerial matters; or (3) if all parties agree and submit

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

documents within 30 days of service of an award or notice that a matter has been closed .
Below is the text of the proposed rule change. All the text is new.

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- if all parties agree and submit documents within 30 days of (1) service of an award or (2) notice that a matter has been closed.

(b) Parties must make requests under this rule in writing to the Director and must include the basis relied on under this rule for the request. The Director will forward the documents, along with any responses from other parties, to the arbitrators. Unless the arbitrators rule within 20 days after the Director forwards the documents to the arbitrators, the request shall be deemed denied.

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* * * * *

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 to amend its Customer Code and Industry Code to adopt new rules to permit submissions to arbitrators after a case has closed only under limited circumstances. The proposed rule change would reduce attorneys' fees and other costs associated with responding to such submissions and would support the finality of arbitration awards issued in the forum.

FINRA staff receives several requests each year from parties to submit documents to arbitrators (the panel) in cases that have been closed for long periods of time. Parties file these requests for a number of reasons, such as to obtain expungement relief that a party failed to request during the life of the case, to correct what a party perceives to be a mistake in the award, or to request that forum fee allocations be changed.

Currently, the Customer and Industry Codes do not contain deadlines for such submissions and, indeed, do not address the matter. Therefore, staff forwards to panels the requests, along with any responses from other parties, regardless of the time that has elapsed since the case was closed. The panels rarely determine to reopen a matter.

A case is deemed closed on the date FINRA serves an award or sends to the parties a letter notifying them that a case is closed (for example, by settlement). The absence of deadlines in the Customer and Industry Codes for submissions in closed cases can cause numerous problems. For example, parties might submit documents to the panel years after cases have closed. Also, arbitrators might have resigned from the roster

or died by the time such submissions are made. Finally, parties might incur substantial attorneys' fees and other costs in responding to closed-case submissions.

Potential legal issues are also present. Some states empower arbitrators to correct technical or mathematical errors in their awards, but only for a short period of time following the award's issuance, and courts may remand a matter to the original arbitrators when they vacate awards in whole or in part.³ Beyond these examples, however, the law generally provides that the arbitrators' authority ends when the arbitrators render their decisions.

To address the problems associated with submissions in closed cases, FINRA is proposing to permit submissions to arbitrators after a case has closed only under the following limited circumstances:

- as ordered by a court;
- at the request of any party within 30 days of service of an award or notice that a matter has been closed, for ministerial matters such as miscalculation of figures, mistake in the description of any person, thing or property referred to in the award, or if the award is imperfect in a matter of form that does not affect the decision on the merits; or
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The 30-day limit is in line with time limits allowed under many state laws and would ensure that a majority of the arbitrators that served on the panel will be available to review the submissions. Under the second alternative, request by only one party, FINRA

³ See New York Civil Practice Law and Rules, sections 7509 and 7511.

would follow its normal procedure of soliciting a response from the other parties before forwarding the request to the panel.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁴ which requires, among other things, that FINRA 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. The proposed rule change would reduce the costs associated with responding to submissions in closed cases and support the finality of arbitration awards issued in the forum.

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.

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.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

⁴ 15 U.S.C. 78o-3(b)(6).

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-2008-005 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2008-005. This file number should be included on the subject line if e-mail is used. To help the Commission 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. 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 submissions should refer to File Number SR-FINRA-2008-005 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Nancy M. Morris

Secretary

⁵ 17 CFR 200.30-3(a)(12).