

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 29

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2022 - * 026

Amendment No. (req. for Amendments *)

Filing by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial *

☒

Amendment *

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Withdrawal

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Section 19(b)(2) *

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Section 19(b)(3)(A) *

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Section 19(b)(3)(B) *

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Pilot

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Extension of Time Period for
Commission Action *

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Date Expires *

Rule

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19b-4(f)(1)

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19b-4(f)(4)

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19b-4(f)(2)

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19b-4(f)(5)

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19b-4(f)(3)

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19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *

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Section 806(e)(2) *

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Security-Based Swap Submission pursuant to the
Securities Exchange Act of 1934

Section 3C(b)(2) *

☐

Exhibit 2 Sent As Paper Document

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Exhibit 3 Sent As Paper Document

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Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed rule change to change references in the Codes of Arbitration Procedure from the Neutral List Selection System to the list selection algorithm.

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 action.

First Name *

Bria

Last Name *

Adams

Title *

Principal Counsel

E-mail *

Bria.adams@finra.org

Telephone *

(202) 728-8829

Fax

(202) 728-8868

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Financial Industry Regulatory Authority has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date

09/15/2022

(Title *)

By

Patrice Gliniecki

(Name *)

Senior Vice President and Deputy General Cou

Patrice
Gliniecki

Digitally signed by Patrice
Gliniecki
Date: 2022.09.15 10:34:32
-04'00'

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

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add Remove View

FINRA-2022-026 19b-4.docx

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 *

Add Remove View

FINRA-2022-026 Exhibit 1.docx

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 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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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

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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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

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.

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Exhibit Sent As Paper Document

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

FINRA-2022-026 Exhibit 5.docx

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 the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”),¹ the Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to change references in the Codes of Arbitration Procedure (“Codes”) from the Neutral List Selection System to the list selection algorithm.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Chief Legal Officer of FINRA authorized the filing of the proposed rule change with the SEC pursuant to delegated authority. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

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

(a) Purpose

¹ 15 U.S.C. 78s(b)(1).

From November 1998 until October 2006, the Neutral List Selection System (“NLSS”) was the computer system that generated lists of arbitrators from FINRA Dispute Resolution Services’ (“DRS”) rosters of arbitrators for the selected hearing location for each arbitration proceeding. In October 2006, DRS replaced the NLSS with the Mediation and Arbitration Tracking and Retrieval Interactive Case System (“MATRICS”).² As a result, all of the information contained in the NLSS was transferred to MATRICS such that MATRICS now contains the list selection algorithm DRS uses to generate lists of arbitrators from its rosters of arbitrators.³ However, the Codes refer to the NLSS as a computer system that governs arbitrator list selection in the DRS arbitration forum.⁴

² MATRICS is an internal, web-based computer system used to manage all arbitration and mediation cases in the DRS arbitration forum and to maintain DRS’s rosters of arbitrators and mediators.

³ See Securities Exchange Act Release No. 51339 (March 9, 2005), 70 FR 12763 (March 15, 2005) (Order Approving File No. SR-NASD-2004-164); see also Notice to Members 07-07 (February 2007) (announcing the effective date of April 16, 2007 for the amendments discussed in File No. SR-NASD-2004-164).

⁴ In February 2022, the Audit Committee of FINRA’s Board of Governors engaged Lowenstein Sandler LLP to provide an independent review and analysis in connection with a Fulton County (Georgia) Superior Court decision vacating an arbitration award in favor of Wells Fargo Clearing Services, LLC. See Order Granting Mot. to Vacate Arb. Award and Den. Cross Mot. to Confirm Arb. Award at 37, Leggett v. Wells Fargo Clearing Servs., LLC, No. 2019-CV-328949 (Ga. Super. Ct., January 25, 2022). In its report, Lowenstein Sandler made several recommendations to provide greater transparency and consistency in the arbitrator selection process, one of which was to make technical amendments to the Codes to clarify the automated system used by DRS for arbitrator selection. See <https://www.finra.org/sites/default/files/2022-06/report-independent-review-drs-arbitrator-selection-process.pdf>. Since publication of the report, the Fulton County (Georgia) Superior Court’s decision was reversed by the Court of Appeals of Georgia. See Wells Fargo Clearing Servs. v. Leggett, No. A22A1149, 2022 Ga. App. (Ct. App. August 2, 2022).

FINRA is proposing to update the Codes by making technical, non-substantive changes to remove references to the NLSS from those rules describing arbitrator list selection and instead refer to the “list selection algorithm.”⁵ The proposed rule change would provide greater transparency and consistency regarding arbitrator list selection, as the Codes would reflect and align with DRS’s existing practices, processes and systems relating to arbitrator list selection.

In the proposed rule change, FINRA is not proposing any changes to the list selection algorithm, or any of DRS’s existing practices, processes and systems related to arbitrator list selection.⁶

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

⁵ See proposed Rules 12400 (List Selection Algorithm and Arbitrator Rosters), 12402 (Cases with One Arbitrator), 12403 (Cases with Three Arbitrators), 12404 (Additional Parties), 12800 (Simplified Arbitration), 12801 (Default Proceedings), 13400 (List Selection Algorithm and Arbitrator Rosters), 13403 (Generating and Sending Lists to the Parties), 13406 (Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List), 13407 (Additional Parties), 13411 (Replacement of Arbitrators), 13800 (Simplified Arbitration), 13801 (Default Proceedings) and 13803 (Coordination of Sexual Assault Claims, Sexual Harassment Claims or Statutory Employment Discrimination Claims Filed in Court and in Arbitration).

⁶ The proposed rule change would apply to all members, including members that are funding portals or have elected to be treated as capital acquisition brokers (“CABs”), given that the funding portal and CAB rule sets incorporate the impacted FINRA rules by reference.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Exchange Act,⁷ 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. FINRA believes that the proposed rule change will provide greater transparency to members and the public regarding arbitrator list selection by updating FINRA rules to reflect and align with DRS's existing practices, processes and systems related to arbitrator list selection.

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 Exchange Act. The proposed rule change brings transparency and consistency to FINRA rules without adding any burden on member firms.

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

Not applicable.

⁷ 15 U.S.C. 78o-3(b)(6).

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3) of the Exchange Act⁸ and paragraph (f)(6) of Rule 19b-4 thereunder,⁹ in that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition because FINRA is proposing only technical, non-substantive changes. In addition, the proposed rule change does not become operative for 30 days after filing or such shorter time as the Commission may designate.

FINRA requests that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule 19b-4(f)(6)(iii),¹⁰ so FINRA can implement the proposed rule change immediately to make the proposed technical, non-substantive changes. FINRA believes this is appropriate in the interest of regulatory transparency and harmonization.

In accordance with Rule 19b-4(f)(6),¹¹ FINRA submitted written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter

⁸ 15 U.S.C. 78s(b)(3).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

¹¹ 17 CFR 240.19b-4(f)(6).

time as the Commission may designate, as specified in Rule 19b-4(f)(6)(iii) under the Exchange Act.¹²

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

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Exchange Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

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

Exhibit 5. Text of the proposed rule change.

¹² 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2022-026)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Change References in the Codes of Arbitration Procedure from the Neutral List Selection System to the List Selection Algorithm

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on , the Financial Industry Regulatory Authority, Inc. (“FINRA”) 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. 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 change references in the Codes of Arbitration Procedure (“Codes”) from the Neutral List Selection System to the list selection algorithm.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is available on FINRA's website 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

From November 1998 until October 2006, the Neutral List Selection System ("NLSS") was the computer system that generated lists of arbitrators from FINRA Dispute Resolution Services' ("DRS") rosters of arbitrators for the selected hearing location for each arbitration proceeding. In October 2006, DRS replaced the NLSS with the Mediation and Arbitration Tracking and Retrieval Interactive Case System ("MATRICS").⁴ As a result, all of the information contained in the NLSS was transferred to MATRICS such that MATRICS now contains the list selection algorithm DRS uses to generate lists of arbitrators from its rosters of arbitrators.⁵ However, the

⁴ MATRICS is an internal, web-based computer system used to manage all arbitration and mediation cases in the DRS arbitration forum and to maintain DRS's rosters of arbitrators and mediators.

⁵ See Securities Exchange Act Release No. 51339 (March 9, 2005), 70 FR 12763 (March 15, 2005) (Order Approving File No. SR-NASD-2004-164); see also

Codes refer to the NLSS as a computer system that governs arbitrator list selection in the DRS arbitration forum.⁶

FINRA is proposing to update the Codes by making technical, non-substantive changes to remove references to the NLSS from those rules describing arbitrator list selection and instead refer to the “list selection algorithm.”⁷ The proposed rule change would provide greater transparency and consistency regarding arbitrator list selection, as the Codes would reflect and align with DRS’s existing practices, processes and systems relating to arbitrator list selection.

Notice to Members 07-07 (February 2007) (announcing the effective date of April 16, 2007 for the amendments discussed in File No. SR-NASD-2004-164).

⁶ In February 2022, the Audit Committee of FINRA’s Board of Governors engaged Lowenstein Sandler LLP to provide an independent review and analysis in connection with a Fulton County (Georgia) Superior Court decision vacating an arbitration award in favor of Wells Fargo Clearing Services, LLC. See Order Granting Mot. to Vacate Arb. Award and Den. Cross Mot. to Confirm Arb. Award at 37, Leggett v. Wells Fargo Clearing Servs., LLC, No. 2019-CV-328949 (Ga. Super. Ct., January 25, 2022). In its report, Lowenstein Sandler made several recommendations to provide greater transparency and consistency in the arbitrator selection process, one of which was to make technical amendments to the Codes to clarify the automated system used by DRS for arbitrator selection. See <https://www.finra.org/sites/default/files/2022-06/report-independent-review-drs-arbitrator-selection-process.pdf>. Since publication of the report, the Fulton County (Georgia) Superior Court’s decision was reversed by the Court of Appeals of Georgia. See Wells Fargo Clearing Servs. v. Leggett, No. A22A1149, 2022 Ga. App. (Ct. App. August 2, 2022).

⁷ See proposed Rules 12400 (List Selection Algorithm and Arbitrator Rosters), 12402 (Cases with One Arbitrator), 12403 (Cases with Three Arbitrators), 12404 (Additional Parties), 12800 (Simplified Arbitration), 12801 (Default Proceedings), 13400 (List Selection Algorithm and Arbitrator Rosters), 13403 (Generating and Sending Lists to the Parties), 13406 (Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List), 13407 (Additional Parties), 13411 (Replacement of Arbitrators), 13800 (Simplified Arbitration), 13801 (Default Proceedings) and 13803 (Coordination of Sexual Assault Claims, Sexual Harassment Claims or Statutory Employment Discrimination Claims Filed in Court and in Arbitration).

In the proposed rule change, FINRA is not proposing any changes to the list selection algorithm, or any of DRS's existing practices, processes and systems related to arbitrator list selection.⁸

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Exchange Act,⁹ 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. FINRA believes that the proposed rule change will provide greater transparency to members and the public regarding arbitrator list selection by updating FINRA rules to reflect and align with DRS's existing practices, processes and systems related to arbitrator list selection.

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

⁸ The proposed rule change would apply to all members, including members that are funding portals or have elected to be treated as capital acquisition brokers ("CABs"), given that the funding portal and CAB rule sets incorporate the impacted FINRA rules by reference.

⁹ 15 U.S.C. 78o-3(b)(6).

Exchange Act. The proposed rule change brings transparency and consistency to FINRA rules without adding any burden on member firms.

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

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 Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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:

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

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-2022-026 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2022-026. 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 website (<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 website viewing and printing 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only

information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2022-026 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.¹²

Jill M. Peterson
Assistant Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

12000. CODE OF ARBITRATION PROCEDURE FOR CUSTOMER DISPUTES

* * * * *

12400. [Neutral] List Selection [System]Algorithm and Arbitrator Rosters

(a) [Neutral] List Selection [System]Algorithm

[The Neutral]FINRA uses a [L]list [S]selection [System is a computer system]algorithm that generates, on a random basis, lists of arbitrators from FINRA's rosters of arbitrators for the selected hearing location for each proceeding. The parties will select their panel through a process of striking and ranking the arbitrators on lists generated by the [Neutral L]list [S]selection [System]algorithm.

(b) through (c) No Change.

* * * * *

12402. Cases with One Arbitrator

(a) No Change.

(b) Generating Lists

(1) The [Neutral L]list [S]selection [System]algorithm will generate a list of 10 public arbitrators from the FINRA chairperson roster.

(2) The [Neutral L]list [S]selection [System]algorithm will exclude arbitrators from the lists based upon current conflicts of interest identified within the [Neutral L]list [S]selection [System]algorithm.

(c) Sending Lists to Parties

(1) The Director will send the list generated by the [Neutral L]list [S]selection [System]algorithm to all parties at the same time, within approximately 30 days after the last answer is due, regardless of the parties' agreement to extend any answer due date. The parties will also receive employment history for the past 10 years and other background information for each arbitrator listed.

(2) No Change.

(d) through (e) No Change.

(f) Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List

(1) No Change.

(2) If the number of arbitrators available to serve from the combined list is not sufficient to fill an initial panel, the Director will appoint a chair-qualified arbitrator to complete the panel from names generated randomly by the [Neutral L]list [S]selection [System]algorithm.

(3) through (4) No Change.

(g) Replacement of Arbitrators

(1) through (2) No Change.

(3) If there are no available arbitrators on the combined list, the Director will appoint an arbitrator from the chairperson roster to complete the panel from names generated by the [Neutral L]list [S]selection [System]algorithm. The Director will provide the parties information about the arbitrator as provided in

Rule 12402(c) and the parties shall have the right to object to the arbitrator as provided in Rule 12407.

12403. Cases with Three Arbitrators

Composition of Panels

(a) Generating Lists

(1) The [Neutral L]list [S]selection [System]algorithm will generate:

(A) through (C) No Change.

(2) The [Neutral L]list [S]selection [System]algorithm will generate the chairperson list first. Chair-qualified arbitrators who were not selected for the chairperson list will be eligible for selection on the public list. An individual arbitrator cannot appear on both the chairperson list and the public list for the same case.

(3) The [Neutral L]list [S]selection [System]algorithm will exclude arbitrators from the lists based upon current conflicts of interest identified within the [Neutral L]list [S]selection [System]algorithm.

(b) Sending Lists to Parties

(1) The Director will send the lists generated by the [Neutral L]list [S]selection [System]algorithm to all parties at the same time, within approximately 30 days after the last answer is due, regardless of the parties' agreement to extend any answer due date. The parties will also receive employment history for the past 10 years and other background information for each arbitrator listed.

(2) No Change.

(c) through (d) No Change.

(e) Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on the List

(1) No Change.

(2) If the number of arbitrators available to serve from the combined public or chairperson lists is not sufficient to fill an initial panel, the Director will appoint one or more arbitrators of the required classification to complete the panel from names generated randomly by the [Neutral L]list [S]selection [System]algorithm. The Director will provide the parties information about the arbitrators as provided in Rule 12403(b) and the parties will have the right to challenge the arbitrators as provided in Rule 12407.

(3) No Change.

(A) through (B) No Change.

(C) If the number of arbitrators available to serve from the chair-qualified list and public list is not sufficient to fill an initial panel, the Director will appoint a public arbitrator to complete the panel from names generated randomly by the [Neutral L]list [S]selection [System]algorithm. The Director will provide the parties information about the arbitrator as provided in Rule 12403(b) and the parties will have the right to challenge the arbitrator as provided in Rule 12407.

(4) No Change.

(f) Replacement of Public Arbitrators

(1) through (3) No Change.

(4) If all remaining arbitrators on the public list are unable or unwilling to serve for any reason, the Director will appoint a public arbitrator to complete the panel from names generated randomly by the [Neutral L]list [S]selection [System]algorithm.

(5) No Change.

(g) Replacement of a Chairperson

(1) through (3) No Change.

(4) If all remaining arbitrators on the chair-qualified list are unable or unwilling to serve for any reason, the Director will appoint a chair-qualified public arbitrator to complete the panel from names generated randomly by the [Neutral L]list [S]selection [System]algorithm.

(5) No Change.

(h) Replacement of Non-Public Arbitrators

(1) through (3) No Change.

(4) In the event no ranked arbitrators remain on the non-public list or when all remaining arbitrators on the non-public list are unable or unwilling to serve for any reason, the Director will return to the public list and select the next highest ranked available arbitrator to complete the three member panel.

(A) No Change.

(B) In the event no ranked arbitrators remain on the chair-qualified list or when all remaining arbitrators on the chair-qualified list are unable or unwilling to serve for any reason, the Director will appoint a

public arbitrator to complete the panel from names generated randomly by the [Neutral L]list [S]selection [System]algorithm.

(5) No Change.

12404. Additional Parties

(a) If a party is added to an arbitration after the Director sends the lists generated by the [Neutral L]list [S]selection [System]algorithm to the parties, but before the ranked lists are due to the Director, the Director will send the lists to the newly added party, with employment history for the past 10 years and other background information for each arbitrator listed. The newly added party may rank and strike the arbitrators in accordance with Rules 12402(d) or 12403(c). If the Director receives the ranked lists from the newly added party within 20 days after the date upon which the Director sent the lists to the party, the Director will include the new party's lists when combining rankings under Rules 12402(e) or 12403(d). If the Director does not receive the list(s) within that time, the Director will proceed as though the party did not want to strike any arbitrator or have any preference among the listed arbitrators.

(b) No Change.

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12800. Simplified Arbitration

(a) No Change.

(b) Single Arbitrator

All arbitrations administered under this [r]Rule will be decided by a single public arbitrator appointed from the FINRA chairperson roster in accordance with the [Neutral L]list [S]selection [System]algorithm, unless the parties agree in writing otherwise.

(c) through (d) No Change.

(e) Increases in Amount in Dispute

If any pleading increases the amount in dispute to more than \$50,000, the arbitration will no longer be administered under this [r]Rule, and the regular provisions of the Code will apply. If an arbitrator has been appointed, that arbitrator will remain on the panel. If a three-arbitrator panel is required or requested under Rule 12401, the remaining arbitrators will be appointed by the Director in accordance with Rule 12403. If no arbitrator has been appointed, the entire panel will be appointed in accordance with the [Neutral L]list [S]selection [System]algorithm.

(f) No Change.

12801. Default Proceedings

(a) No Change.

(b) Initiating Default Proceedings

(1) No Change.

(2) If the Director receives written notice from the claimant and determines that the requirements for proceeding under this [r]Rule have been met, the Director will:

(A) No Change.

(B) Appoint a single arbitrator in accordance with the [Neutral L]list [S]selection [System]algorithm to consider the statement of claim and other documents presented by the claimant.

(c) through (f) No Change.

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13000. CODE OF ARBITRATION PROCEDURE FOR INDUSTRY DISPUTES

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13400. [Neutral] List Selection [System]Algorithm and Arbitrator Rosters

(a) [Neutral] List Selection [System]Algorithm

[The Neutral]FINRA uses a [L]list [S]selection [System is a computer system]algorithm that generates, on a random basis, lists of arbitrators from FINRA's rosters of arbitrators for the selected hearing location for each proceeding. The parties will select their panel through a process of striking and ranking the arbitrators on lists generated by the [Neutral L]list [S]selection [System]algorithm.

(b) through (c) No Change.

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13403. Generating and Sending Lists to the Parties

(a) Lists Generated in Disputes Between Members

(1) If the panel consists of one arbitrator, the [Neutral L]list [S]selection [System]algorithm will generate a list of 10 non-public arbitrators from the FINRA non-public chairperson roster.

(2) If the panel consists of three non-public arbitrators, the [Neutral L]list [S]selection [System]algorithm will generate:

- A list of 20 arbitrators from the FINRA non-public roster; and
- A list of 10 non-public arbitrators from the FINRA non-public chairperson roster.

(3) If the panel consists of three arbitrators, the [Neutral L]list [S]selection [System]algorithm will generate the non-public chairperson list first.

Chair-qualified arbitrators who were not selected for the non-public chairperson list will be eligible for selection on the non-public list. An individual arbitrator cannot appear on both the non-public chairperson list and the non-public list for the same case.

(4) The [Neutral L]list [S]selection [System]algorithm will exclude arbitrators from the lists based upon current conflicts of interest identified within the [Neutral L]list [S]selection [System]algorithm.

(b) Lists Generated in Disputes Between Associated Persons or Between or Among Members and Associated Persons

(1) If the panel consists of one arbitrator, the [Neutral L]list [S]selection [System]algorithm will generate a list of 10 public arbitrators from the FINRA public chairperson roster.

(2) If the panel consists of three arbitrators, the [Neutral L]list [S]selection [System]algorithm will generate:

- A list of 10 arbitrators from the FINRA non-public arbitrator roster;
- A list of 10 arbitrators from the FINRA public arbitrator roster;
- and
- A list of 10 public arbitrators from the FINRA public chairperson roster.

(3) If the panel consists of three arbitrators, the [Neutral L]list [S]selection [System]algorithm will generate the public chairperson list first.

Chair-qualified arbitrators who were not selected for the public chairperson list

will be eligible for selection on the public list. An individual arbitrator cannot appear on both the public chairperson list and the public list for the same case.

(4) The [Neutral L]list [S]selection [System]algorithm will exclude arbitrators from the lists based upon current conflicts of interest identified within the [Neutral L]list [S]selection [System]algorithm.

(c) Sending Lists to Parties

(1) The Director will send the lists generated by the [Neutral L]list [S]selection [System]algorithm to all parties at the same time, within approximately 30 days after the last answer is due, regardless of the parties' agreement to extend any answer due date. The parties will also receive employment history for the past 10 years and other background information for each arbitrator listed.

(2) No Change.

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13406. Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List

(a) through (b) No Change.

(c) If the number of arbitrators available to serve from the combined list(s) is not sufficient to fill an initial panel, the Director will appoint one or more arbitrators of the required classification to complete the panel from names generated randomly by the [Neutral L]list [S]selection [System]algorithm. If the Director must appoint a non-public arbitrator, the Director may not appoint a non-public arbitrator as defined in Rule 13100(r)(2) or (3), unless the parties agree otherwise. The Director will provide the

parties information about the arbitrators as provided in Rule 13403 and the parties will have the right to challenge the arbitrators as provided in Rule 13410.

(d) No Change.

13407. Additional Parties

(a) If a party is added to an arbitration after the Director sends the lists generated by the [Neutral L]list [S]selection [System]algorithm to the parties, but before the ranked lists are due to the Director, the Director will send the lists to the newly added party, with employment history for the past 10 years and other background information for each arbitrator listed. The newly added party may rank and strike the arbitrators in accordance with Rule 13404. If the Director receives the ranked lists from the newly added party within 20 days after the date upon which the Director sent the lists to the party, the Director will include the new party's lists when combining rankings under Rule 13405. If the Director does not receive the list(s) within that time, the Director will proceed as though the party did not want to strike any arbitrator, or have any preference among the listed arbitrators.

(b) No Change.

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13411. Replacement of Arbitrators

(a) through (b) No Change.

(c) If there are no available arbitrators of the required classification on the consolidated list, the Director will appoint an arbitrator of the required classification to complete the panel from names generated by the [Neutral L]list [S]selection [System]algorithm. The Director will provide the parties information about the arbitrator

as provided in Rule 13403, and the parties shall have the right to object to the arbitrator as provided in Rule 13410.

(d) No Change.

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13800. Simplified Arbitration

(a) No Change.

(b) Single Arbitrator

All arbitrations administered under this [r]Rule will be decided by a single arbitrator appointed from the FINRA chairperson roster in accordance with the [Neutral L]list [S]selection [System]algorithm, unless the parties agree in writing otherwise.

(c) through (d) No Change.

(e) Increases in Amount in Dispute

If any pleading increases the amount in dispute to more than \$50,000, the arbitration will no longer be administered under this [r]Rule, and the regular provisions of the Code will apply. If an arbitrator has been appointed, that arbitrator will remain on the panel. If a three-arbitrator panel is required or requested under Rule 13401, the remaining arbitrators will be appointed by the Director in accordance with Rule 13406(b). If no arbitrator has been appointed, the entire panel will be appointed in accordance with the [Neutral L]list [S]selection [System]algorithm.

(f) No Change.

13801. Default Proceedings

(a) No Change.

(b) Initiating Default Proceedings

(1) No Change.

(2) If the Director receives written notice from the claimant and determines that the requirements for proceeding under this [r]Rule have been met, the Director will:

(A) No Change.

(B) Appoint a single arbitrator in accordance with the [Neutral L]list [S]selection [System]algorithm to consider the statement of claim and other documents presented by the claimant.

(c) through (f) No Change.

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13803. Coordination of Sexual Assault Claims, Sexual Harassment Claims or Statutory Employment Discrimination Claims Filed in Court and in Arbitration

(a) through (c) No Change.

(d) Right of Respondent to Remain in Arbitration

(1) No Change.

(2) If a panel has not been appointed, the Director will appoint a single arbitrator to consider the application for a stay. The single arbitrator shall be selected using the [Neutral L]list [S]selection [System]algorithm and is not required to have the special employment arbitrator qualifications described in Rule 13801(c).

(3) No Change.

(e) through (f) No Change.

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