

OMB APPROVAL

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

File No. SR - 2008 - 009

Amendment No.

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

Initial ☒ Amendment ☐ Withdrawal ☐

Section 19(b)(2) ☒ Section 19(b)(3)(A) ☐ Section 19(b)(3)(B) ☐

Rule

Pilot ☐ Extension of Time Period
for Commission Action ☐ Date Expires

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Exhibit 2 Sent As Paper Document
☐

Exhibit 3 Sent As Paper Document
☐

Description

Provide a brief description of the proposed rule change (limit 250 characters).

FINRA proposes to amend the chairperson eligibility requirements under NASD Rule 12400(c) of the Customer Code and Rule 13400(c) of the Industry Code.

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 Last Name
Title
E-mail
Telephone Fax

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

By
(Name)

Vice President and Chief Counsel, FINRA 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.

Jean Feeney, jean.feeney@nasd.com

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

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Exhibit Sent As Paper Document

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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 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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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

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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 Financial Industry Regulatory Authority, Inc. (“FINRA”)² (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 amend the chairperson eligibility requirements under NASD Rule 12400(c) of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and NASD Rule 13400(c) of the Code of Arbitration Procedure for Industry Disputes (“Industry Code”).³

Below is the text of the proposed rule change. Proposed deletions are in brackets.

* * * * *

12400. Neutral List Selection System and Arbitrator Rosters

(a) - (b) No change.

(c) Eligibility for Chairperson Roster

In customer disputes, chairpersons must be public arbitrators. Arbitrators are eligible for the chairperson roster if they have completed chairperson training provided by NASD [or have substantially equivalent training or experience] and:

{Remainder of the rule unchanged.}

* * * * *

13400. Neutral List Selection System and Arbitrator Rosters

(a) - (b) No change.

(c) Eligibility for Chairperson Roster

¹ 15 U.S.C. 78s(b)(1).

² Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation, Inc.

³ References to NASD throughout the arbitration rules will be changed as part of a subsequent rule filing.

Arbitrators are eligible to serve as chairperson of panels submitted for arbitration under the Code if they have completed chairperson training provided by NASD [or have substantially equivalent training or experience] and:

{Remainder of the rule unchanged.}

* * * * *

(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 Mignon McLemore, Assistant Chief Counsel, FINRA Dispute Resolution at (202) 728-8151.

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

a) Purpose

FINRA⁴ proposes to amend the chairperson eligibility requirements under Rule 12400(c) of the Customer Code and Rule 13400(c) of the Industry Code.

On January 24, 2007, the SEC approved the NASD Codes of Arbitration Procedure for Customer and Industry Disputes (collectively referred to as “Codes”).⁵

⁴ Although some of the events referenced in this rule filing occurred prior to the formation of FINRA, the rule filing refers to FINRA throughout for simplicity.

The Codes reorganized the dispute resolution rules into separate procedural codes, simplified the language of the old NASD Code of Arbitration Procedure, codified current practices, and implemented several substantive changes. One such substantive change involved improving the arbitrator selection process by creating and maintaining a new roster of arbitrators who are qualified to serve as chairpersons.

Under the Codes, arbitrators are eligible for the chairperson roster if they have completed chairperson training provided by FINRA or have substantially equivalent training or experience, and satisfy one of two remaining requirements of the rule.⁶ In the rule filing proposing this change, FINRA explained that “substantially equivalent training or experience would include service as a judge or administrative hearing officer, chairperson training offered by another recognized dispute resolution forum, or the like. Decisions regarding whether particular training or experience other than FINRA chairperson training would qualify under this provision would be in the sole discretion of the Director.”⁷ In referring to the “substantially equivalent training or experience” criterion (hereinafter, “substantially equivalent”), the proposal also stated that the forum believes that the proposal would allow arbitrators of all professional backgrounds to qualify as chairpersons.⁸ FINRA believed that this criterion would help ensure that the forum could meet the demands of the Codes concerning the new chairperson roster, while continuing to administer effectively the arbitrator selection process.

⁵ See Securities Exchange Act Release No. 55158 (January 24, 2007); 72 FR 4574 (January 31, 2007) (File Nos. SR-NASD-2003-158 and SR-NASD-2004-011). The new Codes became effective on April 16, 2007.

⁶ Rule 12400(c) of the Customer Code and Rule 13400(c) of the Industry Code.

⁷ See Securities Exchange Act Release No. 51856 (June 15, 2005); 70 FR 36442, at 36446 (June 23, 2005).

⁸ Id.

In the year since the Codes were approved, FINRA has determined that the “substantially equivalent” criterion has not been essential to creating and maintaining the chairperson roster, and is, therefore, proposing to remove this criterion from the rule. FINRA notes that all arbitrators currently coded as chairpersons have completed the FINRA Chairperson Training course (chair training),⁹ and the chair training has never been waived for an arbitrator claiming to satisfy the “substantially equivalent” criterion. FINRA believes that all arbitrators wishing to serve as chairpersons would benefit from the information contained in the chair training, which instructs arbitrators on the added responsibilities of arbitrators assuming the essential role of chairperson in the FINRA forum. Moreover, FINRA believes that removing the “substantially equivalent” criterion would make the chairperson eligibility standards more objective and uniform, thereby eliminating any perception that large numbers of arbitrators may be added to the chairperson roster without benefit of the chair training.

b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, 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 would enhance investor confidence in the fairness and neutrality of FINRA’s arbitration forum because the chairperson eligibility rules would become more objective and uniform.

⁹ The online Chairperson training course is \$50 and is available at <http://www.finra.org/ArbitrationMediation/ResourcesforArbitratorsandMediators/ArbitratorTraining/ArbitratorTrainingPrograms/index.htm> (last visited, March 5, 2008).

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 by FINRA.

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.¹⁰

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

Not applicable.

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

Not applicable.

9. **Exhibits**

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

¹⁰ 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

Release No. 34-_____; File No. SR-FINRA-2008-009

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to the Code of Arbitration Procedure for Customer Disputes and Industry Disputes to Amend the Chairperson Eligibility Requirements

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 March 12, 2008, the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA Dispute Resolution. 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 Dispute Resolution is proposing to amend the chairperson eligibility requirements under NASD Rule 12400(c) of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and NASD Rule 13400(c) of the Code of Arbitration Procedure for Industry Disputes (“Industry Code”). Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

12400. Neutral List Selection System and Arbitrator Rosters

(a) - (b) No change.

(c) Eligibility for Chairperson Roster

In customer disputes, chairpersons must be public arbitrators. Arbitrators are eligible for the chairperson roster if they have completed chairperson training provided by NASD [or have substantially equivalent training or experience] and:

{Remainder of the rule unchanged.}

* * * * *

13400. Neutral List Selection System and Arbitrator Rosters

(a) - (b) No change.

(c) Eligibility for Chairperson Roster

Arbitrators are eligible to serve as chairperson of panels submitted for arbitration under the Code if they have completed chairperson training provided by NASD [or have substantially equivalent training or experience] and:

{Remainder of the rule unchanged.}

* * * * *

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

FINRA³ proposes to amend the chairperson eligibility requirements under Rule 12400(c) of the Customer Code and Rule 13400(c) of the Industry Code.

On January 24, 2007, the SEC approved the NASD Codes of Arbitration Procedure for Customer and Industry Disputes (collectively referred to as “Codes”).⁴ The Codes reorganized the dispute resolution rules into separate procedural codes, simplified the language of the old NASD Code of Arbitration Procedure, codified current practices, and implemented several substantive changes. One such substantive change involved improving the arbitrator selection process by creating and maintaining a new roster of arbitrators who are qualified to serve as chairpersons.

Under the Codes, arbitrators are eligible for the chairperson roster if they have completed chairperson training provided by FINRA or have substantially equivalent training or experience, and satisfy one of two remaining requirements of the rule.⁵ In the rule filing proposing this change, FINRA explained that “substantially equivalent training or experience would include service as a judge or administrative hearing officer, chairperson training offered by another recognized dispute resolution forum, or the like. Decisions regarding whether particular training or experience other than FINRA chairperson training would qualify under this provision would be in the sole discretion of the Director.”⁶ In referring to

³ Although some of the events referenced in this rule filing occurred prior to the formation of FINRA, the rule filing refers to FINRA throughout for simplicity.

⁴ See Securities Exchange Act Release No. 55158 (January 24, 2007); 72 FR 4574 (January 31, 2007) (File Nos. SR-NASD-2003-158 and SR-NASD-2004-011). The new Codes became effective on April 16, 2007.

⁵ Rule 12400(c) of the Customer Code and Rule 13400(c) of the Industry Code.

⁶ See Securities Exchange Act Release No. 51856 (June 15, 2005); 70 FR 36442, at 36446 (June 23, 2005).

the “substantially equivalent training or experience” criterion (hereinafter, “substantially equivalent”), the proposal also stated that the forum believes that the proposal would allow arbitrators of all professional backgrounds to qualify as chairpersons.⁷ FINRA believed that this criterion would help ensure that the forum could meet the demands of the Codes concerning the new chairperson roster, while continuing to administer effectively the arbitrator selection process.

In the year since the Codes were approved, FINRA has determined that the “substantially equivalent” criterion has not been essential to creating and maintaining the chairperson roster, and is, therefore, proposing to remove this criterion from the rule. FINRA notes that all arbitrators currently coded as chairpersons have completed the FINRA Chairperson Training course (chair training),⁸ and the chair training has never been waived for an arbitrator claiming to satisfy the “substantially equivalent” criterion. FINRA believes that all arbitrators wishing to serve as chairpersons would benefit from the information contained in the chair training, which instructs arbitrators on the added responsibilities of arbitrators assuming the essential role of chairperson in the FINRA forum. Moreover, FINRA believes that removing the “substantially equivalent” criterion would make the chairperson eligibility standards more objective and uniform, thereby eliminating any perception that large numbers of arbitrators may be added to the chairperson roster without benefit of the chair training.

⁷ Id.

⁸ The online Chairperson training course is \$50 and is available at <http://www.finra.org/ArbitrationMediation/ResourcesforArbitratorsandMediators/ArbitratorTraining/ArbitratorTrainingPrograms/index.htm> (last visited, March 5, 2008).

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, 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 would enhance investor confidence in the fairness and neutrality of FINRA's arbitration forum because the chairperson eligibility rules would become more objective and uniform.

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

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:

- (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-2008-009 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-2008-009. 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 the File Number SR-FINRA-2008-009 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.⁹

Nancy M. Morris
Secretary

⁹ 17 CFR 200.30-3(a)(12).