

OMB APPROVAL

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Page 1 of 26

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

File No. SR - 2008 - 031

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).

The proposal will amend the Uniform Submission Agreement.

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

Add

Remove

View

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

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

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.

Exhibit Sent As Paper Document

☐

Exhibit 4 - Marked Copies

Add

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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

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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

Add

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View

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 amend the Uniform Submission Agreement (“USA”), which parties must sign prior to entering into arbitration, and other rules of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) that contain references to the agreement. The proposed revisions to the USA will: (1) clarify what the parties are attesting to when they execute the USA; (2) require parties to indicate in what capacity they are signing the agreement; (3) convert the USA to a FINRA-specific agreement; and (4) use plain English to make the agreement easier to read.

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

* * * * *

12100[(y)] (x). [Uniform] Submission Agreement

The term “[Uniform] Submission Agreement” means the NASD [Uniform] Submission Agreement. The NASD [Uniform] Submission Agreement is a document that parties must sign at the outset of an arbitration in which they agree to submit to arbitration under the Code.

* * * * *

12100[(x)] (y). Third Party Claim

No change.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

12302. Filing an Initial Statement of Claim

(a) Filing Claim with the Director

(1) To initiate an arbitration, a claimant must file the following with the Director:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) Number of Copies

The claimant must file enough copies of the statement of claim, if it has not been submitted electronically, and the signed [Uniform] Submission Agreement, and any additional materials, for the Director, each arbitrator and each other party.

(c) No change.

(d) Service by Director

Unless the statement of claim is deficient under Rule 12307, the Director will send a copy of the [Uniform] Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each other party, and to each arbitrator once the panel has been appointed.

* * * * *

12303. Answering the Statement of Claim

(a) Respondent(s) must directly serve each other party with the following documents within 45 days of receipt of the statement of claim:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) No change.

(c) At the same time that the answer to the statement of claim is served on the other parties, the respondent must file copies of the [Uniform] Submission Agreement, the answer to the statement of claim, and any additional documents, with the Director, with enough copies for the Director and each arbitrator.

(d) No change.

* * * * *

12306. Answering Third Party Claims

(a) A party responding to a third party claim must directly serve all other parties with the following documents within 45 days of receipt of the third party claim:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) No change.

(c) At the same time that the answer to the third party claim is served on the other parties, the third party respondent must also file copies of the [Uniform] Submission Agreement, the answer to the third party claim, and any additional documents, with the Director, with additional copies for each arbitrator.

(d) No change.

* * * * *

12307. Deficient Claims

(a) The Director will not serve any claim that is deficient. The reasons a claim may be deficient include the following:

- A [Uniform] Submission Agreement was not filed by each claimant;
- The [Uniform] Submission Agreement was not properly signed and dated;
- The [Uniform] Submission Agreement does not name all parties named in the claim;
- The claimant did not file the correct number of copies of the [Uniform] Submission Agreement, statement of claim or supporting documents for service on respondents and for the arbitrators;

{Remainder of rule – No change.}

(b) – (c) No change.

* * * * *

13100[(bb)] (z). [Uniform] Submission Agreement

The term “[Uniform] Submission Agreement” means the NASD [Uniform] Submission Agreement. The NASD [Uniform] Submission Agreement is a document that parties must sign at the outset of an arbitration in which they agree to submit to arbitration under the Code.

* * * * *

13100 [(z)] (aa). Temporary Injunctive Order

No change.

* * * * *

13100[(aa)] (bb). Third Party Claim

No change.

* * * * *

13302. Filing an Initial Statement of Claim**(a) Filing Claim with the Director**

(1) To initiate an arbitration, a claimant must file the following with the Director:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) Number of Copies

The claimant must file enough copies of the statement of claim, if it has not been submitted electronically, and the signed [Uniform] Submission Agreement, and any additional materials, for the Director, each arbitrator and each other party.

(c) No change.

(d) Service by Director

Unless the statement of claim is deficient under Rule 12307, the Director will send a copy of the [Uniform] Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each other party, and to each arbitrator once the panel has been appointed.

* * * * *

13303. Answering the Statement of Claim

(a) Respondent(s) must directly serve each other party with the following documents within 45 days of receipt of the statement of claim:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) No change.

(c) At the same time that the answer to the statement of claim is served on the other parties, the respondent must file copies of the [Uniform] Submission Agreement, the answer to the statement of claim, and any additional documents, with the Director, with enough copies for the Director and each arbitrator.

(d) No change.

* * * * *

13306. Answering Third Party Claims

(a) A party responding to a third party claim must directly serve all other parties with the following documents within 45 days of receipt of the third party claim:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) No change.

(c) At the same time that the answer to the third party claim is served on the other parties, the third party respondent must also file copies of the [Uniform] Submission Agreement, the answer to the third party claim, and any additional documents, with the Director, with additional copies for each arbitrator.

(d) No change.

* * * * *

13307. Deficient Claims

(a) The Director will not serve any claim that is deficient. The reasons a claim may be deficient include the following:

- A [Uniform] Submission Agreement was not filed by each claimant;
- The [Uniform] Submission Agreement was not properly signed and dated;
- The [Uniform] Submission Agreement does not name all parties named in the claim;
- The claimant did not file the correct number of copies of the [Uniform] Submission Agreement, statement of claim or supporting documents for service on respondents and for the arbitrators;

{Remainder of rule – No change.}

(b) – (c) No change.

* * * * *

The USA is attached as Exhibit 5 and is available on the FINRA Web site at www.finra.org.

(b) Not applicable.

(c) Not applicable.

2. **Procedures of the Self-Regulatory Organization**

At its meetings on December 3, 2007 and April 16, 2008, the FINRA Board of Governors authorized the filing of the rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

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

The USA is an agreement that claimants and respondents (hereinafter, collectively referred to as “parties”) must sign prior to entering into arbitration. Rule 12302(a) of the Customer Code and Rule 13302(a) of the Industry Code require a claimant to file a signed and dated USA and a statement of claim to initiate an arbitration. Similarly, Rule 12303(a) of the Customer Code and Rule 13303(a) of the Industry Code require a

respondent to directly serve each other party with a signed and dated USA and an answer within 45 days of receipt of the statement of claim. By signing the USA, the parties agree to submit to the arbitration process, and to be bound by the determination that may be rendered by the arbitrator(s).

FINRA proposes to amend the USA to: (1) clarify what the parties are attesting to when they execute the agreement; (2) require parties to indicate in what capacity they are signing the agreement; (3) convert it to a FINRA-specific agreement; and (4) use plain English to make the agreement easier to read. Also, FINRA proposes to amend the rules of the Customer and Industry Codes that refer to the USA.

First, FINRA proposes to amend paragraph 2 of the agreement to clarify what the parties are attesting to when they execute the agreement. Currently, this section states that the parties have read the procedures and rules relating to arbitration and agree to be bound by them. FINRA understands that few investors who are represented by counsel may actually have read the relevant self-regulatory organization (SRO) rules (such as the Customer Code). Rather, in most cases, these investors are relying on their attorneys or other representatives to know the rules. Thus, investors have been reluctant to sign a statement that they have read all the relevant rules. In light of these concerns, FINRA is proposing to amend section 2 to permit parties to certify that they or their representatives read the relevant procedures and rules and that the parties agree to be bound by them. FINRA believes that the new language reflects accurately what the parties are attesting to when they execute the USA. The new language makes clear that the parties themselves continue to be bound by the procedures and rules, whether or not they read them personally.

Second, FINRA proposes to require that parties indicate in what capacity they are signing the agreement. Because the USA is a contract between the parties and the forum, FINRA must ensure that the parties entering the agreement have the authority or standing to sign the agreement. In those cases in which the signatory is not an individually named party, the party must sign the agreement in his or her capacity, so that FINRA can determine from the statement of claim and other supporting information whether he or she is authorized to enter the agreement. For example, a person signing as the trustee of a family trust would sign his or her name exactly as shown on the trust documents and then write “Trustee” on the line below the instruction “State Capacity if other than individual (example: Executor, Trustee, Corporate Officer).” If a party fails to sign the agreement in the capacity in which he or she is submitting the claim, FINRA classifies the claim as deficient, which could delay the arbitration and increase the party’s costs. FINRA believes that the proposed change clarifies how the agreement must be signed, and will help expedite the processing of claims, thereby minimizing unnecessary delays and expenses that parties could incur.

Third, FINRA proposes to convert the USA into a FINRA-specific agreement. The USA was designed by the Securities Industry Conference on Arbitration (SICA)² a number of years ago and was intended to be used by the ten SROs that offered an arbitration forum at that time. Thus, the language is generic and references to rules or procedures include broad terms to incorporate the rules from the various SROs. Over the

² SICA was formed in 1977 to develop and maintain a Uniform Code of Arbitration and to provide a forum for the discussion of new developments in securities arbitration among SRO arbitration forums and participants in those forums. The membership includes representatives of each securities SRO that currently runs an arbitration forum, three “public” members, and representatives from the Securities Industry and Financial Markets Association (SIFMA) and the North American Securities Administrators Association (NASAA).

years, most SROs have closed their arbitration forums and contracted with FINRA to handle their arbitrations. In addition, on August 6, 2007, FINRA consolidated its dispute resolution program with that of the New York Stock Exchange, Inc.³ As a result, FINRA now handles over 99 percent of all arbitrations filed with SROs. In light of these changes, FINRA proposes to convert the USA to a FINRA-specific agreement by removing references to “sponsoring organization” and replacing them with FINRA; describing expressly the names of rules and regulations used by the forum; and removing the term “Uniform” from the title of the agreement. FINRA believes these changes would minimize confusion for parties concerning the applicability of the form and would clarify which FINRA rules apply in the arbitration context.

Fourth, FINRA proposes to make minor stylistic changes to the document, such as defining “undersigned parties” as “parties” after the first usage, and dividing a long sentence in paragraph 4 into two sentences. FINRA believes these changes will make the agreement easier to read.

Finally, FINRA proposes to amend Rules 12100(x), 12100(y), 12302(a)(1), (b), and (d), 12303(a) and (c), 12306(a) and (c), and 12307(a) of the Customer Code to conform the references to the USA to the proposed changes to the agreement. Similarly, FINRA proposes to amend Rules 13100(z) - (bb), 13302(a)(1), (b), and (d), 13303(a) and (c), 13306(a) and (c), and 13307(a) of the Industry Code for the same reason.

³ See Securities Exchange Act Release No. 56145 (July 26, 2007), 72 Fed. Reg. 42,169 (Aug. 1, 2007) (File No. SR-NASD-2007-023).

b) 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 the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is consistent with FINRA's statutory obligations under the Act to prevent fraudulent and manipulative practices by requiring that signers of the agreement indicate in what capacity they are signing, so that FINRA can ensure that signers of the agreement are authorized to do so. Moreover, FINRA believes that the proposed rule change will enhance the efficiency of the forum in processing claims, by clarifying the terms of the agreement and improving its readability.

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, as amended.

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.

⁴ 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)**

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.
2. A redlined version of the Uniform Submission Agreement.

SECURITIES AND EXCHANGE COMMISSION

Release No. 34-_____; File No. SR-FINRA-2008-031

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Amend the Uniform Submission Agreement

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 June 19, 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 Uniform Submission Agreement (“USA”), which parties must sign prior to entering into arbitration, and other rules of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) that contain references to the agreement. The proposed revisions to the USA will: (1) clarify what the parties are attesting to when they execute the USA; (2) require parties to indicate in what capacity they are signing the agreement; (3) convert the USA to a FINRA-specific agreement; and (4) use plain English to make the agreement easier to read.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

* * * * *

12100[(y)] (x). [Uniform] Submission Agreement

The term “[Uniform] Submission Agreement” means the NASD [Uniform] Submission Agreement. The NASD [Uniform] Submission Agreement is a document that parties must sign at the outset of an arbitration in which they agree to submit to arbitration under the Code.

* * * * *

12100[(x)] (y). Third Party Claim

No change.

* * * * *

12302. Filing an Initial Statement of Claim

(a) Filing Claim with the Director

(1) To initiate an arbitration, a claimant must file the following with the Director:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) Number of Copies

The claimant must file enough copies of the statement of claim, if it has not been submitted electronically, and the signed [Uniform] Submission Agreement, and any additional materials, for the Director, each arbitrator and each other party.

(c) No change.

(d) Service by Director

Unless the statement of claim is deficient under Rule 12307, the Director will send a copy of the [Uniform] Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each other party, and to each arbitrator once the panel has been appointed.

* * * * *

12303. Answering the Statement of Claim

(a) Respondent(s) must directly serve each other party with the following documents within 45 days of receipt of the statement of claim:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) No change.

(c) At the same time that the answer to the statement of claim is served on the other parties, the respondent must file copies of the [Uniform] Submission Agreement, the answer to the statement of claim, and any additional documents, with the Director, with enough copies for the Director and each arbitrator.

(d) No change.

* * * * *

12306. Answering Third Party Claims

(a) A party responding to a third party claim must directly serve all other parties with the following documents within 45 days of receipt of the third party claim:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) No change.

(c) At the same time that the answer to the third party claim is served on the other parties, the third party respondent must also file copies of the [Uniform] Submission Agreement, the answer to the third party claim, and any additional documents, with the Director, with additional copies for each arbitrator.

(d) No change.

* * * * *

12307. Deficient Claims

(a) The Director will not serve any claim that is deficient. The reasons a claim may be deficient include the following:

- A [Uniform] Submission Agreement was not filed by each claimant;
- The [Uniform] Submission Agreement was not properly signed and dated;

- The [Uniform] Submission Agreement does not name all parties named in the claim;
- The claimant did not file the correct number of copies of the [Uniform] Submission Agreement, statement of claim or supporting documents for service on respondents and for the arbitrators;

{Remainder of rule – No change.}

(b) – (c) No change.

* * * * *

13100[(bb)] (z). [Uniform] Submission Agreement

The term “[Uniform] Submission Agreement” means the NASD [Uniform] Submission Agreement. The NASD [Uniform] Submission Agreement is a document that parties must sign at the outset of an arbitration in which they agree to submit to arbitration under the Code.

* * * * *

13100 [(z)] (aa). Temporary Injunctive Order

No change.

* * * * *

13100[(aa)] (bb). Third Party Claim

No change.

* * * * *

13302. Filing an Initial Statement of Claim

(a) Filing Claim with the Director

(1) To initiate an arbitration, a claimant must file the following with the Director:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) Number of Copies

The claimant must file enough copies of the statement of claim, if it has not been submitted electronically, and the signed [Uniform] Submission Agreement, and any additional materials, for the Director, each arbitrator and each other party.

(c) No change.

(d) Service by Director

Unless the statement of claim is deficient under Rule 12307, the Director will send a copy of the [Uniform] Submission Agreement, the statement of claim, and any additional materials filed by the claimant, to each other party, and to each arbitrator once the panel has been appointed.

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13303. Answering the Statement of Claim

(a) Respondent(s) must directly serve each other party with the following documents within 45 days of receipt of the statement of claim:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) No change.

(c) At the same time that the answer to the statement of claim is served on the other parties, the respondent must file copies of the [Uniform] Submission Agreement, the answer to the statement of claim, and any additional documents, with the Director, with enough copies for the Director and each arbitrator.

(d) No change.

* * * * *

13306. Answering Third Party Claims

(a) A party responding to a third party claim must directly serve all other parties with the following documents within 45 days of receipt of the third party claim:

- Signed and dated [Uniform] Submission Agreement; and

{Remainder of rule – No change.}

(b) No change.

(c) At the same time that the answer to the third party claim is served on the other parties, the third party respondent must also file copies of the [Uniform] Submission Agreement, the answer to the third party claim, and any additional documents, with the Director, with additional copies for each arbitrator.

(d) No change.

* * * * *

13307. Deficient Claims

(a) The Director will not serve any claim that is deficient. The reasons a claim may be deficient include the following:

- A [Uniform] Submission Agreement was not filed by each claimant;
- The [Uniform] Submission Agreement was not properly signed and dated;
- The [Uniform] Submission Agreement does not name all parties named in the claim;
- The claimant did not file the correct number of copies of the [Uniform] Submission Agreement, statement of claim or supporting documents for service on respondents and for the arbitrators;

{Remainder of rule – No change.}

(b) – (c) No change.

* * * * *

A copy of the proposed USA is available on the FINRA Web site at www.finra.org.

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

(a) Purpose

The USA is an agreement that claimants and respondents (hereinafter, collectively referred to as “parties”) must sign prior to entering into arbitration. Rule 12302(a) of the Customer Code and Rule 13302(a) of the Industry Code require a claimant to file a signed and dated USA and a statement of claim to initiate an arbitration. Similarly, Rule 12303(a) of the Customer Code and Rule 13303(a) of the Industry Code require a respondent to directly serve each other party with a signed and dated USA and an answer within 45 days of receipt of the statement of claim. By signing the USA, the parties agree to submit to the arbitration process, and to be bound by the determination that may be rendered by the arbitrator(s).

FINRA proposes to amend the USA to: (1) clarify what the parties are attesting to when they execute the agreement; (2) require parties to indicate in what capacity they are signing the agreement; (3) convert it to a FINRA-specific agreement; and (4) use plain English to make the agreement easier to read. Also, FINRA proposes to amend the rules of the Customer and Industry Codes that refer to the USA.

First, FINRA proposes to amend paragraph 2 of the agreement to clarify what the parties are attesting to when they execute the agreement. Currently, this section states that the parties have read the procedures and rules relating to arbitration and agree to be bound by them. FINRA understands that few investors who are represented by counsel may actually have read the relevant self-regulatory organization (SRO) rules (such as the Customer Code). Rather, in most cases, these investors are relying on their attorneys or other representatives to know the rules. Thus, investors have been reluctant to sign a statement that they have read all the relevant rules. In light of these concerns, FINRA is proposing to amend section 2 to

permit parties to certify that they or their representatives read the relevant procedures and rules and that the parties agree to be bound by them. FINRA believes that the new language reflects accurately what the parties are attesting to when they execute the USA. The new language makes clear that the parties themselves continue to be bound by the procedures and rules, whether or not they read them personally.

Second, FINRA proposes to require that parties indicate in what capacity they are signing the agreement. Because the USA is a contract between the parties and the forum, FINRA must ensure that the parties entering the agreement have the authority or standing to sign the agreement. In those cases in which the signatory is not an individually named party, the party must sign the agreement in his or her capacity, so that FINRA can determine from the statement of claim and other supporting information whether he or she is authorized to enter the agreement. For example, a person signing as the trustee of a family trust would sign his or her name exactly as shown on the trust documents and then write “Trustee” on the line below the instruction “State Capacity if other than individual (example: Executor, Trustee, Corporate Officer).” If a party fails to sign the agreement in the capacity in which he or she is submitting the claim, FINRA classifies the claim as deficient, which could delay the arbitration and increase the party’s costs. FINRA believes that the proposed change clarifies how the agreement must be signed, and will help expedite the processing of claims, thereby minimizing unnecessary delays and expenses that parties could incur.

Third, FINRA proposes to convert the USA into a FINRA-specific agreement. The USA was designed by the Securities Industry Conference on Arbitration (SICA)³ a number

³ SICA was formed in 1977 to develop and maintain a Uniform Code of Arbitration and to provide a forum for the discussion of new developments in securities arbitration among SRO arbitration forums and participants in those forums. The membership includes representatives of each securities SRO that currently runs an

of years ago and was intended to be used by the ten SROs that offered an arbitration forum at that time. Thus, the language is generic and references to rules or procedures include broad terms to incorporate the rules from the various SROs. Over the years, most SROs have closed their arbitration forums and contracted with FINRA to handle their arbitrations. In addition, on August 6, 2007, FINRA consolidated its dispute resolution program with that of the New York Stock Exchange, Inc.⁴ As a result, FINRA now handles over 99 percent of all arbitrations filed with SROs. In light of these changes, FINRA proposes to convert the USA to a FINRA-specific agreement by removing references to “sponsoring organization” and replacing them with FINRA; describing expressly the names of rules and regulations used by the forum; and removing the term “Uniform” from the title of the agreement. FINRA believes these changes would minimize confusion for parties concerning the applicability of the form and would clarify which FINRA rules apply in the arbitration context.

Fourth, FINRA proposes to make minor stylistic changes to the document, such as defining “undersigned parties” as “parties” after the first usage, and dividing a long sentence in paragraph 4 into two sentences. FINRA believes these changes will make the agreement easier to read.

Finally, FINRA proposes to amend Rules 12100(x), 12100(y), 12302(a)(1), (b), and (d), 12303(a) and (c), 12306(a) and (c), and 12307(a) of the Customer Code to conform the references to the USA to the proposed changes to the agreement. Similarly, FINRA proposes

arbitration forum, three “public” members, and representatives from the Securities Industry and Financial Markets Association (SIFMA) and the North American Securities Administrators Association (NASAA).

⁴ See Securities Exchange Act Release No. 56145 (July 26, 2007), 72 Fed. Reg. 42,169 (Aug. 1, 2007) (File No. SR-NASD-2007-023).

to amend Rules 13100(z) - (bb), 13302(a)(1), (b), and (d), 13303(a) and (c), 13306(a) and (c), and 13307(a) of the Industry Code for the same reason.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁵ which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is consistent with FINRA's statutory obligations under the Act to prevent fraudulent and manipulative practices by requiring that signers of the agreement indicate in what capacity they are signing, so that FINRA can ensure that signers of the agreement are authorized to do so. Moreover, FINRA believes that the proposed rule change will enhance the efficiency of the forum in processing claims, by clarifying the terms of the agreement and improving its readability.

(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.

⁵ 15 U.S.C. 78o-3(b)(6).

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-2008-031 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-2008-031. 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. 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-2008-031 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.⁶

Florence Harmon
Deputy Secretary

⁶ 17 CFR 200.30-3(a)(12).

Action as set forth or recommended herein
APPROVED pursuant to authority delegated by
the Commission under Public Law 87-592.

For the Division of Trading and Markets

by:_____

(DATE)