

OMB APPROVAL

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

File No. SR - 2009 - 073

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 would amend Rules 12213 and 13213 of the Customer and Industry Codes, respectively, to expand the criteria for selecting a hearing location for an arbitration proceeding.

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)

(Title)

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

☐

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

☐

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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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 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 Rules 12213 and 13213 of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) (together, “Codes”), respectively, to expand the criteria for selecting a hearing location for an arbitration proceeding.

Below is the text of the proposed rule change. Proposed new language is underlined.

* * * * *

12213. Hearing Locations

(a) U.S. Hearing Location

(1) The Director will decide which of FINRA’s hearing locations will be the hearing location for the arbitration. Generally, the Director will select the hearing location closest to the customer’s residence at the time of the events giving rise to the dispute, unless the hearing location closest to the customer’s residence is in a different state, in which case the customer may request a hearing location in the customer’s state of residence at the time of the events giving rise to the dispute.

(2) - (4) No change.

(b) No change.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

13213. Hearing Locations

(a) U.S. Hearing Location

(1) The Director will decide which of FINRA's hearing locations will be the hearing location for the arbitration. In cases involving an associated person, the Director will generally select the hearing location closest to where the associated person was employed at the time of the events giving rise to the dispute, unless the hearing location closest to the associated person's employment is in a different state, in which case the associated person may request a hearing location in his or her state of employment at the time of the events giving rise to the dispute. In cases involving members only or more than one associated person, the Director will consider a variety of factors, including:

- The parties' signed agreement to arbitrate, if any;
- Which party initiated the transaction or business in issue; and
- The location of essential witnesses and documents.

(2) - (4) No change.

(b) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on July 15, 2009, 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

Hearing Location Selection under the Customer Code

Currently, Rule 12213(a) of the Customer Code states that generally, the Director of FINRA Dispute Resolution (“Director”) will select the hearing location closest to the customer’s residence at the time of the events giving rise to the dispute. FINRA has determined that its policy concerning selection of a hearing location under the Customer Code may be broader than the rule describes.

Under the current rule in the Customer Code, for example, if a customer in an arbitration proceeding lives in Hoboken, New Jersey, the Director will select the New York City hearing location, because this hearing location is closer to the customer’s residence, Hoboken,² than FINRA’s Newark, New Jersey hearing location.

There have been instances, however, in which the Director has granted customers’ requests to select a hearing location in their state of residence at the time the dispute arose, even though the in-state hearing location may not be the closest hearing location. Thus, in the example above, if the customer requests the Newark, New Jersey hearing location, the Director generally will grant the request, even though the closest hearing location is the New York City location. The Director typically attempts to honor such requests as a convenience to public customers.

² Hoboken, New Jersey is less than a mile by ferry across the Hudson River from FINRA’s New York City hearing location.

FINRA is proposing, therefore, to amend Rule 12213(a) of the Customer Code to add this criterion for selecting a hearing location. The proposed amendment to the rule would state that the Director will select the hearing location closest to the customer's residence at the time of the events giving rise to the dispute, unless the hearing location closest to the customer's residence is in a different state. In that case, the customer may request a hearing location in the customer's state of residence at the time of the events giving rise to the dispute.

Under the proposal, the Director would continue to select the hearing location closest to the customer's residence at the time of the events giving rise to the dispute. However, the Director would honor a customer's request for a different hearing location in the customer's state of residence.³ FINRA believes the proposal is customer-friendly because it gives customers more control over the arbitration process, by providing them with a choice of hearing locations.

Hearing Location Selection under the Industry Code

Rule 13213(a) of the Industry Code states, in relevant part, that in cases involving an associated person, the Director will generally select the hearing location closest to where the associated person was employed at the time of the dispute. FINRA has not received requests from associated persons for different hearing locations, other than the closest hearing location under the current rule. However, FINRA believes that associated

³ If the customer requests a different hearing location other than the location closest to the customer's residence at the time the dispute arose and makes the request before the arbitrator or arbitrators are selected, the Director will grant the request. If the customer requests a different hearing location other than the location closest to the customer's residence at the time the dispute arose and makes the request after the arbitrator or arbitrators are selected, the customer must submit the request to the arbitrator or panel.

persons also should have the option to select a hearing location in their state of employment at the time of the events giving rise to the dispute, if the closest hearing location to their employment is in a different state.

Thus, FINRA is proposing to amend Rule 13213(a) of the Industry Code in two ways. First, FINRA would broaden the criteria for selecting the appropriate hearing location by referring to the time of the events giving rise to the dispute. FINRA notes that this amendment clarifies current practice and makes the rule language under the Industry Code consistent with the same rule under the Customer Code. The second change to Rule 13213(a) would allow an associated person to request a different hearing location, other than the closest hearing location. Specifically, the proposal would state that the Director will select the hearing location closest to where the associated person was employed at the time of the events giving rise to the dispute, unless the hearing location closest to the associated person's employment is in a different state. In that case, the associated person may request a hearing location in his or her state of employment at the time of the events giving rise to the dispute.

Under the proposal, the Director would continue to select the hearing location closest to where the associated person was employed at the time of the events giving rise to the dispute. However, the Director would honor an associated person's request for a different hearing location in the associated person's state of employment.⁴ FINRA

⁴ If the associated person requests a different hearing location other than the location closest to where the associated person was employed at the time of the dispute and makes the request before the arbitrator or arbitrators are selected, the Director will grant the request. If the associated person requests a different hearing location other than the location closest to where the associated person was employed at the time of the dispute and makes the request after the arbitrator or arbitrators are selected, the associated person must submit the request to the arbitrator or panel.

believes the proposal would benefit associated persons by providing them with a choice of hearing locations.

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 require, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change is consistent with FINRA's statutory obligations under the Act to protect investors and the public interest because the proposal would assist in the efficient administration of the arbitration process by giving customers and associated persons more control over where the arbitration would be held.

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.

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

⁵ 15 U.S.C. 78o-3(b)(6).

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.

SECURITIES AND EXCHANGE COMMISSION

Release No. 34-_____; File No. SR-FINRA-2009-073

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

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 October 28, 2009, the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA Dispute Resolution is proposing to amend Rules 12213(a) and 13313(a) of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and for Industry Disputes (“Industry Code”), respectively, to expand the criteria for selecting a hearing location for an arbitration proceeding.

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

Hearing Location Selection under the Customer Code

Currently, Rule 12213(a) of the Customer Code states that generally, the Director of FINRA Dispute Resolution (“Director”) will select the hearing location closest to the customer’s residence at the time of the events giving rise to the dispute. FINRA has determined that its policy concerning selection of a hearing location under the Customer Code may be broader than the rule describes.

Under the current rule in the Customer Code, for example, if a customer in an arbitration proceeding lives in Hoboken, New Jersey, the Director will select the New York City hearing location, because this hearing location is closer to the customer’s residence, Hoboken,³ than FINRA’s Newark, New Jersey hearing location.

There have been instances, however, in which the Director has granted customers’ requests to select a hearing location in their state of residence at the time the dispute arose,

³ Hoboken, New Jersey is less than a mile by ferry across the Hudson River from FINRA’s New York City hearing location.

even though the in-state hearing location may not be the closest hearing location. Thus, in the example above, if the customer requests the Newark, New Jersey hearing location, the Director generally will grant the request, even though the closest hearing location is the New York City location. The Director typically attempts to honor such requests as a convenience to public customers.

FINRA is proposing, therefore, to amend Rule 12213(a) of the Customer Code to add this criterion for selecting a hearing location. The proposed amendment to the rule would state that the Director will select the hearing location closest to the customer's residence at the time of the events giving rise to the dispute, unless the hearing location closest to the customer's residence is in a different state. In that case, the customer may request a hearing location in the customer's state of residence at the time of the events giving rise to the dispute.

Under the proposal, the Director would continue to select the hearing location closest to the customer's residence at the time of the events giving rise to the dispute. However, the Director would honor a customer's request for a different hearing location in the customer's state of residence.⁴ FINRA believes the proposal is customer-friendly because it gives customers more control over the arbitration process, by providing them with a choice of hearing locations.

⁴ If the customer requests a different hearing location other than the location closest to the customer's residence at the time the dispute arose and makes the request before the arbitrator or arbitrators are selected, the Director will grant the request. If the customer requests a different hearing location other than the location closest to the customer's residence at the time the dispute arose and makes the request after the arbitrator or arbitrators are selected, the customer must submit the request to the arbitrator or panel.

Hearing Location Selection under the Industry Code

Rule 13213(a) of the Industry Code states, in relevant part, that in cases involving an associated person, the Director will generally select the hearing location closest to where the associated person was employed at the time of the dispute. FINRA has not received requests from associated persons for different hearing locations, other than the closest hearing location under the current rule. However, FINRA believes that associated persons also should have the option to select a hearing location in their state of employment at the time of the events giving rise to the dispute, if the closest hearing location to their employment is in a different state.

Thus, FINRA is proposing to amend Rule 13213(a) of the Industry Code in two ways. First, FINRA would broaden the criteria for selecting the appropriate hearing location by referring to the time of the events giving rise to the dispute. FINRA notes that this amendment clarifies current practice and makes the rule language under the Industry Code consistent with the same rule under the Customer Code. The second change to Rule 13213(a) would allow an associated person to request a different hearing location, other than the closest hearing location. Specifically, the proposal would state that the Director will select the hearing location closest to where the associated person was employed at the time of the events giving rise to the dispute, unless the hearing location closest to the associated person's employment is in a different state. In that case, the associated person may request a hearing location in his or her state of employment at the time of the events giving rise to the dispute.

Under the proposal, the Director would continue to select the hearing location closest to where the associated person was employed at the time of the events giving rise to the

dispute. However, the Director would honor an associated person's request for a different hearing location in the associated person's state of employment.⁵ FINRA believes the proposal would benefit associated persons by providing them with a choice of hearing locations.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁶ which requires, among other things, that FINRA 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 protect investors and the public interest because the proposal would assist in the efficient administration of the arbitration process by giving customers and associated persons more control over where the arbitration would be held.

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

⁵ If the associated person requests a different hearing location other than the location closest to where the associated person was employed at the time of the dispute and makes the request before the arbitrator or arbitrators are selected, the Director will grant the request. If the associated person requests a different hearing location other than the location closest to where the associated person was employed at the time of the dispute and makes the request after the arbitrator or arbitrators are selected, the associated person must submit the request to the arbitrator or panel.

⁶ 15 U.S.C. 78o-3(b)(6).

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-2009-073 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2009-073. 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-2009-073 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.⁷

Florence E. Harmon
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).