

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

Initial <input checked="checked" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="checked" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document  Exhibit 3 Sent As Paper Document

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

**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 EFFS website.

**Form 19b-4 Information**

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

**Exhibit 1 - Notice of Proposed Rule Change**

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

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

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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”),<sup>1</sup> 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 Rule 12307 of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and Rule 13307 of the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) (together, “Codes”) to clarify the date of filing of an arbitration claim once a deficiency is corrected.

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

\* \* \* \* \*

**12307. Deficient Claims**

(a) No change.

(b) The Director will notify the claimant in writing if the claim is deficient. If the deficiency is corrected within 30 days from the time the claimant receives notice, the claim will be considered filed on the date the initial statement of claim was filed with the Director under Rule 12300(a). If all deficiencies are not corrected within 30 days [from the time the claimant receives notice], the Director will close the case without serving the claim, and will refund part of the filing fee in the amount indicated in the schedule under Rule 12900(c).

(c) No change.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

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**13307. Deficient Claims**

(a) No change.

(b) The Director will notify the claimant in writing if the claim is deficient. If the deficiency is corrected within 30 days from the time the claimant receives notice, the claim will be considered filed on the date the initial statement of claim was filed with the Director under Rule 13300(a). If all deficiencies are not corrected within 30 days [from the time the claimant receives notice], the Director will close the case without serving the claim, and will refund part of the filing fee in the amount indicated in the schedule under Rule 13900(c).

(c) No change.

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(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

When parties initiate arbitration claims in FINRA's arbitration forum, they must file a signed and dated Submission Agreement and a statement of claim explaining the facts and outlining the remedies requested.<sup>2</sup> Parties must also pay all required filing fees at the time they file their claims.<sup>3</sup> If the parties' claims do not meet the criteria for filing a claim under the Codes or otherwise do not comply with the Codes, the claims are considered deficient. A claim may be deficient because, for example, the party failed to file a properly signed and dated Submission Agreement, failed to pay all required filing fees, or failed to file the correct number of copies of the Submission Agreement, statement of claim or other supporting documents.

Currently, Rule 12307 of the Customer Code and Rule 13307 of the Industry Code, which address deficient claims (hereinafter, "deficient claims rules"), state that the Director of FINRA Dispute Resolution ("Director") will not serve a claim that is deficient. The deficient claims rules permit a party to correct all deficiencies. Under the current rules, if all deficiencies are not corrected within 30 days from the time a party receives notice of a deficiency, the Director will close the case without serving the claim

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<sup>2</sup> Rule 12302(a)(1) of the Customer Code and Rule 13302(a)(1) of the Industry Code.

<sup>3</sup> Id.

and refund part of the filing fee.<sup>4</sup> However, the rules are silent on the date that the Director will use as the date of filing if a party corrects a deficient claim within 30 days of receiving notice of a deficiency.

FINRA has received inquiries from constituents on how the arbitration forum determines the date of filing of a claim that was deficient when filed, but is later corrected. Thus, FINRA is proposing to amend Rules 12307(b) and 13307(b) of the Codes to clarify the arbitration forum's procedure concerning the date of filing of a deficient claim when the deficiency is corrected within the 30-day deficiency period. Specifically, the rules would be amended to state that if the deficiency is corrected within 30 days from the time the party receives notice of a deficiency, the claim will be considered filed on the date the initial statement of claim was filed.

FINRA believes the proposal would clarify the date that the forum uses to determine the filing date of the claim, which should help resolve issues concerning whether a claim is eligible for submission to arbitration under the Codes,<sup>5</sup> and whether statutes of limitation, if applicable, should apply. Moreover, FINRA believes that adding this existing policy to the rules will eliminate confusion for parties concerning deficient claims, provide transparency concerning forum practice, and enhance the efficiency of case administration.

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<sup>4</sup> Rule 12307(b) of the Customer Code and Rule 13307(b) of the Industry Code.

<sup>5</sup> Under the Codes, no claim shall be eligible for submission to arbitration where six years have elapsed from the occurrence or event giving rise to the claim. See Rule 12206(a) of the Customer Code and Rule 13206(a) of the Industry Code.

b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>6</sup> 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 eliminate confusion for parties concerning deficient claims, provide transparency concerning forum practice, and enhance the efficiency of case administration.

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)

Not applicable.

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<sup>6</sup> 15 U.S.C. 78o-3(b)(6).

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-2009-072

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Amend the Deficient Claims 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”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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 12307(b) and 13307(b) of the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and for Industry Disputes (“Industry Code”), respectively, to clarify the date of filing of an arbitration claim once a deficiency is corrected.

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.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 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

When parties initiate arbitration claims in FINRA's arbitration forum, they must file a signed and dated Submission Agreement and a statement of claim explaining the facts and outlining the remedies requested.<sup>3</sup> Parties must also pay all required filing fees at the time they file their claims.<sup>4</sup> If the parties' claims do not meet the criteria for filing a claim under the Codes or otherwise do not comply with the Codes, the claims are considered deficient. A claim may be deficient because, for example, the party failed to file a properly signed and dated Submission Agreement, failed to pay all required filing fees, or failed to file the correct number of copies of the Submission Agreement, statement of claim or other supporting documents.

Currently, Rule 12307 of the Customer Code and Rule 13307 of the Industry Code, which address deficient claims (hereinafter, "deficient claims rules"), state that the Director of FINRA Dispute Resolution ("Director") will not serve a claim that is deficient. The

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<sup>3</sup> Rule 12302(a)(1) of the Customer Code and Rule 13302(a)(1) of the Industry Code.

<sup>4</sup> Id.

deficient claims rules permit a party to correct all deficiencies. Under the current rules, if all deficiencies are not corrected within 30 days from the time a party receives notice of a deficiency, the Director will close the case without serving the claim and refund part of the filing fee.<sup>5</sup> However, the rules are silent on the date that the Director will use as the date of filing if a party corrects a deficient claim within 30 days of receiving notice of a deficiency.

FINRA has received inquiries from constituents on how the arbitration forum determines the date of filing of a claim that was deficient when filed, but is later corrected. Thus, FINRA is proposing to amend Rules 12307(b) and 13307(b) of the Codes to clarify the arbitration forum's procedure concerning the date of filing of a deficient claim when the deficiency is corrected within the 30-day deficiency period. Specifically, the rules would be amended to state that if the deficiency is corrected within 30 days from the time the party receives notice of a deficiency, the claim will be considered filed on the date the initial statement of claim was filed.

FINRA believes the proposal would clarify the date that the forum uses to determine the filing date of the claim, which should help resolve issues concerning whether a claim is eligible for submission to arbitration under the Codes,<sup>6</sup> and whether statutes of limitation, if applicable, should apply. Moreover, FINRA believes that adding this existing policy to the rules will eliminate confusion for parties concerning deficient claims, provide transparency concerning forum practice, and enhance the efficiency of case administration.

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<sup>5</sup> Rule 12307(b) of the Customer Code and Rule 13307(b) of the Industry Code.

<sup>6</sup> Under the Codes, no claim shall be eligible for submission to arbitration where six years have elapsed from the occurrence or event giving rise to the claim. See Rule 12206(a) of the Customer Code and Rule 13206(a) of the Industry Code.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>7</sup> 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 eliminate confusion for parties concerning deficient claims, provide transparency concerning forum practice, and enhance the efficiency of case administration.

### 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

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<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

(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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2009-072 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-2009-072. 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-2009-072 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.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).