



Regulatory Information Circular			
Circular number:	2012-004	Contact:	Katherine Simmons, Deputy General Counsel
Date:	February 29, 2012	Telephone:	212-897-0233

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## **Subject: Rule Change Notice – Changes to FINRA Arbitration Rules**

Pursuant to ISE Rule 1800, which in part states that Financial Industry Regulatory Authority, Inc.'s ("FINRA") Code of Arbitration shall govern ISE arbitrations, this Regulatory Information Circular informs Members of a proposed rule change to the FINRA Code of Arbitration published by the Securities and Exchange Commission ("SEC"), attached.

In the February 22, 2012 *Federal Register*, the SEC published a notice of filing of a proposed rule change (SR-FINRA-2012-012) by FINRA to amend Rules 12401 and 12800 of the Code of Arbitration Procedure for Customer Disputes, and Rules 13401 and 13800 of the Code of Arbitration Procedure for Industry Disputes, to raise the limit for simplified arbitration from \$25,000 to \$50,000.

(Exchange Act Release No. 34-66442 (February 28, 2012))

10 CFR 50.55a. This action effectively minimizes the differences in preservice examination requirements when developing the ISI program but is not mandatory.

For its initial 120-month interval, a COL licensee may submit to the NRC a request to authorize an alternative to use a different edition and addenda of ASME B&PV Code, Section III, than that established in the design certification application, or an earlier edition and addenda of ASME B&PV Code, Section XI, than that required by 10 CFR 50.55a(g)(3)(i), for developing its PSI program. According to 10 CFR 50.55a, the COL licensee would need to demonstrate that (1) this edition and addenda of ASME B&PV Code, Section III or XI, would provide an acceptable level of quality and safety, or (2) compliance with the specified requirement to use the latest edition and addenda would result in hardship or unusual difficulty without a compensating increase in the level of quality and safety.

#### Risk-Informed IST and ISI Programs

On several occasions, the NRC staff has been asked to define its position on Risk-Informed IST and ISI program submittals during the COL application process. A COL applicant or licensee may submit Risk-Informed IST and ISI programs for NRC staff review and authorization as an alternative to the regulations as described in 10 CFR 50.55a. The COL applicant or licensee will need to satisfy the requirements for authorization of an alternative as specified in 10 CFR 50.55a.

The NRC staff recommends that a conventional IST or ISI program be in place or developed before preparing a Risk-Informed IST or ISI program to facilitate the evaluation of the acceptability of the alternative program. This recommendation is based solely on the fact that the existing design certification applications, the Standard Review Plan acceptance criteria, the applicable NUREG documents, and the COL applications conform to the premise that conventional IST/ISI programs have been developed prior to a Risk-Informed program. No regulation requires that a conventional IST/ISI program be developed prior to a Risk-Informed IST or ISI program submission as an alternative. However, the NRC staff considers this approach to provide the most expedient course for review and approval of a Risk Informed IST or ISI program.

#### Backfit Discussion

This RIS clarifies current regulatory requirements and provides voluntary

options that a COL licensee may propose. The RIS imposes no new requirements and necessitates no action or written response. Therefore, it does not constitute a backfit under 10 CFR 50.109, "Backfitting," and the staff did not perform a backfit analysis.

#### Congressional Review Act

[Discussion to be provided in the final RIS.]

#### Paperwork Reduction Act Statement

This RIS does not contain new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Office of Management and Budget (OMB) approved the existing requirements under OMB approval numbers 3150-0011 and 3150-0151.

#### Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, an information collection unless the requesting document displays a currently valid OMB control number.

#### Contact

Please direct any questions about this matter to Andrea Russell, Project Manager, telephone 301-415-8553, or email [Andrea.Russell@nrc.gov](mailto:Andrea.Russell@nrc.gov).

For the Nuclear Regulatory Commission.  
Dated at Rockville, Maryland, this 16th day of February 2012.

**Kimyata Morgan-Butler,**

*Acting Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.*

[FR Doc. 2012-4647 Filed 2-27-12; 8:45 am]

**BILLING CODE 7590-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, March 1, 2012 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii)

and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, March 1, 2012 will be:

Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings; and  
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551-5400.

February 23, 2012.

**Elizabeth M. Murphy,**  
*Secretary.*

[FR Doc. 2012-4808 Filed 2-24-12; 11:15 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66442; File No. SR-FINRA-2012-012]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating To Raising the Limit for Simplified Arbitration

February 22, 2012.

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 February 9, 2012, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially 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 is proposing to amend FINRA's Customer and Industry Codes

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

<sup>2</sup> 17 CFR 240.19b-4.

of Arbitration Procedure to raise the limit for simplified arbitration from \$25,000 to \$50,000.

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.

## 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

FINRA is proposing to amend FINRA Rules 12401 (Number of Arbitrators) and 12800 (Simplified Arbitration) of the Code of Arbitration Procedure for Customer Disputes ("Customer Code"), and FINRA Rules 13401 (Number of Arbitrators) and 13800 (Simplified Arbitration) of the Code of Arbitration Procedure for Industry Disputes ("Industry Code"), to raise the limit for simplified arbitration from \$25,000 to \$50,000.

Currently, FINRA offers streamlined arbitration procedures for claimants seeking damages of \$25,000 or less. Under the simplified arbitration rules, one chair-qualified arbitrator decides a claim and issues an award based on the written submissions of the parties, unless, in a customer case, the customer requests a hearing, or, in an industry case, the claimant requests a hearing. FINRA also streamlines discovery for these cases.

The \$25,000 threshold has been in place since 1998<sup>3</sup> and, at that time, captured 21 percent of all cases filed with the forum. Currently, the \$25,000 threshold captures ten percent of FINRA's caseload. Statistics for 2011 indicate that raising the threshold to \$50,000 would increase the percentage of claims administered under simplified

arbitration to 17 percent of the claims filed with the forum. FINRA staff believes that raising the threshold for simplified arbitration to \$50,000 would benefit forum users in a number of ways.

First, forum fees for simplified arbitration claims would be reduced. Under FINRA Rules 12800 and 13800, no hearing is held unless the customer or claimant requests one.<sup>4</sup> Under the current fee schedule, FINRA charges \$450 per hearing session for claims between \$25,000 and \$50,000. Under the proposed rule change, parties who choose to have their dispute resolved "on the papers" (*i.e.*, based on the pleadings and other materials submitted by the parties) would save the \$450 hearing session fee.<sup>5</sup> In the event that a case would have required two hearing sessions (one full day), the fee savings would be \$900.<sup>6</sup> Further, under Rules 12903 and 13903 (Process Fees Paid by Members), members are assessed a non-refundable hearing process fee of \$1,000 for claims between \$25,000.01 and \$50,000 when a hearing date and location are set. Under the proposal, if the dispute is resolved on the papers, members would not have to pay this fee.

Second, parties would save the time and expense of preparing for, scheduling, and traveling to the hearing.

Third, customers who are not able to retain an attorney to handle their case because of the small amount in dispute, and who are not comfortable appearing at an evidentiary hearing without representation, would have the flexibility to choose whether to request a hearing.

Finally, raising the limit for cases decided on the papers would reduce the time to process the cases because the arbitrator and parties would not need to coordinate their calendars to schedule a hearing.

For the reasons stated above, FINRA is proposing to amend Rules 12401(a) and 13401(a) to provide that if the amount of a claim is \$50,000 or less, exclusive of interest and expenses, the panel would consist of one arbitrator and the claim would be subject to the simplified arbitration rules. FINRA would amend Rules 12401(c) and

13401(c) to state that if the amount of a claim is more than \$50,000, but not more than \$100,000, exclusive of interest and expenses, the panel will consist of one arbitrator unless the parties agree in writing to three arbitrators. The provisions relating to claims of more than \$100,000 would remain the same.

FINRA is proposing to amend Rules 12800(a) and 13800(a) to provide that the simplified arbitration rules apply to claims involving \$50,000 or less, exclusive of interest and expenses. FINRA would amend Rules 12800(e) and 13800(e) to state that if any pleading increased the amount in dispute to more than \$50,000, FINRA would no longer administer the claim under the simplified arbitration rules.

#### 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. FINRA believes that raising the threshold for simplified arbitration would, as referenced above, improve efficiency and reduce fees for claims up to \$50,000, enhancing the forum for its users.

### 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.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 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:

<sup>3</sup>In 1998, FINRA raised the amount in dispute for simplified arbitration from \$10,000 to \$25,000. See NASD, *Notice to Members* 98-90 (New Arbitrator List Selection Rules And Monetary Thresholds For Simplified And Single Arbitrator Cases Take Effect).

<sup>4</sup>Under the simplified procedures for customer cases, only the customer may request a hearing (regardless of whether the customer or the firm initiated the arbitration). Under the simplified procedures in the Industry Code, only the claimant may request a hearing.

<sup>5</sup>Under Rules 12100(n) and 13100(n), a hearing session means any meeting between the parties and arbitrators of four hours or less, including a prehearing conference.

<sup>6</sup>Since the arbitrator assesses the hearing session fees, either the claimant or the respondent could realize the savings.

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

(A) By order approve or disapprove 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2012-012 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-FINRA-2012-012. This file number should be included on the subject line if email 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; 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 File Number SR-FINRA-2012-012 and should be submitted on or before March 20, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-4596 Filed 2-27-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-66440; File No. SR-BX-2012-010]

### Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Certain External and Inter-Cabinet Connectivity Fees

February 22, 2012.

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 on February 14, 2012, NASDAQ OMX BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 the Substance of the Proposed Rule Change

The Exchange proposes to modify certain external and inter-cabinet connectivity fees. The text of the proposed rule change is available at <http://nasdaqomxbx.cchwallstreet.com/>, at the Exchange's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange 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. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

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

<sup>2</sup> 17 CFR 240.19b-4.

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

##### 1. Purpose

The Exchange proposes to amend Rule 7034(b) to reduce fees for low latency connectivity to Toronto and Chicago venues; and to increase certain fees for other forms of connectivity.

##### Low Latency Connectivity

On December 20, 2011, the Commission approved the Exchange's offering of low latency point-to-point telecommunications connectivity from the Exchange's co-location facility to select financial trading and co-location venues in the metropolitan New York/New Jersey area, Toronto, and Chicago.<sup>3</sup> The enhanced point-to-point connectivity provides the Exchange's co-location customers the opportunity to obtain low latency network connectivity with greater ease and at a competitive price.<sup>4</sup>

The Exchange now proposes a pass-through reduction in the fees for connectivity to Toronto and Chicago venues as follows: (1) For 100MB connectivity to the Toronto area, a reduction of the installation fee from \$5,150 to \$4,850, and a reduction of the per-month connectivity fee from \$4,350 to \$4,100; (2) for 1G connectivity to the Toronto area, a reduction of the installation fee from \$8,200 to \$7,700, and a reduction of the per-month connectivity fee from \$10,450 to \$9,850; (3) for 10G connectivity to the Toronto area, a reduction of the installation fee from \$15,150 to \$14,200, and a reduction of the per-month connectivity fee from \$32,400 to \$28,400; (4) for 100MB connectivity to the Chicago area, a reduction of the installation fee from \$4,850 to \$3,500, and a reduction of the per-month connectivity fee from \$8,350 to \$7,350; (5) for 1G connectivity to the Chicago area, a reduction of the installation fee from \$5,900 to \$4,900, and a reduction of the per-month connectivity fee from \$16,400 to \$12,800; (6) for 10G connectivity to the Chicago area, a reduction of the installation fee from of [sic] \$12,050 to \$10,650, and a reduction of the per-month connectivity fee from \$39,750 to \$26,900.

The reductions in fees are the result of the Exchange obtaining a reduction in the fees charged to the Exchange by the Toronto and Chicago low latency

<sup>3</sup> See Securities Exchange Act Release No. 66012 (December 20, 2011), 76 FR 80998 (December 27, 2011) (SR-BX-2011-073).

<sup>4</sup> *Id.* at 80998.