



INTERNATIONAL SECURITIES EXCHANGE

<b>Regulatory Information Circular</b>			
<b>Circular number:</b>	2008-03	<b>Contact:</b>	Michael J. Simon
<b>Date:</b>	February 19, 2008	<b>Telephone:</b>	212-897-0230

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

Pursuant to ISE Rule 1800, which in part states that FINRA's Code of Arbitration shall govern ISE arbitrations, this Regulatory Information Circular informs Members of proposed rule changes to the FINRA Code of Arbitration published by the Securities and Exchange Commission, attached.

In the February 4, 2008 *Federal Register*, the Commission published notice of filing of a proposed rule change (SR-FINRA-2007-042) by FINRA to amend the Code of Arbitration Procedure for Customer Disputes and the Code of Arbitration Procedure for Industry Disputes to remove the 50-page limit on statements of claim filed through the online arbitration claim filing system.

(Securities Exchange Act Release No. 34-57225 (January 29, 2008))

consequences of any accident previously evaluated are not significantly increased. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

**Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated**

The proposed changes revise the Completion Times for restoring an inoperable containment isolation valve (or isolating the affected penetration) within the scope of Topical Report BAW-2461-A, "Risk-Informed Justification for Containment Isolation Valve Allowed Outage Time Change." The proposed changes do not change the design, configuration, or method of operation of the plant. The proposed changes do not involve a physical alteration of the plant (no new or different kind of equipment will be installed). Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

**Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety**

The proposed changes revise the Completion Times for restoring an inoperable containment isolation valve (or isolating the affected penetration) within the scope of Topical Report BAW-2461-A, "Risk-Informed Justification for Containment Isolation Valve Allowed Outage Time Change." In order to evaluate the proposed Completion Time extensions, a probabilistic risk evaluation was performed as documented in Topical Report BAW-2461-A. The risk evaluation concluded that the proposed increase in the Completion Times does not result in an unacceptable incremental conditional core damage probability or incremental conditional large early release probability according to the guidelines of Regulatory Guide 1.177. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration as set forth in 10 CFR 50.92(c).

Dated at Rockville, Maryland, this 28th day of January, 2008.

For the Nuclear Regulatory Commission.

**Gerald Waig,**

*Acting Chief, Technical Specifications Branch, Division of Inspection & Regional Support, Office of Nuclear Reactor Regulation.*

[FR Doc. E8-1943 Filed 2-1-08; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57225; File No. SR-FINRA-2007-042]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the Codes of Arbitration Procedure To Remove the Page Limit on Statements of Claim Filed Through the Online Arbitration Claim Filing System

January 29, 2008.

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 December 27, 2007, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) 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 substantially prepared by FINRA. FINRA has designated the proposed rule change as concerned solely with the administration of the self-regulatory organization under section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission. 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 Rule 12302 of the Code of Arbitration Procedure for Customer Disputes ("Customer Code") and Rule 13302 of the Code of Arbitration Procedure for Industry Disputes ("Industry Code") to remove the 50-page limit on Statements of Claim filed through the Online Arbitration Claim Filing System ("the System"), to allow parties to submit exhibits to Statements of Claim through the System, and to reflect the new FINRA name.<sup>5</sup> Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

<sup>5</sup> Specifically, FINRA is updating its Internet address and the title of the Tracking Form generated by the System.

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
- A statement of claim specifying the relevant facts and remedies requested.

The claimant may include any additional documents supporting the statement of claim.

(2) A claimant may use the online claim notification and filing procedure to complete part of the arbitration claim filing process through the Internet. To commence this process, a claimant may complete a Claim Information Form that can be accessed through [<http://www.nasd.com>] <http://www.finra.org>. In completing the Claim Information Form, the claimant may attach an electronic version of the statement of claim, and any additional documents supporting the statement of claim, to the form, provided it does not exceed 50 pages]. Once this online form has been completed, [an NASD] a FINRA Dispute Resolution Tracking Form will be generated and displayed for the claimant to reproduce as necessary. The claimant shall then file with the Director the rest of the materials required in subparagraph (1) of the rule, along with a hard copy of the [NASD] FINRA Dispute Resolution Tracking Form.

(b)-(d) 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
- A statement of claim specifying the relevant facts and remedies requested.

The claimant may include any additional documents supporting the statement of claim.

(2) A claimant may use the online claim notification and filing procedure to complete part of the arbitration claim filing process through the Internet. To commence this process, a claimant may complete a Claim Information Form that can be accessed through [<http://www.nasd.com>] <http://www.finra.org>. In completing the Claim Information Form, the claimant may attach an electronic version of the statement of claim, and any additional documents supporting the statement of claim, to the form, provided it does not exceed 50 pages]. Once this online form has been

completed, [an NASD] a *FINRA* Dispute Resolution Tracking Form will be generated and displayed for the claimant to reproduce as necessary. The claimant shall then file with the Director the rest of the materials required in subparagraph (1) of the rule, along with a hard copy of the [NASD] *FINRA* Dispute Resolution Tracking Form.

(b)-(d) No change.

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## 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 amending its Customer Code and Industry Code to remove the 50-page limit on Statements of Claim filed through the System, to allow parties to submit exhibits to Statements of Claim through the System, and to reflect the new *FINRA* name. The proposed rule change is intended to encourage more claimants to use online filing. The System will not have any limitation on the number of pages submitted so long as they are submitted as a single document.

To begin an arbitration, a claimant submits a signed and dated Uniform Submission Agreement, a Statement of Claim specifying the relevant facts and remedies requested, any exhibits supporting the Statement of Claim, and the required fees. When a claim is filed in hard copy, the claimant is required to submit sufficient copies of the Statement of Claim for the forum, each arbitrator and each other party.

Since August 2004, *FINRA* has allowed claimants to file an electronic version of the Statement of Claim so long as the submission does not exceed 50 pages. The Statement of Claim may include exhibits if they are part of the same document and the total number of pages is no more than 50. Claimants who file online also complete an online Claim Information Form containing

details about the names and addresses of the parties and their counsel, the issues in controversy, and so forth. Once the Claim Information Form is completed, a Dispute Resolution Tracking Form is generated by the System. Claimants then mail in a signed and dated Uniform Submission Agreement, a copy of the Dispute Resolution Tracking Form, the required fees, and any exhibits. The case is deemed to be filed when all such materials are received.

With electronically filed claims, *FINRA* staff prints the required copies for the arbitrators and the other parties. The 50-page limit was originally imposed to ensure that *FINRA* had sufficient resources to process electronic claims efficiently. Having gained experience with electronic filing, *FINRA* is prepared to process efficiently the additional volume associated with longer Statements of Claim and exhibits.

#### 2. 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. By removing the page limitation on submissions through the System, the proposed rule change will provide investors, and other claimants, with expanded access to the System and will make claim processing more efficient.

#### 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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>7</sup> and paragraph (f)(3) of Rule 19b-4 thereunder<sup>8</sup> because it is

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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(3).

concerned solely with the administration of *FINRA*.<sup>9</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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-2007-042 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-2007-042. 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, 100 F Street, NE., Washington,

<sup>9</sup> The applicability of Rule 19b-4(f)(3) is limited to matters concerned solely with the administration of a self-regulatory organization. Because this narrowly tailored rule change is limited to relaxing administrative restrictions on the length of documents solely for claims processed online and updating *FINRA*'s name and Internet address for purposes of these claims, it meets the Rule 19b-4(f)(3) standard.

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-2007-042 and should be submitted on or before February 25, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon,  
Deputy Secretary.

[FR Doc. E8-1960 Filed 2-1-08; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57216; File No. SR-NYSE-2008-06]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Implement Transaction Fees for NYSE MatchPoint

January 28, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 22, 2008, the New York Stock Exchange LLC ("NYSE" 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 NYSE. The NYSE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the NYSE under section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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

NYSE proposes to implement an equity transaction fee effective January

22, 2008, for shares executed on the new NYSE MatchPoint<sup>SM</sup> ("NYSE MatchPoint" or "MatchPoint")<sup>5</sup> system. The Exchange will charge each Member Organization \$.0015 per share executed on the MatchPoint system, with the exception of MatchPoint executions that are effectuated through an optional "internal match" process. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### 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 NYSE 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 NYSE 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

The Exchange proposes to implement an equity transaction fee for executions on the NYSE MatchPoint system to take effect with the scheduled launch of MatchPoint on January 22, 2008. The MatchPoint system is an electronic facility of the Exchange that matches aggregated orders at predetermined, one-minute sessions throughout regular hours and after hours of the Exchange. The proposed transactional fee of \$.0015 per executed share, for single and portfolio orders, will be charged to both the buyer(s) and seller(s) of the executed shares, with the exception of MatchPoint executions that are effectuated through an optional "internal match" process.<sup>6</sup> More specifically, when the same user enters

different orders into MatchPoint for internal matching purposes under the same mnemonic and for the same matching session, any resulting executions will not be subject to this transaction fee.<sup>7</sup> Only NYSE members, member organizations and sponsoring member organizations will be charged this transaction fee. Transaction fees for executions of orders entered by sponsored participants (who are non-members) will be charged to the sponsoring member organization.

The following examples will demonstrate how the proposed MatchPoint transactional fee will be charged:

*Example 1:* User A enters a buy order into MatchPoint for 1,000 shares of XYZ security and designates the order for the 11 a.m. matching session. User B enters a sell order into MatchPoint for 1,000 shares of XYZ security and designates the order for the 11 a.m. matching session. During the 11 a.m. matching session, User A's buy order for 1,000 shares of XYZ security and User B's sell order for 1,000 shares of XYZ security match and execute. User A is charged \$.0015 per executed share (1,000 shares × \$.0015 = \$1.50). User B is also charged \$.0015 per executed share (1,000 shares × \$.0015 = \$1.50).

*Example 2:* User A enters a portfolio order into MatchPoint for a customer to buy 1,000 shares of XYZ security with an internal match constraint under the mnemonic "Q" for the 2 p.m. matching session. User A then enters another portfolio order into MatchPoint for a second customer to sell 1,000 shares of XYZ security with an internal match constraint under the same mnemonic ("Q") for the 2 p.m. matching session. During the 2 p.m. matching session, the above described portfolio orders entered by User A internally match and execute. Thus, User A's customers both receive executions of 1,000 shares of XYZ security, but no transaction fee is charged to A for these internally matched executions.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6<sup>8</sup> of the Act<sup>9</sup> in general, and section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. Specifically, the proposed transaction fee is reasonable

<sup>5</sup> See Securities Exchange Act Release No. 57058 (December 28, 2007), 73 FR 903 (January 4, 2008) (SR-NYSE-2007-102).

<sup>6</sup> See NYSE Rule 1500 (NYSE MatchPoint<sup>SM</sup>), subparagraph (b)(2)(D): "NYSE MatchPoint Internal Match Constraint" or "internal match constraint" shall mean an optional order constraint that limits the execution of portfolios and single orders by directing the portfolio and single orders to first trade with other portfolios or single orders of the same User before trading with other orders in a particular matching session. If, after an internal match occurs and residual orders remain, the residual orders will be available to trade with all other orders. These constraints are only active for a single matching session."

<sup>7</sup> Because orders are entered by a "mnemonic" (i.e., member identifier and/or account identifier) and because mnemonics are categorized as either "agency" or "proprietary," agency and proprietary orders cannot be entered under the same mnemonic. Thus, agency and proprietary orders cannot match and execute against each other in an internal match.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78a.

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>11</sup> 15 U.S.C. 78s(b)(1).

<sup>12</sup> 17 CFR 240.19b-4.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).