



Regulatory Information Circular			
Circular number:	2012-0012	Contact:	Katherine Simmons, Deputy General Counsel
Date:	September 14, 2012	Telephone:	212-897-0233

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 September 13, 2012 *Federal Register*, the SEC published a notice of filing of a proposed rule change (SR-FINRA-2012-041) by FINRA to amend Rule 12513 of the Code of Arbitration Procedure for Customer Disputes and Rule 13513 of the Code of Arbitration Procedure for Industry Disputes. The proposed amendments would provide that when specified industry parties seek the appearance of witnesses or the production of documents from FINRA members that are not parties to an arbitration, FINRA arbitrators shall issue orders for the appearance of witnesses or the production of documents, instead of issuing subpoenas. FINRA also proposes to standardize certain procedures relating to subpoenas and arbitrator orders.

(Exchange Act Release No. 34-67803 (September 7, 2012))

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

1. Purpose

The Exchange proposes to amend certain NYSE rules to replace references to "NYSE Amex" with "NYSE MKT" to reflect the recent name change of NYSE Amex LLC to NYSE MKT LLC.³

The Exchange proposes to replace references to NYSE Amex in Rules 2, 17, 18, 36, 70, and 103B with references to NYSE MKT. NYSE MKT does not propose to rename the NYSE Amex options business; therefore, references to "NYSE Amex Options" and the "NYSE Amex Options Trading Floor" in Rules 6A, 36, and 70 would not be changed. In addition, the Exchange does not propose to make any changes to temporary rules or rules that are no longer applicable (e.g., Rules 300.10T and 715 and Listed Company Manual Sections 902.02, 902.08, and 902.09).⁴

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),⁵ in general, and Section 6(b)(5) of the Act,⁶ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change would add clarity to the Exchange's rules by correctly reflecting the current name of NYSE MKT, which is in the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

³ See Securities Exchange Act Release No. 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR-NYSEAmex-2012-32).

⁴ The Exchange has certain rules that are temporary or that are no longer applicable in that these rules relate to temporary pilots, grace periods, historical transactions, or legacy rules that are no longer applicable. As such, the Exchange does not believe it is necessary to amend these rules that contain references to NYSE Amex and American Stock Exchange.

⁵ 15 U.S.C. 78ff(b).

⁶ 15 U.S.C. 78ff(b)(5).

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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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 email to rule-comments@sec.gov. Please include File Number SR-NYSE-2012-40 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-NYSE-2012-40. This file number should be included on the

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 the filing also will be available for inspection and copying at the principal office of the Exchange. 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-NYSE-2012-40 and should be submitted on or before October 4, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-22520 Filed 9-12-12; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67803; File No. SR-FINRA-2012-041]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Amend the Customer and Industry Codes of Arbitration Procedure Relating to Subpoenas and to Arbitrator Authority To Direct the Appearance of Associated Person Witnesses and the Production of Documents Without Subpoenas

September 7, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

⁹ 17 CFR 200.30-3(a)(12).

("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 24, 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 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 the Customer and Industry Codes of Arbitration Procedure (collectively "Codes"), to provide that when specified industry parties seek the appearance of witnesses or the production of documents from FINRA members (and individuals associated with the members) that are not parties to the arbitration, FINRA arbitrators shall issue orders for the appearance of witnesses or the production of documents, instead of issuing subpoenas. The proposed rule change would add procedures for non-parties to object to subpoenas and arbitrator orders of production ("arbitrator orders"). It would also standardize procedures under the Codes relating to: Service of motions for subpoenas and arbitrator orders; service of issued subpoenas and arbitrator orders; and time frames for responding to subpoenas and arbitrator orders, making them operationally consistent.

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 the Codes to provide that, when specified industry parties seek the appearance of witnesses or the production of documents from FINRA members (and individuals associated with the members) that are not parties to the arbitration, FINRA arbitrators shall issue orders for the appearance of witnesses or the production of documents, instead of issuing subpoenas, and to standardize certain procedures relating to subpoenas and arbitrator orders.

Subpoenas

The Codes give arbitrators the authority to issue subpoenas to parties and non-parties. Subpoena Rules 12512 and 13512 ("Subpoena Rules") set forth procedures for a party to make a motion for a subpoena. A party must make a written motion requesting that an arbitrator issue a subpoena to a party or non-party. The motion must include a draft subpoena and the party must serve the motion on each other party. The party may not serve the motion or draft subpoena on a non-party. The Subpoena Rules also detail how a party may object to a subpoena and reply to an objection. If the arbitrator issues a subpoena, the party that requested the subpoena must serve the subpoena at the same time and in the same manner on all parties and, if applicable, on any non-party receiving the subpoena. Finally, the Subpoena Rules describe how parties must share documents produced under a subpoena.

The Subpoena Rules do not address who bears the costs of production under a subpoena issued to either a party or a non-party. In practice, arbitrators resolve disputes between parties, and between parties and non-parties, relating to costs associated with subpoenas. In addition, the Subpoena Rules do not provide a means for non-parties to object to subpoenas served upon them. As a matter of practice, FINRA permits non-parties to file objections to subpoenas. The objections may include a request for the arbitrators to determine who pays the costs of production.

Arbitrator Orders

The Codes authorize arbitrators to order FINRA firms, their employees, and/or their associated persons to appear and to produce documents without using the subpoena process. Unlike the Subpoena Rules, Rules 12513 and 13513 ("Order Rules") expressly

address the costs relating to non-party production by firms and their employees/associated persons. The Order Rules provide that, unless the panel directs otherwise, the party requesting the appearance of witnesses or the production of documents from non-parties pays the reasonable costs of the appearance and/or production.

Proposed Amendments to the Subpoena Rules

FINRA believes that a party firm's responsibility to reimburse a non-party firm (or its employees or associated persons) for production costs should be the same regardless of whether the party firm requests a subpoena or an arbitrator order. FINRA also believes that members and associated persons would be better served by requesting an arbitrator order. Arbitrator orders offer an efficient mechanism for obtaining the appearance of witnesses and production of documents from FINRA members and their employees. While the Codes provide an enforcement mechanism for subpoenas and arbitrator orders,³ typically, once an arbitrator issues a subpoena, non-compliance is handled away from the arbitration forum through the courts. Conversely, FINRA staff and the arbitrators who are familiar with the case handle requests for arbitrator orders. Another advantage to using an arbitrator order is that arbitrator orders are not subject to the geographical limitations contained in subpoena statutes.

Arbitrator orders are cost effective for forum users because members and associated persons avoid the costs and risks associated with court proceedings. FINRA does not believe that the proposal would impact firms' ability to obtain documents and witnesses at the forum.

Since the Codes provide a mechanism through the Order Rules for seeking production of documents and witnesses without resorting to the subpoena process, FINRA believes that arbitrators should use this mechanism first. FINRA is proposing to amend the Subpoena Rules to provide that unless circumstances dictate the need for a subpoena, arbitrators shall not issue subpoenas to non-party FINRA members and/or employees or associated persons of non-party FINRA members at the

³ IM-12000 states that it may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2010 for a member or a person associated with a member to fail to appear or to produce any document in his possession or control as directed pursuant to provisions of the Code (see Customer Code of Arbitration Procedure Part I—Interpretative Material, Definitions, Organization and Authority).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

request of FINRA members and/or employees or associated persons of FINRA members. The proposal states that if the arbitrators determine that the request for the appearance of witnesses or the production of documents should be granted, then the arbitrators should order the appearance of such persons or the production of documents from such persons or non-party FINRA members under the Order Rules. An arbitrator might order a subpoena if, for example, a firm failed to produce documents pursuant to an arbitrator order, or if a former associated person of a FINRA member has left the industry and the arbitrator believes that an arbitrator order would not be effective.

Under the proposed rule change, FINRA would add new Rules 12512(g) and 13512(g) to address costs when a FINRA member and/or employee or associated person requests a subpoena directed to a non-party FINRA member and/or employee or associated person. If an arbitrator issues a subpoena, the party requesting the subpoena shall pay the reasonable costs of the non-party's appearance and/or production, unless the panel directs otherwise.

Finally, FINRA is proposing to add new Rules 12512(e) and 13512(e) to provide a mechanism for non-parties to object to a subpoena that an arbitrator issues to them. Under the new provisions, if a non-party receiving a subpoena objects to the scope or propriety of the subpoena, the non-party may, within 10 calendar days of service of the subpoena, file written objections with the Director. The Director shall forward a copy of the written objections to the arbitrator and all other parties. The party that requested the subpoena may respond to the objections within 10 calendar days of receipt of the objections. After considering all objections, the arbitrator responsible for issuing the subpoena shall rule promptly on the objections. The proposed amendments would codify FINRA's current practice relating to objections.

Proposed Amendments to the Order Rules

As stated above, the Order Rules authorize arbitrators to order FINRA firms, their employees, and/or their associated persons to appear and to produce documents without using the subpoena process. The rules also provide that unless the panel directs otherwise, the party requesting the appearance of witnesses or the production of documents from non-parties pays the reasonable costs of the appearance and/or production.

FINRA is proposing to amend the Order Rules to incorporate the procedures outlined in the Subpoena Rules for making, objecting to, and serving motions, and which detail how parties must share documents received from non-parties. Finally, FINRA is proposing to amend the Order Rules to provide for non-party objections to an arbitrator's order. The proposed rule change will standardize FINRA's procedures relating to Arbitrator Orders.

Arbitrators' Authority To Assess Production Costs

As stated above, under proposed new Rules 12512(g) and 13512(g), if the arbitrators issue a subpoena, the party requesting the subpoena shall pay the reasonable costs of the non-party's appearance and/or production, unless the panel directs otherwise. If a dispute arises regarding who pays the production costs and whether a stated amount is reasonable, the proposed rule change allows the arbitrators to determine the reasonable costs and to assess responsibility for paying them. The amendments would codify the current practice relating to how FINRA handles such disputes. The proposed rule change eliminates the current disparity between how the Codes treat costs under the Subpoena Rules and the Order Rules for member requests to non-party members for the appearance of witnesses and production of documents.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁴ which requires, among other things, that 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 the proposed rule change would eliminate a disparity between how the Codes treat costs under the Subpoena Rules and the Order Rules for member requests to non-party members for the appearance of witnesses and production of documents and could lower discovery costs to member firms and their associated persons and employees. The proposed amendments would also enhance the user experience at the forum by standardizing certain procedures relating to subpoenas and arbitrator orders.

⁴ 15 U.S.C. 78c-3(b)(6).

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. The proposal would enhance the efficiency of the FINRA forum for FINRA members and their associated persons and employees because it would require them to use the Order Rules for obtaining the appearance of witnesses and the production of documents from non-party FINRA firms (and their associated persons and employees) during an arbitration proceeding. It would also remove the financial burden associated with document production for non-party FINRA firms (and their associated persons and employees) that must produce documents because the proposed rule change requires the firm party requesting documents to bear the reasonable cost of the non-party's production. Due to the nature of the proposed rule change, FINRA does not believe that the proposal will impact competition or capital formation. The proposed rule change aims to enhance the efficiency of the forum for its users, as explained above, and seeks to ensure that the arbitrators assess the reasonable costs of discovery during an arbitration proceeding to the industry parties involved in the dispute.

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:

- (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. Please include File Number SR-FINRA-2012-041 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-2012-041. 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-2012-041 and should be submitted on or before October 4, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-22521 Filed 9-12-12; 8:45 am]

BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-67802; File No. 4-652]

Technology and Trading Roundtable

AGENCY: Securities and Exchange Commission.

ACTION: Notice of roundtable discussion; date change.

SUMMARY: The Securities and Exchange Commission will host a one day roundtable entitled "Technology and Trading: Promoting Stability in Today's Markets" to discuss ways to promote stability in markets that rely on highly automated systems. The market technology roundtable, which was scheduled for September 14, 2012, will now be held on October 2, 2012. The roundtable at the Securities and Exchange Commission's Washington, DC headquarters is open to the public and will be webcast. As previously announced, the event will begin with a discussion on preventing errors, focusing on current best practices and practical constraints for creating, deploying and operating mission-critical systems, including those used to automatically generate and route orders, match trades, confirm transactions, and disseminate data. The afternoon session will focus on error response, with experts discussing how the market might employ independent filters, objective tests, and other real-time processes or crisis-management procedures to detect, limit, and possibly terminate erroneous market activities when they occur, thereby limiting the impact of such errors.

DATES: The roundtable discussion will take place on October 2, 2012. The Commission will accept comments regarding issues addressed at the roundtable until October 23, 2012.

FOR FURTHER INFORMATION CONTACT: Arisa Tinaves, Special Counsel, at (202) 551-5676, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-7010.

By the Commission.

Dated: September 7, 2012

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2012-22487 Filed 9-12-12; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 8021]

Culturally Significant Objects Imported for Exhibition Determinations: "The English Prize: The Capture of the Westmorland, an Episode of the Grand Tour"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "The English Prize: The Capture of the Westmorland, an Episode of the Grand Tour," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Yale Center for British Art, New Haven, CT, from on or about October 4, 2012, until on or about January 13, 2013, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6467). The mailing address is U.S. Department of State, SA-5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: September 6, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2012-22561 Filed 9-12-12; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 8024]

Culturally Significant Object Imported for Exhibition Determinations: "Steve McQueen"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to

⁵ 17 CFR 200.30-3(a)(12).