



SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102641; File No. SR-FINRA-2024-021]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to Amend the Codes of Arbitration Procedure to Adopt FINRA Rules 12808 and 13808 (Accelerated Processing) to Accelerate the Processing of Arbitration Proceedings for Parties Who Qualify Based on Their Age or Health Condition

March 12, 2025.

I. Introduction

On December 11, 2024, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change (SR-FINRA-2024-021) to amend the Code of Arbitration Procedure for Customer Disputes (“Customer Code”) and the Code of Arbitration Procedure for Industry Disputes (“Industry Code”) (together, “Codes”) to add new FINRA Rules 12808 and 13808 (Accelerated Processing). As stated in the Notice, the proposed rule change would accelerate the processing of arbitration proceedings for parties who qualify based on their age or health condition.³

The proposed rule change was published for public comment in the Federal Register on December 26, 2024.⁴ The public comment period closed on January 16, 2025. The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Act Release No. 101957 (Dec. 18, 2024), 89 FR 105128 (Dec. 26, 2024) (File No. SR-FINRA-2024-021) (“Notice”), <https://www.govinfo.gov/content/pkg/FR-2024-12-26/pdf/2024-30680.pdf>.

⁴ Id.

received comment letters in response to the Notice.⁵ On January 21, 2025, FINRA consented to an extension of the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to March 26, 2025.⁶ On March 12, 2025, FINRA responded to the comment letters received in response to the Notice.⁷

The Commission is publishing this order pursuant to Section 19(b)(2)(B) of the Exchange Act⁸ to institute proceedings to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

A. Background

FINRA's Dispute Resolution Services ("DRS") provides an arbitration forum for disputes between customers, member firms, and associated persons of member firms.⁹ FINRA stated that it currently offers a program to expedite arbitration proceedings in its DRS forum for parties who have a serious health condition or are at least 65 years old ("the current program"). FINRA further stated that when an eligible party makes a request to expedite the proceedings under the current program, "DRS staff will expedite the case-related tasks that they can control, such as completing the arbitrator selection process, scheduling the initial prehearing conference, and serving the final award."¹⁰ However, the current program does not provide for shortened, rule-based deadlines for parties or provide arbitrators with direction on how quickly the

⁵ The comment letters are available at <https://www.sec.gov/comments/sr-finra-2024-021/srfinra2024021.htm>.

⁶ See letter from Kristine Vo, Assistant General Counsel, Office of General Counsel, FINRA, dated January 21, 2025, <https://www.finra.org/sites/default/files/2025-01/FINRA-2024-021-Extension1.pdf>.

⁷ See letter from Kristine Vo, Assistant General Counsel, Office of General Counsel, FINRA, dated March 12, 2025, <https://www.sec.gov/comments/sr-finra-2024-021/srfinra2024021.htm>.

⁸ 15 U.S.C. 78s(b)(2)(B).

⁹ See FINRA Rules 12101(a) (Applicability of [Customer] Code), 13101(a) (Applicability of [Industry] Code). FINRA also provides a mediation forum that is not the subject of this proposed rule change. See FINRA Rule 14101 (Applicability of [Mediation] Code).

¹⁰ See Notice at 105128.

arbitration should be completed. As a result, FINRA stated that cases that qualify for the current program “close only marginally more quickly than cases that are not in the current program.”¹¹

Accordingly, FINRA’s proposed rule change would establish rules for accelerated case processing by codifying shortened case-processing deadlines for eligible parties and providing direction to arbitrators regarding how quickly a proceeding should be completed.¹² The proposed rule change would also establish eligibility requirements, based on a party’s age or eligible health condition, for parties to request accelerated processing. FINRA stated that by accelerating case processing, the proposed rule change would shorten the length of proceedings subject to the proposed rule change by approximately six months, which would make a meaningful difference for older parties or those suffering from a serious health condition.¹³

B. Proposed Rule Change

1. Requesting Accelerated Case Processing

FINRA’s proposed rule change would allow parties to request accelerated processing of a case when initiating an arbitration pursuant to FINRA Rules 12302 and 13302 or filing an answer pursuant to FINRA Rules 12303 and 13303 if they meet one of two eligibility requirements based on their age or health condition.¹⁴ The proposed rule change would also continue to allow parties who do not meet the two eligibility requirements to request that the panel consider other factors, including their age and health, when scheduling hearings and discovery, briefing, and motion deadlines.¹⁵

a. Eligibility Based on Age

Proposed Rules 12808(a)(1)(A) and 13808(a)(1)(A) would allow a party to request

¹¹ See Notice at 105128.

¹² Id.

¹³ Id.

¹⁴ Proposed Rules 12808(a) and 13808(a).

¹⁵ See Notice at 105128-105129; Proposed Rules 12808(a)(3) and 13808(a)(3).

accelerated processing of a case when initiating an arbitration or filing an answer if the requesting party is at least 70 years of age at the time of the request.¹⁶

b. Eligibility Based on Health

Proposed Rules 12808(a)(1)(B) and 13808(a)(1)(B) would allow a party to request accelerated processing of a case when initiating an arbitration or filing an answer if the party making the request certifies, in the manner and form required by the DRS Director, that: (i) the party has received a medical diagnosis and prognosis, and (ii) based on that medical diagnosis and prognosis, the party has a reasonable belief that accelerated processing of the case is necessary to prevent prejudicing the party's interest in the arbitration ("eligible health condition").¹⁷ Under the proposed rule change, the party would not be required to disclose the details of their medical diagnosis or prognosis with the certification.¹⁸ Additionally, a party's certification made pursuant to proposed Rules 12808(a)(1)(B) and 13808(a)(1)(B) would not alone be sufficient grounds to compel the production of information concerning, or allow questioning at any hearing about, the party's medical condition, diagnosis or prognosis.¹⁹

c. Requests by Other Parties for Accelerated Processing

Proposed Rules 12808(a)(3) and 13808(a)(3) would allow parties who do not meet the eligibility requirements of proposed Rules 12808(a)(1) and 13808(a)(1), but may benefit from shortened proceedings, to request that the panel consider other factors, including a party's age and health, when scheduling hearings and discovery, briefing, and motions deadlines.²⁰

2. Determination of Eligibility

Proposed Rules 12808(b)(1) and 13808(b)(1) would require the Director to determine if a party's request for accelerated processing complies with the requirements of proposed Rules

¹⁶ See Notice at 105129.

¹⁷ See Notice at 105130.

¹⁸ Proposed Rules 12808(a)(1)(B) and 13808(a)(1)(B).

¹⁹ Proposed Rules 12808(a)(2) and 13808(a)(2).

²⁰ See Notice at 105130.

12808(a)(1) and 13808(a)(1). FINRA stated that the Director would make an objective determination as to whether the requesting party is at least 70 years of age or has submitted the required certification regarding an eligible health condition.²¹ FINRA stated that the proposed rule change would not require any assessment by the Director regarding the reasonableness of the requesting party's belief that accelerated processing is necessary.²²

3. Accelerating the Proceedings

If the Director determines that a request complies with the requirements of proposed Rules 12808(a)(1) and 13808(a)(1), the proposed rule change would accelerate the proceedings in three ways. First, the arbitrator selection process would be accelerated by shortening the deadlines for the Director to send the list of potential arbitrators to the parties.²³ Second, the arbitrators would receive direction on how quickly the arbitration should be completed.²⁴ Third, certain of the default deadlines that apply to parties under the Code would be shortened.²⁵

a. Accelerating the Arbitrator Selection Process

The first way that the proposed rule change would accelerate the proceedings is by requiring that the Director send out the lists of potential arbitrators to the parties more quickly than under the current program. Currently, the Director must send the lists of potential arbitrators to the parties "within approximately 30 days after the last answer is due," regardless of the parties' agreement to extend any answer due date.²⁶ The proposed rule change would amend the timeframe that the Director must send the list out to all parties in an accelerated proceeding. Specifically, proposed Rules 12808(b)(2)(A) and 13808(b)(2)(A) would require the Director to send the arbitrator lists "as soon as practicable after the last answer is due,

²¹ Id.

²² Id.

²³ Id.; proposed Rules 12808(b)(2)(A) and 13808(b)(2)(A).

²⁴ See Notice at 105131; proposed Rules 12808(b)(2)(B), 12808(b)(2)(C), 13808(b)(2)(B), and 13808(b)(2)(C).

²⁵ See Notice at 105131; proposed Rules 12808(b)(2)(D) and 13808(b)(2)(D).

²⁶ See Notice at 105131; see also FINRA Rules 12402(c)(1), 12403(b)(1), and 13403(c)(1).

notwithstanding any agreement of the parties to extend any answer due date.”²⁷

b. Guidance to Arbitrators Regarding Completion of the Arbitration

The second way that the proposed rule change would accelerate proceedings is to provide arbitrators with direction as to how quickly the case should be completed. Specifically, under proposed Rules 12808(b)(2)(B) and 13808(b)(2)(B), the panel would be required to endeavor to render an award within 10 months of the date the Director determines that a case is subject to accelerated processing. In addition, proposed Rules 12808(b)(2)(C) and 13808(b)(2)(C) would require the panel to hold a prehearing conference at which it would be required to set discovery, briefing, and motions deadlines, and schedule hearing sessions, that are consistent with rendering an award within 10 months or less. FINRA stated that, to provide the arbitrators with sufficient flexibility to accommodate the particular circumstances of each case, the proposed rule change would “establish a benchmark but would not mandate that all cases be completed within 10 months.”²⁸

c. Shortening Party Deadlines

Finally, the proposed rule change would accelerate proceedings by shortening the following default deadlines that apply to parties under the Codes:

- Serving an Answer: Under the Codes, a respondent must serve the signed and dated Submission Agreement²⁹ and answer on each party within 45 days of receipt of the statement of claim.³⁰ In an accelerated proceeding, proposed Rules 12808(b)(2)(D)(i) and 13808(b)(2)(D)(i) would require a respondent to serve the Submission Agreement and answer within 30 days of receipt of the statement of

²⁷ See Notice at 105131.

²⁸ See Notice at 105131.

²⁹ The FINRA Submission Agreement is a document that parties must sign at the outset of an arbitration in which they agree to submit to arbitration under the Codes. FINRA Rules 12100(dd) and 13100(ee).

³⁰ See Notice at 105131; FINRA Rules 12303 and 13303.

claim.³¹

- Responding to a Third Party Claim: Under the Codes, a party responding to a third party claim must serve all other parties with the signed and dated Submission Agreement and answer within 45 days of receipt of the third party claim.³² In an accelerated proceeding, proposed Rules 12808(b)(2)(D)(ii) and 13808(b)(2)(D)(ii) would require a party responding to a third party claim to serve the Submission Agreement and answer within 30 days of receipt of the third party claim.³³
- Completing Arbitrator Lists: Under the Codes, parties must return the ranked arbitrator lists of each separately represented party to the Director no more than 20 days after the date upon which the Director sends the arbitrator lists to the parties.³⁴ In an accelerated proceeding, proposed Rules 12808(b)(2)(D)(iii) and 13808(b)(2)(D) (iii) would require parties to return the ranked arbitrator lists to the Director no more than 10 days after the Director sends the arbitrator lists to the parties.³⁵
- Discovery in Customer Cases: Under the Customer Code, parties in customer cases are required to produce to all other parties documents that are described in the Document Production Lists on FINRA's website,³⁶ explain why specific documents cannot be produced, or object and file an objection with the Director within 60 days of the date that the answer to the statement of claim or third party claim is due, unless the parties agree otherwise.³⁷ In an accelerated proceeding, proposed Rule

³¹ See Notice at 105131.

³² Id.; FINRA Rules 12306 and 13306.

³³ See Notice at 105131.

³⁴ See Notice at 105131; FINRA Rules 12403 and 13404.

³⁵ See Notice at 105131.

³⁶ See FINRA Rule 12506 (Document Production Lists) describes the documents that are presumed to be discoverable in all arbitrations between a customer and a member firm or associated person.

³⁷ See FINRA Rule 12506.

12808(b)(2)(D)(iv) would require parties in customer cases to respond to the Document Production Lists within 35 days of the date the answer to the statement of claim is due, or, for parties added by amendment or third party claim, within 35 days of the date their answer is due, unless the parties agree otherwise.³⁸

- Other Discovery Requests: Under the Codes, parties must respond within 60 days from the date a discovery request other than the Document Production Lists is received, unless the parties agree otherwise.³⁹ In an accelerated proceeding, proposed Rules 12808(b)(2)(D)(v) and 13808(b)(2)(D)(iv) would require the party receiving the discovery request other than the Document Production Lists to respond to the discovery request pursuant to Rule 12507(b)(1) and 13507 within 30 days from the date it was received, unless the parties agree otherwise.⁴⁰

FINRA stated that, based on its experience, FINRA believes these proposed shortened deadlines are reasonable and would not compromise the fairness of the accelerated arbitration proceedings because they would be manageable in most cases. FINRA further stated that arbitrators and parties could extend the proposed deadlines if warranted.⁴¹ For example, there may be some cases in which the complexity of the case, the volume of discovery, or other factors may justify extending these proposed deadlines.⁴² In these circumstances, the existing provisions of the Codes would provide the parties and arbitrators with the flexibility to address the unique facts and circumstances of each case.⁴³ Specifically, FINRA Rules 12207(a) and 13207(a) allow parties to agree to extend or modify any deadline for serving an answer, returning the ranked arbitrator or chairperson lists, responding to motions, or exchanging

³⁸ See Notice at 105131.

³⁹ Id.; FINRA Rules 12507 and 13507.

⁴⁰ See Notice at 105131-105132.

⁴¹ See Notice at 105132.

⁴² Id.

⁴³ Id.

documents or witness lists.⁴⁴ Additionally, FINRA Rules 12207(b) and 13207(b) allow the panel to extend or modify any deadline for serving an answer, responding to motions, exchanging documents or witness lists, or any other deadline set by the panel, either on its own initiative or upon motion of a party.⁴⁵ Finally, FINRA Rules 12508(b) and 13508(b) allow the panel to extend the time for a party to object to discovery requests if the party has “substantial justification for failing to make the objection within the required time.”⁴⁶ While these provisions in the Codes provide the panel and the parties with flexibility to modify the shortened deadlines in the proposed rule change, FINRA expects the extensions to be the exception and not the rule.⁴⁷ FINRA stated that if the Commission approves the proposed rule change, it would provide training and guidance to arbitrators on accelerated processing, which would include training on evaluating requests to extend the proposed shortened deadlines.⁴⁸

III. Proceedings to Determine Whether to Approve or Disapprove File No. SR-FINRA-2024-021 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act to determine whether the proposed rule change should be approved or disapproved.⁴⁹ Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Exchange Act, the Commission is providing notice of the grounds for disapproval under consideration.⁵⁰ The Commission is instituting proceedings

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ 15 U.S.C. 78s(b)(2)(B).

⁵⁰ Id.

to allow for additional analysis and input concerning whether the proposed rule change is consistent with the Exchange Act and the rules thereunder.

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with the Exchange Act and the rules thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.⁵¹

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by [INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by [INSERT DATE 35 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-FINRA-2024-021 on the subject line.

Paper Comments:

⁵¹ Section 19(b)(2) of the Exchange Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding – either oral or notice and opportunity for written comments – is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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

All submissions should refer to file number SR-FINRA-2024-021. 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 website (<https://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 website 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. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR-FINRA-2024-021 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If comments are received, any rebuttal comments should be submitted on or before [INSERT DATE 35 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵²

Sherry R. Haywood,

⁵² 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(57).

Assistant Secretary.

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