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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2022 - * 009

Amendment No. (req. for Amendments *)

Filing by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010
Section 806(e)(1) *

Section 806(e)(2) *

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 3C(b)(2) *

Exhibit 2 Sent As Paper Document

Exhibit 3 Sent As Paper Document

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed Rule Change to Amend Certain FINRA Rules to Permit, and in Some Instances Require, Electronic Service and Filing of Documents in Disciplinary and other Proceedings and Appeals

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Ilana Last Name * Reid

Title * Assistant General Counsel

E-mail * ilana.reid@finra.org

Telephone * (202) 728-8268 Fax (202) 728-8264

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Financial Industry Regulatory Authority has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date 04/06/2022

(Title *)

By Philip Shaikun

Vice President and Associate General Counsel

(Name *)

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Philip Shaikun

Digitally signed by Philip Shaikun
Date: 2022.04.06 16:48:16 -04'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information *

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FINRA-2022-009 19b-4.docx

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

Exhibit 1 - Notice of Proposed Rule Change *

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FINRA-2022-009 Exhibit 1.docx

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

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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

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

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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FINRA-2022-009 Exhibit 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”),¹ the Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend FINRA Rules 1012, 1015, 6490, 9132, 9133, 9135, 9146, 9321, 9341, 9349, 9351, 9522, 9524, 9525, 9559 and 9630 to permit, and in some instances require, electronic service and filing of documents in disciplinary and other proceedings and appeals.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.²

¹ 15 U.S.C. 78s(b)(1).

² FINRA intends to minimize any gap between the expiration of the temporary amendments on electronic service and filing and the implementation date of this proposed rule change.

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

(a) Purpose

Several of FINRA’s rules regarding method of service and filing have been amended temporarily to permit, and in some instances require, electronic filing and service during the period in which FINRA’s operations have been impacted by the COVID-19 pandemic.³ These temporary amendments pertain to disciplinary proceedings before the Office of Hearing Officers (OHO), and to appeals before the National Adjudicatory Council (NAC), among other types of administrative proceedings.⁴

³ See Securities Exchange Act Release No. 88917 (May 20, 2020), 85 FR 31832 (May 27, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-015); Securities Exchange Act Release No. 89055 (June 12, 2020), 85 FR 36928 (June 18, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-017); Securities Exchange Act Release No. 89423 (July 29, 2020), 85 FR 47278 (August 4, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-022); Securities Exchange Act Release No. 90619 (December 9, 2020), 85 FR 81250 (December 15, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-042); Securities Exchange Act Release No. 91495 (April 7, 2021), 86 FR 19306 (April 13, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2021-006); Securities Exchange Act Release No. 93758 (December 13, 2021) 86 FR 71695 (December 17, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2021-031); Securities Exchange Act Release No. 94430 (March 16, 2022) 87 FR 16262 (March 22, 2022) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2022-004).

⁴ The filings to establish and extend the temporary amendments involving electronic service and filing also included additional temporary amendments to provide extensions of time to FINRA staff, respondents and other parties in connection with certain adjudicatory and review processes. See Securities Exchange Act Release No. 88917 (May 20, 2020), 85 FR 31832 (May 27, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-015). For example, under original Rule 6490(e), the time to appeal was seven calendar days, and a subcommittee was required to convene once each calendar month to consider all appeals received during the prior month. Under the temporary amendments to Rule 6490(e), the time to appeal was extended to 30 calendar days, and the time for the subcommittee to convene was extended to once every

However, the temporary amendments do not permit electronic service of an initial complaint on a respondent. FINRA did not temporarily change the method of serving the initial complaint due to heightened fair process concerns.⁵ Likewise, the proposed rule change would not change how initial complaints are served. The only permissible methods of serving the initial complaint are by hand, mail or courier.⁶

FINRA is proposing to make the temporary amendments regarding electronic service and filing permanent, with some modifications. FINRA believes that advances in technology and its availability have made filing and service more efficient under the temporary amendments than under the original rules.⁷ In addition, FINRA believes that operating under the temporary amendments since May 2020 has demonstrated that electronic service and filing is beneficial for parties, panelists and FINRA staff. FINRA further notes that the SEC also amended its rules in November 2020 to require electronic filing and service of documents in its administrative proceedings.⁸ FINRA further

90 days. The time frames under the proposed rule change are reverting back to their original form, so the timing requirements under the proposed rule change are the same as they were under the original rule.

⁵ See 85 FR 31832, supra note 3.

⁶ See FINRA Rule 9134(a).

⁷ For ease of reference in this filing, FINRA refers to the pre-pandemic rules as “original rules” and to the temporary changes to the original rules as “temporary amendments.” Some of the original rules were amended while the temporary amendments were in effect. Those amendments to the original rules have been incorporated into the temporary amendments. See, e.g., FINRA Rule 9321 (amended by SR-FINRA-2020-011, eff. April 15, 2021).

⁸ See Amendments to the Commission’s Rules of Practice, Securities Exchange Act Release No. 90442 (November 17, 2020), 85 FR 86464 (File No. S7-18-15) (December 30, 2020) (codified at 17 CFR 201 (2020)).

believes that the proposed rule change will similarly improve and modernize FINRA's operations.

Background

The FINRA Rule 1000, 6400, 9100, 9300, 9520, 9550 and 9600 Series contain filing, service and other procedural requirements. The temporary amendments to these rules allowed, and in some instances required, FINRA (in its capacity as an Adjudicator) to serve certain documents on parties by electronic mail ("email") and required parties to file or serve documents by email, unless the parties agreed to an alternative method of service.⁹

The proposed rule change includes provisions to allow, and in some instances require, FINRA to serve certain documents on parties by email and require parties to file or serve documents by email, unless another method of service is ordered by the Adjudicator. Several of the proposed rule changes differ from the temporary amendments, which required email service unless the parties agreed to an alternative method.¹⁰ FINRA has observed that a more effective approach would be to require email service unless the Adjudicator orders otherwise. As discussed further below, the proposal will allow all parties who lack the ability to use or access email to request relief to use an alternative method of service upon a showing of good cause. But unlike the temporary amendments, the parties' agreement to use an alternative method of service would be insufficient unless the parties also obtained an order from the Adjudicator permitting use of the alternative method of service.

⁹ See supra note 3.

¹⁰ See FINRA Rules 6490(e), 9133(b), 9146(l), 9524(a)(3) and 9559(h).

In addition, to support the transition to email service and filing, FINRA proposes to require parties in OHO proceedings to file and serve all parties with their current email address and contact information at the time of their first appearance, and to file and serve any change in email address or contact information during the course of the proceeding.

Proposed Rule Change to Allow or Require Email Filing and Service

FINRA rules, with few exceptions, do not provide for service by email.¹¹ The proposed rule change would permit FINRA to serve documents other than the initial complaint by email among various other methods of service, such as personal service, mail and courier, and to provide that service by email is deemed complete upon sending.¹²

FINRA has elected email service whenever possible while the temporary amendments have been in effect, and it is FINRA's intention to continue to do so under the proposed rule change. If FINRA has knowledge that the address used for service is not current or not functional (i.e., FINRA receives a bounce back or other message indicating that there was a failure to deliver the email), FINRA will use other permissible methods of service until it can verify the party's email address.¹³ FINRA notes that, in

¹¹ Prior to the temporary amendments, FINRA permitted service by email under some of its original rules. For example, FINRA Rule 6490(d)(5) (Processing of Company-Related Actions; Procedures for Reviewing Submissions; Notice Issuance) permits a notice under that provision to be issued by facsimile or email, or pursuant to Rule 9134. Rule 9134 does not permit service by email, however.

¹² FINRA sometimes serves documents in its capacity as the Adjudicator. In other instances, FINRA is a party, for example, in its capacity as the Department of Enforcement.

¹³ As indicated in the proposed rule text, FINRA will consider service by email complete upon sending of the relevant document or other information. This is

most cases, FINRA and the relevant party, or their counsel, will have already engaged in communications prior to the service of documents or other information. Accordingly, in most cases, FINRA will already have information regarding the relevant party, or their counsel's, preferred method of service.

Further, to the extent an applicant, respondent or other party lacks the ability to use or access technology needed to file, serve or accept service by email, FINRA intends to provide reasonable accommodations to them. The process for requesting an alternative method of service or filing will be posted to FINRA's website, as well as explained in the Notice of Complaint and in the Code and Guide letter.¹⁴ If a party shows good cause, the Adjudicator will order that filing or service occur by hard copy.

The proposed rule change to amend the FINRA Rule 1000, 6400, 9100, 9300, 9520, 9550 and 9600 Series is substantially the same as the temporary amendments currently in effect unless otherwise noted, below.

The FINRA Rule 1000 Series (Member Application and Associated Person Registration) governs, among other things, the process for (i) applying for FINRA membership; (ii) FINRA members to seek approval of a change in ownership, control or business operations, and (iii) an applicant to request that FINRA's appellate body, the NAC, review a FINRA decision rendered under the Rule 1000 Series. In connection with

consistent with service by mail under the original rules and service by email under the temporary amendments.

¹⁴ When the Department of Enforcement files an initial complaint on a respondent, the Notice of Complaint tells the respondent how to file the answer and other documents with OHO. In addition, once OHO receives an initial complaint, it sends a Code and Guide letter to each respondent to notify them of the complaint. That letter also includes instructions on how to file with OHO.

these processes, applicants and FINRA are required to file or serve certain documents using the prescribed methods set forth in FINRA Rule 1012(a), which do not include email.¹⁵ FINRA proposes to permanently amend Rule 1012(a)(4) to permit FINRA to serve documents under the Rule 1000 Series by email and to amend Rule 1015(f)(1),¹⁶ which requires the NAC to serve a notice of a hearing before the NAC by facsimile or overnight courier, to allow service of the notice by email.¹⁷ The proposed rule change would also amend Rule 1012(a)(3) to require applicants to file an application or any document or information requested under the Rule 1000 Series by email except where FINRA has otherwise prescribed an alternative filing process, while permitting the applicant to also file a requested document or information by another method if the Department and the Applicant agree.¹⁸

FINRA Rule 6490 codifies the requirements in Exchange Act Rule 10b-17 for issuers of a class of publicly traded securities to provide timely notice to FINRA of certain corporate actions (e.g., dividend or other distribution of cash or securities, stock split or reverse split, rights or subscription offering). FINRA reviews related documentation and, under certain circumstances, the documentation may not be

¹⁵ FINRA Rule 1012(a) (General Provisions; Filing by Applicant or Service by FINRA) governs the filing and service requirements for the Rule 1000 Series.

¹⁶ FINRA Rule 1015(f) (Review by National Adjudicatory Council; Hearing).

¹⁷ In an effort to streamline processes and avoid duplication, FINRA is also proposing to amend Rule 1015(a) to eliminate the requirement that the applicant simultaneously file by first-class mail a copy of the request for review pursuant to Rule 1015(a) to the district office where the applicant filed its application.

¹⁸ FINRA is also proposing a non-substantive change to delete the word “electronic” from the description of the “alternative filing process” because it is superfluous.

processed if it is deemed deficient. Rule 6490(e) sets forth the process for appealing such a determination.¹⁹ The proposed rule change would require the requesting party to file an appeal by email unless an alternative method of service is ordered by the Adjudicator.²⁰

The FINRA Rule 9000 Series, among other things, sets forth the procedure for FINRA proceedings for disciplining a member, associated person or formerly associated person. The Rule 9100 Series is of general applicability to all proceedings set forth in the Rule 9000 Series, unless a rule specifically provides otherwise. Rules 9132(b),²¹ 9133(b),²² and 9146(l)²³ provide that the documents and other information governed by those rules be served pursuant to Rule 9134, which permits service on the parties using the following methods: (1) personal service, (2) mail, or (3) courier. Rule 9134 does not permit service by email. The proposed rule change would amend Rule 9132(b) to allow FINRA to serve the relevant documents or information by email, and Rules 9133(b) and 9146(l) to require parties to serve documents by email, unless an alternative method of service is ordered by the Adjudicator.

¹⁹ FINRA Rule 6490(e) (Processing of Company-Related Actions; Request for an Appeal to Subcommittee of Uniform Practice Code Committee).

²⁰ FINRA is also proposing several non-substantive, technical changes including, for example, deleting the parenthetical references to the numerals “3” and “7,” which originally followed those words in FINRA Rule 6490(e). As noted supra note 4, the time frames under the proposed rule change are reverting back to their original form, so the time to appeal and for appellate review under the proposed rule change are the same as they were under the original rule.

²¹ FINRA Rule 9132(b) (Service of Orders, Notices, and Decisions by Adjudicator; How Served).

²² FINRA Rule 9133(b) (Service of Papers Other Than Complaints, Orders, Notices or Decisions; How Served).

²³ FINRA Rule 9146(l) (Motions; General).

In addition, to support the transition to email service and filing, FINRA proposes to amend Rule 9135 to add paragraph (d), which would require parties in OHO proceedings to file and serve the parties with their current email address and contact information at the time of their first appearance, and to file and serve any change in email address or contact information during the course of the proceeding. Based on the experience of operating under the temporary amendments, FINRA believes this proposed rule change, which was not part of the temporary amendments, will help ensure that documents are successfully sent from and received at a valid email address. It will also ensure that all participants, including FINRA, applicants, respondents and any other parties, have accurate contact information for all parties.

The FINRA Rule 9300 Series sets forth the procedures for review of disciplinary proceedings by the NAC and FINRA Board and for applications for SEC review. FINRA Rules 9321,²⁴ 9341(c),²⁵ 9349(c),²⁶ and 9351(e)²⁷ require FINRA to serve documents in connection with those proceedings. Service under those rules is governed by Rule 9134, which does not permit email as a method of service. FINRA proposes to permanently amend Rules 9321, 9341(c), 9349(c), and 9351(e) to allow for email as a method of service.

²⁴ FINRA Rule 9321 (Transmission of Record).

²⁵ FINRA Rule 9341(c) (Oral Argument; Notice Regarding Oral Argument).

²⁶ FINRA Rule 9349(c) (National Adjudicatory Council Formal Consideration; Decision; Issuance of Decision After Expiration of Call for Review Period).

²⁷ FINRA Rule 9351(e) (Discretionary Review by FINRA Board; Issuance of Decision After Expiration of Call for Review Period).

The FINRA Rule 9520 Series sets forth the procedures for eligibility proceedings and review of those proceedings by the NAC and FINRA Board. Rules 9522(a)(4),²⁸ 9524(a)(3)(A) and (B),²⁹ 9524(b)(3),³⁰ and 9525(e)³¹ require FINRA to serve documents in connection with those proceedings, but do not allow for email as a method of service. The proposed rule change would permanently amend those rules to allow for email as a method of service. Further, under the proposed change to Rule 9524(a)(3)(A) and (B), the disqualified member or sponsoring member would be required to serve documents and the exhibit and witness lists by email unless an alternative method of service is ordered by the Adjudicator.³²

The FINRA Rule 9550 Series sets forth the procedures for expedited proceedings and the ability of the NAC to call for review a proposed decision prepared under the Rule 9550 Series. Rule 9559(h)(2)³³ sets forth the timing and method of service requirements for the parties' exchange of proposed exhibit and witness lists in advance of an expedited

²⁸ FINRA Rule 9522(a)(4) (Initiation of Eligibility Proceeding; Member Regulation Consideration; Service).

²⁹ FINRA Rule 9524(a)(3)(A) and (B) (National Adjudicatory Council Consideration; Transmission of Documents).

³⁰ FINRA Rule 9524(b)(3) (National Adjudicatory Council Consideration; Issuance of Decision After Expiration of Call for Review Period).

³¹ FINRA Rule 9525(e) (Discretionary Review by the FINRA Board; Issuance of Decision).

³² FINRA is also proposing a non-substantive, technical change to replace the numeral "10" with the word "ten" in Rule 9524(a)(3)(B).

³³ FINRA Rule 9559(h) (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series; Transmission of Documents). Rule 9559(h) currently permits email as a method of service.

proceeding.³⁴ Rule 9559(q)(2)³⁵ requires the NAC to serve its decision when it issues one and Rule 9559(q)(5) requires the NAC to serve the decision on the parties and all members with which the respondent is associated. Rule 9559(q)(2) and (5) do not allow for email as a method of service. FINRA proposes to permanently amend Rule 9559(h)(2) to require FINRA to serve its exhibit and witness lists by email, unless an alternative method of service is ordered by the Adjudicator. The proposed rule change would amend Rule 9559(q)(2) and (5) to allow for email as a method of service.

The FINRA Rule 9600 Series sets forth the procedures for members to seek exemptive relief from a variety of FINRA rules. Rule 9630(e)(1) and (2)³⁶ require the NAC to serve its decision pursuant to Rule 9134, which does not allow for email as a method of service. The proposed rule change would amend Rule 9630(e) to allow for email as a method of service.

As discussed in detail in Item 3(b), FINRA believes the proposal will modernize the rules and make service and filing more efficient and effective. Email technology is widely available, and use of electronic methods of service and filing is common practice in the courts and other regulatory agencies, including the SEC.³⁷ At the same time, the

³⁴ As with the proposed rule change to amend Rule 1015(a) noted supra note 17, FINRA proposes to amend Rule 9559(h) to also eliminate the requirements in Rule 9559(h)(1) and (2) that, if the specified documents are served by facsimile or email, they must also be served by either overnight courier or personal delivery.

³⁵ FINRA Rule 9559(q) (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series; Call for Review by the National Adjudicatory Council).

³⁶ FINRA Rule 9630(e) (Procedures for Exemptions; Appeal; Decision).

³⁷ See supra note 8.

proposal provides for alternative methods of service for parties who lack the ability to use or access technology needed to send or receive documents electronically.

As noted in Item 2 of this filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,³⁸ 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 is also consistent with Section 15A(b)(8) of the Act,³⁹ which requires, among other things, that FINRA rules provide a fair procedure for the disciplining of members and persons associated with members.

FINRA believes that the proposed rule change protects investors and the public interest by requiring use of broadly available technology to make service and filing processes more efficient and effective. FINRA's disciplinary and eligibility proceedings and other review processes serve a critical role in providing investor protection and maintaining fair and orderly markets by, for example, sanctioning misconduct and preventing further customer harm by members and associated persons.

The proposed rule change promotes efficiency in these processes by permitting electronic service and filing in most instances. To ensure that documents are effectively sent and received, FINRA is proposing to require parties to provide and update their

³⁸ 15 U.S.C. 78o-3(b)(6).

³⁹ 15 U.S.C. 78o-3(b)(8).

contact information, including their email address, during the course of a proceeding. These amendments reduce the reliance on paper documents in favor of more efficient electronic formats. FINRA believes adopting permanent rules on electronic service and filing is especially important as hybrid and remote work become more common.

At the same time, the proposed rule change includes safeguards to ensure fairness. For example, there are procedures in place for persons who lack the ability to use or access technology necessary to send or receive documents electronically. Such parties will have the ability to request relief from the Adjudicator to file or serve documents by another method. Based on FINRA's experience of operating under the temporary amendments, which have permitted electronic service and filing since mid-2020, FINRA anticipates that requests to use non-electronic methods of service will be rare. In addition, the proposed rule change balances the interests of fairness and efficiency. As discussed, service of the initial complaint will continue to occur by hand, mail or courier, rather than by electronic means, thus ensuring there is satisfactory notice and fair process.

Thus, the proposed rule change represents a significant step toward modernizing the service and filing processes in a manner that will protect investors and the public interest by promoting efficiency while preserving fair process.

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

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

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet FINRA's regulatory objectives.

Regulatory Need

Several of FINRA's rules regarding method of service and filing have been amended temporarily to permit, and in some circumstances require, electronic filing and service during the period in which FINRA's operations have been impacted by the COVID-19 pandemic.⁴⁰ As stated earlier, the proposed rule change is intended to make these temporary amendments permanent considering the positive experience of operating while the temporary amendments have been in effect. The implementation of those temporary amendments suggests that advances in technology and its availability have made filing and service more efficient under the temporary amendments than under the original rules.

Economic Baseline

The economic baseline for the proposed rule change consists of the original rules together with the experience gained by broker-dealers, their associated persons, and FINRA in complying with the temporary amendments to the original rules. As discussed above, FINRA Rules 1000, 6400, 9100, 9300, 9520, 9550 and 9600 Series set forth filing and service requirements pertaining to expedited and disciplinary proceedings before

⁴⁰ See supra note 3.

OHO and to appeals before the NAC, among other types of FINRA proceedings. These rules, with few exceptions, do not allow FINRA to use email or require others to use email to meet certain filing and service requirements. FINRA temporarily amended these rules to permit, and in some instances require, electronic filing and service.

The proposed rule change is expected to affect parties to disciplinary proceedings before OHO and to appeals before the NAC. FINRA thus has collected information detailing the number of new cases filed in OHO and NAC proceedings and the number of respondents in association with these proceedings in the past three years. The numbers are presented below. Note that “Registered Rep” includes both current and former registered representatives and the numbers of new OHO filings include both expedited and disciplinary proceedings before OHO. The numbers show that the majority of respondents in OHO filings and NAC appeals consist of current and former registered representatives.⁴¹

⁴¹ The proposal also amends filing and service requirements for eligibility proceedings under FINRA Rule 9522(a)(4) and for appeals of determinations regarding the documentation of certain corporate actions under FINRA Rule 6490(e). There were 22 eligibility proceedings in 2018 and 14 in 2019; there have been no appeals of determinations under Rule 6490(e) since the temporary requirements came into effect in May 2020.

	2020	2019	2018
OHO Filings	69	95	90
OHO Respondents: Firms Only	2	7	9
OHO Respondents: Registered Rep Only	65	85	76
OHO Respondents: Both Firms and Registered Rep	2	3	5
NAC Appeals	13	17	22
NAC Respondents: Firms Only	2	2	3
NAC Respondents: Registered Rep Only	9	11	15
NAC Respondents: Both Firms and Registered Rep	2	4	4

Economic Impacts

The proposed rule change will directly impact current and former member firms and associated persons, including registered representatives. With limited exceptions, these individuals would be applicants, respondents, or other related parties to disciplinary proceedings before OHO and to appeals before the NAC. The proposed rule change will not directly impact the customers of those firms.

Parties in relevant proceedings will benefit from savings on time and money on printing, shipping, and storage of paper documents as filing and serving paper copies will generally not be required following the proposed rule change. The proposed rule change would also improve the overall efficiency of FINRA's operations in collecting, preserving, and distributing documents to parties in these proceedings relative to the original rules. Such benefits are anticipated to accrue to firms and individuals as well as to FINRA in its capacity as an adjudicator. In particular, FINRA believes that the benefits to member firms from the proposal will likely be larger for those using hybrid

and remote work models or in situations where access to physical office locations is limited or restricted.

The extent of the cost savings is likely not uniform across parties and cannot be estimated in aggregate for two reasons. First, FINRA does not know the frequencies of filing and service and the size of the documents in association with relevant proceedings. The expected cost savings will likely be greater for parties that file and serve large documents more frequently. Second, FINRA does not know how parties agreed to serve documents, by email, paper, or other alternative methods, during the pre-pandemic period.

Certain parties may bear incremental burdens over pre-pandemic filing and service practices. FINRA does not know the extent to which, under the proposed rule change, certain parties will incur some costs to scan documents. Anecdotally, FINRA understands that this group is small. The proposals to have a valid email address and to require filing by email are not expected to impose significant new costs because anecdotal evidence suggests that this method of filing was already adopted by most parties to OHO and NAC proceedings before the pandemic.⁴² FINRA notes that OHO and the NAC have not received any complaints regarding the temporary amendments on method of service and filing during the pandemic. FINRA also notes that the SEC recently finalized a rule to require electronic filing and service of documents in SEC

⁴² It can be difficult to assess potential cost increases following the proposal to require service by email because FINRA does not know the extent to which parties agreed to service by email during the pre-pandemic period.

administrative proceedings.⁴³ The Commission received only seven comments on the proposed rule and reported that commenters generally supported electronic filing.⁴⁴

The proposal will likely impose a higher cost on parties who have limited access to the Internet and to any hardware and software that may be involved in processing the documents. For example, it is unlikely that member firms or current registered representatives would face these challenges, but former registered representatives may. There have been a few such individuals in recent proceedings before OHO and the NAC.⁴⁵ The proposal will allow reasonable accommodations for such individuals. Service of an initial complaint on a respondent would not be subject to the proposed rule change on electronic service and filing, mitigating any risk that a respondent would be unaware of the complaint.

The overall benefits and costs of the proposal will depend on the expected volume of the relevant proceedings and the number of respondents associated with these proceedings. As described earlier, there have been only a limited number of new cases or appeals filed annually in OHO and NAC proceedings in the past three years. The majority of these cases or appeals involved only one respondent. Based on these historical numbers, the overall economic impact is likely to be small.

⁴³ See supra note 8.

⁴⁴ See supra note 8. The comments are available at <https://www.sec.gov/comments/s7-19-15/s71915.shtml>.

⁴⁵ For example, over the year 2020, there were 65 OHO filings with registered representatives as the sole respondents. Among them, 21 OHO filings had former registered representatives as respondents. In addition, there were 27 and 26 OHO filings, respectively, with former registered representatives as respondents in year 2019 and 2018.

Alternatives Considered

In developing the proposal, FINRA sought to preserve the efficiencies in filing and service practices that were achieved during the pandemic. No significant alternatives to these requirements were considered.

5. **Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

Written comments were neither solicited nor received.

6. **Extension of Time Period for Commission Action**

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.⁴⁶

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

Not applicable.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

9. **Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

10. **Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

⁴⁶ 15 U.S.C. 78s(b)(2).

11. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2022-009)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Amend Certain FINRA Rules to Permit, and in Some Instances Require, Electronic Service and Filing of Documents in Disciplinary and other Proceedings and Appeals

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on , the 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 FINRA Rules 1012, 1015, 6490, 9132, 9133, 9135, 9146, 9321, 9341, 9349, 9351, 9522, 9524, 9525, 9559 and 9630 to permit, and in some instances require, electronic service and filing of documents in disciplinary and other proceedings and appeals.

The text of the proposed rule change is available on FINRA’s website at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Several of FINRA's rules regarding method of service and filing have been amended temporarily to permit, and in some instances require, electronic filing and service during the period in which FINRA's operations have been impacted by the COVID-19 pandemic.³ These temporary amendments pertain to disciplinary proceedings before the Office of Hearing Officers (OHO), and to appeals before the National

³ See Securities Exchange Act Release No. 88917 (May 20, 2020), 85 FR 31832 (May 27, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-015); Securities Exchange Act Release No. 89055 (June 12, 2020), 85 FR 36928 (June 18, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-017); Securities Exchange Act Release No. 89423 (July 29, 2020), 85 FR 47278 (August 4, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-022); Securities Exchange Act Release No. 90619 (December 9, 2020), 85 FR 81250 (December 15, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-042); Securities Exchange Act Release No. 91495 (April 7, 2021), 86 FR 19306 (April 13, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2021-006); Securities Exchange Act Release No. 93758 (December 13, 2021) 86 FR 71695 (December 17, 2021) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2021-031); Securities Exchange Act Release No. 94430 (March 16, 2022) 87 FR 16262 (March 22, 2022) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2022-004).

Adjudicatory Council (NAC), among other types of administrative proceedings.⁴

However, the temporary amendments do not permit electronic service of an initial complaint on a respondent. FINRA did not temporarily change the method of serving the initial complaint due to heightened fair process concerns.⁵ Likewise, the proposed rule change would not change how initial complaints are served. The only permissible methods of serving the initial complaint are by hand, mail or courier.⁶

FINRA is proposing to make the temporary amendments regarding electronic service and filing permanent, with some modifications. FINRA believes that advances in technology and its availability have made filing and service more efficient under the temporary amendments than under the original rules.⁷ In addition, FINRA believes that

⁴ The filings to establish and extend the temporary amendments involving electronic service and filing also included additional temporary amendments to provide extensions of time to FINRA staff, respondents and other parties in connection with certain adjudicatory and review processes. See Securities Exchange Act Release No. 88917 (May 20, 2020), 85 FR 31832 (May 27, 2020) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2020-015). For example, under original Rule 6490(e), the time to appeal was seven calendar days, and a subcommittee was required to convene once each calendar month to consider all appeals received during the prior month. Under the temporary amendments to Rule 6490(e), the time to appeal was extended to 30 calendar days, and the time for the subcommittee to convene was extended to once every 90 days. The time frames under the proposed rule change are reverting back to their original form, so the timing requirements under the proposed rule change are the same as they were under the original rule.

⁵ See 85 FR 31832, supra note 3.

⁶ See FINRA Rule 9134(a).

⁷ For ease of reference in this filing, FINRA refers to the pre-pandemic rules as “original rules” and to the temporary changes to the original rules as “temporary amendments.” Some of the original rules were amended while the temporary amendments were in effect. Those amendments to the original rules have been incorporated into the temporary amendments. See, e.g., FINRA Rule 9321 (amended by SR-FINRA-2020-011, eff. April 15, 2021).

operating under the temporary amendments since May 2020 has demonstrated that electronic service and filing is beneficial for parties, panelists and FINRA staff. FINRA further notes that the SEC also amended its rules in November 2020 to require electronic filing and service of documents in its administrative proceedings.⁸ FINRA further believes that the proposed rule change will similarly improve and modernize FINRA's operations.

Background

The FINRA Rule 1000, 6400, 9100, 9300, 9520, 9550 and 9600 Series contain filing, service and other procedural requirements. The temporary amendments to these rules allowed, and in some instances required, FINRA (in its capacity as an Adjudicator) to serve certain documents on parties by electronic mail ("email") and required parties to file or serve documents by email, unless the parties agreed to an alternative method of service.⁹

The proposed rule change includes provisions to allow, and in some instances require, FINRA to serve certain documents on parties by email and require parties to file or serve documents by email, unless another method of service is ordered by the Adjudicator. Several of the proposed rule changes differ from the temporary amendments, which required email service unless the parties agreed to an alternative method.¹⁰ FINRA has observed that a more effective approach would be to require email

⁸ See Amendments to the Commission's Rules of Practice, Securities Exchange Act Release No. 90442 (November 17, 2020), 85 FR 86464 (File No. S7-18-15) (December 30, 2020) (codified at 17 CFR 201 (2020)).

⁹ See supra note 3.

¹⁰ See FINRA Rules 6490(e), 9133(b), 9146(l), 9524(a)(3) and 9559(h).

service unless the Adjudicator orders otherwise. As discussed further below, the proposal will allow all parties who lack the ability to use or access email to request relief to use an alternative method of service upon a showing of good cause. But unlike the temporary amendments, the parties' agreement to use an alternative method of service would be insufficient unless the parties also obtained an order from the Adjudicator permitting use of the alternative method of service.

In addition, to support the transition to email service and filing, FINRA proposes to require parties in OHO proceedings to file and serve all parties with their current email address and contact information at the time of their first appearance, and to file and serve any change in email address or contact information during the course of the proceeding.

Proposed Rule Change to Allow or Require Email Filing and Service

FINRA rules, with few exceptions, do not provide for service by email.¹¹ The proposed rule change would permit FINRA to serve documents other than the initial complaint by email among various other methods of service, such as personal service, mail and courier, and to provide that service by email is deemed complete upon sending.¹²

FINRA has elected email service whenever possible while the temporary amendments have been in effect, and it is FINRA's intention to continue to do so under

¹¹ Prior to the temporary amendments, FINRA permitted service by email under some of its original rules. For example, FINRA Rule 6490(d)(5) (Processing of Company-Related Actions; Procedures for Reviewing Submissions; Notice Issuance) permits a notice under that provision to be issued by facsimile or email, or pursuant to Rule 9134. Rule 9134 does not permit service by email, however.

¹² FINRA sometimes serves documents in its capacity as the Adjudicator. In other instances, FINRA is a party, for example, in its capacity as the Department of Enforcement.

the proposed rule change. If FINRA has knowledge that the address used for service is not current or not functional (i.e., FINRA receives a bounce back or other message indicating that there was a failure to deliver the email), FINRA will use other permissible methods of service until it can verify the party's email address.¹³ FINRA notes that, in most cases, FINRA and the relevant party, or their counsel, will have already engaged in communications prior to the service of documents or other information. Accordingly, in most cases, FINRA will already have information regarding the relevant party, or their counsel's, preferred method of service.

Further, to the extent an applicant, respondent or other party lacks the ability to use or access technology needed to file, serve or accept service by email, FINRA intends to provide reasonable accommodations to them. The process for requesting an alternative method of service or filing will be posted to FINRA's website, as well as explained in the Notice of Complaint and in the Code and Guide letter.¹⁴ If a party shows good cause, the Adjudicator will order that filing or service occur by hard copy.

The proposed rule change to amend the FINRA Rule 1000, 6400, 9100, 9300, 9520, 9550 and 9600 Series is substantially the same as the temporary amendments currently in effect unless otherwise noted, below.

¹³ As indicated in the proposed rule text, FINRA will consider service by email complete upon sending of the relevant document or other information. This is consistent with service by mail under the original rules and service by email under the temporary amendments.

¹⁴ When the Department of Enforcement files an initial complaint on a respondent, the Notice of Complaint tells the respondent how to file the answer and other documents with OHO. In addition, once OHO receives an initial complaint, it sends a Code and Guide letter to each respondent to notify them of the complaint. That letter also includes instructions on how to file with OHO.

The FINRA Rule 1000 Series (Member Application and Associated Person Registration) governs, among other things, the process for (i) applying for FINRA membership; (ii) FINRA members to seek approval of a change in ownership, control or business operations, and (iii) an applicant to request that FINRA's appellate body, the NAC, review a FINRA decision rendered under the Rule 1000 Series. In connection with these processes, applicants and FINRA are required to file or serve certain documents using the prescribed methods set forth in FINRA Rule 1012(a), which do not include email.¹⁵ FINRA proposes to permanently amend Rule 1012(a)(4) to permit FINRA to serve documents under the Rule 1000 Series by email and to amend Rule 1015(f)(1),¹⁶ which requires the NAC to serve a notice of a hearing before the NAC by facsimile or overnight courier, to allow service of the notice by email.¹⁷ The proposed rule change would also amend Rule 1012(a)(3) to require applicants to file an application or any document or information requested under the Rule 1000 Series by email except where FINRA has otherwise prescribed an alternative filing process, while permitting the applicant to also file a requested document or information by another method if the Department and the Applicant agree.¹⁸

¹⁵ FINRA Rule 1012(a) (General Provisions; Filing by Applicant or Service by FINRA) governs the filing and service requirements for the Rule 1000 Series.

¹⁶ FINRA Rule 1015(f) (Review by National Adjudicatory Council; Hearing).

¹⁷ In an effort to streamline processes and avoid duplication, FINRA is also proposing to amend Rule 1015(a) to eliminate the requirement that the applicant simultaneously file by first-class mail a copy of the request for review pursuant to Rule 1015(a) to the district office where the applicant filed its application.

¹⁸ FINRA is also proposing a non-substantive change to delete the word "electronic" from the description of the "alternative filing process" because it is superfluous.

FINRA Rule 6490 codifies the requirements in Exchange Act Rule 10b-17 for issuers of a class of publicly traded securities to provide timely notice to FINRA of certain corporate actions (e.g., dividend or other distribution of cash or securities, stock split or reverse split, rights or subscription offering). FINRA reviews related documentation and, under certain circumstances, the documentation may not be processed if it is deemed deficient. Rule 6490(e) sets forth the process for appealing such a determination.¹⁹ The proposed rule change would require the requesting party to file an appeal by email unless an alternative method of service is ordered by the Adjudicator.²⁰

The FINRA Rule 9000 Series, among other things, sets forth the procedure for FINRA proceedings for disciplining a member, associated person or formerly associated person. The Rule 9100 Series is of general applicability to all proceedings set forth in the Rule 9000 Series, unless a rule specifically provides otherwise. Rules 9132(b),²¹ 9133(b),²² and 9146(l)²³ provide that the documents and other information governed by those rules be served pursuant to Rule 9134, which permits service on the parties using

¹⁹ FINRA Rule 6490(e) (Processing of Company-Related Actions; Request for an Appeal to Subcommittee of Uniform Practice Code Committee).

²⁰ FINRA is also proposing several non-substantive, technical changes including, for example, deleting the parenthetical references to the numerals “3” and “7,” which originally followed those words in FINRA Rule 6490(e). As noted supra note 4, the time frames under the proposed rule change are reverting back to their original form, so the time to appeal and for appellate review under the proposed rule change are the same as they were under the original rule.

²¹ FINRA Rule 9132(b) (Service of Orders, Notices, and Decisions by Adjudicator; How Served).

²² FINRA Rule 9133(b) (Service of Papers Other Than Complaints, Orders, Notices or Decisions; How Served).

²³ FINRA Rule 9146(l) (Motions; General).

the following methods: (1) personal service, (2) mail, or (3) courier. Rule 9134 does not permit service by email. The proposed rule change would amend Rule 9132(b) to allow FINRA to serve the relevant documents or information by email, and Rules 9133(b) and 9146(l) to require parties to serve documents by email, unless an alternative method of service is ordered by the Adjudicator.

In addition, to support the transition to email service and filing, FINRA proposes to amend Rule 9135 to add paragraph (d), which would require parties in OHO proceedings to file and serve the parties with their current email address and contact information at the time of their first appearance, and to file and serve any change in email address or contact information during the course of the proceeding. Based on the experience of operating under the temporary amendments, FINRA believes this proposed rule change, which was not part of the temporary amendments, will help ensure that documents are successfully sent from and received at a valid email address. It will also ensure that all participants, including FINRA, applicants, respondents and any other parties, have accurate contact information for all parties.

The FINRA Rule 9300 Series sets forth the procedures for review of disciplinary proceedings by the NAC and FINRA Board and for applications for SEC review. FINRA Rules 9321,²⁴ 9341(c),²⁵ 9349(c),²⁶ and 9351(e)²⁷ require FINRA to serve documents in

²⁴ FINRA Rule 9321 (Transmission of Record).

²⁵ FINRA Rule 9341(c) (Oral Argument; Notice Regarding Oral Argument).

²⁶ FINRA Rule 9349(c) (National Adjudicatory Council Formal Consideration; Decision; Issuance of Decision After Expiration of Call for Review Period).

²⁷ FINRA Rule 9351(e) (Discretionary Review by FINRA Board; Issuance of Decision After Expiration of Call for Review Period).

connection with those proceedings. Service under those rules is governed by Rule 9134, which does not permit email as a method of service. FINRA proposes to permanently amend Rules 9321, 9341(c), 9349(c), and 9351(e) to allow for email as a method of service.

The FINRA Rule 9520 Series sets forth the procedures for eligibility proceedings and review of those proceedings by the NAC and FINRA Board. Rules 9522(a)(4),²⁸ 9524(a)(3)(A) and (B),²⁹ 9524(b)(3),³⁰ and 9525(e)³¹ require FINRA to serve documents in connection with those proceedings, but do not allow for email as a method of service. The proposed rule change would permanently amend those rules to allow for email as a method of service. Further, under the proposed change to Rule 9524(a)(3)(A) and (B), the disqualified member or sponsoring member would be required to serve documents and the exhibit and witness lists by email unless an alternative method of service is ordered by the Adjudicator.³²

The FINRA Rule 9550 Series sets forth the procedures for expedited proceedings and the ability of the NAC to call for review a proposed decision prepared under the Rule

²⁸ FINRA Rule 9522(a)(4) (Initiation of Eligibility Proceeding; Member Regulation Consideration; Service).

²⁹ FINRA Rule 9524(a)(3)(A) and (B) (National Adjudicatory Council Consideration; Transmission of Documents).

³⁰ FINRA Rule 9524(b)(3) (National Adjudicatory Council Consideration; Issuance of Decision After Expiration of Call for Review Period).

³¹ FINRA Rule 9525(e) (Discretionary Review by the FINRA Board; Issuance of Decision).

³² FINRA is also proposing a non-substantive, technical change to replace the numeral “10” with the word “ten” in Rule 9524(a)(3)(B).

9550 Series. Rule 9559(h)(2)³³ sets forth the timing and method of service requirements for the parties' exchange of proposed exhibit and witness lists in advance of an expedited proceeding.³⁴ Rule 9559(q)(2)³⁵ requires the NAC to serve its decision when it issues one and Rule 9559(q)(5) requires the NAC to serve the decision on the parties and all members with which the respondent is associated. Rule 9559(q)(2) and (5) do not allow for email as a method of service. FINRA proposes to permanently amend Rule 9559(h)(2) to require FINRA to serve its exhibit and witness lists by email, unless an alternative method of service is ordered by the Adjudicator. The proposed rule change would amend Rule 9559(q)(2) and (5) to allow for email as a method of service.

The FINRA Rule 9600 Series sets forth the procedures for members to seek exemptive relief from a variety of FINRA rules. Rule 9630(e)(1) and (2)³⁶ require the NAC to serve its decision pursuant to Rule 9134, which does not allow for email as a method of service. The proposed rule change would amend Rule 9630(e) to allow for email as a method of service.

As discussed in detail in Item 3(b), FINRA believes the proposal will modernize the rules and make service and filing more efficient and effective. Email technology is

³³ FINRA Rule 9559(h) (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series; Transmission of Documents). Rule 9559(h) currently permits email as a method of service.

³⁴ As with the proposed rule change to amend Rule 1015(a) noted supra note 17, FINRA proposes to amend Rule 9559(h) to also eliminate the requirements in Rule 9559(h)(1) and (2) that, if the specified documents are served by facsimile or email, they must also be served by either overnight courier or personal delivery.

³⁵ FINRA Rule 9559(q) (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series; Call for Review by the National Adjudicatory Council).

³⁶ FINRA Rule 9630(e) (Procedures for Exemptions; Appeal; Decision).

widely available, and use of electronic methods of service and filing is common practice in the courts and other regulatory agencies, including the SEC.³⁷ At the same time, the proposal provides for alternative methods of service for parties who lack the ability to use or access technology needed to send or receive documents electronically.

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.³⁸

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,³⁹ 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 is also consistent with Section 15A(b)(8) of the Act,⁴⁰ which requires, among other things, that FINRA rules provide a fair procedure for the disciplining of members and persons associated with members.

FINRA believes that the proposed rule change protects investors and the public interest by requiring use of broadly available technology to make service and filing processes more efficient and effective. FINRA's disciplinary and eligibility proceedings and other review processes serve a critical role in providing investor protection and

³⁷ See supra note 8.

³⁸ FINRA intends to minimize any gap between the expiration of the temporary amendments on electronic service and filing and the implementation date of this proposed rule change.

³⁹ 15 U.S.C. 78o-3(b)(6).

⁴⁰ 15 U.S.C. 78o-3(b)(8).

maintaining fair and orderly markets by, for example, sanctioning misconduct and preventing further customer harm by members and associated persons.

The proposed rule change promotes efficiency in these processes by permitting electronic service and filing in most instances. To ensure that documents are effectively sent and received, FINRA is proposing to require parties to provide and update their contact information, including their email address, during the course of a proceeding. These amendments reduce the reliance on paper documents in favor of more efficient electronic formats. FINRA believes adopting permanent rules on electronic service and filing is especially important as hybrid and remote work become more common.

At the same time, the proposed rule change includes safeguards to ensure fairness. For example, there are procedures in place for persons who lack the ability to use or access technology necessary to send or receive documents electronically. Such parties will have the ability to request relief from the Adjudicator to file or serve documents by another method. Based on FINRA's experience of operating under the temporary amendments, which have permitted electronic service and filing since mid-2020, FINRA anticipates that requests to use non-electronic methods of service will be rare. In addition, the proposed rule change balances the interests of fairness and efficiency. As discussed, service of the initial complaint will continue to occur by hand, mail or courier, rather than by electronic means, thus ensuring there is satisfactory notice and fair process.

Thus, the proposed rule change represents a significant step toward modernizing the service and filing processes in a manner that will protect investors and the public interest by promoting efficiency while preserving fair process.

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.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rule change, its potential economic impacts, including anticipated costs, benefits, and distributional and competitive effects, relative to the current baseline, and the alternatives FINRA considered in assessing how best to meet FINRA's regulatory objectives.

Regulatory Need

Several of FINRA's rules regarding method of service and filing have been amended temporarily to permit, and in some circumstances require, electronic filing and service during the period in which FINRA's operations have been impacted by the COVID-19 pandemic.⁴¹ As stated earlier, the proposed rule change is intended to make these temporary amendments permanent considering the positive experience of operating while the temporary amendments have been in effect. The implementation of those temporary amendments suggests that advances in technology and its availability have made filing and service more efficient under the temporary amendments than under the original rules.

⁴¹ See supra note 3.

Economic Baseline

The economic baseline for the proposed rule change consists of the original rules together with the experience gained by broker-dealers, their associated persons, and FINRA in complying with the temporary amendments to the original rules. As discussed above, FINRA Rules 1000, 6400, 9100, 9300, 9520, 9550 and 9600 Series set forth filing and service requirements pertaining to expedited and disciplinary proceedings before OHO and to appeals before the NAC, among other types of FINRA proceedings. These rules, with few exceptions, do not allow FINRA to use email or require others to use email to meet certain filing and service requirements. FINRA temporarily amended these rules to permit, and in some instances require, electronic filing and service.

The proposed rule change is expected to affect parties to disciplinary proceedings before OHO and to appeals before the NAC. FINRA thus has collected information detailing the number of new cases filed in OHO and NAC proceedings and the number of respondents in association with these proceedings in the past three years. The numbers are presented below. Note that “Registered Rep” includes both current and former registered representatives and the numbers of new OHO filings include both expedited and disciplinary proceedings before OHO. The numbers show that the majority of respondents in OHO filings and NAC appeals consist of current and former registered representatives.⁴²

⁴² The proposal also amends filing and service requirements for eligibility proceedings under FINRA Rule 9522(a)(4) and for appeals of determinations regarding the documentation of certain corporate actions under FINRA Rule 6490(e). There were 22 eligibility proceedings in 2018 and 14 in 2019; there have been no appeals of determinations under Rule 6490(e) since the temporary requirements came into effect in May 2020.

	2020	2019	2018
OHO Filings	69	95	90
OHO Respondents: Firms Only	2	7	9
OHO Respondents: Registered Rep Only	65	85	76
OHO Respondents: Both Firms and Registered Rep	2	3	5
NAC Appeals	13	17	22
NAC Respondents: Firms Only	2	2	3
NAC Respondents: Registered Rep Only	9	11	15
NAC Respondents: Both Firms and Registered Rep	2	4	4

Economic Impacts

The proposed rule change will directly impact current and former member firms and associated persons, including registered representatives. With limited exceptions, these individuals would be applicants, respondents, or other related parties to disciplinary proceedings before OHO and to appeals before the NAC. The proposed rule change will not directly impact the customers of those firms.

Parties in relevant proceedings will benefit from savings on time and money on printing, shipping, and storage of paper documents as filing and serving paper copies will generally not be required following the proposed rule change. The proposed rule change would also improve the overall efficiency of FINRA's operations in collecting, preserving, and distributing documents to parties in these proceedings relative to the original rules. Such benefits are anticipated to accrue to firms and individuals as well as to FINRA in its capacity as an adjudicator. In particular, FINRA believes that the benefits to member firms from the proposal will likely be larger for those using hybrid

and remote work models or in situations where access to physical office locations is limited or restricted.

The extent of the cost savings is likely not uniform across parties and cannot be estimated in aggregate for two reasons. First, FINRA does not know the frequencies of filing and service and the size of the documents in association with relevant proceedings. The expected cost savings will likely be greater for parties that file and serve large documents more frequently. Second, FINRA does not know how parties agreed to serve documents, by email, paper, or other alternative methods, during the pre-pandemic period.

Certain parties may bear incremental burdens over pre-pandemic filing and service practices. FINRA does not know the extent to which, under the proposed rule change, certain parties will incur some costs to scan documents. Anecdotally, FINRA understands that this group is small. The proposals to have a valid email address and to require filing by email are not expected to impose significant new costs because anecdotal evidence suggests that this method of filing was already adopted by most parties to OHO and NAC proceedings before the pandemic.⁴³ FINRA notes that OHO and the NAC have not received any complaints regarding the temporary amendments on method of service and filing during the pandemic. FINRA also notes that the SEC recently finalized a rule to require electronic filing and service of documents in SEC

⁴³ It can be difficult to assess potential cost increases following the proposal to require service by email because FINRA does not know the extent to which parties agreed to service by email during the pre-pandemic period.

administrative proceedings.⁴⁴ The Commission received only seven comments on the proposed rule and reported that commenters generally supported electronic filing.⁴⁵

The proposal will likely impose a higher cost on parties who have limited access to the Internet and to any hardware and software that may be involved in processing the documents. For example, it is unlikely that member firms or current registered representatives would face these challenges, but former registered representatives may. There have been a few such individuals in recent proceedings before OHO and the NAC.⁴⁶ The proposal will allow reasonable accommodations for such individuals. Service of an initial complaint on a respondent would not be subject to the proposed rule change on electronic service and filing, mitigating any risk that a respondent would be unaware of the complaint.

The overall benefits and costs of the proposal will depend on the expected volume of the relevant proceedings and the number of respondents associated with these proceedings. As described earlier, there have been only a limited number of new cases or appeals filed annually in OHO and NAC proceedings in the past three years. The majority of these cases or appeals involved only one respondent. Based on these historical numbers, the overall economic impact is likely to be small.

⁴⁴ See supra note 8.

⁴⁵ See supra note 8. The comments are available at <https://www.sec.gov/comments/s7-19-15/s71915.shtml>.

⁴⁶ For example, over the year 2020, there were 65 OHO filings with registered representatives as the sole respondents. Among them, 21 OHO filings had former registered representatives as respondents. In addition, there were 27 and 26 OHO filings, respectively, with former registered representatives as respondents in year 2019 and 2018.

Alternatives Considered

In developing the proposal, FINRA sought to preserve the efficiencies in filing and service practices that were achieved during the pandemic. No significant alternatives to these requirements were considered.

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 e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2022-009 on the subject line.

Paper Comments:

- 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-2022-009. 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 website (<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 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2022-009 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁷

Jill M. Peterson
Assistant Secretary

⁴⁷ 17 CFR 200.30-3(a)(12).

Exhibit 5

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

* * * * *

1000. MEMBER APPLICATION AND ASSOCIATED PERSON

REGISTRATION

* * * * *

1012. General Provisions

(a) Filing by Applicant or Service by FINRA

(1) through (2) No Change.

(3) Except where FINRA has otherwise prescribed an [electronic or] alternative filing process, an Applicant [may]shall file an application or any document or information requested under the Rule 1000 Series by electronic mail[first-class mail, overnight courier, or hand delivery]. If the Department and the Applicant agree, the Applicant also may file a requested document or information by another method[facsimile].

(4) FINRA shall serve a notice or decision issued under the Rule 1000 Series by electronic mail or first-class mail on the Applicant or its counsel, unless a Rule specifies a different method of service.

(5) For purposes of the Rule 1000 Series, service by FINRA or filing by an Applicant shall be deemed complete as follows:

(A) through (E) No Change.

(F) Service or filing by electronic mail shall be deemed complete upon sending a notice, decision or other document.

(b) through (e) No Change.

* * * * *

1015. Review by National Adjudicatory Council

(a) Initiation of Review by Applicant

Within 25 days after service of a decision under Rule 1014 or 1017, an Applicant may file a written request for review with the National Adjudicatory Council. A request for review shall state with specificity why the Applicant believes that the Department's decision is inconsistent with the membership standards set forth in Rule 1014, or otherwise should be set aside, and state whether a hearing is requested. [The Applicant simultaneously shall file by first-class mail a copy of the request to the district office where the Applicant filed its application.]

(b) through (e) No Change.

(f) Hearing

(1) Notice

If a hearing is requested or directed, the hearing shall be held within 45 days after the filing of the request with the National Adjudicatory Council or service of the notice by the Subcommittee. The National Adjudicatory Council shall serve written notice of the date and time of the hearing to the Applicant by electronic mail, facsimile or overnight courier not later than 14 days before the hearing.

(2) through (4) No Change.

(g) through (j) No Change.

* * * * *

6400. QUOTING AND TRADING IN OTC EQUITY SECURITIES

* * * * *

6490. Processing of Company-Related Actions

(a) through (d) No Change.

(e) Request for an Appeal to Subcommittee of Uniform Practice Code

A Requesting Party issued a notice under this Rule may appeal a determination made under paragraph (d)(3) of this Rule to a three-member subcommittee composed[comprised] of current or former industry members of FINRA's Uniform Practice Code Committee in writing[,], via [facsimile,] electronic mail, [or otherwise in writing,] unless an alternative method of service is ordered by the Adjudicator, within seven [(7)] calendar days after service of the notice. Service of the appeal by electronic mail shall be deemed complete upon sending. The written request for an appeal must be accompanied by proof of payment of the non-refundable Action Determination Appeal Fee. A request for an appeal must set forth with specificity any and all defenses to the Department's determination that a request was unacceptable or otherwise deficient. An appeal to the subcommittee shall operate to stay the processing of the company-related action (i.e., the requested company-related action shall not be processed during the period that the Requesting Party requests an appeal or while any such appeal is pending). Once a written appeal has been received, the Requesting Party may submit any additional supporting written documentation[,], via [facsimile,] electronic mail, [or otherwise,] unless an alternative method of service is ordered by the Adjudicator, up until the time the appeal is considered by the subcommittee. The subcommittee shall convene once

each calendar month to consider all appeals received under this Rule during the prior month. The subcommittee shall render a determination within three [(3)] business days following the day the appeal is considered by the subcommittee. The subcommittee's determination shall constitute final action by FINRA. The subcommittee's determination shall not constitute an estoppel as to FINRA nor bind FINRA in any subsequent administrative, civil, or disciplinary proceeding. If the Requesting Party fails to file a written request for an appeal within seven [(7)] calendar days after service of the notice by the Department, the Department's determination shall constitute final action by FINRA.

••• **Supplementary Material:** -----

No Change.

* * * * *

9000. CODE OF PROCEDURE

9100. APPLICATION AND PURPOSE

* * * * *

9132. Service of Orders, Notices, and Decisions by Adjudicator

(a) No Change.

(b) How Served

An order, notice, or decision shall be served pursuant to Rule 9134 or by electronic mail. Service by electronic mail shall be deemed complete upon sending the order, notice or decision.

(c) No Change.

9133. Service of Papers Other Than Complaints, Orders, Notices, or Decisions

(a) No Change.

(b) How Served

[The paper shall be served pursuant to Rule 9134.]The Parties shall serve documents by electronic mail, unless an alternative method of service is ordered by the Adjudicator. Service by electronic mail shall be deemed complete upon sending of the document(s).

(c) through (d) No Change.

* * * * *

9135. Filing of Papers with Adjudicator: Procedure

(a) through (c) No Change.

(d) Party Contact Information

At the first occurrence of a Party filing a Complaint, Answer, or other paper, the Party must include a mailing address and electronic mail address at which notices, orders, pleadings, and other communications required to be served upon or furnished to the Party may be sent. The Parties must serve any change of mailing address or electronic mail address during a proceeding on all other Parties and file this information with the Adjudicator.

* * * * *

9146. Motions

(a) through (k) No Change.

(l) General

All motions, oppositions or responses, replies, and any other filings made in a proceeding shall comply with Rules 9133, [9134,] 9135, 9136 and 9137. The Parties shall

serve documents by electronic mail, unless an alternative method of service is ordered by the Adjudicator. Service by electronic mail shall be deemed complete upon sending of the document(s).

* * * * *

9300. REVIEW OF DISCIPLINARY PROCEEDING BY NATIONAL ADJUDICATORY COUNCIL AND FINRA BOARD; APPLICATION FOR SEC REVIEW

* * * * *

9321. Transmission of Record

Within 21 days after the filing of a notice of appeal pursuant to Rule 9311 or notice of call for review pursuant to Rule 9312, or at such later time as the National Adjudicatory Council may designate, the Office of Hearing Officers shall assemble and prepare an index to the record, transmit the record and the index to the National Adjudicatory Council, and serve copies of the index upon all Parties. Within seven days after a Hearing Officer issues an order imposing conditions or restrictions pursuant to Rule 9285, or at such later time as the National Adjudicatory Council may designate, the Office of Hearing Officers shall assemble and prepare an amended index and a supplemental record, transmit the amended index and supplemental record to the National Adjudicatory Council, and serve copies of the amended index upon all Parties. The Office of Hearing Officers may serve the index by electronic mail. Service by electronic mail shall be deemed complete upon sending of the index. The Hearing Officer who participated in the disciplinary proceeding, or the Chief Hearing Officer, shall certify that

the record or supplemental record transmitted to the National Adjudicatory Council is complete.

* * * * *

9341. Oral Argument

(a) through (b) No Change.

(c) Notice Regarding Oral Argument

If oral argument is held, a notice stating the date, time, and location of the oral argument shall be served on the Parties at least 21 days before the hearing and may be served by electronic mail. Service by electronic mail shall be deemed complete upon sending of the notice. The Parties may agree in writing to waive the notice period or, in extraordinary circumstances, the Subcommittee or, if applicable, the Extended Proceeding Committee, or Counsel to the National Adjudicatory Council may provide for a shorter notice period, except that Counsel to the National Adjudicatory Council may provide for a shorter notice period only with the consent of the Parties.

(d) through (f) No Change.

* * * * *

9349. National Adjudicatory Council Formal Consideration; Decision

(a) through (b) No Change.

(c) Issuance of Decision After Expiration of Call for Review Period

The National Adjudicatory Council shall provide its proposed written decision to the FINRA Board. The FINRA Board may call the disciplinary proceeding for review pursuant to Rule 9351. If the FINRA Board does not call the disciplinary proceeding for review, the proposed written decision of the National Adjudicatory Council shall become

final, and the National Adjudicatory Council shall serve its written decision on the Parties and provide a copy to each member of FINRA with which a Respondent is associated.

The National Adjudicatory Council may serve its written decision by electronic mail.

Service by electronic mail shall be deemed complete upon sending the decision. The decision shall constitute the final disciplinary action of FINRA for purposes of SEA Rule 19d-1(c)(1), unless the National Adjudicatory Council remands the proceeding.

* * * * *

9351. Discretionary Review by FINRA Board

(a) through (d) No Change.

(e) Issuance of Decision After Expiration of Call for Review Period

The FINRA Board shall issue and serve its written decision on the Parties and provide a copy to each member of FINRA with which a Respondent is associated. The FINRA Board may serve the decision on the Parties by electronic mail. Service by electronic mail shall be deemed complete upon sending the decision. The decision shall constitute the final disciplinary action of FINRA for purposes of SEA Rule 19d-1(c)(1), unless the FINRA Board remands the proceeding.

* * * * *

9500. OTHER PROCEEDINGS

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9522. Initiation of Eligibility Proceeding; Member Regulation Consideration; and Requirements for an Interim Plan of Heightened Supervision

(a) Initiation by FINRA

(1) through (3) No Change.

(4) Service

A notice issued under this paragraph (a) shall be served by facsimile, electronic mail or pursuant to Rules 9131 and 9134. Service by electronic mail shall be deemed complete upon sending the notice.

(b) through (h) No Change.

* * * * *

9524. National Adjudicatory Council Consideration

(a) Hearing Panel Consideration

(1) through (2) No Change.

(3) Transmission of Documents

(A) Upon receipt of an application, CRED shall gather all of the information necessary to process the application, including (i) CRED records for the disqualified member, sponsoring member, and[or] disqualified person, as the case may be, and the proposed supervisor; and (ii) all of the information submitted by the disqualified member or sponsoring member in support of the application. CRED will prepare an index of these documents, and simultaneously provide this index and copies of the documents to the disqualified member or sponsoring member, as the case may be, the Office of the General Counsel, and the Department of Member Regulation. Such documents shall be served on the disqualified member or sponsoring member, as the case may be, by electronic mail, mail, facsimile, or overnight courier as soon as practicable. The Department of Member Regulation shall serve its

recommendation and its supporting documents on the Office of General Counsel and the disqualified member or sponsoring member, as the case may be, within 10 business days of the hearing, unless the Parties agree otherwise. Such documents may be served by electronic mail. The disqualified member or sponsoring member, as the case may be, shall serve its documents on the Office of General Counsel and the Department of Member Regulation within 10 business days of the hearing, unless the Parties agree otherwise. Such documents shall be served by electronic mail, unless an alternative method of service is ordered by the Adjudicator. The Office of General Counsel shall forward all documents transmitted to it pursuant to this paragraph (a)(3) to the Hearing Panel.

(B) Not less than [ten]10 business days before the hearing, the Department of Member Regulation, which shall act as a Party in the eligibility proceeding, and the disqualified member or sponsoring member, as the case may be, shall serve proposed exhibit and witness lists on each other and the Office of General Counsel. [The] FINRA shall serve its exhibit and witness lists [shall be served] by electronic mail, facsimile or overnight courier. The disqualified member or sponsoring member, as the case may be, shall serve its exhibit and witness lists by electronic mail, unless an alternative method of service is ordered by the Adjudicator.

(C) No Change.

(4) through (10) No Change.

(b) Decision

(1) through (2) No Change.

(3) Issuance of Decision After Expiration of Call for Review Period

The National Adjudicatory Council shall provide its proposed written decision to the FINRA Board. The FINRA Board may call the eligibility proceeding for review pursuant to Rule 9525. If the FINRA Board does not call the eligibility proceeding for review, the proposed written decision of the National Adjudicatory Council shall become final, and the National Adjudicatory Council shall serve its written decision on the disqualified member, sponsoring member, and[/or] disqualified person, as the case may be, and the Department of Member Regulation pursuant to Rules 9132 and 9134, and may serve its written decision by electronic mail. The decision shall constitute final action of FINRA, unless the National Adjudicatory Council remands the eligibility proceeding. A decision to deny re-entry or continued association shall be effective immediately. A decision to approve shall be effective after the SEC issues an acknowledgment letter or, in cases involving SEC ordered sanctions, an order.

(c) Service by Electronic Mail; When Service is Complete

For purposes of Rule 9524, service by electronic mail shall be deemed complete upon sending the documents or decision.

9525. Discretionary Review by the FINRA Board

(a) through (d) No Change.

(e) Issuance of Decision

The FINRA Board shall issue and serve its written decision on the disqualified member, sponsoring member, and[/or] disqualified person, as the case may be, and the

Department of Member Regulation pursuant to Rules 9132 and 9134, and may serve the decision on the disqualified party by electronic mail. Service by electronic mail shall be deemed complete upon sending the decision. The decision shall constitute the final action of FINRA, unless the FINRA Board remands the proceeding. A decision to deny re-entry or continued association shall be effective immediately. A decision to approve shall be effective after the SEC issues an acknowledgment letter or, in cases involving SEC-ordered sanctions, an order.

* * * * *

9559. Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series

(a) through (g) No Change.

(h) Transmission of Documents

(1) Not less than two business days before the hearing in an action brought under Rule 9557, not less than six days before the hearing in an action brought under Rule 9556(h), not less than seven days before the hearing in an action brought under Rules 9556 (except Rule 9556(h)), 9558 or 9561(b), and not less than 14 days before the hearing in an action brought under Rules 9551 through 9555 or 9561(a), FINRA staff shall provide to the respondent who requested the hearing or the respondent who has received a petition pursuant to Rule 9556(h), by facsimile, email, overnight courier or personal delivery, all documents that were considered in issuing the notice unless a document meets the criteria of Rule 9251(b)(1)(A), (B), (C) or (b)(2). [Documents served by facsimile or email shall also be served by either overnight courier or personal delivery.] A document that meets the criteria in this paragraph shall not constitute part of the

record, but shall be retained by FINRA until the date upon which FINRA serves a final decision or, if applicable, upon the conclusion of any review by the SEC or the federal courts.

(2) Not less than two business days before the hearing in an action brought under Rule 9557, not less than three days before the hearing in an action brought under Rules 9556 and 9558 or 9561(b), and not less than seven days before the hearing in an action brought under Rules 9551 through 9555 or 9561(a), the parties shall exchange proposed exhibit and witness lists. The exhibit and witness lists shall be served by [facsimile,] email, [overnight courier or personal delivery] unless an alternative method of service is ordered by the Adjudicator. [Documents served by facsimile or email shall also be served by either overnight courier or personal delivery.]

(i) through (p) No Change.

(q) Call for Review by National Adjudicatory Council

(1) No Change.

(2) If the Review Subcommittee calls the proceeding for review within the prescribed time, a Subcommittee of the National Adjudicatory Council shall meet and conduct a review not later than 40 days after the call for review. The Subcommittee shall be composed pursuant to Rule 9331(a)(1). The Subcommittee may elect to hold a hearing or decide the matter on the basis of the record made before the Hearing Officer or, if applicable, the Hearing Panel. Not later than 60 days after the call for review, the Subcommittee shall make its recommendation to the National Adjudicatory Council. Not later than 60 days after receipt of the

Subcommittee's recommendation, the National Adjudicatory Council shall serve a final written decision on the parties via email, overnight courier or facsimile. The National Adjudicatory Council may affirm, modify or reverse the decision of the Hearing Officer or, if applicable, the Hearing Panel. The National Adjudicatory Council also may impose any other fitting sanction, pursuant to Rule 8310(a), and may impose costs, pursuant to 8330. In addition, the National Adjudicatory Council may remand the matter to the Office of Hearing Officers for further consideration of specified matters.

(3) through (4) No Change.

(5) The National Adjudicatory Council shall promptly serve the decision on the Parties and provide a copy of the decision to each FINRA member with which the respondent is associated. The National Adjudicatory Council may serve and provide a copy of its decision by email.

(6) No Change.

(r) No Change.

(s) Service by Email; When Service is Complete

For purposes of Rule 9559(h) and (q), service by email shall be deemed complete upon sending the documents or decision.

* * * * *

9630. Appeal

(a) through (d) No Change.

(e) Decision

(1) Subject to [sub]paragraph (e)(2) of this Rule[below], after considering all matters on appeal, and, as applicable, the Subcommittee's recommendation, the National Adjudicatory Council shall affirm, modify, or reverse the decision issued under Rule 9620. The National Adjudicatory Council shall issue a written decision setting forth its findings and conclusions and serve the decision on the Applicant. The decision shall be served pursuant to Rules 9132 and 9134 or by electronic mail. The decision shall be effective upon service and shall constitute final action of FINRA.

(2) With respect to exemptive relief requested under Rule 1210.03, after considering all matters on appeal, the Waiver Subcommittee of the National Adjudicatory Council shall affirm, modify, or reverse the decision issued under Rule 9620. The Waiver Subcommittee shall issue a written decision setting forth its findings and conclusions and serve the decision on the Applicant. The decision shall be served pursuant to Rules 9132 and 9134 or by electronic mail. The decision shall be effective upon service and shall constitute final action of FINRA. The Waiver Subcommittee shall retain the discretion to refer the appeal to the National Adjudicatory Council, in which case the National Adjudicatory Council shall act on such appeal pursuant to its authority under the[is] Rule 9600 Series.

(f) Service by Electronic Mail; When Service is Complete

For purposes of Rule 9630(e), service by electronic mail shall be deemed complete upon sending the decision.

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