members of the Affiliated Co-Investor or a trust established for any Affiliated Co-Investor or any such family member; or (c) when the investment is comprised of securities that are (i) listed on any exchange registered as a national securities exchange under section 6 of the Exchange Act; (ii) national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 thereunder; (iii) government securities as defined in section 2(a)(16) of the Act; or (iv) when the investment is comprised of securities that are listed on, or traded on, any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system.

4. Each Fund and its General Partner will maintain and preserve, for the life of each such Fund and at least six years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the Investors, and each annual report of the Fund required to be sent to the Investors, and agree that all such records will be subject to examination by the Commission and its staff. Each Fund will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

5. The General Partner of each Fund will send to each Investor who had an Interest in the Fund, at any time during the fiscal year then ended, Fund financial statements that have been audited by independent accountants. At the end of each fiscal year, the General Partner will make a valuation or have a valuation made of all of the assets of the Fund as of such fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Fund. In addition, within 90 days after the end of each fiscal year of each of the Funds or as soon as practicable thereafter, the General Partner of each Fund shall send a report to each person who was a Investor at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Investor of his or her federal and state income tax returns and a report of the investment activities of the Fund during that year.

6. If purchases or sales are made by a Fund from or to an entity affiliated with the Fund solely by reason of a partner or employee of the UBS Group (a) serving as officer, director, general partner or investment adviser of the entity, or (b) having a 5% or more investment in such entity, such individual will not participate in the Fund's determination of whether or not to effect the purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09212 Filed 4–22–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71959; File No. SR–FINRA–2014–020]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Adopt FINRA Rule 2081 (Prohibited Conditions Relating to Expungement of Customer Dispute Information)

April 17, 2014.

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 April 14, 2014, 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 adopt FINRA Rule 2081 to prohibit member firms and associated persons from conditioning or seeking to condition settlement of a dispute with a customer on, or to otherwise compensate the customer for, the customer's agreement to consent to, or not to oppose, the firm's or associated person's request to expunge such customer dispute information from the Central Registration Depository (CRD®).

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

[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

Background

The CRD system is the central licensing and registration system for the U.S. securities industry and its regulators. In general, the information in the CRD system is submitted by registered securities firms and regulatory authorities in response to questions on the uniform registration forms. These forms collect administrative and disciplinary information about registered personnel, including customer complaints, arbitration claims, and court filings made by customers, and the arbitration awards or court judgments that may result from those claims or filings (*i.e.,* ''customer dispute information'').[3] FINRA, state and other regulators use this information in connection with their licensing and regulatory activities. Firms also use the information when making hiring decisions. In addition, the information that FINRA releases to the public through BrokerCheck® is derived from the CRD system.

Brokers who wish to have customer dispute information removed from the CRD system (and thereby, from BrokerCheck) because, for example, they believe that the allegations made against them are unfounded or that they have been incorrectly identified, must seek expungement pursuant to FINRA Rule 2080 (formerly NASD Rule 2130).[4] FINRA Rule 2080 provides that firms and associated persons seeking expungement of customer dispute information from the CRD system must

[3] *See Notice to Members* (''NTM'') 04–16 (March 2004).

[4] *See* Securities Exchange Act Release No. 48933 (December 16, 2003), 68 FR 74667 (December 24, 2003) (Order Approving File No. SR–NASD–2002–168). *See also* Securities Exchange Act Release No. 59987 (May 27, 2009), 74 FR 26902 (June 4, 2009) (Order Approving File No. SR–FINRA–2009–016).

obtain a court order that either directs expungement or confirms an arbitration award containing expungement relief. The Rule requires that firms and associated persons seeking such a court order or confirmation name FINRA as a party. Upon request, FINRA may waive the obligation to name it as a party if FINRA determines that the expungement relief is based on an affirmative judicial or arbitral finding that: (1) The claim, allegation or information is factually impossible or clearly erroneous; (2) the registered person was not involved in the alleged investment-related sales practice violation, forgery, theft, misappropriation or conversion of funds; or (3) the claim, allegation or information is false.[5]

FINRA has long had concerns about the practice of firms and associated persons conditioning settlement agreements for the purpose of obtaining expungement relief and, thereby, potentially removing from the CRD system information that helps protect investors. Over the years, FINRA has taken numerous steps towards addressing these concerns. For example, in proposing NASD Rule 2130, FINRA (then NASD) stated that the Rule's affirmative determination requirement imposed on arbitrators would reduce, if not eliminate, the risk of expunging information that is critical to investor protection and regulatory interests based on an agreement between the parties.[6] In NTM 04–43, FINRA cautioned firms and associated persons that negotiating settlements with customers in return for exculpatory affidavits that the firm or associated person knows or should know are false or misleading is a violation of FINRA Rules.[7]

In 2008, FINRA adopted FINRA Rule 12805 to require arbitrators to perform additional fact finding before recommending expungement of customer dispute information from the CRD system.[8] FINRA Rule 12805 requires arbitrators, among other things, to review settlement documents, the amount of payments made to any party, and any other terms and conditions of the settlement. In addition, FINRA Rule 12805 requires arbitrators to indicate in the award which of the grounds in FINRA Rule 2080 serves as the basis for their expungement recommendation and to provide a brief written explanation of the reasons for recommending expungement. FINRA believed that these requirements would address concerns about arbitrators recommending expungement under what might appear to be questionable facts and circumstances (*e.g.,* cases that include payment of significant monetary compensation to the customer).[9]

In 2013, because of FINRA's concerns about the high percentage of expungement recommendations made in connection with settled arbitration claims, FINRA sent to arbitrators and published on FINRA's Web site guidance (the ''Guidance'') stating that, in determining whether to recommend expungement relief in settled arbitration claims, arbitrators should inquire whether a party conditioned settlement on an agreement not to oppose a request for expungement relief.[10]

Proposal

Despite previous steps to discourage the practice of firms and associated persons conditioning settlement agreements for the purpose of obtaining expungement relief, FINRA continues to have concerns regarding such conduct. These concerns extend to any settlements involving customer disputes, not only to those related to arbitration claims. FINRA believes such agreements should be prohibited even if the customer offers not to oppose expungement as part of negotiating a settlement agreement. Further, FINRA believes that firms and associated persons should be prohibited from otherwise compensating customers in return for the customer's agreement not to oppose expungement of customer dispute information from the CRD system.

Accordingly, FINRA is proposing to adopt FINRA Rule 2081 to prohibit expressly such conduct. Specifically, FINRA Rule 2081 would provide that no member or associated person shall condition or seek to condition settlement of a dispute with a customer on, or to otherwise compensate the customer for, the customer's agreement to consent to, or not to oppose, the member's or associated person's request to expunge such customer dispute information from the CRD system.[11]

The proposal's prohibition would apply to both written and oral agreements. In addition, as indicated above, the proposal would apply to agreements entered into during the course of settlement negotiations, as well as to any agreements entered into separate from such negotiations. For example, the proposed rule change would preclude a firm or associated person from conditioning the settlement of a customer's claim on the customer's agreement to consent to, or not to oppose, the firm's or associated person's request for expungement. In addition, the proposed rule change would preclude a firm or associated person, following settlement of the underlying customer dispute, from compensating the customer in return for the customer not opposing the firm's or associated person's expungement request.

As an alternative to proposed FINRA Rule 2081, some industry representatives suggested that FINRA consider enhanced arbitrator training as a means of addressing concerns regarding the conditioning of settlement agreements for the purpose of obtaining expungement relief. Since adopting NASD Rule 2130 in 2004, FINRA has required all arbitrators to take a training course on expungement. Recently, FINRA significantly revised its arbitrator expungement training. The

[5] *See* FINRA Rule 2080(b)(1). While expungement of customer dispute information is an extraordinary measure, FINRA believes that it is nevertheless appropriate where the information being expunged meets one of the criteria specified in Rule 2080 and has no meaningful investor protection or regulatory value.

[6] *See* Letter from Shirley H. Weiss, Associate General Counsel, NASD, to Jonathan G. Katz, Secretary, SEC, dated September 11, 2003. *See also* Securities Exchange Act Release No. 48933 (December 16, 2003), 68 FR 74667 (December 24, 2003) (Order Approving File No. SR–NASD–2002–168).

[7] In addition, FINRA noted that ''[a]s a general matter, in connection with settling arbitration claims and/or other complaints, members may not engage in any conduct that impedes the ability of [FINRA] or any other securities industry regulator to investigate potential violations of [FINRA] rules or the securities laws. Such conditions would include . . . procuring, as a condition to settlement, affidavits or other statements from customers that falsely or misleadingly repudiate or otherwise contradict prior claims or complaints made by customers.'' *See* NTM 04–43 (June 2004).

[8] *See* Securities Exchange Act Release No. 58886 (October 30, 2008), 73 FR 66086 (November 6, 2008) (Order Approving File No. SR–FINRA–2008–010). In addition, FINRA adopted FINRA Rule 13805 to establish procedures that arbitrators must follow when considering requests for expungement relief in connection with intra-industry disputes. *See id.*

[9] *See* Securities Exchange Act Release No. 57572 (March 27, 2008), 73 FR 18308 (April 3, 2008) (Notice of Filing File No. SR–FINRA–2008–010).

[10] *See* Notice to Arbitrators and Parties on Expanded Expungement Guidance, available at *http://www.finra.org/arbitrationandmediation/arbitration/specialprocedures/expungement/.* Specifically, the Guidance states: ''Arbitrators should inquire and fully consider whether a party conditioned a settlement of the arbitration upon agreement not to oppose the request for expungement in cases in which the investor does not participate in the expungement hearing or the requesting party states that an investor has indicated that he or she will not oppose the expungement request.''

[11] The proposed rule change would not affect the processes relating to requests for expungement relief set forth in FINRA Rules 2080, 12805 and 13805. Thus, if an arbitration panel is considering the appropriateness of expungement in accordance with FINRA Rule 12805, a customer could express support for, or opposition to, the firm's or associated person's request for expungement as part of the recorded hearing session required by that Rule.

revised training became available on FINRA's Web site on February 28, 2014.[12] The revised training increases the emphasis on the importance of the information in the CRD system and BrokerCheck, and the arbitrator's critical role in maintaining the integrity of disclosure information contained in the system.[13] While FINRA recognizes the importance of arbitrator training in the expungement process, and anticipates that the revised training will further focus arbitrators' attention on the appropriate analysis associated with determining whether to recommend expungement, FINRA remains concerned about parties to a settlement agreement ''bargaining for'' expungement relief as a condition to settlement. The proposed rule change would directly address this concern by expressly prohibiting firms and associated persons from conditioning settlement agreements, or otherwise compensating customers, for the purpose of obtaining expungement relief.

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 30 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[14] 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.

As discussed above, the information in the CRD system is used by FINRA, state and other regulators in connection with their licensing and regulatory activities. Firms also use the information to help them make informed hiring decisions. In addition, the information that is provided to the public through FINRA BrokerCheck is derived from the CRD system. BrokerCheck is part of FINRA's ongoing effort to help investors make informed choices about member firms and associated persons with which investors may conduct business. Thus, it is critical to investor protection that the CRD system includes accurate and complete customer dispute information.[15]

In addition, FINRA has stated repeatedly that expungement is extraordinary relief that should be granted only when the expunged information is unfounded and has no meaningful regulatory or investor protection value.[16] Once information is expunged from the CRD system, it is permanently deleted and, therefore, no longer available to the investing public or regulators. By removing the ability of the parties to a customer dispute to ''bargain-for'' expungement relief as part of a settlement agreement, or otherwise, the proposed rule change would help ensure that information is expunged from the CRD system only when there is an independent judicial or arbitral decision that expungement is appropriate. Accordingly, the proposed rule change would also help maintain the integrity of the information in the CRD system.

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

FINRA does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA understands that altering the terms available as part of a settlement might impact the settlement itself. For example, some industry representatives have questioned whether the proposal would result in a reduction in the number of customer disputes that will settle, thereby potentially increasing the costs to all parties involved. Specifically, these representatives have raised concerns that some firms may choose not to settle because a customer claimant may subsequently oppose a request for expungement, notwithstanding settlement of the underlying customer dispute. Industry representatives also have questioned whether the proposal would result in a reduction in the size of settlements offered by firms and associated persons.

FINRA believes such impacts are likely to be small. Specifically, FINRA understands that some firms already prohibit the use of such conditions as part of their settlement agreements. These firms have indicated that such a practice has not substantially impacted their ability to reach settlement or affected the terms of their settlement agreements in material ways. Further, those firms that have already adopted this practice would bear no significant additional costs as a result of the proposed rule change.

Notwithstanding the concerns noted above, FINRA believes that parties to a settlement agreement should not be able to ''bargain for'' expungement relief as a condition to a settlement agreement, or otherwise. By prohibiting such conduct, the proposed rule change would help ensure that judicial and arbitral determinations regarding requests for expungement relief are based solely on the facts of the underlying customer dispute. In addition, the CRD system would more accurately reflect customer dispute information, permitting customers, potential customers, regulators, and firms to better assess an associated person's record.

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 up to 90 days (i) as the Commission may designate 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

[12] *See* FINRA Arbitrator Training Online Learning Courses, available at *http://www.finra.org/ArbitrationAndMediation/Arbitrators/Training/AdvancedTraining/P124939.* All arbitrator applicants must complete this training to become eligible to serve on arbitration cases.

[13] In addition, FINRA monitors the effectiveness of its training and guidance on an ongoing basis and makes additions or changes as necessary.

[14] 15 U.S.C. 78*o*–3(b)(6).

[15] FINRA routinely advises investors to check BrokerCheck before deciding to do business with a firm or associated person. *See, e.g.,* Working With Your Investment Professional, available at *http://www.finra.org/Investors/ProtectYourself/BeforeYouInvest/WorkingWithYourInvestmentProfessional/*; ''Phishing'' and Other Online Identity Theft Scams: Don't Take the Bait, available at *http://www.finra.org/Investors/ProtectYourself/InvestorAlerts/FraudsAndScams/P010734;* and Avoiding Investment Scams, available at *http://www.finra.org/Investors/ProtectYourself/InvestorAlerts/FraudsAndScams/P118010.*

[16] *See, e.g.,* NTM 01–65 (October 2001); Securities Exchange Act Release No. 47435 (March 4, 2003), 68 FR 11435 (March 10, 2003) (Notice of Filing File No. SR–NASD–2002–168); letter from Margo A. Hassan, FINRA, to Florence Harmon, Deputy Secretary, SEC, dated September 3, 2008; and the Guidance, *supra* note 10.

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–020 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–2014–020. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2014–020 and should be submitted on or before May 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09203 Filed 4–22–14; 8:45 am]

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[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71965; File No. SR–NYSEArca–2014–43]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.62 To Remove the Size Restriction on Contra-Party Participation on a Qualified Contingent Cross Order

April 17, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 14, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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

The Exchange proposes to amend Rule 6.62 (Certain Types of Orders Defined) to remove the size restriction on contra-party participation on a Qualified Contingent Cross Order (''QCC Order''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

1. Purpose

The purpose of this rule filing is to amend [sic] 6.62 to remove the size restriction on contra-party participation on a QCC Order. The proposed rule change, which mirrors a recently adopted rule by the International Securities Exchange (''ISE'')[4], would expand the availability of QCC Orders by permitting multiple contra-parties on a QCC Order, each of which may consist of an order for less than 1,000 contracts; provided however, that the originating QCC Order is a single order that meets the 1,000 contract minimum (as well as the other requirements of a QCC Order), as discussed below.[5] The proposed change is intended to allow the Exchange to compete fairly and equally with other options exchanges, including the ISE, that have recently adopted similar rule changes.[6]

Rule 6.62(bb) provides that a QCC Order must be comprised of an order to buy or sell at least 1,000 contracts[7] that is identified as being part of a qualified contingent trade,[8] coupled with a contra-side order to buy or sell an equal number of contracts. As Qualified Contingent Crosses, QCC Orders are automatically executed upon entry provided that the execution (i) is not at the same price as a Customer Order in the Consolidated Book and (ii) is at or

[4] *See* Securities Exchange Act Release No. 71863 (April, 3, 2014) (SR–ISE–2014–72).

[5] In the case of mini options, the minimum size is 10,000 contracts.

[6] *See supra* n. 4.

[7] In the case of mini options, the minimum size is 10,000 contracts.

[8] A ''qualified contingent trade'' must meet the following conditions: (i) At least one component must be an NMS Stock; (ii) all the components must be effected with a product price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (iii) the execution of one component must be contingent upon the execution of all other components at or near the same time; (iv) the specific relationship between the component orders (e.g., the spread between the prices of the component orders) must be determined by the time the contingent order is placed; (v) the component orders must bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (vi) the transaction must be fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. In addition, ATP Holders must demonstrate that the transaction is fully hedged using reasonable risk-valuation methodologies. *See supra* n.4 (*citing* Securities Exchange Act Release No. 57620 (April 4, 2008), 73 FR 19271 (April 9, 2008)).