acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market system, and in general to protect investors and the public interest; and Section 6(b)(8), which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any others they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is inconsistent with Sections 3(a)(2), 6(b)(1), 6(b)(4), 6(b)(5), and 6(b)(8) of the Act or any other provision of the Act, or the rules and regulation thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[9]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule changes should be [approved or] disapproved by August 18, 2014. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by September 2, 2014.

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–NASDAQ–2014–034 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–NASDAQ–2014–034. 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. 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 publicly available. All submissions should refer to File Number SR–NASDAQ–2014–034 and should be submitted on or before August 18, 2014. Rebuttal comments should be submitted by September 2, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17640 Filed 7–25–14; 8:45 am]

BILLING CODE 8011–01–P

[9] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[10] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72649; File No. SR–FINRA–2014–020]

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

July 22, 2014.

I. Introduction

On April 14, 2014, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt 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 the customer dispute information which was the subject of the settlement from the Central Registration Depository (CRD®). The proposal was published for comment in the **Federal Register** on April 23, 2014.[3] The Commission received 15 comments on the proposal.[4] The Commission also received a letter from FINRA responding to commenters.[5] This order approves the proposed rule change.

II. Description of the Proposal

A. Background

The CRD is the central licensing and registration system for the securities industry. In general, information in the CRD is provided by broker-dealers, associated persons, and regulatory authorities in response to questions on the uniform registration forms.[6] These forms require the disclosure of 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 ("customer dispute information").[7] FINRA, state regulators, 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 a subset of the information in the CRD. Thus, any

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71959 (April 17, 2014), 79 FR 22734 (SR–FINRA–2014–020) ("Notice").

[4] *See* Exhibit A for a list of comment letters.

[5] *See* Letter to Kevin O'Neill, Deputy Secretary, Commission, from Victoria Crane, Associate General Counsel, FINRA, dated July 18, 2014 ("FINRA Response Letter").

[6] Form U4 (Uniform Application for Securities Industry Registration or Transfer), Form U5 (Uniform Termination Notice for Securities Industry Registration), and Form U6 (Uniform Disciplinary Action Reporting Form).

[7] *See Notice to Members* ("NTM") 04–16 (March 2004). *See also* Section 15A(i) of the Act.

information that is removed from CRD is no longer available through BrokerCheck.

Brokers who wish to have customer dispute information removed from the CRD 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).[8] Rule 2080 requires firms and associated persons seeking expungement of customer dispute information from the CRD to 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 a court order or confirmation of an arbitration award name FINRA as a party to the proceeding. Upon request, FINRA may waive the obligation to be named 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.[9]

FINRA states that it has long had concerns about the practice of firms and associated persons conditioning settlement agreements for the purpose of obtaining expungement relief and, thereby, removing information from CRD that could be useful to investors. FINRA notes that it has taken numerous steps over the years to address its concerns regarding expungement. For example, in proposing NASD Rule 2130, the NASD (now FINRA) stated that the affirmative determination requirement imposed by the Rule 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.[10] In NTM 04–43, NASD 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 NASD rules.[11]

In 2008, FINRA proposed and the Commission approved, Rule 12805 to require arbitrators to perform additional fact finding before recommending expungement of customer dispute information from the CRD.[12] 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, the Rule requires arbitrators to indicate in the award which of the grounds in Rule 2080 serves as the basis for their expungement recommendation and to provide a brief written explanation of the reasons for recommending expungement. FINRA stated that it 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).[13]

FINRA states that due to concerns about the high percentage of expungement recommendations made in connection with settled arbitration claims, in 2013, FINRA sent to arbitrators, and published on its Web site, guidance stating that arbitrators should inquire whether a party conditioned settlement on an agreement not to oppose a request for expungement relief in determining whether to recommend expungement relief in settled arbitration claims.[14]

B. Proposal

Despite these measures, FINRA states that it continues to have concerns regarding the practice of firms and associated persons conditioning settlement agreements for the purpose of obtaining expungement relief in settlements involving customer disputes, as well as those related to arbitration claims. FINRA believes these 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 a request for expungement relief which would remove customer dispute information from the CRD.

Accordingly, FINRA proposed Rule 2081 to expressly prohibit this conduct. Specifically, 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.'' [15]

FINRA states the prohibition would apply to both written and oral agreements, and 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

[8] *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).

The National Association of Securities Dealers, Inc. (NASD) changed its name to FINRA in 2007. *See* Securities Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007) Order Approving File No. SR–NASD–2007–053.

[9] *See* Rule 2080(b)(1). FINRA stated that while expungement of customer dispute information is an extraordinary measure, 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. *See* Notice, *supra* note 3, 79 FR 22734 at 22735.

[10] *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, *supra* note 8, 68 FR 74667.

[11] In addition, NASD 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).

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

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

[14] *See* Notice to Arbitrators and Parties on Expanded Expungement Guidance, available at *http://www.finra.org/arbitrationandmediation/arbitration/specialprocedures/expungement/* (''Expanded Expungement Guidance''). 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.''

[15] The proposed rule change would not affect the processes relating to requests for expungement relief set forth in Rules 2080, 12805 and 13805. Thus, if an arbitration panel considers whether expungement is appropriate and consistent with Rule 12805, a customer would be free to 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 Rule 12805.

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.

FINRA states that as an alternative to proposed Rule 2081, some industry representatives suggested that FINRA consider enhanced arbitrator training.[16] Since adopting NASD Rule 2130 in 2004, FINRA has required all arbitrators to take a training course on expungement. Recently, FINRA significantly revised its training for arbitrators regarding expungement. The revised training became available on FINRA's Web site on February 28, 2014.[17] The revised training highlights the importance of the information in the CRD and the arbitrator's critical role in maintaining the integrity of disclosure information contained in CRD. 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 states that it remains concerned about parties to a settlement agreement ''bargaining for'' expungement relief as a condition to settlement. The proposed rule change would 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.

III. Summary of Comments and FINRA's Response

The Commission received 15 comment letters on the proposed rule change.[18] Twelve commenters support the proposal,[19] one of which requested clarification regarding the proposed rule.[20] Of the three remaining commenters, one commenter neither supports nor opposes the proposal; the commenter is against expungement under any circumstances.[21] Another commenter supports the concept but is against the proposal as drafted.[22] The third commenter did not opine on the merits of the proposal.[23]

Of the 12 commenters who support the proposal, five[24] express concern that the proposal may not go far enough ''in preventing expungements at unacceptably high rates,''[25] ''ensuring expungements are the exception rather than the rule,''[26] and addressing ''the multitude of other issues that are associated with expungement'' which ''undermine investor confidence and threaten the protection of investors.''[27] Several of these commenters provide suggestions regarding additional steps that FINRA should take to improve the expungement process.[28] In response, FINRA states that it will continue to monitor the effectiveness of the training and other resource materials on expungement it has provided to arbitrators and make any additions or changes as necessary.[29] In addition, FINRA states that, while it believes these comments are outside the scope of the proposal, it is continuously looking at ways to improve the expungement process and appreciates commenters' suggestions.[30]

One commenter believes that certain statements in FINRA's Notice could constitute an additional substantive requirement for expungement relief—that the information being expunged has no meaningful investor protection or regulatory value.[31] In response, FINRA states that FINRA's references to expungement relief being appropriate when the information to be expunged has no meaningful investor protection or regulatory value is not a new requirement, as FINRA has made this statement several times in the past.[32] In addition, FINRA states that this reference is not intended to expand the criteria in Rule 2080, but rather to emphasize the investor protection and regulatory concerns relating to expungement of customer dispute information from the CRD.[33]

According to another commenter, who takes no issue with the concept, the proposal as drafted is overbroad.[34] That commenter believes a respondent should be able to openly ask a claimant ''to stipulate to the issue of expungement relief being withheld from the anticipated settlement for the purpose of further proceedings,'' believing that a respondent should retain the right to condition a settlement upon a stipulation that the parties will request the arbitrators to consider the remaining or outstanding issue of expungement relief.[35] In addition, this commenter believes that respondents should have the right to ask claimants whether they plan to be present at the expungement hearings, and what their stance will be on the issue of expungement.[36] In response, FINRA states that the proposal would not prevent parties from clarifying in the settlement agreement that expungement is not addressed in the agreement, nor would it preclude a respondent from inquiring whether any party intends to support or oppose a request for expungement relief.[37] However, FINRA states that it would consider any actions by a member firm to influence another party to a settlement agreement for purposes of obtaining expungement relief, whether expressly or otherwise, to be a potential violation of the proposed rule.[38]

One commenter asks FINRA to clarify whether member firms may include recitals in settlement agreements to the effect that: (i) The respondent intends to seek expungement relief; (ii) such expungement request was not a condition of the settlement agreement; (iii) respondent has not paid any consideration related to the expungement request; and (iv) claimant may participate in the hearing on expungement if he/she so chooses.[39] In response, FINRA states that the proposed rule change would not prohibit a respondent from including such recitals in the settlement agreement, and believes their inclusion would reinforce the concept that parties cannot offer or receive any consideration for expungement relief as a condition to settlement.[40] FINRA also notes that it will issue guidance, as needed, to clarify the rule's applicability

[16] *See* Notice, *supra* note 3, 79 FR 22734 at 22735.

[17] *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.

[18] *See supra,* note 4.

[19] *See* Aidikoff, Amato, Bakhtiari, Caruso, Friedman, FSI, GSU, NASAA, Pace, PIABA, SIFMA, and Steiner letters.

[20] *See* SIFMA letter.

[21] *See* Estell letter.

[22] *See* Ryder letter.

[23] *See* Jacobowitz letter. The commenter provided information regarding the decrease in the percentage of expungements granted after FINRA issued the Expanded Expungement Guidance. *See supra* note 13.

[24] *See* Caruso, GSU, PIABA, NASAA, and Steiner letters.

[25] *See* PIABA letter at 2.

[26] *See* GSU letter at 2. *See also* PIABA letter at 3.

[27] *See* Caruso letter. The letter does not specify the other issues to which it refers.

[28] *See, e.g.,* GSU, PIABA, NASAA, and Steiner letters.

[29] *See* FINRA Response Letter at 6.

[30] *Id.*

[31] *See* SIFMA letter at 2–3.

[32] *See* FINRA Response Letter at 7.

[33] *Id.*

[34] *See* Ryder letter.

[35] *Id.*

[36] *Id.*

[37] *See* FINRA Response Letter at 4.

[38] *Id.*

[39] *See* SIFMA letter at 1–2.

[40] *See* FINRA Response Letter at 4.

to particular facts and circumstances as questions arise.[41]

One commenter is concerned with how FINRA will enforce the new rule. This commenter believes that firms or associated persons may attempt to skirt the rule and include prohibited conditions to settlement in cover letters or emails that are not seen by arbitrators, or enter into unrecorded oral agreements with customers.[42] The commenter states that there should be a specific enforcement mechanism and clear consequences for failing to comply with the rule.[43] While concerned about how the rule will be enforced, the commenter states that the rule ''would further prevent firms from using expungement as a bargaining chip in settlement negotiations and could allow for a more balanced presentation to the arbitrators of the facts of a dispute.'' [44] In response to this commenter's concerns, FINRA states that the proposal's prohibition would apply to written and oral agreements and agreements entered into during the course of, and separate from, settlement negotiations, regardless of when or in what form.[45] In addition, FINRA states that it will update its arbitrator guidance to incorporate the new rule and to further emphasize the importance of arbitrators inquiring whether a party conditioned settlement on an agreement that the customer not oppose a request for expungement. In response to concerns regarding enforcement, FINRA states that a violation of the proposed rule would subject member firms and their associated persons to a variety of applicable sanctions, including possible disciplinary action for violation of FINRA Rules, including Rule 2010 (Standards of Commercial Honor and Principles of Trade), and other penalties, and refers the commenter to Rule 8310 (Sanctions for Violations of Rules).[46]

IV. Discussion and Commission Findings

After carefully reviewing the proposed rule change and the comment letters, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[47] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[48] which requires, among other things, that FINRA's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, prohibiting member firms and associated persons from conditioning or seeking to condition settlement of a dispute with a customer on, or otherwise compensating the customer for, the customer's agreement to consent to, or not to oppose, the firm's or associated person's request to expunge information regarding customer disputes and arbitration claims from the CRD should help assure that accurate and complete customer dispute information remains available to the investing public, regulators, and broker-dealers. As discussed above, current FINRA rules, on their face, permit expungement only in very narrow circumstances and after a series of procedural steps has been satisfied. In the first instance, FINRA rules set a high bar for arbitrators before they grant expungement of customer dispute information, requiring a finding that the claim or allegation is factually impossible, clearly erroneous or false, or that the registered person was not involved in the alleged wrongdoing.[49] FINRA has emphasized to arbitrators that expungement is an extraordinary remedy that should be granted only when the information to be expunged has no meaningful investor protection or regulatory value, and that arbitrators should ensure that they have all of the information necessary to make an informed and appropriate recommendation on expungement.[50] A court order directing expungement or confirming an arbitration award containing expungement relief also is required.[51] Furthermore, FINRA must be named as a party in the judicial proceedings, and may waive its right to be named only if FINRA determines that the expungement relief is based on affirmative judicial or arbitral findings that the claim or allegation is factually impossible, clearly erroneous or false, or that the registered person was not involved in the alleged wrongdoing.[52] Despite the very narrow permissible grounds and procedural protections designed to assure expungement is an extraordinary remedy, however, arbitrators appear to grant expungement relief in a very high percentage of settled cases.[53]

The completeness of information in the CRD, including accurate customer dispute information, is critical for the protection of investors and effective regulatory oversight. In the context of settlement or other negotiations, the aggrieved customer's individual interest in compensation or other remedies may dominate, without due consideration for the effect of expungement on the public or regulatory interests. The proposed rule change, by eliminating the ability of parties to a customer dispute to bargain for expungement relief as a condition to a settlement agreement or otherwise, should help assure that negotiated customer consents or non-objections do not unduly influence the judicial or arbitral decision that expungement is appropriate. This should enhance the integrity of information in the CRD, to the benefit of the investing public and regulators. In addition, the Commission believes the proposed rule's application to both written and oral agreements, as well as any agreements separate from the negotiations, and the prohibition from compensating the customer following settlement for not opposing an expungement request are important aspects of the proposed rule change.

Although the proposed rule change is a constructive step to help assure that the expungement of customer dispute information is an extraordinary remedy

[41] *Id.*

[42] *See* NASAA letter at 3.

[43] *Id.*

[44] *Id.* at 2.

[45] *See* FINRA Response Letter at 3.

[46] *Id.*

[47] In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[48] 15 U.S.C. 78*o*–3(b)(6).

[49] *See* FINRA Rules 2080 and 12805. Among other things, in cases involving settlements, the arbitrators must review the settlement documents and consider the amount of payments made to any party and other terms and conditions of the settlement.

[50] *See* Expanded Expungement Guidance, *supra* note 14. FINRA also reminded arbitrators of their obligation to provide a written explanation of the reasons for finding one of the narrow enumerated grounds applies to the facts of the case before them, and stated that such written explanation should be complete and not just a recitation of one of the enumerated grounds or of language in the expungement request. Specifically, arbitrators should identify the reason(s) for granting the expungement request and any specific documentary or other evidence they relied upon in so doing.

[51] *See* FINRA Rule 2080.

[52] *Id.* Under extraordinary circumstances FINRA may waive its right to be named a party if it determines that the expungement relief and accompanying findings are meritorious and the expungement would have no material adverse effect on investor protection, the integrity of the CRD, or regulatory requirements.

[53] *See* PIABA letter at 2. The PIABA Expungement Study found that for the time period January 1, 2007 through mid-May 2009, expungement was granted in 89 percent of the cases resolved by stipulated awards or settlement, and for the time period mid-May 2009 through the end of 2011, expungement relief was granted in 96.9 percent of the cases resolved by settlements or stipulated awards.

that is permitted only in the appropriate narrow circumstances contemplated by FINRA rules, the Commission notes the high number of cases where arbitrators grant brokers' expungement requests. When information is expunged from the CRD, it is no longer available to regulators, broker-dealers, or the investing public. Both regulators and the investing public are disadvantaged when factual information is removed from the CRD.[54] The Commission encourages FINRA to conduct a comprehensive review of its expungement rules and procedures to determine whether additional rulemaking is necessary or appropriate to assure that expungement in fact is treated as an extraordinary remedy that is permitted only where the information to be expunged has no meaningful investor protection or regulatory value.

For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the Act.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[55] that the proposed rule change (SR–FINRA–2014–020), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[56]

Kevin M. O'Neill,

Deputy Secretary.

Exhibit A—List of Comment Letters Received for SR–FINRA–2014–020

1. Steven B. Caruso, Maddox Hargett Caruso, P.C., dated April 21, 2014 (''Caruso'')
2. Nicole Iannarone, Assistant Clinical Professor, Tim Guilmette, Student Intern, and Nataliya Obikhod, Student Intern, Georgia State University College of Law, dated May 1, 2014 (''GSU'')
3. Philip M. Aidikoff, Aidikoff, Uhl and Bakhtiari, dated May 1, 2014 (''Aidikoff'')
4. Ryan K. Bakhtiari, Aidikoff, Uhl and Bakhtiari, dated May 5, 2014 (''Bakhtiari'')
5. Richard P. Ryder, dated May 5, 2014 (''Ryder'')
6. Leonard Steiner, Steiner & Libo, PC, dated May 6, 2014 (''Steiner'')
7. Barry D. Estell, dated May 7, 2014 (''Estell'')
8. George H. Friedman, George H. Friedman Consulting, LLC, dated May 13, 2014 (''Friedman'')
9. Jason Doss, President, Public Investors Arbitration Bar Association, dated May 13, 2014 (''PIABA'')
10. David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute, dated May 14, 2014 (''FSI'')
11. Andrea Seidt, North American Securities Administrators Association (''NASAA'') President and Ohio Securities Commissioner, dated May 14, 2014 (''NASAA'')
12. Jill Gross, Director, Elissa Germaine, Supervising Attorney, and Michelle N. Robinson, Student Intern, John Jay Legal Services, Inc., Pace University School of Law, dated May 14, 2014 (''Pace'')
13. Kevin M. Carroll, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated May 14, 2014 (''SIFMA'')
14. Ronald M. Amato, Amato Law Firm, LLC, dated May 15, 2014 (''Amato'')
15. Harry A. Jacobowitz, Database Manager, Securities Arbitration Commentator, Inc., dated May 16, 2014 (''Jacobowitz'')

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BILLING CODE 8011–01–P

[54] Indeed, Section 15A(i) of the Act requires FINRA to collect and make available ''information reported in connection with the registration or licensing of brokers and dealers and their associated persons, including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law or exchange or association rule, and the source and status of such information. *See* 15 U.S.C. 78*o*–3(i)(5).

[55] 15 U.S.C. 78s(b)(2).

[56] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplemental Final Environmental Impact Statement; Washington, DC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent to Prepare a Supplemental Final Environmental Impact Statement (SFEIS).

SUMMARY: The U.S. Federal Highway Administration (FHWA) in coordination with the District of Columbia Department of Transportation (DDOT) in Washington, DC is issuing this notice to advise agencies and the public that a Supplemental Final Environmental Impact Statement (SFEIS) will be prepared for the South Capitol Street Project (the Project). The Project proposes to make major changes to the South Capitol Street Corridor from Firth Sterling Avenue SE to Independence Avenue and the Suitland Parkway from Martin Luther King, Jr. Avenue SE., to South Capitol Street, including replacing the existing Frederick Douglass Memorial Bridge over the Anacostia River.

FOR FURTHER INFORMATION CONTACT: Federal Highway Administration, District of Columbia Division: Mr. Michael Hicks, Environmental/Urban Engineer, 1990 K Street NW., Suite 510, Washington, DC 20006–1103, (202) 219–3513, email: *michael.hicks@dot.gov*; or the District of Columbia Department of Transportation: Mr. E.J. Simie, PE, Project Manager, 55 M Street SE., Suite 400, Washington, DC 20003, (202) 671–2800, email: *ej.simie@dc.gov*.

SUPPLEMENTARY INFORMATION: In March 2011, the FHWA in conjunction with DDOT approved release of the Final Environmental Impact Statement (FEIS) for the Project. The availability of the FEIS was announced in the April 8, 2011 **Federal Register**. The alternatives examined in detail in the FEIS included a No Build Alternative and three build alternatives: Build Alternatives 1 and 2 and the Preferred Alternative, which was a modification of Build Alternative 2. A movable arched bascule was selected for the new Frederick Douglass Memorial Bridge. The alignment of the new bridge would be at an angle from the existing bridge to allow the swing span on the existing bridge to remain operational during construction, which meant that right-of-way would be needed from Joint Base Anacostia-Bolling (JBAB). Build Alternatives 1 and 2 were eliminated from consideration in the FEIS and, therefore, will not be considered in the SFEIS.

Since publication of the FEIS, FHWA and DDOT have considered major changes regarding the design of the FEIS Preferred Alternative. Most notably, DDOT reconsidered the need to obtain right-of-way from JBAB, which resulted in changing the alignment of the proposed new Frederick Douglass Memorial Bridge to a location immediately south of and parallel to the existing bridge. In addition, new information about current and planned navigation along the Anacostia River, including the navigation requirements of the U.S. Navy (USN), led to the decision to make the new bridge a fixed span structure instead of a movable span structure. Other notable design revisions made to the FEIS Preferred Alternative include the conversion of the east side traffic circle to a traffic oval similar in size to the proposed west traffic oval, and changes to the proposed ramps or ramp modifications between South Capitol Street and I–695, Suitland Parkway and I–295, and Martin Luther King, Jr. Avenue SE. and Suitland Parkway. Due to these and other design changes, a Revised Preferred Alternative was developed.

The SFEIS will be prepared in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4371, *et seq.*), Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508), FHWA Code of Federal Regulations (23 CFR 771.101–771.137, *et seq.*), and all