

Employment Disputes Involving Only Members

FINRA proposed to amend Rule 13402(a) to clarify that, in disputes involving only members, the parties will receive an all non-public panel. FINRA noted that the proposed amendment to Rule 13402(a) is consistent with the current rule and its intent, which is that disputes involving only members should receive an all non-public panel.

Amendments to Pleadings That Add an Associated Person

FINRA proposed to add a provision to Rule 13402(a) to address amended pleadings that add an associated person as a party. Under the proposed rule change, if a member in a dispute involving only members amends a pleading to add a party who is an associated person, the parties will receive a majority public panel. If lists of potential arbitrators have not been sent to parties, the Neutral List Selection System (NLSS) would generate three lists as outlined in Rule 13403(b)(2) of the Industry Code. Specifically, FINRA would send a public chairperson list, a public arbitrator list, and a non-public arbitrator list. If the panel consists of one arbitrator,¹⁰ NLSS would generate a public chairperson list, and FINRA would send this list only to the parties.¹¹

If the lists have been sent to parties but are not yet due, FINRA would send two new lists to the parties: A public chairperson list and a public arbitrator list as outlined in Rule 13403(b)(2).¹² The parties would keep the non-public chairperson list provided to them as described in Rule 13403(a), and would select the non-public arbitrator from this list. The arbitrator selected from the public chairperson list would be the chairperson of the panel. If the panel consists of one arbitrator, FINRA would send only a new public chairperson list to the parties.¹³

If the ranked lists are due, then the parties may not amend a pleading to

add a new party until a panel has been selected and the panel grants a motion to add the party.¹⁴ If the panel grants the motion to add an associated person, FINRA will retain the non-public chairperson from the panel, and remove the remaining non-public arbitrators.¹⁵ The parties would select two public arbitrators from new lists that FINRA would send to them in the same manner as if the ranked lists are not yet due. The arbitrator selected from the public chairperson list would be the chairperson of the panel. If the panel consists of one arbitrator and the arbitrator grants a motion to add an associated person, the arbitrator would be replaced with a public chair-qualified arbitrator that the parties select from a new public chairperson list that NLSS would generate.¹⁶

II. Discussion

After careful review, 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.¹⁷ In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,¹⁸ in that it is designed, among other things, 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.

The Commission believes that the proposed rule change will protect the public interest by simplifying the criteria for panel composition in industry disputes, establishing an objective standard for determining panel composition, and ensuring that panel composition is determined by the types of parties involved, and not by the types of claims filed.

III. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁹ that the proposed rule change (SR-FINRA-2009-011), as modified by Amendment No. 1, be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Florence E. Harmon,

Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 6662]

Notice of Proposed Information Collection

30-Day Notice of Proposed Information Collection: Form DS-7002, Training/Internship Placement Plan, OMB Control Number 1405-0170.

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

* *Title of Information Collection:* Training/Internship Placement Plan.

* *OMB Control Number:* 1405-0170.

* *Type of Request:* Revision of a Currently Approved Collection.

* *Originating Office:* Bureau of Educational and Cultural Affairs, ECA/EC.

* *Form Number:* Form DS-7002.

* *Respondents:* Entities designated by the Department of State as sponsors of exchange visitor programs in the trainee or intern categories and U.S. businesses that provide the training or internship opportunity.

* *Estimated Number of Respondents:* 160.

* *Estimated Number of Responses:* 30,000.

* *Average Hours per Response:* 2 hours.

* *Total Estimated Burden:* 60,000.

* *Frequency:* On occasion.

* *Obligation To Respond:* Required to obtain a benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from June 15, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the

¹⁰ In a dispute between members, if the panel consists of one arbitrator, the arbitrator will be selected from FINRA's non-public chairperson arbitrator roster. See Rule 13402(a).

¹¹ See Rule 13403(b)(1). FINRA has raised the amount in controversy that will be heard by a single chair-qualified arbitrator to \$100,000. The rule became effective on March 30, 2009. See Exchange Act Release No. 59340 (February 2, 2009), 74 FR 6335 (February 6, 2009) (File No. SR-FINRA-2008-047); see also Regulatory Notice 09-13.

¹² Pursuant to Rule 13407(a), FINRA will send the list of non-public arbitrators to the new party, with employment history for the past 10 years and other background information for each arbitrator listed. The newly added party may rank and strike arbitrators in accordance with Rule 13404.

¹³ See note 8 *supra*.

¹⁴ See Rule 13309(c) of the Industry Code.

¹⁵ Pursuant to Rule 13407(b), the newly added party may not strike the non-public arbitrator but may challenge the arbitrator for cause in accordance with Rule 13410.

¹⁶ See note 8 *supra*.

¹⁷ In approving the proposed rule change, the Commission has considered the rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁸ 15 U.S.C. 78o-3(b)(6).

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ 17 CFR 200.30-3(a)(12).

Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202-395-4718. You may submit comments by any of the following methods:

* *E-mail:* kastrich@omb.eop.gov. You must include the DS form number, information collection title, and OMB control number in the subject line of your message.

* *Mail (paper, disk, or CD-ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

* *Fax:* 202-395-5806.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Stanley S. Colvin, Deputy Assistant Secretary for Private Sector Exchange, U.S. Department of State, SA-44, 301 4th Street, SW., Room 734, Washington, DC 20547; or e-mail at jexchanges@state.gov.

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

* Evaluate whether the proposed information collection is necessary to properly perform our functions.

* Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

* Enhance the quality, utility, and clarity of the information to be collected.

* Minimize the reporting burden on those who are to respond,

Abstract of Proposed Collection

The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J-Visa) under the provisions of the Mutual Educational and Cultural Exchange Act, as amended. Trainee/Internship Placement Plans are to be completed by designated program sponsors. A Training/Internship Placement Plan is required for each trainee or intern participant. It will set forth the training or internship program to be followed and includes the skills the trainee or intern will obtain, whether the trainee or intern will receive any remuneration for housing and living expenses (and if so, the amount), and estimates the living expenses and other costs the trainees or interns are likely to incur while in the United States. The Plan must be signed by the trainee or intern, a sponsor official, and the third party placement organization, if a third party organization is used in the conduct of the training or internship.

Methodology

The collection will be submitted to the Department by mail or fax as requested by DoS during the review of a program sponsor's file, redesignation of a sponsor organization, during the investigation of a complaint or incident, etc.

Dated: June 8, 2009.

Stanley S. Colvin,

Deputy Assistant Secretary for Private Sector Exchange, Bureau of Educational and Cultural Affairs, Department of State.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-33 (Sub-No. 275)]

**Union Pacific Railroad Company—
Abandonment—in Rusk County, TX**

On May 26, 2009, Union Pacific Railroad Company (UP) filed with the Board an application for permission to abandon its Henderson Industrial Lead, extending from milepost 0.59, near Overton, to milepost 16.28, near Henderson, a distance of 15.69 miles, in Rusk County, TX (the Henderson Industrial Lead or the line). The line includes no stations and traverses United States Postal Service ZIP Code 75652.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment (case-in-chief) was filed with the application.

This line of railroad has appeared on UP's system diagram map or been included in the narrative in category 1 since August 28, 2008.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed abandonment, or protests (including the protestant's entire case in opposition), by July 10, 2009. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) and any request for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by July 10, 2009. Each trail use request must be accompanied by a

\$250 filing fee. *See* 49 CFR

1002.2(f)(27). Applicant's reply to any opposition statements and its response to trail use requests must be filed by July 27, 2009. *See* 49 CFR 1152.26(a).

Persons opposing the abandonment who wish to participate actively and fully in the process should file a protest. Persons who oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25. Persons interested only in seeking public use or trail use conditions should also file comments.

In addition, a commenting party or protestant may provide: (i) An offer of financial assistance (OFA) for continued rail service under 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner); (ii) recommended provisions for protection of the interests of employees; (iii) a request for a public use condition under 49 U.S.C. 10905; and (iv) a statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

All filings in response to this notice must refer to STB Docket No. AB-33 (Sub-No. 275) and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001; and (2) Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The line sought to be abandoned will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). Each OFA must be accompanied by a \$1,500 filing fee.¹ *See* 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more

¹ On June 4, 2009, the Board increased the fee for offers of financial assistance and trail use requests. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2009 Update*, STB Ex Parte No. 542 (Sub-No. 16) (STB served May 5, 2009).