

October 5, 2009

Elizabeth M. Murphy  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549-1090

RE: *File No. SR-FINRA-2009-054. Proposed rule change to adopt FINRA Rules 6434 (Minimum Pricing Increment for OTC Equity Securities), 6437 (Prohibition from Locking or Crossing Quotations in OTC Equity Securities), 6450 (Restrictions on Access Fees) and 6460 (Display of Customer Limit Orders)*

Dear Ms. Murphy:

TD AMERITRADE, Inc.<sup>1</sup> (“TD AMERITRADE” or “the Firm”) appreciates the opportunity to comment on the proposed rule filings requesting that the Securities and Exchange Commission (“SEC”) approve new FINRA Rules 6434 (Minimum Pricing Increment for OTC Equity Securities), 6437 (Prohibition from Locking or Crossing Quotations in OTC Equity Securities), 6450 (Restrictions on Access Fees) and 6460 (Display of Customer Limit Orders).

TD AMERITRADE has long advocated for certain adoptions of Regulation NMS to the OTC Equity Market<sup>2</sup> and applauds FINRA for seeking to extend Regulation NMS protections to quoting and trading in over-the-counter equity securities (“OTC Equity Securities”). The Firm believes that it is uniquely qualified to comment on behalf of the investing public as its clients currently comprise approximately 40% of the trading volume in the OTCBB/Pink Sheet market. The Firm agrees with FINRA that the OTC equity market is best served by proposing these changes together, rather than individually, to enhance market quality and investor protection in this market.

New FINRA Rule 6434 (Minimum Pricing Increment for OTC Equity Securities) is aligned with that implemented by the SEC in Regulation NMS, by adopting an approach to sub-penny quoting to promote greater price transparency and consistency. Imposing restrictions and prohibiting members from displaying, ranking, or accepting any bid/offer, order, or indication of interest in an OTC Equity Security in increments outside of the proposed parameters, will

---

<sup>1</sup> TD AMERITRADE is a wholly owned broker-dealer subsidiary of TD AMERITRADE Holding Corporation (“TD AMERITRADE Holding”). TD AMERITRADE Holding has a 33-year history of providing financial services to self-directed investors. TD AMERITRADE Holding’s wholly owned broker-dealer subsidiary, TD AMERITRADE serves an investor base comprised of over 5.2 million funded client accounts with approximately \$289 billion in assets.

<sup>2</sup> TD AMERITRADE comment letter on SR-NASD-2007-29 & SR-NYSE/ARCA-2008-75.

mitigate any potential harms associated with sub-penny quoting such as “stepping ahead” of publicly displayed limit orders. This will result in the improvement of depth and liquidity in the marketplace.

New FINRA Rule 6437 (Prohibition from Locking or Crossing Quotations in OTC Equity Securities) will enhance the usefulness of quotation information and decrease investor confusion. The Firm likewise agrees that by requiring members to implement policies and procedures to avoid the display of locking or crossing quotations, a much more fair and orderly market will result. However, ideally, investors would be better served if it is extended across all inter-dealer quotation systems and not just within inter-dealer quotation systems.

New FINRA Rule 6450 (Restrictions on Access Fees) will increase transparency in the quotes that the investing public will see. Fairness in the playing field is paramount for useful and accurate evaluation of the actual quotations displayed in the public markets. The Firm concurs with this proposal that without a uniform limitation of fees, wide disparities and potential public confusion would invariably result.

New FINRA Rule 6460 (Display of Customer Limit Orders) again utilizes the regulatory framework of Regulation NMS. The Firm previously has commented that investors gain enormous benefits of added transparency when market centers are required to display limit orders that are better than that market center’s current best bid or offer. The Firm agrees with the proposed exceptions to the display of a customer limit order, namely: an order that is immediately executable upon receipt, that which a customer expressly requests not to be displayed, an odd lot order and block-sized orders.

In conclusion, TD AMERITRADE commends FINRA’s linked proposals to extend the proven benefits of Regulation NMS to the OTC Equity Securities marketplace. Investors will be greatly advantaged by the increased transparency, consistency and fairness in the OTCBB/Pink Sheet market that will result from these proposals.

\* \* \* \*

TD AMERITRADE appreciates the opportunity to comment. Please feel free to contact me directly at (402) 970-5656 with any questions regarding our comments.

Respectfully Submitted,

/S/

Christopher Nagy  
Managing Director Order Strategy  
Co-Head of Government Relations  
TD AMERITRADE