

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59175; File No. SR-FINRA-2008-066)

December 30, 2008

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reflect the Closing of the FINRA/NSX Trade Reporting Facility on December 31, 2008

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 December 23, 2008, Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA submitted the proposed rule change under Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)³ thereunder, which renders the proposal effective upon filing with the Commission. 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’s proposed rule change reflects the closing of the FINRA/NSX Trade Reporting Facility (the “FINRA/NSX TRF”) as of the close of business on December 31, 2008. The text of the proposed rule change is attached as Exhibit 5.⁴

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ The Commission notes that while provided in Exhibit 5 to the filing, the text of the proposed rule change is not attached to this notice but is available at FINRA, the Commission’s Public Reference Room, and at www.finra.org.

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

The FINRA/NSX TRF was approved by the SEC⁵ and commenced operation in November 2006 to provide members a mechanism for reporting locked-in trades in NMS stocks, as defined in Rule 600(b)(47) of SEC Regulation NMS, effected otherwise than on an exchange. The National Stock Exchange, Inc. ("NSX"), the "Business Member" under the FINRA/NSX Trade Reporting Facility LLC Agreement (the "LLC Agreement"),⁶ has determined to close the FINRA/NSX TRF for business reasons, and as of the close of business on December 31, 2008, the FINRA/NSX TRF will cease accepting trade reports.⁷

FINRA members have been given notice of the anticipated closing and were further notified that any members using the FINRA/NSX TRF to report trades are required to find an

⁵ See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006) (order approving SR-NASD-2006-108).

⁶ FINRA notes that the LLC Agreement appears in its manual as the NASD/NSX Trade Reporting Facility LLC Agreement.

⁷ Although the FINRA/NSX TRF will cease operating on December 31, 2008, pursuant to the termination provisions in the LLC Agreement, the FINRA/NSX Trade Reporting Facility LLC will continue its corporate existence until no later than November 17, 2009.

alternative mechanism to satisfy their trade reporting obligations. FINRA and NSX staff are working to ensure that members reporting trades to the FINRA/NSX TRF are transitioned to another FINRA facility. Notwithstanding the closing of the FINRA/NSX TRF, FINRA is able to fulfill all of its regulatory obligations with respect to over-the-counter trade reporting through its other facilities, i.e., the Alternative Display Facility, the FINRA/Nasdaq Trade Reporting Facility and the FINRA/NYSE Trade Reporting Facility (the “FINRA/NYSE TRF”).

Accordingly, FINRA is proposing to delete the FINRA Rule 6300B and 7200B Series relating to trade reporting to the FINRA/NSX TRF and the FINRA Rule 7600B Series relating to fees and credits for use of the FINRA/NSX TRF from the Consolidated FINRA Rulebook.⁸ FINRA also is proposing to delete the LLC Agreement from its manual. The proposed rule change will ensure that FINRA rules accurately reflect only the FINRA facilities that are available to members for trade reporting.

In addition, to eliminate gaps in the numbering of the Consolidated FINRA Rulebook, FINRA is proposing to renumber the FINRA Rule 6200C, 7300C and 7600C Series relating to the FINRA/NYSE TRF as the Rule 6200B, 7300B and 7600B Series. FINRA is proposing no substantive changes to those rules.⁹

⁸ On September 25, 2008, the SEC approved proposed rule change SR-FINRA-2008-021, which adopts the NASD Marketplace Rules (the NASD Rule 4000 through 7000 Series) as the FINRA Rule 6000 through 7000 Series in the Consolidated FINRA Rulebook. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (order approving SR-FINRA-2008-021; SR-FINRA-2008-022; SR-FINRA-2008-026; SR-FINRA-2008-028; and SR-FINRA-2008-029) (the “Consolidation Proposals”). The Consolidation Proposals were implemented on December 15, 2008. See Regulatory Notice 08-57 (October 2008).

⁹ On November 5, 2008, the SEC approved proposed rule change SR-FINRA-2008-011, which amends the FINRA Rule 6300B and 7200B Series (relating to the FINRA/NSX TRF) and the FINRA Rule 6300C and 7200C Series (relating to the FINRA/NYSE TRF). See Securities Exchange Act Release No. 58903 (November 5, 2008), 73 FR 67905 (November 17, 2008) (order approving SR-FINRA-2008-011); and Securities Exchange

FINRA has filed the proposed rule change for immediate effectiveness and requested a waiver of the 30-day operative delay so that the proposed rule change will be operative on January 1, 2009.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁰ which requires, among other things, that FINRA rules 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 by deleting rules upon the closing of the FINRA/NSX TRF, the proposed rule change will prevent potential member confusion and trade reporting errors and violations.

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.

Act Release No. 58903A (November 13, 2008), 73 FR 69700 (November 19, 2008) (correction to order approving SR-FINRA-2008-011). The implementation date of SR-FINRA-2008-011 will be announced in a Regulatory Notice and will be between six and nine months from the date of SEC approval.

Additionally, FINRA filed proposed rule change SR-FINRA-2008-060 for immediate effectiveness on December 11, 2008 (available at <http://www.finra.org/Industry/Regulation/RuleFilings/2008/P117527>). SR-FINRA-2008-060 amends the FINRA Rule 6300B and 6300C Series and will be operative 30 days after the date of filing.

The changes to the FINRA/NSX TRF rules adopted pursuant to SR-FINRA-2008-011 and SR-FINRA-2008-060 will not be implemented. FINRA will file a separate proposed rule change to make conforming changes to the FINRA/NYSE TRF rules, as renumbered pursuant to this filing, in accordance with SR-FINRA-2008-011 and SR-FINRA-2008-060.

¹⁰ 15 U.S.C. 78q-3(b)(6).

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

FINRA has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act¹¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹² Because FINRA has designated the foregoing proposed rule change as one that: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹³

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay to expedite the deletion of rules that apply to the FINRA/NSX TRF, a FINRA facility that will cease operations on December 31, 2008. FINRA believes that the deletion of the rule will prevent potential member confusion, and trade reporting errors and violations.

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ As required under Rule 19b-4(f)(6)(iii), the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing of the proposed rule change.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal will delete rules that apply to the FINRA/NSX TRF, a FINRA facility that will cease operations on December 31, 2008.¹⁴ Accordingly, the Commission believes that the proposal will ensure that FINRA's rules accurately reflect the FINRA trade reporting facilities that will be in operation currently and available to accept trade reports. For these reasons, the Commission designates the proposal to be operative on filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2008-066 on the subject line.

Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission,

¹⁴ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2008-066. 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 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 inspection and copying 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 the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-2008-066 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.¹⁵

Florence E. Harmon
Acting Secretary

¹⁵ 17 CFR 200.30-3(a)(12).