

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-63373; File No. SR-FINRA 2010-057)

November 24, 2010

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Permit a One-Time Waiver of Late Fees Assessable Pursuant to FINRA Rule 6490

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 12, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act.³ 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 filing the proposed rule change to grant a one-time waiver of certain late fees under FINRA Rule 6490. The proposed rule change would not make any changes to the text of FINRA Rule 6490.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

On September 27, 2010, FINRA Rule 6490 (Processing of Company-Related Actions) (the “Rule”) became effective.⁴ The Rule codifies in the FINRA rulebook a requirement that exists under Rule 10b-17 of the Act.⁵ Specifically, Rule 10b-17 of the Act requires that issuers of a class of publicly traded securities provide timely notice to FINRA of certain corporate actions (“Company-Related Action Notice”) including, among other things, notice of dividends or other distributions of cash or securities, stock splits or reverse splits or rights or subscription offerings. The Rule clarifies the scope of FINRA's regulatory authority and discretionary power when processing documents related to announcements of company-related actions for non-exchange-listed equity and debt securities, and implements fees for these services. Issuers must complete the necessary forms and pay the applicable fees within the required time periods or they will be subject to late fees and delayed processing of documents to announce corporate actions.

⁴ See Exchange Act Release No. 62434 (July 1, 2010; 75 FR 39603 (July 9, 2010); SR-FINRA-2009-089 (Order Approving Proposed FINRA Rule 6490 (Processing of Company-Related Actions) to Clarify the Scope of FINRA's Authority When Processing Documents Related to Announcements for Company-Related Actions for Non-Exchange Listed Securities and To Implement Fees for Such Services).

⁵ 17 CFR 240.10b-17.

FINRA is filing the proposed rule change to grant a one-time waiver of certain late fees under FINRA Rule 6490. Specifically, between September 27, 2010 and December 31, 2010 (“the waiver period”), the first late Company-Related Action Notice submitted by an issuer to FINRA will not be subject to the Rule’s late fees.⁶ Instead, the issuer will be charged \$200 (the timely submission fee) per Company-Related Action Notice filed with FINRA.

Notwithstanding the significant industry outreach undertaken by FINRA in advance of implementation of the new rule, some issuers (who are not FINRA members) have reported to FINRA that they were not aware that Rule 6490 became effective on September 27, 2010.⁷ However, FINRA notes that issuers are obligated directly by Rule 10b-17 of the Act to provide FINRA with notice of certain company-related actions and are obligated under that rule to do so in a timely fashion. Nonetheless, FINRA has determined to provide issuers with the proposed one-time waiver of late fees in the

⁶ This one-time waiver will apply to the first late submission by an issuer for one (or more) class of securities on a single day during the waiver period. For example, if an issuer submits a late Company-Related Action Notice with respect to three separate classes of securities on a single day during the waiver period, the late fee will be waived for each class. However, if an issuer has already received a waiver with respect to one or more classes of securities during the waiver period and, on a different day during the waiver period, submits a late Company-Related Action Notice with respect to any class of its securities, another waiver will not be granted.

⁷ FINRA notes that the rule filing proposing the adoption of FINRA Rule 6490 was published in the Federal Register for notice and comment. See supra note 4. Following Commission approval, FINRA published Regulatory Notice 10-038 announcing approval of Rule 6490 and the September 27, 2010 effective date. In addition, FINRA engaged in extensive outreach regarding the new Rule, including by sending out letters to numerous industry groups involved in issuer corporate actions, sending out alerts via electronic platforms used by market participants, and holding conference calls with relevant parties. FINRA expects that the percentage of late notifications will decline over time.

instant case. FINRA expects to notify an issuer that submits a late Company-Related Action Notice that its submission is late and that it has received a one-time waiver of applicable late fees pursuant to Rule 6490.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so that FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,⁸ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule change granting issuers a one-time waiver of Company-Related Action Notice late fees under FINRA Rule 6490 promotes fairness by providing issuers an additional opportunity to understand their obligations under Rule 6490, while preserving the deterrent effect intended by adoption of the late fees generally.

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.

⁸ 15 U.S.C. 78o-3(b)(5).

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰

FINRA has requested that the Commission waive the 30-day operative delay because the proposed rule change establishes a one-time waiver of certain late fees under FINRA Rule 6490 and waiver of the 30 days would allow FINRA to apply the fee waiver immediately. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal would promote fairness by providing issuers an additional opportunity during the waiver period to understand their obligations under Rule 6490 before being subject to late fees.

Therefore, the Commission designates the proposal operative upon filing.¹¹

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 C.F.R. 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

¹¹ 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. See 15 U.S.C. 78c(f).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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-2010-057 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2010-057. 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 website 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 a.m. and 3 p.m. Copies of the 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-2010-057 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.¹²

Elizabeth M. Murphy
Secretary

¹² 17 CFR 200.30-3(a)(12).