

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-81488; File No. SR-FINRA-2017-028)

August 28, 2017

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Implement a New Electronic Form 211

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“SEA” or “Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 24, 2017, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III 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,<sup>3</sup> which renders the proposal effective upon receipt of this filing by 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 is proposing a rule change relating to members’ filing obligations under FINRA Rule 6432 (Compliance with the Information Requirements of SEA Rule 15c2-11). The proposal implements a new electronic Form 211 in place of the current paper form.

The proposed rule change does not make any changes to the text of FINRA rules.

---

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

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

SEA Rule 15c2-11 generally prohibits a broker-dealer from publishing any quotation for a security not listed or traded on a national securities exchange, or directly or indirectly, submitting any such quotation for publication, in any quotation medium,<sup>4</sup> unless it has gathered and reviewed specified information about the issuer and security that is the subject of the quotation and has a reasonable basis under the circumstances for believing that such information is accurate in all material respects and obtained from a reliable source. The information requirements applicable to a security under SEA Rule 15c2-11 differ depending on the characteristics of the issuer and the security being quoted.

---

<sup>4</sup> Rule 15c2-11 defines "quotation medium" as any "interdealer quotation system" or any publication or electronic communications network or other device which is used by brokers or dealers to make known to others their interest in transactions in any security, including offers to buy or sell at a stated price or otherwise, or invitations of offers to buy or sell."

FINRA Rule 6432 (Compliance with the Information Requirements of SEA Rule 15c2-11) facilitates member compliance with SEA Rule 15c2-11 by prescribing the method by which member firms must demonstrate to FINRA compliance with SEA Rule 15c2-11.<sup>5</sup> Rule 6432 generally provides that no member shall initiate or resume quotations in a non-exchange-listed security unless the member demonstrates compliance by making a filing with, and in the form required by, FINRA (“Form 211”). FINRA currently requires members to comply with Rule 6432 by submitting a paper Form 211, which, pursuant to this filing, will be replaced with the proposed electronic Form 211. Form 211 is designed to gather pertinent information regarding the subject issuer and security, the member’s knowledge of and relationship with the issuer, and the member’s intended quotation activities with respect to the subject security. FINRA currently administers the Form 211 manually — in paper form — and members transmit the form to FINRA via mail, email, or fax.

FINRA proposes to transition to an electronic Form 211, which would be accessible to member firms through FINRA’s Firm Gateway.<sup>6</sup> The electronic Form 211 generally solicits the same information currently requested in the paper form<sup>7</sup> and, in addition to a cover page, contains five sections covering: (1) issuer and security information; (2) information required

---

<sup>5</sup> For purposes of Rule 6432, the term “non-exchange-listed security” means any equity security, other than a Restricted Equity Security (defined in FINRA Rule 6420(k)), that is not traded on any national securities exchange. See Rule 6432(e).

<sup>6</sup> The Firm Gateway is a single point of service that allows members to quickly interact with FINRA. The Firm Gateway provides consolidated access to regulatory applications and filings, and FINRA’s electronic billing system; one-click quick access to common tasks, useful resources and key firm information; an at-a-glance view of important filing dates, tasks and events; and centralized FINRA Information Requests. The applications and filings that firms can access through the Firm Gateway include: Web CRD, IARD, OATS, Report Center and virtually all electronic regulatory filing applications, including FOCUS, Firm Profile, FINRA Contact System, and Rule 4530 Customer Complaints.

<sup>7</sup> A copy of the proposed electronic Form 211 is attached as Exhibit 3.

pursuant to SEA Rule 15c2-11(a)(1), (a)(2), (a)(3), (a)(4) or (a)(5), as applicable; (3) information required pursuant to paragraphs (b)(1) through (b)(3) of SEA Rule 15c2-11; (4) supplemental information; and (5) the certification.<sup>8</sup>

#### Cover Page and Issuer and Security Information

The proposed electronic Form 211, as does the current paper Form 211, includes a general section (i.e., cover page) setting forth the instructions for completing the form and requesting that the member identify the quotation medium on which it intends to initiate quotations. The proposed electronic form also requests that members select the paragraph of SEA Rule 15c2-11 under which the application is being submitted (i.e., paragraph (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5)), which would identify the version of the form to be completed by the member, consistent with the information requirements that are applicable to each subparagraph of SEA Rule 15c2-11.

The issuer and security information section of the proposed electronic Form 211 requests the same basic information regarding the security and issuer that currently is requested in the paper form, including, among other things, the name and address of the issuer and its transfer agent; the security's symbol (if assigned); type of security; the security's CUSIP number; the total number of shares outstanding at the end of the issuer's most recent fiscal year; the initial price of the quotation sought to be entered (if any); and the basis upon which such price was

---

<sup>8</sup> FINRA has reorganized some of the informational content and made other technical changes to conform to the new electronic format.

determined and the factors considered in making such determination. The proposed electronic Form 211 also includes a request for the transfer agent's telephone number.<sup>9</sup>

#### Specific Information Requirements

As is currently the case with the paper Form 211, the proposed electronic Form 211 requests information specific to the requirements set forth in SEA Rule 15c2-11 paragraphs (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5), as applicable. SEA Rule 15c2-11 generally requires that members have a reasonable basis for believing that the specified Form 211 information is accurate in all material respects and obtained from a reliable source. Thus, in demonstrating compliance with SEA Rule 15c2-11 and FINRA Rule 6432, members provide a variety of supporting documentation to FINRA. In addition to the information specifically required by Form 211, which is described below, the electronic form also permits members to submit additional supporting information and documentation electronically.<sup>10</sup>

#### Electronic Form 211 – SEA Rule 15c2-11(a)(1) Requirements

For applications submitted under paragraph (a)(1) of SEA Rule 15c2-11 (for recent offerings pursuant to Section 10(a) of the Securities Act of 1933 (“1933 Act”)), the current paper Form 211 requests that the member provide the prospectus that became effective less than 90

---

<sup>9</sup> The current paper form, as does the proposed electronic form, also requests the issuer's telephone number, fiscal year end date, date and state of incorporation, par or stated value of the security, the complete title and class of the security, the issuer's SIC Code and, if applicable, the CIK number.

A Standard Industrial Classification or “SIC” Code is used by government agencies to classify industry areas. A Central Index Key or “CIK” is a unique identifier assigned by the SEC to all companies and people who file disclosure documents through EDGAR with the SEC.

<sup>10</sup> FINRA currently requests additional information in follow-up correspondence as necessary to support a member's Form 211 submission. Follow-up correspondence relating the electronic Form 211 will be sent via Request Manager — a FINRA electronic correspondence system.

calendar days prior to the filing of the Form 211, as specified by Section 10(a) of the 1933 Act. The current paper form also asks for the SEC effective date of the recent offering and the date the security was issued. The proposed electronic form continues to solicit this information.

#### Electronic Form 211 – SEA Rule 15c2-11(a)(2) Requirements

For applications submitted under paragraph (a)(2) of SEA Rule 15c2-11 (for recent offerings pursuant to Regulation A), the current paper Form 211 requests that the member provide the offering circular that became effective less than 40 calendar days prior to the filing of the Form 211, as provided for under Regulation A of the 1933 Act. The current paper form similarly requests the date the offering circular became qualified less than 40 calendar days prior to the filing of the Form 211 and the date of the most recent security issuance. The electronic Form 211 continues to require information on when the Regulation A offering was qualified by the SEC and the date the security was issued.

#### Electronic Form 211 – SEA Rule 15c2-11(a)(3) and (a)(4) Requirements

For applications submitted under paragraph (a)(3) of SEA Rule 15c2-11 (for SEC reporting companies), the current paper Form 211 requests that the member provide the issuer's most recent annual report filed pursuant to Section 13 or 15(d) of the Act or the annual statement referred to in Section 12(g)(2)(G)(i) of the Act, and provide quarterly and other current reports filed after the issuer's most recent annual report or statement. The current form also asks that members list each report or statement and applicable amendments filed by the issuer through EDGAR that the member has in its possession that meets the requirements of this section. The proposed electronic Form 211 modifies the current informational requirements in the paper form

to incorporate recent changes to SEA Rule 15c2-11.<sup>11</sup> Thus, in addition to requesting that the member provide the issuer's most recent annual report filed pursuant to Section 13 or 15(d) of the Act or a copy of the annual statement referred to in Section 12(g)(2)(G)(i) of the Act, the electronic form also covers reports and statements filed pursuant to Regulation A.

For applications submitted under paragraph (a)(4) of SEA Rule 15c2-11 (for foreign private issuers), the current paper Form 211 requests that the member provide the following information regarding the issuer's reliance upon Rule 12g3-2(b) of the SEA: (1) the foreign exchange(s) on which the subject class of securities is listed that, either singly or together with the trading of the same class of the issuer's securities in another foreign jurisdiction, constitutes the primary trading market for those securities; (2) the symbol(s) of the security(ies) that trades on the foreign exchange(s); and (3) the location of the internet website or electronic information delivery system that the member firm would provide upon request to any person to direct them to the information that the issuer published electronically pursuant to Rule 12g3-2(b). This information will continue to be solicited on the electronic form.

#### Electronic Form 211 – SEA Rule 15c2-11(a)(5) Requirements

For applications submitted under paragraph (a)(5) of SEA Rule 15c2-11 (for non-SEC reporting companies and all other companies), the current paper Form 211, among other things, requires that members provide the issuer's most recent balance sheet, profit and loss and retained earnings statements, equivalent financial information for the two prior fiscal years for the issuer

---

<sup>11</sup> As part of its amendments to Regulation A and other rules and forms to implement Section 401 of the Jumpstart Our Business Startups (JOBS) Act, the Commission amended SEA Rule 15c2-11 to permit an issuer's ongoing reports filed under Regulation A to satisfy a broker-dealer's obligations to review and maintain certain information about an issuer's quoted securities. See JOBS Act, Pub. L. No. 112-106, § 401, 126 Stat. 306, 323-325 (2012).

or any predecessor company, and the documents that support the information provided in the Form 211.

In addition, the current paper form requires that the member: (1) describe the issuer's business, products/services offered by the issuer, and the issuer's facilities; (2) list the name(s) of the current chief executive officer(s) and members of the board of directors of the issuer; (3) provide information as to whether the member (or any person associated with it) is affiliated directly or indirectly with the issuer and, if so, the nature of such affiliation; (4) provide information as to whether the quotation sought to be displayed is being published or submitted on behalf of another broker-dealer and, if so, the name of such broker-dealer; and (5) provide information on whether the quotation sought to be displayed is being published or submitted directly or indirectly on behalf of the issuer or any director, officer or any person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding units or shares of any equity security of the issuer, and, if so, the name of the person (and the basis for any exemption under the federal securities laws for sales of such securities on behalf of this person). The proposed electronic Form 211 continues to request this information. Because the proposed electronic Form 211 allows documents to be uploaded, the process of supplying FINRA with the supporting documentation, which, historically, has been provided by members in hard copy, would be improved. For example, a member could upload a recent annual report to document multiple items of information, such as the issuer's name, current chief executive officer, description of its business and facilities, and other required information.

Electronic Form 211 – SEA Rule 15c2-11(b) Requirements and Supplemental  
Information



Paragraph (b) of SEA Rule 15c2-11 requests information required pursuant to paragraphs (b)(1) through (b)(3) of SEA Rule 15c2-11. Among other things, the current paper form requires members to describe the circumstances surrounding the submission of the application and requests that the member include the identity of any person for whom the quotation is being submitted and any information provided to the member by such person. The proposed electronic Form 211 would continue to request this information,<sup>12</sup> and also provides members the ability to upload any additional information and documentation the firm would like to submit to supplement its Form 211.

### Certifications

Finally, the certifications required by the proposed electronic Form 211 mirror those contained in the current paper form, including that the undersigned must have a reasonable basis for believing that the information accompanying the form is accurate in all material respects and that the sources of information are reliable; that the undersigned understands and acknowledges that this affirmative review obligation applies to all subsequent submissions made in connection with the Form 211 application; that the undersigned certifies that they have examined the form and, to the best of their knowledge, it is true, correct, and complete; that neither the member nor

---

<sup>12</sup> The current paper form also asks whether the issuer or its predecessor (if any) has been subject to a trading suspension order issued by the SEC during the past 12 months. If a trading suspension order has been issued, the member must provide a copy of the order or of the SEC's public release announcing the trading suspension order. The proposed electronic Form 211 also includes this information request. If the member selects "yes," an upload of a copy of the order or SEC public release announcing the trading suspension order is required; additional explanatory text is optional.

The current paper form requires members to provide any material information, including adverse information regarding the issuer, of which the member is aware or has in its possession. The proposed electronic Form 211 also includes this information request. If the member selects "yes," an explanatory text entry is required; a document upload is optional.

associated person have accepted or will accept any payment or other consideration, directly or indirectly, from the issuer of the security to be quoted, or any affiliate or promoter thereof, for publishing a quotation or acting as market maker in the security to be quoted, or submitting an application in connection therewith (including the submission of the Form 211); and that the undersigned acknowledges that copies of the form, accompanying documents, and subsequent submissions may be provided to the SEC, other regulatory agencies, or to the quotation medium(s) on which the security is or will be quoted.<sup>13</sup>

FINRA has filed the proposed rule change for immediate effectiveness. FINRA will announce the implementation date of the proposed rule change in a Regulatory Notice. The implementation date will be no later than 90 days after the date of the filing.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>14</sup> which requires, among other things, that FINRA rules must 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 the proposal will simplify and streamline the process by which members submit Form 211s, making it more efficient for both FINRA and members. As noted above, the proposed electronic form will be accessible through FINRA's Firm Gateway, enabling members to complete the Form 211 electronically, as well as upload supporting documentation. Thus,

---

<sup>13</sup> The proposed electronic Form 211 slightly modifies the contact information requested under this section; specifically, it requests the email address of the contact in lieu of a fax number, and the phone number and email address of the registered principal responsible for submitting the form. The proposed electronic Form 211 also requests an email address for correspondence sent via Request Manager.

<sup>14</sup> 15 U.S.C. 78o-3(b)(6).

FINRA believes the proposal enhances FINRA's oversight of the Form 211 process, thereby supporting FINRA's efforts under Rule 6432 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 with respect to non-exchange-listed securities.

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. The proposal is intended to simplify the Form 211 process and increase efficiency for both FINRA and the firms that file Form 211s without any loss in the information that is being collected. By implementing an electronic Form 211, FINRA believes the proposal promotes more efficient compliance with respect to the requirements around initiating and resuming quotations for non-exchange-listed securities. In addition, the proposal applies equally to any firm that submits a Form 211, as all member firms have access to the FINRA Gateway, and new firms receive login credentials upon registration with FINRA. As a result, FINRA believes the proposal will not have a significant impact on competition among firms that seek to publish quotations for non-exchange-listed securities.

To the extent that the manual administration of Form 211 in paper form was viewed by members as burdensome, those participants should benefit from electronic submission of the Form 211 via Firm Gateway, which would permit members to mitigate any direct or indirect costs associated with mailing, e-mailing or faxing the paper form and other supporting information and documentation.

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: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) 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 Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</sup>

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2017-028 on the subject line.

---

<sup>15</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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-FINRA-2017-028. 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 website (<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 such 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-2017-028 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.<sup>17</sup>

Eduardo A. Aleman  
Assistant Secretary

---

<sup>17</sup> 17 CFR 200.30-3(a)(12).