

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-56373; File No. SR-FINRA-2007-005)

September 7, 2007

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to NASD Rule 11870 (Customer Account Transfer Contracts) and NYSE Rule 412 (Customer Account Transfer Contracts) to Make the Time Frames in the Rules for Validating or Taking Exception to an Instruction to Transfer a Customer's Securities Account Consistent with the Time Frames in the Automated Customer Account Transfer Service

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 8, 2007, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared by FINRA. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend National Association of Securities Dealers, Inc. ("NASD") Rule 11870 ("Customer Account Transfer Contracts") and New York Stock Exchange ("NYSE") Rule 412 ("Customer Account Transfer Contracts") to make the time frames in the rules for validating or taking exception to an instruction to transfer a customer's securities account assets and for completing the transfer of the assets consistent with the time frames in the National Securities Clearing Corporation's ("NSCC") Automated Customer Account Transfer Service ("ACATS") transfer cycle. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in [brackets].

¹ 15 U.S.C. 78s(b)(1).

11000. UNIFORM PRACTICE CODE

11870. Customer Account Transfer Contracts

(a) No Change.

(b) Transfer Procedures

(1) Upon receipt from the customer of an authorized broker-to-broker transfer instruction form (“TIF”) to receive such customer's securities account assets in whole or in specifically designated part, from the carrying member, the receiving member must immediately submit such instruction to the carrying member. The carrying member must, within [three] one business day[s] following receipt of such instruction, or receipt of a TIF received directly from the customer authorizing the transfer of assets in specifically designated part: (A) validate the transfer instruction to the receiving member (with an attachment reflecting all positions and money balances to be transferred as shown on its books); or (B) take exception to the transfer instruction for reasons other than securities positions or money balance discrepancies and advise the receiving member of the exception taken. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the National Securities Clearing Corporation (NSCC).

(2) No Change.

(c) and (d) No Change.

(e) Completion of the Transfer

Within three business days following the validation of a transfer instruction, the carrying member must complete the transfer of the customer’s security account assets to

the receiving member. The receiving member and the carrying member must immediately establish fail-to-receive and fail-to-deliver contracts at then-current market values upon their respective books of account against the long/short positions that have not been delivered/received and the receiving/carrying member must debit/credit the related money amount. The customer's security account assets shall thereupon be deemed transferred. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the NSCC.

(f) through (n) No Change.

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Rule 412. Customer Account Transfer Contracts

(a) No Change.

(b)

(1) Upon receipt from the customer of an authorized broker-to-broker transfer instruction form ("TIF") to receive such customer's securities account assets in whole or in specifically designated part, the receiving organization will immediately submit such instruction to the carrying organization. The carrying organization must, within [three (3)] one business day[s] following receipt of such instruction, or receipt of a TIF received directly from the customer authorizing the transfer of assets in specifically designated part: (i) validate the transfer instruction (with an attachment reflecting all positions and money balances to be transferred as shown on its books) to the receiving organization or (ii) take exception to the transfer instruction for reasons other than securities positions or money balance discrepancies and advise the receiving organization of the exception taken. The time frame(s) set forth in this paragraph will change, as determined from

time-to-time in any publication, relating to the ACATS facility, by the National Securities Clearing Corporation (NSCC).

(2) No Change.

(3) Within three [(3)] business days following the validation of a transfer instruction, the carrying organization must complete the transfer of the customer's securities account assets to the receiving organization. The carrying organization and the receiving organization must establish fail to receive and fail to deliver contracts at then current market values upon their respective books of account against the long/short positions (including options) that have not been delivered/received and the receiving/carrying organization must debit/credit the related money amount. The customer's securities account assets shall thereupon be deemed transferred. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the NSCC.

(c) through (f) No Change.

Supplementary Material .10 through .30 No Change.

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 these statements.

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

1. Purpose

NASD Rule 11870 and NYSE Rule 412 regulate the transfer of customer accounts from one member (the “carrying firm”) to another (the “receiving firm”). Such transfers generally occur through ACATS, an electronic transfer system developed by NSCC to automate and standardize the transfer of accounts. Currently, based on the time frames established in ACATS, NASD Rule 11870(b) and NYSE Rule 412(b)(1) require carrying members to validate or take exception to an instruction to transfer securities account assets within three business days following receipt of a Transfer Initiation Form (“TIF”) or transfer instruction, and NASD Rule 11870(e) and NYSE Rule 412(b)(3) require carrying members to complete the transfer within three business days following the validation of a transfer instruction.

FINRA is proposing to amend NASD Rule 11870(b) and (e) and NYSE Rule 412(b)(1) and (b)(3) to make the time frames in those rules consistent with the time frames established in ACATS by the NSCC for these processes. The effect of this rule change will be that the time frames in NASD Rule 11870(b) and (e) and NYSE Rule 412(b)(1) and (b)(3) will change if and when NSCC modifies those requirements. FINRA will announce any such changes in those time frames to its members in a Regulatory Notice and other appropriate communications.

FINRA is filing this rule change in anticipation of a reduction in these time frames in approximately October 2007 as recently announced by NSCC.² FINRA understands that NSCC

² See NSCC “Important Notice” A#6317, P&S#5887 dated October 19, 2006, “Important Notice” A#6367, P&S#5937 dated December 22, 2006, “Important Notice” A#6425, P&S#5995 dated March 27, 2007, and NSCC “Important Notice” A#6457, P&S#6027 dated May 23, 2007.

is planning to seek regulatory approval from the Commission to eliminate two business days from the validation period for both full and partial transfers.

FINRA members recognize the benefit to customers of shortening the time it takes to transfer account assets. However, introducing brokers have expressed serious concerns about the effect on their business relationships with their customers of shortening the time permitted for validating or taking exception to a transfer instruction. They have noted that a representative who decides to move to another firm may have all of his or her customers sign a TIF well in advance of the anticipated move, thereby effectuating a mass movement of customers to the new firm. Under the current ACATS time frames, if the carrying firm timely notifies the introducing firm of the transfer requests, the introducing firm has up to three business days to contact its customers regarding the reasons for their transfer requests, thereby giving the introducing firm an opportunity to contact its customers to discuss why its customers have chosen to move their accounts. Some FINRA member firms also were concerned that shortening the time permitted for validating or taking exception to a transfer instruction could provide a competitive advantage to self-clearing firms because they would have more immediate notice of transfer requests and would be in a better position to employ efforts to retain the accounts. Although FINRA believes that shortening the customer account transfer process is in the best interest of public customers, who have often expressed dissatisfaction with the transfer process, FINRA requests that the Commission seek comment on the effect of the proposed rule change, particularly on introducing firms' business relationships.

As noted in Item 2 of this filing, FINRA is coordinating implementation of the shortened time frames to the ACATS transfer cycle with NSCC. NSCC has announced that it plans to implement changes to the ACATS transfer cycle in October 2007 (contingent upon the

Commission's approval of the proposed changes). Members will be advised of the implementation date for any such modification of the ACATS transfer cycle time frames through a Regulatory Notice and other communications, as appropriate. A specific, coordinated effective date would be communicated to members through a Regulatory Notice and other communications, as appropriate, and would take into consideration the need for members to make internal systems changes to accommodate the revised time frames.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,³ 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. The proposed rule change is designed to accomplish these ends by making the time frames in NASD Rule 11870(b) and (e) and NYSE Rule 412(b)(1) and (b)(3) consistent with the time frames established by NSCC for validating or taking exception to an account transfer instruction and for completing the transfer, respectively, thereby creating greater efficiency in the account transfer process and improving customers' experience with the account transfer process.

(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.

³ 15 U.S.C. 78o-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

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve such proposed rule change or
- (B) institute proceedings to determine whether the proposed rule change should be

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.⁴

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-2007-005 on the subject line.

Paper comments:

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

⁴ The Commission also seeks comment on the effect of the proposed rule change on the business relationships of introducing firms.

All submissions should refer to File Number SR-FINRA-2007-005. 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 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of FINRA and on FINRA's Web site at http://www.finra.org/web/groups/rules_regs/documents/rule_filing/p036409.pdf. 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-2007-005 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Florence E. Harmon
Deputy Secretary

⁵ 17 CFR 200.30-3(a)(12).