

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60835; File No. SR-FINRA-2009-055)

October 16, 2009

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change to Adopt FINRA Rules 5210 (Publication of Transactions and Quotations) and 5220 (Offers at Stated Prices) into the Consolidated Rulebook

On August 18, 2009, the Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt NASD Rule 3310 (Publication of Transactions and Quotations), NASD Rule 3320 (Offers at Stated Prices), IM-3310 (Manipulative and Deceptive Quotations) and IM-3320 (Firmness of Quotations) as FINRA rules in the consolidated FINRA rulebook without material changes. The proposed rule change would combine NASD Rule 3310 and IM-3310 into FINRA Rule 5210 and would combine NASD Rule 3320 and IM-3320 into FINRA Rule 5220 in the consolidated FINRA rulebook. The proposed rule change was published for comment in the Federal Register on September 11, 2009.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁴ In particular, the Commission finds that the proposed rule change is consistent

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60613 (September 2, 2009), 74 FR 46814.

⁴ In approving this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

with the provisions of Section 15A(b)(6) of the Act,⁵ 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.

The Commission believes that the proposed rule change is designed to protect investors and promote the maintenance of fair, orderly and efficient markets by prohibiting a member from publishing a report of any transaction unless the member believes that it was a bona fide purchase or sale of the security and from “backing away” from its quotations. In approving the proposed rule change, the Commission notes that FINRA is adopting NASD Rule 3310 (Publication of Transactions and Quotations), NASD Rule 3320 (Offers at Stated Prices), IM-3310 (Manipulative and Deceptive Quotations) and IM-3320 (Firmness of Quotations) as FINRA rules in the consolidated FINRA rulebook without material changes. The Commission also notes FINRA’s representation that it will remind its members of their obligation to have in place a supervisory system and written procedures reasonably designed to ensure the accuracy and integrity of information entered into order-routing execution systems, as further addressed in its Notice to Members 04-66, in a regulatory notice announcing the approval of the proposed rule change.⁶

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-FINRA-2009-055) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated

⁵ 15 U.S.C. 78o-3(b)(6).

⁶ See e-mail from Racquel L. Russell, Assistant General Counsel, FINRA, to Mia Zur, Special Counsel, and Steve Varholik, Special Counsel, Division of Trading and Markets, Commission, October 13, 2009.

authority.⁸

Florence E. Harmon
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2)

⁸ 17 CFR 200.30-3(a)(12)