

October 20, 2011

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change to Amend FINRA Rule 0160 (Definitions in FINRA By-Laws)

I. Introduction

On August 31, 2011, Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers (“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 amend FINRA Rule 1060 (Definitions in FINRA By-Laws). The proposed rule change was published for comment in the Federal Register on September 16, 2011.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

FINRA is proposing to amend FINRA Rule 0160 (Definitions in FINRA By-Laws). As part of the process of developing the new consolidated rulebook (“Consolidated FINRA Rulebook”),⁴ the proposed rule change will amend FINRA Rule 0160. The proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 65313 (September 12, 2011), 76 FR 57784 (“Notice”).

⁴ The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (“Incorporated NYSE Rules”) (together, the NASD Rules and Incorporated NYSE Rules are referred to as the “Transitional Rulebook”). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE. The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see

change will transfer certain defined terms from NASD Rule 0120 (Definitions) to FINRA Rule 0160, subject to certain amendments, as well as add new defined terms to reflect the conventions of the Consolidated FINRA Rulebook.⁵ The proposed rule change will also eliminate as unnecessary or duplicative certain definitions contained in NASD Rule 0120. In addition, the proposed rule change will eliminate NASD Rule 0120 from the current FINRA rulebook.⁶

The proposed rule change will also transfer certain terms with either no or minor substantive changes to FINRA Rule 0160, as well as make minor and conforming changes to NASD Rule 0120(f)(2) and (f)(3) and FINRA Rule 0160(b)(3)(B) and (3)(C). The proposed rule change will also add defined terms to FINRA Rule 0160 because such terms are used throughout the Consolidated FINRA Rulebook.⁷ Although the proposed rule change will not incorporate certain defined terms in NASD Rule 0120, FINRA represents that this will not eliminate any substantive FINRA requirements.⁸

FINRA will announce the implementation date of the proposed rule change in a Regulatory Notice to be published no later than 90 days following this Commission approval. The effective date will be no later than 150 days following this Commission approval.

Information Notice, March 12, 2008 (Rulebook Consolidation Process). For convenience, the Incorporated NYSE Rules are referred to as the NYSE Rules.

⁵ FINRA Rule 0160 would be reorganized so that the defined terms are arranged alphabetically, as amended.

⁶ Notwithstanding the proposed transfer of certain defined terms from NASD Rule 0120 to FINRA Rule 0160 in the Consolidated FINRA Rulebook, the defined terms in FINRA Rule 0160 would continue to apply equally to both the Transitional Rulebook and the Consolidated FINRA Rulebook, as applicable. See also Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (Order Approving SR-FINRA-2008-021), discussing “Rules of General Applicability.”

⁷ See Notice at 57785.

⁸ Id.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,⁹ 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 will provide clarity with respect to the defined terms for the Consolidated FINRA Rulebook by transferring certain defined terms from NASD Rule 0120 to FINRA Rule 0160 (subject to certain amendments), adding new defined terms to FINRA Rule 0160 to reflect the conventions of the Consolidated FINRA Rulebook and eliminating as unnecessary or duplicative certain definitions contained in NASD Rule 0120.

⁹ 15 U.S.C. 78o-3(b)(6).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-FINRA-2011-043) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill
Deputy Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).