

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72575; File No. SR-FINRA-2014-030)

July 9, 2014

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to Quotation Requirements for Unlisted Equity Securities and Deletion of the Rules Related to the OTC Bulletin Board Service

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 27, 2014, 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. 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 the Substance of the Proposed Rule Change

FINRA is proposing amendments regarding quotation requirements for unlisted equity securities and deleting the rules related to the OTC Bulletin Board Service (“OTCBB” or “Service”) and ceasing its operation.

The text of the proposed rule change is available on FINRA’s website at <http://www.finra.org>, at the principal office of FINRA, on the Commission’s website at <http://www.sec.gov>, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

FINRA is proposing a rule change to: (1) adopt rules governing the treatment of quotations in OTC equity securities³ by member inter-dealer quotation systems,⁴ and addressing fair and non-discriminatory access to such systems; (2) require member inter-dealer quotation systems to provide FINRA with a written description of quotation-related data products offered and related pricing information, including fees, rebates, discounts and cross-product pricing incentives; (3) expand the reporting requirements related to quotation information in OTC equity securities; and (4) delete the Rule 6500 Series and related rules and cease operation of the OTCBB.

Background

FINRA's statutory mandate under Section 15A of the Act includes, among other things, that FINRA's rules must govern the form and content of quotations relating to securities sold over the counter.⁵ In furtherance of this mandate, FINRA has adopted rules that are designed to: (1) produce fair and informative quotations; (2) prevent fictitious or misleading quotations; and

³ FINRA Rule 6420(f) defines "OTC equity security" as any equity security that is not an "NMS stock" as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term "OTC equity security" shall not include any Restricted Equity Security.

⁴ FINRA Rule 6420(c) defines "inter-dealer quotation system" as any system of general circulation to brokers or dealers which regularly disseminates quotations of identified brokers or dealers.

⁵ See 15 U.S.C. 78o-3.

(3) promote orderly procedures for collecting, distributing, and publishing quotations.⁶ In particular, FINRA’s Rule 6400 Series (Quoting and Trading in OTC Equity Securities), among other things, provides a regulatory framework governing the form and content of quotations in OTC equity securities and, together with other FINRA rules, including rules in the Rule 5200 Series (Quotation and Trading Obligations and Practices), specifies provisions directed toward the mandate set forth in Section 15A(b)(11) of the Act (collectively referred to as the “Quotation Governance Rules”). FINRA also operates the OTCBB and has established the Rule 6500 Series, which governs the operation and use of the OTCBB.

Current Regulatory Framework for Governing Quotations

FINRA’s Quotation Governance Rules generally prescribe limitations around the conduct of members that publish quotations in OTC equity securities, including quotations displayed on inter-dealer quotation systems. While these rules apply to member quotation activities, they generally do not include rules specifically directed to the member inter-dealer quotation systems on or through which such quotation activity may take place. For example, FINRA Rule 6432 (Compliance with the Information Requirements of SEA Rule 15c2-11) generally provides that members may not initiate or resume quotations in any quotation medium unless the member files a Form 211 with FINRA and complies with SEA Rule 15c2-11 (Initiation or resumption of quotations without specific information). Thus, the filing of a Form 211 with FINRA by a member, and FINRA’s review thereof, helps ensure that, prior to publishing a quotation in an

⁶ Section 15A(b)(11) of the Act provides: “The rules of the association include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.” See 15 U.S.C. 78q-3(b)(11).

OTC equity security (or submitting a quotation for publication), members must have in their records the documents and information specified in SEA Rule 15c2-11 and have a reasonable basis for believing that the relevant information is accurate and that the sources of the information are reliable.⁷

In 2010, the SEC approved four new FINRA rules governing quotation activity generally by prescribing additional requirements for members entering quotations on inter-dealer quotation systems in OTC equity securities: (1) Rule 6434 (Minimum Pricing Increment for OTC Equity Securities); (2) Rule 6437 (Prohibition from Locking or Crossing Quotations in OTC Equity Securities); (3) Rule 6450 (Restrictions on Access Fees); and (4) Rule 6460 (Display of Customer Limit Orders).⁸ These rules, known as the “NMS-Principled Rules,” extended to the over-the-counter market certain protections previously applicable only to exchange-listed securities, and were adopted to enhance market quality and investor protection in the over-the-counter marketplace.

The NMS-Principled Rules, respectively, generally: (1) provide that members may not display, rank, or accept a bid or offer, an order, or an indication of interest in an OTC equity security priced greater than or equal to \$1.00 in an increment less than a penny and, for OTC equity securities priced under \$1.00, an increment less than \$0.0001; (2) require members to implement policies and procedures to reasonably avoid displaying, or engaging in a pattern or

⁷ SEA Rule 15c2-11(a) generally provides that, “[a]s a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for a broker or dealer to publish any quotation for a security or, directly or indirectly, to submit any such quotation for publication, in any quotation medium . . . unless such broker or dealer has in its records the documents and information required [under this rule], and, based upon a review of the [required] information . . . has a reasonable basis under the circumstances for believing that the [required] information is accurate in all material respects, and that the sources of the [required] information are reliable.”

⁸ See Securities Exchange Act Release No. 62359 (June 22, 2010), 75 FR 37488 (June 29, 2010) (Order Approving File No. SR-FINRA-2009-054) (the “NMS-Principled Rules”).

practice of displaying, locking or crossing quotations in any OTC equity security within an inter-dealer quotation system; (3) prohibit members from imposing non-subscriber access or post-transaction fees against published quotations in any OTC equity security that exceed or accumulate to more than the limits set forth in the rule;⁹ and (4) require member OTC market makers displaying priced quotations in an OTC equity security on an inter-dealer quotation system to publish immediately a customer limit order that improves the OTC market maker's priced quotation (or that is equal to the OTC market maker's priced quotation at the BBO but increases the OTC market maker's posted size by more than a de minimis amount), subject to enumerated exceptions.

FINRA's current Quotation Governance Rules also prescribe the minimum share size applicable to members' quotations in OTC equity securities displayed on an inter-dealer quotation system. Specifically, Rule 6433 (Minimum Pricing Increment for OTC Equity Securities) generally provides that every member entering quotations in any inter-dealer quotation system must enter and honor those quotations for at least the minimum sizes defined in

⁹ Rule 6450 (a) and (b) provide that access fees are limited to (a) \$0.003 per share, if the published quotation is priced equal to or greater than \$1.00; or (b) the lesser of 0.3% of the published quotation price on a per share basis or 30% of the minimum pricing increment under Rule 6434 (Minimum Pricing Increment for OTC Equity Securities) relevant to the display of the quotation on a per share basis if the published quotation is less than \$1.00.

the rule.¹⁰ The current rule, which was revised as a pilot in November 2012, amended the tier sizes to, among other things, simplify the tier structure and facilitate the display of customer limit orders pursuant to Rule 6460.

The FINRA Rule 5200 Series also includes rules that govern members' quotation activity in OTC equity securities. For example, Rule 5210 (Publication of Transactions and Quotations) provides, among other things, that members are prohibited from publishing or circulating (or causing to be published or circulated) any notice or communication of any kind which purports to quote the bid price or asked price for any security, unless such member believes that such quotation represents a bona fide bid for, or offer of, such security (i.e., the "fictitious quotation" prohibition). In addition, Rule 5220 (Offers at Stated Prices) generally prohibits members from making an offer to buy from or sell to any person any security at a stated price unless such member is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell (i.e., the "firm quote" requirement).

¹⁰ The currently applicable quotation minimums are as follows:

Price (Bid or Offer)	Minimum Quote Size
0.0001–0.0999	10,000
0.10–0.1999	5,000
0.20–0.5099	2,500
0.51–0.9999	1,000
1.00–174.99	100
175.00+	1

Depending upon the price level of the quotation, a different minimum size can apply to each side of the market being quoted by the member in a given security. Recently, on November 5, 2013, FINRA extended the pilot for an additional year until November 14, 2014. See Securities Exchange Act Release No. 70839 (November 8, 2013), 78 FR 68893 (November 15, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2013-049).

Proposed Requirements for Member Inter-Dealer Quotation Systems

As described above, FINRA's existing Quotation Governance Rules explicitly regulate the activities of OTC market makers¹¹ and other members that display quotations on inter-dealer quotation systems, but generally do not directly provide quotation governance standards for the member inter-dealer quotation systems itself on or through which such quotations are displayed. Given the significant role of inter-dealer quotation systems in the over-the-counter markets in terms of both quotation transparency and resultant trading activity, FINRA believes it is appropriate to adopt new rules directly tailored to such systems to ensure they have in place minimum standards regarding the treatment of quotations received and governing fair access. Consistent with the goals and objectives of Section 17B of the Act¹² regarding the facilitation of widespread dissemination of reliable and accurate quotation information in penny stocks, FINRA is proposing to complement the existing framework governing the form and content of quotations. FINRA is proposing to require that a member inter-dealer quotation system: (1) adopt and provide to FINRA written policies and procedures relating to the collection and dissemination of quotation information in OTC equity securities, (2) establish and provide to FINRA fair and non-discriminatory written standards for granting access to quoting and trading on its system, and (3) provide to FINRA for regulatory purposes a written description of each

¹¹ FINRA Rule 6420(g) defines "OTC Market Maker" as a member of FINRA that holds itself out as a market maker by entering proprietary quotations or indications of interest for a particular OTC equity security in any inter-dealer quotation system, including any system that the SEC has qualified pursuant to Section 17B of the Act. A member is an OTC market maker only in those OTC equity securities in which it displays market making interest via an inter-dealer quotation system.

¹² See 15 U.S.C. 78q-2. Section 17B was enacted by Congress as part of the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Penny Stock Act"). Pub. L. No. 101-429, 104 Stat. 931 (1990).

quotation-related data product offered by such member inter-dealer quotation system and related pricing information, including fees, rebates, discounts and cross-product pricing incentives.¹³

Proposed Quotation Collection and Dissemination Policies and Procedures Requirement

FINRA is proposing a new rule to require that a member inter-dealer quotation system (whether or not also an alternative trading system or “ATS” as defined by Rule 300(a) of SEC Regulation ATS) that permits quotation updates on a real-time basis establish, maintain and enforce fair and reasonable written policies and procedures relating to the collection and dissemination of quotation information in OTC equity securities on or through its system. Such policies and procedures must ensure that quotations received are treated fairly and consistently, including by establishing fair and non-discretionary methods under which quotations are prioritized and displayed and such standards must be fully disclosed to subscribers. For example, a member inter-dealer quotation system would be required to address its methodology for ranking quotations, including at a minimum, addressing factors such as price (including any applicable quote access fee), size, time, capacity and type of quotation (such as unpriced quotes and bid/offer wanted quotations). The member inter-dealer quotation system also would be required to include any other factors relevant to the ranking and display of quotations (e.g., reserve sizes, quotation updates, treatment of closed quotations, and quotation information imported from other systems).

FINRA believes that requiring member inter-dealer quotation systems to establish fair and reasonable written policies and procedures and provide such procedures to FINRA will, among other things, further promote orderly procedures for collecting, distributing, and publishing quotations submitted to inter-dealer quotation systems in securities traded over the

¹³ As further discussed below, a member also would be required to provide FINRA with any changes to these required submissions within five business days.

counter. FINRA also is proposing that a member inter-dealer quotation system provide FINRA with a copy of its written policies and procedures relating to the collection and dissemination of quotation information, and any material updates, modifications and revisions thereto, within five business days following the member's establishment of the written policy or procedure or implementation of the material change.¹⁴

Proposed Written Standards Governing System Access Requirement

FINRA is proposing that a member inter-dealer quotation system establish fair and non-discriminatory written standards for granting access to quoting and trading on the system that do not unreasonably prohibit or limit any person in respect to access to services offered by such inter-dealer quotation system.¹⁵ This proposed requirement is consistent with the "fair access" requirements of Regulation ATS but would apply to quoting and trading in all OTC equity securities on the member inter-dealer quotation system, irrespective of the percentage of average daily volume that such inter-dealer quotation system had in the security.¹⁶ FINRA believes that these proposed amendments are necessary and appropriate to further the mandates of Section 15A of the Act.

¹⁴ A member that is an inter-dealer quotation system at the time of the effective date of this proposed rule change would provide the required information upon the effective date and, thereafter, any material update, modification or revision thereto must be provided to FINRA within five business days of its implementation.

¹⁵ FINRA proposes that a member inter-dealer quotation system also must make and keep records of all grants of access including (for all subscribers) the reasons for granting such access and all denials or limitations of access and reasons (for each applicant) for denying or limiting access. A policy prohibiting or limiting access to services offered by the member inter-dealer quotation system due to non-payment by a subscriber would not be prohibited under the proposed rule.

¹⁶ Regulation ATS's "fair access" requirements apply with respect to securities where the ATS's trading accounted for 5% or more of the reported average daily trading volume (ADTV) in the security. The proposal would apply the fair access standards with respect to all securities quoted on the inter-dealer quotation system (not just those meeting the minimum 5% (or other) threshold).

Further, the proposed rule would require that a member inter-dealer quotation system provide FINRA with a copy of its written standards for granting access to quoting and trading on its system and any material updates, modifications and revisions thereto within five business days following: (a) the date of the member's establishment of the written standard, and (b) the date of the material update, modification or revision to the written standard.

Proposed Quotation-Related Data Product and Pricing Provision Requirement

FINRA is proposing to require a member inter-dealer quotation system to provide FINRA with a written description of each quotation-related data product offered by such member inter-dealer quotation system and related pricing information, including fees, rebates, discounts and cross-product pricing incentives, and any changes thereto, within five business days following: (a) the date of the establishment of the quotation-related data product or date of any change thereto (including discontinuance of the offering of the quotation-related data product), and (b) the date of the establishment of the quotation-related data product price, including a fee, rebate, discount and cross-product pricing incentive, or change thereto.

FINRA believes that the proposed changes described above will facilitate the objectives of the Act, including Section 17B of the Act, by helping ensure that disseminated quotations are reliable and accurate and will provide FINRA with useful information to ensure compliance with FINRA rules and to monitor the widespread availability of quotation information to investors and market participants through non-SRO sources.

Proposed Amendments to the Quotation Recording and Reporting Requirements

FINRA Rule 6431 (Recording of Quotation Information) was implemented in 2003 to provide FINRA with access to quotation data displayed on non-SRO sponsored and non-member systems so that FINRA could assess member compliance with applicable rules and regulations

and, when necessary, to reconstruct market activity.¹⁷ FINRA is proposing to update and expand the rule to better reflect the current quoting structure of the OTC equity market. First, FINRA is proposing to expand the scope of the rule beyond quotations displayed on an inter-dealer quotation system by OTC market makers to include quotations displayed by any FINRA member, including ATSS. Since the initial adoption of this rule, quoting in OTC equity securities by ATSS and other members that are not OTC market makers has increased and FINRA believes Rule 6431's recording and reporting requirements should apply equally to all such quotes displayed on inter-dealer quotation systems.

Second, FINRA is proposing minor amendments to the items of information required to be recorded and reported under the rule. Specifically, the new rule would require the following items of quotation information:

- (1) MPID of quoting member (the current rule asks for "submitting firm");
- (2) Inter-dealer quotation system (the current rule asks members to specify the inter-dealer quotation system or "medium");
- (3) Date of quotation (the current rule asks for "trade date");
- (4) Time quotation displayed (expressed in hours, minutes, seconds and milliseconds if the reporting member's system captures time in milliseconds) (the current rule asks for time expressed in hours, minutes and seconds, but not milliseconds);
- (5) Security name and symbol (FINRA is not proposing amendments to this item of information);

¹⁷ See Securities Exchange Act Release No. 47587 (March 27, 2003), 68 FR 16328 (April 3, 2003) (Order Approving File No. SR-NASD-2000-042). See also Notice to Members 03-28 (June 2003).

- (6) Bid and bid quotation size (if applicable) (FINRA is not proposing amendments to this item of information);
- (7) Offer and offer quotation size (if applicable) (FINRA is not proposing amendments to this item of information);
- (8) Prevailing Inside Bid (FINRA is not proposing amendments to this item of information); and
- (9) Prevailing Inside Offer (FINRA is not proposing amendments to this item of information).

Finally, at the time of the adoption of this rule, FINRA had determined not to apply the requirements to inter-dealer quotation systems that were FINRA members and, rather, to obtain quotation information directly from the FINRA member as needed pursuant to Rule 8210. However, since the adoption of the rule, the primary inter-dealer quotation system from which FINRA receives quotation information (as reporting agent on behalf of member firms) has become a FINRA member firm and, therefore, FINRA believes the exception for quotations displayed on systems operated by a FINRA member no longer should apply.¹⁸ Instead, the proposed rule would directly require member inter-dealer quotation systems to report each attributed quotation displayed on the system by a broker-dealer. In the event that a FINRA member displays a quotation on a non-member inter-dealer quotation system, the member must record and report to FINRA the required information regarding the quotations displayed by such member.

FINRA believes that these amendments to the quotation recording and reporting requirements simplify and streamline the process of obtaining quotation information for

¹⁸ FINRA has continued to receive quotation information on a weekly basis following the inter-dealer quotation system becoming a FINRA member.

regulatory purposes by directly requiring that member inter-dealer quotation systems report subscribing members' quotation information to FINRA.¹⁹ Thus, individual quoting members no longer are required to report or arrange to have reported to FINRA the items of quotation information specified in the rule, unless such member is displaying a quotation on a non-member inter-dealer quotation system. The rule would continue to permit the use of a reporting agent by either a member inter-dealer quotation system or a member displaying a quotation on a non-member inter-dealer quotation system.²⁰

Proposed Deletion of OTCBB-related Rules

Finally, FINRA is proposing to delete the FINRA Rule 6500 Series, which governs the operation of the OTC Bulletin Board Service and cease operation of the OTCBB. FINRA previously proposed to delete the OTCBB rules and discontinue operation of the Service as part of a separate rule filing, the "QCF Proposal."²¹ As discussed in the QCF Proposal, the level of transparency in OTC equity securities facilitated by the operation of the OTCBB has been declining significantly for years as other quotation venues have emerged. In fact, since the filing of the QCF Proposal on November 6, 2009, the amount of quotation information widely available to investors relying on OTCBB BBO data has further declined and has become negligible. Thus, FINRA believes that the remaining OTCBB information being disseminated to

¹⁹ Currently the reporting obligation is imposed on the quoting member itself, though, in practice, quoting members have used the inter-dealer quotation system to which their quotation is submitted and displayed as reporting agent for purposes of meeting the Rule 6431 reporting obligation.

²⁰ A "reporting agent" is a third party that enters into any agreement with a member pursuant to which such third party agrees to fulfill such member's obligations under Rule 6431.

²¹ See Securities Exchange Act Release No. 60999 (November 13, 2009), 74 FR 61183 (November 23, 2009) (Notice of Filing of File No. SR-FINRA-2009-077). FINRA intends to withdraw the currently pending QCF Proposal if the instant proposed rule change is approved by the Commission.

investors is so incomplete as to be potentially misleading with respect to the current pricing in these securities.

For example, of the approximately 10,000 OTC equity securities quoted over the counter on the largest inter-dealer quotation system, less than 10% of those issues also are eligible to be quoted on OTCBB.²² In addition, less than twelve securities out of the 10,000 OTC equity securities are quoted solely on OTCBB. Furthermore, based upon a sample of 20 days in 2013, the OTCBB only disseminated an average of 27 computed BBOs, which means that OTCBB BBO quotation information was available through Level 1 on less than 0.3% of the 10,000 OTC equity security symbols.²³

Therefore, FINRA does not believe that the discontinuance of the OTCBB as an inter-dealer quotation system will have an appreciable impact on issuers, investors or member firms.²⁴ For the same reasons, FINRA does not believe that the OTCBB, in its current form and with current levels of participation, furthers the goals and objectives of Section 17B of the Act²⁵ and, therefore, does not meet the characteristics of a system described in Section 17B of the Act regarding the widespread dissemination of reliable and accurate quotation information with

²² Of the over 10,000 symbols quoted over the counter, as of December 17, 2013, 836 symbols were eligible to be quoted on the OTCBB, and we estimate that less than a dozen of those issues were being quoted solely on the OTCBB.

²³ During the week of December 2nd, there were a total of 14 symbols for which an OTCBB BBO was calculated and disseminated.

²⁴ As part of the QCF Proposal, FINRA notes that no concerns were raised by commenters with respect to the portion of the QCF Proposal that would have deleted the OTCBB rules and discontinued operation of the Service.

²⁵ Section 17B of the Act provides, among other things, that the Commission shall facilitate the widespread dissemination of reliable and accurate last sale and quotation information with respect to penny stocks.

respect to “penny stocks.”²⁶ However, FINRA notes that, since the inception of the OTCBB, non-self-regulatory organization (“SRO”) entities have increased their participation in the collection and dissemination of quotation information in OTC equity securities, including for those OTC equity securities meeting the definition of “penny stock,” and have made such quotation information available to investors and market participants. Thus, FINRA believes that discontinuance of the OTCBB as an inter-dealer quotation system will not have an appreciable impact on the current level of quotation transparency for OTC equity securities. In addition, the proposed rule change is intended to facilitate the widespread availability of reliable and accurate quotation information through non-SRO sources.

Importantly, FINRA will continue to centralize last sale transaction reporting through the FINRA OTC Reporting Facility (“ORF”) and, therefore, will continue to operate a system that collects and disseminates transaction information on, and provides widespread dissemination of reliable and accurate last sale information with respect to, OTC equity securities, including penny stocks.²⁷ Thus, the objectives of Section 17B of the Act relating to the provision of price and volume information to investors and market participants will continue to be satisfied through FINRA’s operation of the ORF.

As was the case with the QCF Proposal, in advance of the discontinuance of the OTCBB, FINRA will take steps to ensure a smooth transition for issuers and members. Specifically,

²⁶ Under SEC Rule 3a51-1, “penny stock” is defined to, among other things, exclude securities that have a price of five dollars or more as determined either on a per transaction basis or, in the absence of a transaction, on the basis of the inside bid quotation for the security displayed on an automated quotation system that has the characteristics set forth in Section 17B(b)(2) of the Act or any other system that is designated by the Commission. See 17 CFR 240.3a51-1.

²⁷ FINRA members are required to report substantially all trades in OTC equity securities to ORF within 10 seconds of execution and FINRA widely disseminates this transaction information in real-time.

FINRA will publicize announcements through the FINRA.org and OTCBB.com websites; directly contact active OTCBB market makers; notify and educate the few remaining OTCBB-only issuers; and email dually quoted issuers about the cessation of quoting on the OTCBB. Thereafter, FINRA will continue to assess the widespread availability of quotation transparency to investors and market participants through non-SRO sources on a regular basis. If the availability of quotation information to investors significantly declines, FINRA will revisit and, if necessary, file a proposed rule change to establish an SRO-operated inter-dealer quotation system (or other measure) to facilitate the type of widespread quotation transparency described in Section 17B of the Act.²⁸

FINRA discussed the concepts described in this proposed rule change with several of FINRA's industry advisory committees in developing its approach. The committees supported the proposed amendments and did not believe that compliance with the proposal would be burdensome for firms.

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be no later than 180 days following Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,²⁹ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

²⁸ Should FINRA determine it is necessary to recommence the operation of a system to facilitate quotation transparency, FINRA also would revisit at that time the necessity of the proposals described herein requiring inter-dealer quotation systems to provide FINRA specified policies and procedures, written standards, quotation-related data product descriptions and related pricing information.

²⁹ 15 U.S.C. 78o-3(b)(6).

principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed amendments will promote just and equitable principles of trade by helping ensure that subscribers (and potential subscribers) are afforded fair and non-discriminatory access to the quotation system of a member-inter-dealer quotation system, and that the standards required for access be fully disclosed. In addition, the proposed provision requiring a member inter-dealer quotation system to provide FINRA with a copy of such written standards (and material updates, modifications and revisions thereto) within five business days is consistent with Section 15A(b)(6) of the Act in that it furthers FINRA's ability to review for compliance with the underlying provisions requiring fair access to the member's system.

FINRA also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(11) of the Act.³⁰ Section 15A(b)(11) requires that the rules of the association include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied.³¹ Specifically, FINRA believes that the proposed amendment requiring member-inter-dealer quotation systems to adopt policies and procedures addressing the collection and dissemination of quotations in OTC equity securities is consistent with Section 15A(b)(11) of the Act in that the amendments further govern the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied.³²

³⁰ 15 U.S.C. 78o-3(b)(11).

³¹ See 15 U.S.C. 78o-3(b)(11).

³² See 15 U.S.C. 78o-3(b)(11).

FINRA also believes that the proposed new rules for member inter-dealer quotation systems requiring them to establish, maintain and enforce fair and reasonable written policies and procedures relating to the collection and dissemination of quotations in OTC equity securities on or through their systems, and to ensure that such quotations are treated fairly and consistently, are consistent with the Act by promoting orderly procedures for collecting, distributing, and publishing quotations. Similarly, the proposed provision requiring a member inter-dealer quotation system to provide FINRA with a copy of such written policies and procedures (and any material updates, modifications and revisions thereto) within five business days is consistent with Section 15A(b)(11) of the Act in that it provides FINRA with timely notification of material changes to the member's quotation collection and dissemination policies and procedures, which facilitates FINRA's ability to perform its oversight functions in this area.

FINRA believes that the proposed amendments to the quotation recording and reporting requirements of Rule 6431 streamline, clarify and simplify the items of information and process for reporting quotation data to FINRA for regulatory purposes, such as for use in conducting reviews of over-the-counter market activity and surveillance of member conduct, consistent with FINRA's statutory mandate under the Act.³³

FINRA also believes that the proposed rule change will protect investors and the public interest by discontinuing the dissemination of potentially incomplete, inaccurate and misleading best bid and offer quotation data in OTC equity securities, as discussed above, by deleting the OTCBB rules and discontinuing operation of the Service. Further, FINRA believes that the proposed rule change is consistent with Section 17B of the Act.³⁴ Section 17B was enacted by Congress as part of the Penny Stock Act, which was designed to remedy inefficiencies and

³³ See 15 U.S.C. 78o-3.

³⁴ See 15 U.S.C. 78q-2.

address regulatory concerns caused by the lack of reliable market information on penny stocks traded over the counter and, in connection with this initiative, the Commission designated the OTCBB as a Qualifying Electronic Quotation System (“QEQS”) for purposes of the penny stock rules.³⁵

Due to the decline of OTCBB, as discussed previously, FINRA is concerned that OTCBB is no longer a reliable source of complete quotation information for OTC equity securities and, therefore, operation of the Service no longer furthers the purposes of Section 17B of the Act. However, FINRA believes that discontinuing dissemination of potentially incomplete and misleading quotation information from the marketplace by ceasing operation of the OTCBB, coupled with the proposed changes to improve the governance of inter-dealer quotation systems on or through which quotations in OTC equity securities are displayed, best serves and promotes the goals of Section 17B of the Act with respect to the widespread availability of quotation information in penny stocks. In addition, to the extent necessary, FINRA requests that the Commission consider granting an exemption from Section 17B of the Exchange Act in connection with its consideration of this proposed rule change.

Finally, the proposed requirement that a member inter-dealer quotation system provide FINRA with a written description of each quotation-related data product it offers and related pricing information, including fees, rebates, discounts and cross-product pricing incentives (and any changes thereto) within five business days, provides FINRA with useful information to ensure compliance with FINRA rules and to monitor the widespread availability of quotation information to investors and market participants through non-SRO sources, and to determine

³⁵ See Securities Exchange Act Release No. 30608 (April 20, 1992), 57 FR 18004 (April 28, 1992) (“Penny Stock Release”) (adopting seven rules (the “penny stock rules”) under the Act requiring broker-dealers engaging in certain transactions in low-priced, over the counter securities to provide customers with specified information).

whether proposing the reestablishment of an SRO-operated inter-dealer quotation system (or other measure) to facilitate the type of quotation transparency described in Section 17B of the Act, is necessary. The FINRA ORF continues to provide for the reporting of the volume of penny stock transactions, including comprehensive last sale reporting and dissemination, consistent with Section 17B of the Act.

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 proposed amendments to require a member inter-dealer quotation system to establish fair and non-discriminatory written standards for granting access to quoting and trading would apply to all members meeting the Rule 6420 definition of "inter-dealer quotation system," and therefore do not disparately impose requirements on similarly situated members.

In addition, the proposed amendments to require a member inter-dealer quotation system to establish, maintain and enforce fair and reasonable written policies and procedures relating to the collection and dissemination of quotations in OTC equity securities are important to facilitate an orderly environment around quotation activity in OTC equity securities. Furthermore, the proposal provides for a "policies and procedures" approach and, therefore, affords all members within its scope a degree of flexibility in implementing measures to comply with the proposed rule.

FINRA also does not believe that the proposed requirement that members provide copies of the aforementioned written policies, procedures and standards (and material updates, modifications and revisions thereto) results in an unwarranted burden on competition because the member inter-dealer quotation system would be permitted to proceed with the implementation of

desired changes to its written policies, procedures and standards, as long as it notifies FINRA within five business days following the implementation of the changes.

The proposal requiring a member inter-dealer quotation system to provide FINRA with a written description of each quotation-related data product offered by such member and related pricing information, including fees, rebates, discounts and cross-product pricing incentives (and any changes thereto) within five business days is essential to FINRA's ongoing monitoring of the widespread availability of quotation information on OTC equity securities. FINRA also does not believe that this requirement imposes an unwarranted burden on competition because the proposed rule would permit the member inter-dealer quotation system to launch a new quotation-related data product or related price (or change an existing data product or related price) without delay, followed by timely notification to FINRA. This proposed amendment would apply to all members meeting the Rule 6420 definition of "inter-dealer quotation system," and therefore would not disparately impose requirements on similarly situated members.

The proposed clarification and streamlining of the quotation recording and reporting requirements are minor and generally consistent with current practice; therefore, FINRA anticipates that members would need to make very few changes to comply with the revised regime. Thus, any burden associated with the rule change is negligible and its impact on competition nonexistent. Finally, FINRA does not believe that the proposed deletion of the OTCBB-related rules and the discontinuance of the operation of the Service would impose any burden on competition because the Service currently operates as a transparency utility and, therefore, its closure would not burden competition and in no way would hinder the ability of new competitors to enter the market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Not applicable.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 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 90 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 or disapprove 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. 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-2014-030 on the subject line.

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-2014-030. 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-2014-030 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.³⁶

Kevin M. O'Neill
Deputy Secretary

³⁶ 17 CFR 200.30-3(a)(12).