

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60414; File No. SR-FINRA-2009-051)

July 31, 2009

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Use of Multiple Market Participant Symbols When Quoting or Trading OTC Equity Securities

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 July 23, 2009, Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II 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,³ 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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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

FINRA is proposing to adopt FINRA Rule 6480 on a pilot basis to address the use of multiple Market Participant Symbols ("MPIDs") when quoting or trading OTC Equity Securities.⁴

The text of the proposed rule change is available on FINRA's Web site 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

FINRA has two rules governing the use of multiple MPIDs on FINRA facilities: Rule 6160 (Multiple MPIDs for Trade Reporting Facility Participants) and Rule 6170 (Primary and Additional MPIDs for Alternative Display Facility Participants). The proposed rule change would adopt, on a pilot basis, a rule for the use of multiple MPIDs when quoting OTC Equity Securities or reporting trades in such securities to the OTC

⁴ For purposes of the proposed rule, the term "OTC Equity Security" is defined in FINRA Rule 6420.

Reporting Facility. The use of multiple MPIDs is currently permitted with respect to FINRA Trade Reporting Facilities and the Alternative Display Facility, and firms have requested that FINRA extend the use of multiple MPIDs to the OTC market so that members can use multiple MPIDs for a variety of back-office purposes that would otherwise not be possible—for example, establishing separate clearing relationships for different types of securities (e.g., foreign and domestic securities). As is the case with respect to the market for exchange-listed securities, FINRA believes that there are legitimate business reasons for members to maintain multiple MPIDs in the OTC market and proposes to establish, on a pilot basis, a system whereby members can request and be granted multiple MPIDs for use in quoting and trading OTC Equity Securities. The proposed rule is substantially similar to Rule 6160 and, like that rule, would expire on January 29, 2010, unless extended.⁵

Like Rule 6160, proposed Rule 6480 provides that any member that wishes to use more than one MPID for purposes of quoting an OTC Equity Security or reporting trades to the OTC Reporting Facility must submit a written request to, and obtain approval from, FINRA Operations for such additional MPIDs. The rule also states that a member that posts a quotation in an OTC Equity Security and reports to a FINRA system a trade resulting from such posted quotation must utilize the same MPID for reporting purposes.

⁵ Rule 6160 was approved by the Commission in 2006 on a pilot basis. See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006); see also Securities Exchange Act Release No. 54715A (November 14, 2006), 71 FR 67183 (November 20, 2006). The pilot period has been extended several times since the rule was originally adopted and currently expires on January 29, 2010. See Securities Exchange Act Release No. 59183 (December 30, 2008), 74 FR 842 (January 8, 2009); Securities Exchange Act Release No. 57217 (January 28, 2008), 73 FR 6234 (February 1, 2008); Securities Exchange Act Release No. 55206 (January 31, 2007), 72 FR 5479 (February 6, 2007).

In addition, Supplementary Material to the rule states that FINRA considers the issuance of, and trade reporting with, multiple MPIDs to be a privilege and not a right. When requesting an additional MPID(s), a member must identify the purpose(s) and system(s) for which the multiple MPIDs will be used. If FINRA determines that the use of multiple MPIDs is detrimental to the marketplace, or that a member is using one or more additional MPIDs improperly or for purposes other than the purpose(s) identified by the member, FINRA staff retains full discretion to limit or withdraw its grant of the additional MPID(s) to such member.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁶ 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 that the proposed rule change will create a system that will allow members to use multiple MPIDs when quoting and trading OTC Equity Securities with sufficient oversight by FINRA to ensure that the MPIDs are not being used improperly or in a way that would be detrimental to the marketplace.

⁶ 15 U.S.C. 78q-3(b)(6).

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.

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 Act⁷ and Rule 19b-4(f)(6) thereunder.⁸

FINRA has requested that the Commission waive the 30-day operative delay so that it may immediately extend the use of multiple MPIDs to the OTC market on a pilot basis. The Commission has determined that waiving the 30-day operative delay of FINRA's proposal is consistent with the protection of investors and the public interest because FINRA's proposed system for extending the use of multiple MPIDs to the OTC

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has met this requirement.

market is comparable to the pilot program currently in place for exchange-listed securities, which the Commission previously approved.⁹ Therefore, the Commission designates the proposal operative upon filing.¹⁰

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

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-2009-051 on the subject line.

Paper Comments:

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

⁹ See supra note 5.

¹⁰ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-FINRA-2009-051. 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 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-2009-051 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.¹¹

Florence E. Harmon
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).