

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71911; File No. SR-FINRA-2014-017)

April 9, 2014

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Reporting and Market Participant Identifier Requirements for Alternative Trading Systems

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 3, 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. 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,<sup>3</sup> 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.

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

FINRA is proposing to amend FINRA Rules 4552, 6160, 6170, 6480, and 6720 to revise the reporting and market participant identifier (“MPID”) requirements applicable to alternative trading systems (“ATs”).

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.<sup>4</sup>

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> The rule text is shown to include the amendments approved by the Commission in

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**4000. FINANCIAL AND OPERATIONAL RULES**

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**4500. BOOKS, RECORDS AND REPORTS**

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**4550. ATS Reporting**

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**4552. Alternative Trading Systems – Trading Information for Securities Executed  
Within the Alternative Trading System**

(a) Within seven business days after the end of each week, each member that operates an ATS that has filed a Form ATS with the SEC shall report to FINRA, in such format as FINRA may require, the aggregate weekly Trading Information for each NMS stock[,] and OTC Equity Security [and TRACE-Eligible Security] executed within each such ATS operated by the member during the previous week.

(b) No Change.

(c) When calculating and reporting the volume of securities traded and the number of trades, an ATS shall include only those trades executed within the ATS. If two orders are crossed by the ATS, the volume shall include only the number of shares [or par value of bonds] crossed as a single trade (e.g., crossing a buy order of 1,000 shares with a sell order of 1,000 shares would be calculated as a single trade of 1,000 shares of volume).

(d) Definitions

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SR-FINRA-2013-042. See Securities Exchange Act Release No. 71341 (January 17, 2014), 79 FR 4213 (January 24, 2014) (Approval Order).

For purposes of this Rule, the term:

(1) through (2) No Change.

(3) “OTC Equity Security” has the same meaning as that term is defined in Rule 6420; and

(4) [“TRACE-Eligible Security” has the same meaning as that term is defined in Rule 6710; and]

[(5)] “Trading Information” includes:

(A) the number of shares of each NMS stock or OTC Equity Security executed within an ATS [alternative trading system]; and

[(B) the par value of each TRACE-Eligible Security executed within an alternative trading system; and]

[(C)B] the number of trades in a security executed within an [alternative trading system] ATS.

• • • **Supplementary Material:** -----

.01 No Change.

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## **6000. QUOTATION AND TRANSACTION REPORTING FACILITIES**

### **6100. QUOTING AND TRADING IN NMS STOCKS**

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#### **6160. Multiple MPIDs for Trade Reporting Facility Participants**

(a) through (b) No Change.

(c) Except as set forth in paragraph (d), a [A] Trade Reporting Facility

Participant that operates an alternative trading system (“ATS”), as that term is defined in

Rule 300 of SEC Regulation ATS, must obtain a single, separate MPID for each such ATS designated for exclusive use for reporting each ATS's transactions. The member must use such separate MPID to report all transactions executed within the ATS to a Trade Reporting Facility (or Facilities). The member shall not use such separate MPID to report any transaction that is not executed within the ATS. Any member that operates multiple ATSs must obtain a separate MPID for each ATS. Members must have policies and procedures in place to ensure that trades reported with a separate MPID obtained under this paragraph are restricted to trades executed within the ATS.

(d) An ATS is permitted to use two separate MPIDs only if one MPID is used exclusively for reporting transactions to TRACE and the other MPID is used exclusively for reporting transactions to the equity trade reporting facilities (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF).

• • • **Supplementary Material:** -----

.01 through .02 No Change.

**6170. Primary and Additional MPIDs for Alternative Display Facility Participants**

(a) through (c) No Change.

(d) Except as set forth in paragraph (e), a [A] member reporting trades to the ADF that operates an alternative trading system ("ATS"), as that term is defined in Rule 300 of SEC Regulation ATS, must obtain a single, separate MPID for each such ATS designated for exclusive use for reporting each ATS's transactions. The member must use such separate MPID to report all transactions executed within the ATS to the ADF. The member shall not use such separate MPID to report any transaction that is not

executed within the ATS. Any member that operates multiple ATSs must obtain a separate MPID for each ATS. Members must have policies and procedures in place to ensure that trades reported with a separate MPID obtained under this paragraph are restricted to trades executed within the ATS.

(e) An ATS is permitted to use two separate MPIDs only if one MPID is used exclusively for reporting transactions to TRACE and the other MPID is used exclusively for reporting transactions to the equity trade reporting facilities (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF).

• • • **Supplementary Material:** -----

.01 through .05 No Change.

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## **6400. QUOTING AND TRADING IN OTC EQUITY SECURITIES**

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### **6480. Multiple MPIDs for Quoting and Trading in OTC Equity Securities**

(a) through (b) No Change.

(c) Except as set forth in paragraph (d), a[A]n OTC Reporting Facility Participant that operates an alternative trading system (“ATS”), as that term is defined in Rule 300 of SEC Regulation ATS, must obtain a single, separate MPID for each such ATS designated for exclusive use for reporting each ATS’s transactions. The member must use such separate MPID to report all transactions executed within the ATS to the OTC Reporting Facility. The member shall not use such separate MPID to report any transaction that is not executed within the ATS. Any member that operates multiple ATSs must obtain a

separate MPID for each ATS. Members must have policies and procedures in place to ensure that trades reported with a separate MPID obtained under this paragraph are restricted to trades executed within the ATS.

(d) An ATS is permitted to use two separate MPIDs only if one MPID is used exclusively for reporting transactions to TRACE and the other MPID is used exclusively for reporting transactions to the equity trade reporting facilities (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF).

• • • **Supplementary Material:** -----

.01 No Change.

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**6700. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)**

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**6720. Participation in TRACE**

(a) through (b) No Change.

**(c) Alternative Trading Systems**

(1) Except as set forth in paragraph (2), a [A] TRACE Participant that operates an alternative trading system (“ATS”), as that term is defined in Rule 300 of SEC Regulation ATS, must obtain a single, separate Market Participant Identifier (“MPID”) for each such ATS designated for exclusive use for reporting each ATS’s transactions. The member must use such separate MPID to report all transactions executed within the ATS to TRACE. The member shall not use such separate MPID to report any transaction that is not executed within the ATS. Any

member that operates multiple ATSS must obtain a separate MPID for each ATS. Members must have policies and procedures in place to ensure that trades reported with a separate MPID obtained under this paragraph are restricted to trades executed within the ATS.

(2) An ATS is permitted to use two separate MPIDs only if one MPID is used exclusively for reporting transactions to TRACE and the other MPID is used exclusively for reporting transactions to the equity trade reporting facilities (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF).

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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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 17, 2014, the SEC approved a proposed rule change to (i) adopt FINRA Rule 4552 (Alternative Trading Systems – Trading Information for Securities Executed Within the Alternative Trading System) to require ATSS<sup>5</sup> to report to FINRA

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<sup>5</sup> Regulation ATS defines an “alternative trading system” as “any organization,

weekly volume information and number of trades regarding securities transactions within the ATS; and (ii) amend FINRA Rules 6160, 6170, 6480, and 6720 to require each ATS to acquire and use a single, unique MPID when reporting information to FINRA (“MPID Requirement”).<sup>6</sup> The implementation date for the reporting requirement under Rule 4552 is May 12, 2014, and ATSS must use a single, unique MPID to report information to FINRA beginning November 10, 2014.<sup>7</sup>

The proposed rule change amends these new requirements in two ways to address implementation questions that have arisen since the SEC’s approval of the new provisions as they relate to ATSS that trade debt securities reportable to the Trade Reporting and Compliance Engine (“TRACE”).<sup>8</sup> First, the proposed rule change removes from the ATS weekly reporting requirement in Rule 4552 transactions in TRACE-Eligible Securities so that, as amended, Rule 4552 would require ATSS to report

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association, person, group of persons, or system: (1) That constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange within the meaning of [Exchange Act Rule 3b-16]; and (2) That does not: (i) Set rules governing the conduct of subscribers other than the conduct of such subscribers’ trading on such organization, association, person, group of persons, or system; or (ii) Discipline subscribers other than by exclusion from trading.” 17 CFR 242.300(a). Rule 4552 and the other amendments in the proposed rule change apply to any alternative trading system, as that term is defined in Regulation ATS, that has filed a Form ATS with the Commission.

<sup>6</sup> See Securities Exchange Act Release No. 71341 (January 17, 2014), 79 FR 4213 (January 24, 2014) (Approval Order).

<sup>7</sup> See Regulatory Notice 14-07 (February 2014).

<sup>8</sup> Debt securities reportable to TRACE (“TRACE-Eligible Securities”) are set forth in Rule 6710. See Rule 6710(a).



only volume information in equity securities subject to FINRA trade reporting requirements (i.e., NMS stocks and OTC Equity Securities).<sup>9</sup>

Following discussions with multiple firms after the adoption of Rule 4552 and a review of TRACE trade reporting guidance and practices, FINRA believes that initially requiring ATSS to self-report volume information for TRACE-Eligible Securities is not necessary and that FINRA can confirm its ability to rely on TRACE data to calculate reliable volume information once the MPID Requirement is in place through targeted requests to firms rather than requiring weekly reports. FINRA intends to continue to work with ATSS that trade TRACE-Eligible Securities to confirm they are accurately and completely reporting transaction information to TRACE, and FINRA expects to request periodically that some ATSS provide the staff with their weekly volume for TRACE-Eligible Securities. FINRA does not believe, however, that it is necessary to require these ATSS to incur the costs necessary to report weekly volume information to FINRA pursuant to Rule 4552 when FINRA can obtain more targeted data by working directly with firms.

Moreover, because ATS volume information regarding TRACE-Eligible Securities will not be publicly disseminated at this time, FINRA believes the costs to ATSS to comply with the reporting requirements of Rule 4552 with respect to TRACE-Eligible Securities outweighs the benefits of receiving the information on a weekly basis.<sup>10</sup> FINRA is not proposing to amend the reporting requirement for ATSS with

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<sup>9</sup> The proposed rule change also replaces the phrase “alternative trading system” with the defined term “ATS” in Rule 4552(d).

<sup>10</sup> See Rule 4552(b).

respect to equity data because of the need to ensure that the ATS equity data that is publicly disseminated is consistent across ATSs.

Second, the proposed rule change amends Rules 6160, 6170, 6480, and 6720 to permit an ATS that trades both TRACE-Eligible Securities and equity securities (OTC Equity Securities or NMS stocks) to use two MPIDs, rather than a single unique MPID, if each MPID is used exclusively for either TRACE-Eligible Securities or equity securities. As noted in SR-FINRA-2013-042, FINRA adopted the requirement that ATSs acquire and use a single, unique MPID for reporting to FINRA to enable FINRA to rely on trade reports to determine whether an ATS has reached any of the volume thresholds in Regulation ATS, to allow FINRA to calculate consistent and accurate volumes of ATS activity, and to provide more granular information regarding ATS activity to FINRA's market surveillance program. Because TRACE and the equity trade reporting facilities (the Alternative Display Facility, the exchange Trade Reporting Facilities, and the OTC Reporting Facility) operate independently, a single ATS's use of two separate MPIDs does not impede FINRA's ability to perform these calculations provided the use of each MPID is limited to either TRACE or the equity trade reporting facilities. Consequently, the proposed rule change would allow a single ATS to use two MPIDs provided the use of each MPID is exclusively limited to reporting to either TRACE or one or more of the equity trade reporting facilities.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date of the proposed amendments to Rule 4552 will be May 12, 2014. The implementation date of the proposed amendments to Rules 6160, 6170, 6480, and 6720 will be November 10, 2014. FINRA will announce the implementation dates of the

proposed rule change no later than 60 days following Commission notice of the filing of the proposed rule change for immediate effectiveness.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>11</sup> 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 enhance members' ability to comply with Rule 4552 and the amendments to Rules 6160, 6170, 6480, and 6720 by alleviating some of the burdens imposed by those rules without any detriment to FINRA's ability to surveil for compliance with Regulation ATS or to calculate accurate volume information for ATS trading activity.

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 rule change provides for additional flexibility for ATSs that trade both debt securities and equity securities and removes the self-reporting obligation on ATSs that trade only debt securities.

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.

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<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

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 Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

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 requested that the Commission waive the 5-day advance filing requirement. The Commission hereby grants this request.<sup>14</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> The Commission notes that it was notified four days prior to filing of this proposed rule change.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2014-017 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-2014-017. 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 10:00 a.m.

and 3:00 p.m. Copies of the 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-2014-017, 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.<sup>15</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).