

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85685; File No. SR-FINRA-2019-013)

April 18, 2019

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Regulation NMS Plan to Address Extraordinary Market Volatility

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 April 12, 2019, 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 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.

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

FINRA is proposing to make permanent FINRA Rules 6190 (Compliance with Regulation NMS Plan to Address Extraordinary Market Volatility) and 6121.01 (Resumption of Trading in Securities Subject to the Regulation NMS Plan to Address Extraordinary Market Volatility) in light of the permanent approval of the Regulation NMS Plan to Address Extraordinary Market Volatility (“Plan” or “LULD Plan”).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is available on FINRA's website 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 proposes to amend FINRA Rules 6190 and 6121.01, which implement the provisions of the LULD Plan, to reflect that these provisions now operate on a permanent basis, consistent with the approval of the LULD Plan to operate on a permanent basis.⁴ FINRA is not proposing any substantive changes to the text of these rules.

Rule 6190 requires members that are trading centers⁵ in NMS Stocks to establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the requirements of the Plan and specifically to prevent: (1) the execution of trades at prices that are below the lower price band or above the upper price band for an NMS Stock, except as

⁴ See Securities Exchange Act Release No. 83044 [sic] (April 11, 2019) (File No. 4-631) (Order Approving Eighteenth Amendment); see also Securities Exchange Act Release No. 84843 (December 18, 2018), 83 FR 66464 (December 26, 2018) (File No. 4-631) (Notice of Filing of Eighteenth Amendment).

⁵ Unless otherwise specified, the terms used herein have the same meaning as set forth in the Plan.

permitted under the Plan; (2) the display of offers below the lower price band and bids above the upper price band for an NMS Stock; and (3) the execution of trades in an NMS Stock during a trading pause; however, bids and offers may be displayed during a Trading Pause, as permitted under the Plan.⁶ FINRA Rule 6121.01 addresses the circumstances under which a member may resume trading otherwise than on an exchange following a Trading Pause or Regulatory Halt in an NMS Stock that is subject to the Plan.⁷

Rules 6190 and 6121.01 both currently contain provisions stating that these rules will be in effect for a pilot period to coincide with the pilot period for the LULD Plan (including any extensions to the pilot period for the Plan). Because the LULD Plan now operates on a permanent basis, the proposed rule change is necessary to delete the pilot period language from Rules 6190 and 6121.01 to make clear that these rules also now operate on a permanent basis, consistent with the Plan.

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, so that the operative date of the proposed rule change will be the same as the date of SEC approval of the Eighteenth Amendment to the Plan.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁸ which requires, among other things, that FINRA rules must be designed to

⁶ See Securities Exchange Act Release No. 68985 (February 25, 2013), 78 FR 13922 (March 1, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2013-016).

⁷ See Securities Exchange Act Release No. 81824 (October 5, 2017), 82 FR 47586 (October 12, 2017) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2017-031).

⁸ 15 U.S.C. 78o-3(b)(6).

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 proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act⁹ in that it seeks to assure fair competition among brokers and dealers and among exchange markets. FINRA believes that the proposed rule change meets these requirements in that it facilitates compliance with the Plan, which has been approved and found by the Commission to be reasonably designed to prevent potentially harmful price volatility in NMS Stocks. Accordingly, FINRA believes that the proposed rules will further the goals of investor protection and fair and orderly markets.

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 is necessary to reflect that the LULD Plan no longer operates as a pilot and has been approved to operate on a permanent basis by the Commission; likewise, Rules 6190 and 6121.01, which implement the requirements of the Plan, must be amended to operate on a permanent basis.

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

⁹ 15 U.S.C. 78k-1(a)(1).

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

A proposed rule change filed under Rule 19b-4(f)(6)¹² normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹³ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that FINRA may implement the proposed rule change immediately. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the Commission approved making the Plan pilot permanent on April 11, 2019, and therefore FINRA's proposed changes to its rules reflecting that the Plan is now permanent should go into effect immediately. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.¹⁴

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

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Commission has waived the pre-filing requirement.

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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.

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-2019-013 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-2019-013. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2019-013 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.¹⁵

Jill M. Peterson
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).