

## OMB APPROVAL

OMB Number: 3235-0045  
Expires: June 30, 2007  
Estimated average burden  
hours per response.....38

Page 1 of 8

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. SR - 2007 - 044  
Amendment No. 1

Proposed Rule Change by National Association of Securities Dealers  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

|                                     |                                                                               |                                        |                                                                                                                      |                                                                                                                      |                                                 |
|-------------------------------------|-------------------------------------------------------------------------------|----------------------------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| Initial<br><input type="checkbox"/> | Amendment<br><input checked="" type="checkbox"/>                              | Withdrawal<br><input type="checkbox"/> | Section 19(b)(2)<br><input checked="" type="checkbox"/>                                                              | Section 19(b)(3)(A)<br><input type="checkbox"/>                                                                      | Section 19(b)(3)(B)<br><input type="checkbox"/> |
|                                     |                                                                               |                                        | Rule                                                                                                                 |                                                                                                                      |                                                 |
| Pilot<br><input type="checkbox"/>   | Extension of Time Period<br>for Commission Action<br><input type="checkbox"/> | Date Expires<br><input type="text"/>   | <input type="checkbox"/> 19b-4(f)(1)<br><input type="checkbox"/> 19b-4(f)(2)<br><input type="checkbox"/> 19b-4(f)(3) | <input type="checkbox"/> 19b-4(f)(4)<br><input type="checkbox"/> 19b-4(f)(5)<br><input type="checkbox"/> 19b-4(f)(6) |                                                 |

Exhibit 2 Sent As Paper Document  
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Exhibit 3 Sent As Paper Document  
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**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

**Contact Information**

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name  Last Name   
Title   
E-mail   
Telephone  Fax

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By   
(Name)

(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Gary Goldsholle,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

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**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

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**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

On June 29, 2007, NASD filed SR-NASD-2007-044 to amend Rule 2860 to expand the class of entities permitted to use the delta hedging exemption from equity options position limits. The SEC published the proposed rule change for comment on August 6, 2007. The SEC received one comment letter strongly endorsing the proposed rule change.<sup>1</sup> Notwithstanding the strong support for the proposed rule change, FINRA proposes several “technical” amendments to the proposed rule change.

1. On pages 4 and 28, FINRA is amending paragraph (b)(2)(GG) to show the deletion of the word “stock” and inclusion of the word “security” from the current rule text. Paragraph (b)(2)(GG) should state:

(GG) Net Delta – the term “net delta” means the number of shares that must be maintained (either long or short) to offset the risk that the value of an equity [stock] options position will change with incremental changes in the price of the [stock] security underlying the options position.

2. On pages 11 and 35, FINRA is deleting the “(ies)” from paragraphs (b)(3)(A)(vii)b.2.A. and B. The proposed rule change permits delta hedging only on a single security, not baskets or combinations of securities; thus, the reference to multiple underlying securities should be deleted.

3. On pages 13 and 37, FINRA is deleting the “(ies)” from paragraph (b)(3)(A)(vii)b.2.C.i. The proposed rule change permits delta hedging only on a single security, not a basket or combination of securities; thus, the reference to multiple underlying securities should be deleted.

4. On page 22 (lines 1 and 5) and page 44 (lines 12 and 16), FINRA is deleting the words “or securities.” The proposed rule change permits delta hedging only on a single security, not baskets or combinations of securities; thus, the reference to multiple underlying securities should be deleted.

5. On page 24 (line 6) and page 46 (line 16), FINRA is clarifying its examination and surveillance responsibilities. Specifically, the phrase “or the processes that develop a model” has been removed. The revised text should state:

... (b) determining that the eligible broker-dealers represent that they have made any reduction from such net option positions pursuant to and in accordance with the applicable models for delta hedging that have been approved by an applicable federal regulator.

6. On pages 16, 24 and 47, FINRA is replacing the discussion of the effective date of the proposed rule change with the following paragraph:

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<sup>1</sup> Letter from John R. Vitha, Chairman, Derivative Products Committee, Securities Industry and Financial Markets Association, to Nancy M. Morris, Secretary, Securities and Exchange Commission, dated September 25, 2007.

FINRA wishes to ensure that the necessary technology changes are completed to the Options Clearing Corporation (“OCC”) and Securities Industry Automation Corporation (“SIAC”) reports that will be used for position limit surveillance. 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 February 1, 2008, or such later date as may be necessary to ensure that the required OCC and SIAC technology changes have been completed.

**EXHIBIT 4**

**Amendment No. 1 to  
SR-NASD-2007-044**

Exhibit 4 shows the text of the proposed rule change marked to show changes from the text of Rule 2860 as proposed on June 29, 2007, in the original rule filing, SR-NASD-2007-044, with the proposed text shown as if adopted, and the new text marked to show additions and deletions. Proposed new language is underlined, and proposed deletions are in [brackets].

\* \* \* \* \*

**2800. SPECIAL PRODUCTS**

\* \* \* \* \*

**2860. Options**

(a) No Change.

**(b) Requirements**

(1) No Change.

**(2) Definitions**

The following terms shall, unless the context otherwise requires, have the stated meanings:

(A) through (FF) No Change.

(GG) Net Delta – the term “net delta” means the number of shares that must be maintained (either long or short) to offset the risk that the value of an equity options position will change with incremental changes in the price of the [stock] security underlying the options position.

(HH) through (DDD) No Change.

**(3) Position Limits**

(A) Stock Options—Except in highly unusual circumstances, and with the prior written approval of NASD pursuant to the Rule 9600 Series for good cause shown in each instance, no member shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, non-member broker, or non-member dealer, an opening transaction through Nasdaq, the over-the-counter market or on any exchange in a stock option contract of any class of stock options if the member has reason to believe that as a result of such transaction the member or partner, officer, director or employee thereof, or customer, non-member broker, or non-member dealer, would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate equity options position in excess of:

(i) through (vi) No Change.

(vii) Equity Options Hedge Exemptions

a. No Change.

b. Delta Hedging Exemption For Members and Non-Member Affiliates

An equity options position of a member or non-member affiliate in standardized and/or conventional equity options that is delta neutral under a Permitted Pricing Model shall be exempt from position limits under this rule. Any equity options position of such member or non-member affiliate that is not delta neutral shall

be subject to position limits, subject to the availability of other options position limit exemptions. The number of options contracts attributable to a position that is not delta neutral shall be the options contract equivalent of the net delta.

1. No Change.

2. Effect on Aggregation of Account Positions

A. Members and non-member affiliates who rely on this exemption must ensure that the Permitted Pricing Model is applied to all positions in or relating to the security[(ies)] underlying the relevant options position that are owned or controlled by such member or non-member affiliate.

B. Notwithstanding subparagraph b.2.A. of this Rule, the Net Delta of an options position held by an entity entitled to rely on this exemption, or by a separate and distinct trading unit of such entity, may be calculated without regard to positions in or relating to the security[(ies)] underlying the options position held by an affiliated entity or by another trading unit within the same entity, provided that:

i. through ii. No Change.

C. Notwithstanding subparagraph b.2.A. or b.2.B. of this Rule, a member or non-member

affiliate who relies on this exemption shall designate, by prior written notice to NASD, each trading unit or entity whose options positions are required under NASD Rules to be aggregated with the option positions of such member or non-member affiliate that is relying on this exemption for purposes of compliance with NASD position limits or exercise limits. In any such case:

i. the Permitted Pricing Model shall be applied, for purposes of calculating such member's or affiliate's net delta, only to the positions in or relating to the security[(ies)] underlying any relevant option position owned and controlled by those entities and trading units who are relying on this exemption; and

ii. No Change.

3. through 4. No Change.

(viii) No Change.

(B) through (D) No Change.

(4) through (24) No Change.

(c) No Change.

\* \* \* \* \*