

Proposed Rule Change by Financial Industry Regulatory Authority
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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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	<input type="text" value="Lisa"/>	Last Name	<input type="text" value="Horrigan"/>
Title	<input type="text" value="Associate General Counsel"/>		
E-mail	<input type="text" value="lisa.horrigan@finra.org"/>		
Telephone	<input type="text" value="(202) 728-8190"/>	Fax	<input type="text" value="(202) 728-8264"/>

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	<input type="text" value="12/18/2007"/>
By	<input type="text" value="Stephanie Dumont"/>
	(Name)
	<input type="text" value="Vice President and Associate General Counsel"/>
	(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.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information

Add Remove View

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

Add Remove View

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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Exhibit Sent As Paper Document

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 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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 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

Add Remove View

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

Add Remove View

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.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) this Amendment No. 1 to SR-FINRA-2007-012, which proposed to amend FINRA’s trade reporting rules to require that on any non-tape report (a non-tape, non-clearing report or a clearing-only report) submitted to a FINRA Facility (i.e., the Alternative Display Facility (“ADF”), a Trade Reporting Facility (“TRF”)² or the OTC Reporting Facility (“ORF”)) associated with a previously executed trade that was not reported to that same FINRA Facility, members identify the facility or market where the associated trade was reported (the “original filing”).

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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6000. NASD SYSTEMS AND PROGRAMS

6100. CLEARING AND COMPARISON RULES

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation, Inc. Accordingly, the TRFs are now doing business as the FINRA TRFs (i.e., the FINRA/Nasdaq TRF, the FINRA/NSX TRF and the FINRA/NYSE TRF). The formal name change of each TRF is pending and once completed, FINRA will file a separate proposed rule change to reflect those changes in the Manual. As discussed below, a fourth TRF, the FINRA/BSE TRF, closed in September 2007.

6130. Trade Report Input

(a) through (h) No Change.

(i) **Submission of Non-Tape Reports Associated With Previously Executed**

Trades

(1) Members shall not submit to the System any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632(d), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

6000A. NASD ADF SYSTEMS AND PROGRAMS

6100A. TRACS TRADE COMPARISON SERVICE

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6130A. Trade Report Input

(a) through (c) No Change.

(d) **Submission of Non-Tape Reports Associated With Previously Executed**

Trades

(1) Members shall not submit to TRACS any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to TRACS, unless such report is submitted, pursuant to Rule 4632A(e), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to TRACS must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

6000C. NASD/NSX TRADE REPORTING FACILITY SYSTEMS AND PROGRAMS

6100C. CLEARING AND COMPARISON RULES

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6130C. Trade Report Input

(a) through (g) No Change.

(h) **Submission of Non-Tape Reports Associated With Previously Executed**

Trades

(1) Members shall not submit to the System any non-tape report (either a

non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632C(d), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

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6000E. NASD/NYSE TRADE REPORTING FACILITY SYSTEMS AND PROGRAMS

6100E. CLEARING AND COMPARISON RULES

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6130E. Trade Report Input

(a) through (g) No Change.

(h) **Submission of Non-Tape Reports Associated With Previously Executed**

Trades

(1) Members shall not submit to the System any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed

trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632E(e), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The Executive Committee of the Board of Governors of FINRA (then known as NASD) approved and authorized the filing of this proposed rule change with the Commission by Unanimous Written Consent on February 16, 2007. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA will announce the operative date of the proposed rule change on its website. In recognition of the technological and systems changes that the proposed rule change will require, the operative date will be at least 90 days following Commission approval.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

FINRA is filing this Amendment No. 1 to make clarifying changes to the original filing to address the Commission staff's comments and to consolidate the proposed and existing rules relating to the submission of non-tape reports (either non-tape, non-clearing reports or clearing-only reports) associated with previously executed trades. In addition, this Amendment No. 1 omits the references to the NASD/BSE Trade Reporting Facility (the "NASD/BSE TRF") and the proposed changes to NASD Rule 6130D that were included in the original filing, in light of the closing of the NASD/BSE TRF on September 21, 2007 and the subsequent deletion of the NASD Rule 6000D Series from the Manual.³

Background

Certain transactions can be trade reported in related tape (i.e., the transaction is reported to the tape for publication) and non-tape (i.e., the transaction is not reported to the tape for publication but is reported for clearing or regulatory purposes) reports. Non-tape reports can be (1) "non-tape, non-clearing," i.e. the transaction is not reported to the tape and is submitted to FINRA for regulatory – and not clearing – purposes, or (2) "clearing-only," i.e., the transaction is not reported to the tape and is submitted to FINRA for clearing (and perhaps also regulatory) purposes.

³ See Securities Exchange Act Release No. 56644 (October 11, 2007), 72 FR 58920 (October 17, 2007) (notice of filing and immediate effectiveness of SR-FINRA-2007-016). The operative date of SR-FINRA-2007-016 was October 9, 2007.

A riskless principal transaction⁴ can be submitted to FINRA as a single trade report properly marked as riskless principal, or as two separate reports: (1) a tape report to reflect the initial leg of the transaction and (2) a non-tape report to reflect the offsetting, “riskless” leg of the transaction. For example, where the initial leg of a riskless principal transaction is executed on and reported through an exchange (often referred to as the “street leg” or “street side”), a tape report is not submitted to FINRA to reflect the initial leg; however, members are permitted, but not required, to submit a non-tape report to FINRA for the offsetting, “riskless” leg of the transaction. Similarly, agency transactions where one member acts as agent on behalf of another member, which transactions are the functional equivalent of riskless principal transactions, can also be reported in related tape and non-tape reports. Thus, for example, similar to the riskless principal reporting structure, where Member A, as agent for Member B, executes a trade on an exchange (and that trade is reported to the tape through the exchange), Member A may submit a non-tape report to FINRA to reflect the offsetting portion of the agency trade between Member A and Member B.⁵ Currently, a non-tape report provides no specific information pertaining to a related tape report and as such, it is difficult for FINRA to determine where the associated trade was reported, especially if that trade was reported to an exchange or another FINRA Facility.

⁴ For purposes of over-the-counter trade reporting requirements applicable to equity securities, a “riskless principal” transaction is a transaction in which a member, after having received an order to buy (sell) a security, purchases (sells) the security as principal (the initial leg) and satisfies the original order by selling (buying) as principal at the same price (the offsetting, “riskless” leg).

⁵ See FINRA [Regulatory Notice](#) 07-38 (August 2007).

Proposed Amendments to NASD Rules 6130, 6130A, 6130C and 6130E

FINRA is proposing to amend NASD Rules 6130 (relating to the NASD/Nasdaq TRF and ORF), 6130A (relating to the ADF), 6130C (relating to the NASD/NSX TRF) and 6130E (relating to the NASD/NYSE TRF) to require that on any non-tape report (either a non-tape, non-clearing report or a clearing-only report) submitted to a FINRA Facility associated with a previously executed trade that was not reported to that same FINRA Facility, members identify the facility or market where the associated trade was reported. The proposed rule change also requires that members retain and produce to FINRA, upon request, documentation relating to the associated trade (e.g., a confirmation from the exchange identifying the “street side” of a riskless principal transaction).

For example, pursuant to the proposed rule change, if the initial leg of a riskless principal (or agency) transaction is executed on and reported through the Nasdaq Exchange, a member submitting a non-tape report for the offsetting leg of the transaction to the NASD/Nasdaq TRF would be required to use a special indicator on that report to designate that the initial leg was reported through the Nasdaq Exchange. By way of further example, if the initial leg is executed otherwise than on an exchange and reported to the NASD/NYSE TRF, a member submitting a non-tape report for the offsetting leg to the NASD/Nasdaq TRF would be required to use a special indicator on that report to designate that the initial leg was reported to the NASD/NYSE TRF. Finally, if the initial leg is executed on and reported through a foreign exchange,⁶ a member submitting a non-tape report for the offsetting leg to the ORF would be required to use a special indicator

⁶ This leg would not be reported to FINRA pursuant to NASD Rule 6620(g).

on that report to designate that the initial leg was reported through a foreign exchange.

In addition, FINRA is proposing to clarify and consolidate into a single paragraph in NASD Rules 6130, 6130A, 6130C and 6130E the rules relating to the submission of non-tape reports associated with previously executed trades. Pursuant to current Rules 6130(i), 6130A(d), 6130C(h) and 6130E(h), members are prohibited from submitting to a FINRA Facility any non-tape report, including but not limited to reports of step-outs and reversals, associated with a previously executed trade that was not reported to that FINRA Facility, except where such report reflects the offsetting, “riskless” portion of a riskless principal transaction.⁷ This exception also applies to agency transactions where a FINRA member is acting as agent on behalf of another FINRA member.⁸ The requirement proposed herein, i.e., that a member identify on a non-tape report the market or facility where an associated trade was reported, would apply where a transaction falls within this exception for riskless principal or agency transactions and the related tape and non-tape reports are submitted to different FINRA Facilities or the non-tape report is associated with a trade that was reported to the tape through an exchange. Thus, for ease of reference, FINRA is proposing to include the proposed requirement that members identify the facility or market where the associated trade was reported in the same paragraph with the prohibition on the submission of certain non-tape reports to FINRA in

⁷ See Securities Exchange Act Release No. 55962 (June 26, 2007), 72 FR 36536 (July 3, 2007) (notice of filing and immediate effectiveness of SR-NASD-2007-040). SR-NASD-2007-040 became operative on November 5, 2007. See also FINRA Regulatory Notice 07-38 (August 2007).

⁸ See FINRA Regulatory Notice 07-38 (August 2007).

current NASD Rules 6130(i), 6130A(d), 6130C(h) and 6130E(h)⁹ and to clarify that the proposed requirement applies where a non-tape report is permitted pursuant to current Rules 6130(i), 6130A(d), 6130C(h) and 6130E(h).

FINRA believes that the proposed rule change will promote a more complete and accurate audit trail. Additionally, the proposed rule change will help ensure that members are not using non-tape reports to circumvent FINRA or SEC rules (e.g., trade-through rules).

As noted in Item 2 of this filing, FINRA will announce the operative date of the proposed rule change on its website. In recognition of the technological and systems changes that the proposed rule change will require, the operative date will be at least 90 days following Commission approval.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁰ which requires, among other things, that FINRA rules 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 promote a more complete and accurate audit trail.

⁹ In the original filing, FINRA proposed to include the requirement that members identify the facility or market where the associated trade was reported in proposed new Rules 6130(d)(15), 6130A(e), 6130C(d)(14) and 6130E(d)(14). In the original filing, FINRA also proposed new Rule 6130D(d)(14), which is not proposed in this Amendment No. 1 in light of the closing of the NASD/BSE TRF and the deletion of the Rule 6000D Series from the Manual.

¹⁰ 15 U.S.C. 78o-3(b)(6).

4. 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.

5. 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.

6. Extension of Time Period for Commission Action

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.¹¹

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 4. Exhibit 4 shows changes to the text of the proposed rule change pursuant to this Amendment No. 1, marked to show additions to and deletions from the text as proposed in the original filing.

¹¹ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2007-012)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change to Amend Trade Reporting Rules to Require Related Market Center Indicator on Certain Non-Tape Reports Submitted to FINRA

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 September 12, 2007, 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”) proposed rule change SR-FINRA-2007-012 as described in Items I, II, and III below, which Items have been prepared by FINRA. On, FINRA filed Amendment No. 1 to the proposed rule change. 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 its trade reporting rules to require that on any non-tape report (a non-tape, non-clearing report or a clearing-only report) submitted to a FINRA Facility (i.e., the Alternative Display Facility (“ADF”), a Trade Reporting Facility (“TRF”)³ or the OTC Reporting Facility (“ORF”)) associated with a previously

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation, Inc. Accordingly, the TRFs are now doing business as the FINRA TRFs (i.e., the FINRA/Nasdaq TRF, the FINRA/NSX TRF and the FINRA/NYSE TRF). The formal name change of each TRF is pending and once completed, FINRA will file a separate proposed

executed trade that was not reported to that same FINRA Facility, members identify the facility or market where the associated trade was reported (the “original filing”).

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

6000. NASD SYSTEMS AND PROGRAMS

6100. CLEARING AND COMPARISON RULES

* * * * *

6130. Trade Report Input

(a) through (h) No Change.

(i) **Submission of Non-Tape Reports Associated With Previously Executed**

Trades

(1) Members shall not submit to the System any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632(d), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report,

rule change to reflect those changes in the Manual. As discussed below, a fourth TRF, the FINRA/BSE TRF, closed in September 2007.

members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

6000A. NASD ADF SYSTEMS AND PROGRAMS

6100A. TRACS TRADE COMPARISON SERVICE

* * * * *

6130A. Trade Report Input

(a) through (c) No Change.

(d) Submission of Non-Tape Reports Associated With Previously Executed

Trades

(1) Members shall not submit to TRACS any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to TRACS, unless such report is submitted, pursuant to Rule 4632A(e), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to TRACS must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

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6000C. NASD/NSX TRADE REPORTING FACILITY SYSTEMS AND PROGRAMS

6100C. CLEARING AND COMPARISON RULES

* * * * *

6130C. Trade Report Input

(a) through (g) No Change.

(h) Submission of Non-Tape Reports Associated With Previously Executed

Trades

(1) Members shall not submit to the System any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632C(d), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

6000E. NASD/NYSE TRADE REPORTING FACILITY SYSTEMS AND PROGRAMS

6100E. CLEARING AND COMPARISON RULES

* * * * *

6130E. Trade Report Input

(a) through (g) No Change.

(h) Submission of Non-Tape Reports Associated With Previously Executed Trades

(1) Members shall not submit to the System any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632E(e), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

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 is filing this Amendment No. 1 to make clarifying changes to the original filing to address the Commission staff's comments and to consolidate the proposed and existing rules relating to the submission of non-tape reports (either non-tape, non-clearing reports or clearing-only reports) associated with previously executed trades. In addition, this Amendment No. 1 omits the references to the NASD/BSE Trade Reporting Facility (the "NASD/BSE TRF") and the proposed changes to NASD Rule 6130D that were included in the original filing, in light of the closing of the NASD/BSE TRF on September 21, 2007 and the subsequent deletion of the NASD Rule 6000D Series from the Manual.⁴

Background

Certain transactions can be trade reported in related tape (i.e., the transaction is reported to the tape for publication) and non-tape (i.e., the transaction is not reported to the tape for publication but is reported for clearing or regulatory purposes) reports. Non-tape reports can be (1) "non-tape, non-clearing," i.e. the transaction is not reported to the tape and is submitted to FINRA for regulatory – and not clearing – purposes, or (2)

⁴ See Securities Exchange Act Release No. 56644 (October 11, 2007), 72 FR 58920 (October 17, 2007) (notice of filing and immediate effectiveness of SR-FINRA-2007-016). The operative date of SR-FINRA-2007-016 was October 9, 2007.

“clearing-only,” i.e., the transaction is not reported to the tape and is submitted to FINRA for clearing (and perhaps also regulatory) purposes.

A riskless principal transaction⁵ can be submitted to FINRA as a single trade report properly marked as riskless principal, or as two separate reports: (1) a tape report to reflect the initial leg of the transaction and (2) a non-tape report to reflect the offsetting, “riskless” leg of the transaction. For example, where the initial leg of a riskless principal transaction is executed on and reported through an exchange (often referred to as the “street leg” or “street side”), a tape report is not submitted to FINRA to reflect the initial leg; however, members are permitted, but not required, to submit a non-tape report to FINRA for the offsetting, “riskless” leg of the transaction. Similarly, agency transactions where one member acts as agent on behalf of another member, which transactions are the functional equivalent of riskless principal transactions, can also be reported in related tape and non-tape reports. Thus, for example, similar to the riskless principal reporting structure, where Member A, as agent for Member B, executes a trade on an exchange (and that trade is reported to the tape through the exchange), Member A may submit a non-tape report to FINRA to reflect the offsetting portion of the agency trade between Member A and Member B.⁶ Currently, a non-tape report provides no specific information pertaining to a related tape report and as such, it is difficult for

⁵ For purposes of over-the-counter trade reporting requirements applicable to equity securities, a “riskless principal” transaction is a transaction in which a member, after having received an order to buy (sell) a security, purchases (sells) the security as principal (the initial leg) and satisfies the original order by selling (buying) as principal at the same price (the offsetting, “riskless” leg).

⁶ See FINRA Regulatory Notice 07-38 (August 2007).

FINRA to determine where the associated trade was reported, especially if that trade was reported to an exchange or another FINRA Facility.

Proposed Amendments to NASD Rules 6130, 6130A, 6130C and 6130E

FINRA is proposing to amend NASD Rules 6130 (relating to the NASD/Nasdaq TRF and ORF), 6130A (relating to the ADF), 6130C (relating to the NASD/NSX TRF) and 6130E (relating to the NASD/NYSE TRF) to require that on any non-tape report (either a non-tape, non-clearing report or a clearing-only report) submitted to a FINRA Facility associated with a previously executed trade that was not reported to that same FINRA Facility, members identify the facility or market where the associated trade was reported. The proposed rule change also requires that members retain and produce to FINRA, upon request, documentation relating to the associated trade (e.g., a confirmation from the exchange identifying the “street side” of a riskless principal transaction).

For example, pursuant to the proposed rule change, if the initial leg of a riskless principal (or agency) transaction is executed on and reported through the Nasdaq Exchange, a member submitting a non-tape report for the offsetting leg of the transaction to the NASD/Nasdaq TRF would be required to use a special indicator on that report to designate that the initial leg was reported through the Nasdaq Exchange. By way of further example, if the initial leg is executed otherwise than on an exchange and reported to the NASD/NYSE TRF, a member submitting a non-tape report for the offsetting leg to the NASD/Nasdaq TRF would be required to use a special indicator on that report to designate that the initial leg was reported to the NASD/NYSE TRF. Finally, if the initial leg is executed on and reported through a foreign exchange,⁷ a member submitting a non-

⁷ This leg would not be reported to FINRA pursuant to NASD Rule 6620(g).

tape report for the offsetting leg to the ORF would be required to use a special indicator on that report to designate that the initial leg was reported through a foreign exchange.

In addition, FINRA is proposing to clarify and consolidate into a single paragraph in NASD Rules 6130, 6130A, 6130C and 6130E the rules relating to the submission of non-tape reports associated with previously executed trades. Pursuant to current Rules 6130(i), 6130A(d), 6130C(h) and 6130E(h), members are prohibited from submitting to a FINRA Facility any non-tape report, including but not limited to reports of step-outs and reversals, associated with a previously executed trade that was not reported to that FINRA Facility, except where such report reflects the offsetting, “riskless” portion of a riskless principal transaction.⁸ This exception also applies to agency transactions where a FINRA member is acting as agent on behalf of another FINRA member.⁹ The requirement proposed herein, i.e., that a member identify on a non-tape report the market or facility where an associated trade was reported, would apply where a transaction falls within this exception for riskless principal or agency transactions and the related tape and non-tape reports are submitted to different FINRA Facilities or the non-tape report is associated with a trade that was reported to the tape through an exchange. Thus, for ease of reference, FINRA is proposing to include the proposed requirement that members identify the facility or market where the associated trade was reported in the same paragraph with the prohibition on the submission of certain non-tape reports to FINRA in

⁸ See Securities Exchange Act Release No. 55962 (June 26, 2007), 72 FR 36536 (July 3, 2007) (notice of filing and immediate effectiveness of SR-NASD-2007-040). SR-NASD-2007-040 became operative on November 5, 2007. See also FINRA Regulatory Notice 07-38 (August 2007).

⁹ See FINRA Regulatory Notice 07-38 (August 2007).

current NASD Rules 6130(i), 6130A(d), 6130C(h) and 6130E(h)¹⁰ and to clarify that the proposed requirement applies where a non-tape report is permitted pursuant to current Rules 6130(i), 6130A(d), 6130C(h) and 6130E(h).

FINRA believes that the proposed rule change will promote a more complete and accurate audit trail. Additionally, the proposed rule change will help ensure that members are not using non-tape reports to circumvent FINRA or SEC rules (e.g., trade-through rules).

FINRA will announce the operative date of the proposed rule change on its website. In recognition of the technological and systems changes that the proposed rule change will require, the operative date will be at least 90 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,¹¹ which requires, among other things, that FINRA rules 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 promote a more complete and accurate audit trail.

¹⁰ In the original filing, FINRA proposed to include the requirement that members identify the facility or market where the associated trade was reported in proposed new Rules 6130(d)(15), 6130A(e), 6130C(d)(14) and 6130E(d)(14). In the original filing, FINRA also proposed new Rule 6130D(d)(14), which is not proposed in this Amendment No. 1 in light of the closing of the NASD/BSE TRF and the deletion of the Rule 6000D Series from the Manual.

¹¹ 15 U.S.C. 78o-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

Within 35 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 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-2007-012 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2007-012. 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. 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-2007-012 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Nancy M. Morris
Secretary

¹² 17 CFR 200.30-3(a)(12).

EXHIBIT 4

Exhibit 4 shows the changes proposed in this Amendment No. 1, with the proposed changes in the original filing shown as if adopted. Proposed new language in this Amendment No. 1 is underlined; proposed deletions in this Amendment No. 1 are in brackets.

* * * * *

6000. NASD SYSTEMS AND PROGRAMS

6100. CLEARING AND COMPARISON RULES

* * * * *

6130. Trade Report Input

(a) through (c) No Change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (14) No Change.

[(15) Any clearing-only or non-tape, non-clearing report associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.]

(e) through (h) No Change.

(i) Submission of Non-Tape Reports Associated With Previously Executed

Trades

(1) Members shall not submit to the System any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to the System, unless such report is submitted,

pursuant to Rule 4632(d), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

6000A. NASD ADF SYSTEMS AND PROGRAMS

6100A. TRACS TRADE COMPARISON SERVICE

* * * * *

6130A. Trade Report Input

(a) through (c) No Change.

(d) Submission of Non-Tape Reports Associated With Previously Executed

Trades

(1) Members shall not submit to TRACS any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to TRACS, unless such report is submitted, pursuant to Rule 4632A(e), to reflect the offsetting riskless portion of a riskless principal transaction.

[(e)](2) Where permitted by subparagraph (1) above, [A]any [clearing-

only or] non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to TRACS must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

6000C. NASD/NSX TRADE REPORTING FACILITY SYSTEMS AND PROGRAMS

6100C. CLEARING AND COMPARISON RULES

* * * * *

6130C. Trade Report Input

(a) through (c) No Change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (13) No Change.

[(14) Any clearing-only or non-tape, non-clearing report associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.]

(e) through (g) No Change.

(h) Submission of Non-Tape Reports Associated With Previously Executed

Trades

(1) Members shall not submit to the System any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632C(d), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *

6000D. NASD/BSE TRADE REPORTING FACILITY SYSTEMS AND PROGRAMS¹

6100D. CLEARING AND COMPARISON RULES

* * * * *

6130D. Trade Report Input

(a) through (c) No Change.

(d) Trade Information To Be Input

¹ As discussed above, the NASD Rule 6000D Series was deleted in its entirety pursuant to SR-FINRA-2007-016 and no longer appears in the Manual. See Securities Exchange Act Release No. 56644 (October 11, 2007), 72 FR 58920 (October 17, 2007) (notice of filing and immediate effectiveness of SR-FINRA-2007-016).

Each report to the System shall contain the following information:

(1) through (13) No Change.

[(14) Any clearing-only or non-tape, non-clearing report associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.]

(e) through (h) No Change.

* * * * *

6000E. NASD/NYSE TRADE REPORTING FACILITY SYSTEMS AND PROGRAMS

6100E. CLEARING AND COMPARISON RULES

* * * * *

6130E. Trade Report Input

(a) through (c) No Change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (13) No Change.

[(14) Any clearing-only or non-tape, non-clearing report associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.]

(e) through (g) No Change.

(h) Submission of Non-Tape Reports Associated With Previously Executed

Trades

(1) Members shall not submit to the System any non-tape report (either a non-tape, non-clearing report or a clearing-only report), including but not limited to reports of step-outs and reversals[]], associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632E(e), to reflect the offsetting riskless portion of a riskless principal transaction.

(2) Where permitted by subparagraph (1) above, any non-tape report (either a non-tape, non-clearing report or a clearing-only report) associated with a previously executed trade that was not reported to the System must identify the facility or market where the associated trade was reported. For any such report, members must retain and produce, upon request, documentation relating to the associated trade.

* * * * *