

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 23	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2013 - * 016 Amendment No. (req. for Amendments *)
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Filing by Financial Industry Regulatory Authority  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" 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"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires * <input type="text"/>			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) <input type="checkbox"/>	Section 3C(b)(2) <input type="checkbox"/>
Section 806(e)(2) <input type="checkbox"/>	

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 action (limit 250 characters, required when Initial is checked \*).

Proposed Rule Change to Amend FINRA Rules in Accordance with the Regulation NMS Plan to Address Extraordinary Market Volatility

**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 action.

First Name \* Lisa Last Name \* Horrigan  
 Title \* Associate General Counsel  
 E-mail \* lisa.horrigan@finra.org  
 Telephone \* (202) 728-8190 Fax (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.

(Title \*)  
 Senior Vice President and Director of Capital Markets Policy

Date 02/11/2013  
 By Stephanie M. Dumont  
 (Name \*)

Stephanie Dumont,

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 EFFF 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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies**

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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, security-based swap submission, or advance notice 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**

Add Remove View

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 the Proposed Rule Change**

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend FINRA rules in accordance with the provisions of the Regulation NMS Plan to Address Extraordinary Market Volatility.

The text of the proposed rule change is attached as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

The proposed rule change has been approved by the Chief Executive Officer of FINRA pursuant to delegated authority. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change shall be the implementation date of the Regulation NMS Plan to Address Extraordinary Market Volatility, which currently is expected to be April 8, 2013.

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

(a) Purpose

On May 31, 2012, the Commission approved a joint industry plan to address extraordinary market volatility (“Limit Up-Limit Down” or the “Plan”) filed by FINRA

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

and the other self-regulatory organizations (“Participants”)<sup>2</sup> pursuant to Section 11A of the Act<sup>3</sup> and Rule 608 thereunder.<sup>4</sup> The Limit Up-Limit Down mechanism is intended to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010 by generally prohibiting the display of offers at prices below the lower price band and bids above the upper price band and the execution of trades outside the price bands for NMS Stocks.<sup>5</sup> The Plan combines the use of the Limit Up-Limit Down mechanism with trading pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). By its terms, the Plan will be implemented on a one-year pilot basis in two phases.<sup>6</sup> Pursuant to the Plan, each

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<sup>2</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (Approval Order). A copy of the Plan is attached as Exhibit A to the Approval Order.

The Plan was subsequently amended to, among other things, revise the implementation schedule, as discussed further below. See Letter dated January 17, 2013 from Janet McGinness, EVP & Corporate Secretary, General Counsel, NYSE Markets, to Elizabeth M. Murphy, Secretary, SEC, available at [www.nyse.com/attachment/LULD\\_Plan\\_Amendment\\_No\\_2.pdf](http://www.nyse.com/attachment/LULD_Plan_Amendment_No_2.pdf).

<sup>3</sup> 15 U.S.C. 78k-1.

<sup>4</sup> 17 CFR 242.608.

<sup>5</sup> The single plan processor responsible for the consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Act shall calculate and disseminate to the public the lower and upper price bands for an NMS Stock during regular trading hours.

<sup>6</sup> Phase I of Plan implementation will begin on April 8, 2013 in select Tier 1 NMS Stock symbols, with full Phase I implementation completed three months after the initial date of Plan operations (or such earlier date as may be announced by the Plan processor with at least 30 days notice). Phase II of the Plan will commence six months after the initial date of the Plan (or such earlier date as may be announced by the Plan processor with at least 30 days notice).

Participant must adopt rules requiring compliance by its members with the provisions of the Plan.<sup>7</sup>

To that end, in furtherance of its obligations under the Plan, FINRA is proposing to: (1) adopt new Rule 6190 (Compliance with Regulation NMS Plan to Address Extraordinary Market Volatility) and (2) amend Rules 5260 (Prohibition on Transactions, Publication of Quotations, or Publication of Indications of Interest During Trading Halts) and 6121 (Trading Halts Due to Extraordinary Market Volatility).

Proposed Rule 6190 requires members that are trading centers 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 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.<sup>8</sup> Under the Plan, the term “trading center” has the meaning set forth in Regulation NMS under the Exchange Act.<sup>9</sup>

FINRA is clarifying that the proposed rule applies to members to the extent that they are trading centers, as defined under the Plan, and are acting as such with respect to

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<sup>7</sup> See Section II(B) of the Plan.

<sup>8</sup> No trades in a paused NMS Stock may occur during the trading pause, but all bids and offers may be displayed. See Section VII(A) of the Plan.

<sup>9</sup> Specifically, Rule 600(b) of Regulation NMS defines “trading center” as a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. 17 CFR 242.600(b).

any given trade or quotation. For example, Firm A is an OTC market maker and also a trading center. Firm A, in its capacity as an OTC market maker, receives a customer order to sell and routes the order to an exchange or other trading center. In that instance, Firm A could rely on the exchange or other trading center to ensure compliance with the Plan, and for example, if the offer were displayed in violation of the Plan, FINRA would not deem Firm A to be in violation of proposed Rule 6190. This rule will be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

Rule 5260 generally prohibits members from directly or indirectly effecting any transaction or publishing any quotation during a trading halt, including a trading pause. Because the Plan permits all bids and offers in an NMS Stock to be displayed during a trading pause, FINRA is proposing to amend Rule 5260 to prohibit member quoting and trading activity during a trading halt, except as permitted under the Plan.

In addition, FINRA is proposing to amend Rule 6121.01 to reflect the Plan's trading pause provisions and to clarify that if trading in an NMS Stock is permitted to resume after a trading pause under the Plan, then FINRA may permit the resumption of trading otherwise than on an exchange in such NMS Stock if trading has commenced on at least one other national securities exchange (i.e., when a transaction has been executed on an exchange, not merely when quoting has commenced on the exchange). This provision will be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

FINRA also is proposing to amend Rule 6121.01 to clarify that the current trading pause provisions will continue to apply to Tier 1 and Tier 2 NMS Stocks until the Plan is

implemented for those securities. As noted above, Phase I of the Plan will begin on April 8, 2013 for certain Tier 1 NMS Stocks. As of that date, Rule 6121.01(b) will not apply to those Tier 1 NMS Stocks, but will continue to apply to all other Tier 1 and Tier 2 NMS Stocks. Upon full implementation of Phase I, this provision will apply only to Tier 2 NMS Stocks and will no longer be in effect upon full implementation of Phase II of the Plan.

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change shall be the implementation date of the Regulation NMS Plan to Address Extraordinary Market Volatility, which currently is expected to be April 8, 2013.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>10</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. The proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act<sup>11</sup> 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, including severe volatility of the kind that occurred on May 6,

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<sup>10</sup> 15 U.S.C. 78o-3(b)(6).

<sup>11</sup> 15 U.S.C. 78k-1(a)(1).

2010. Accordingly, FINRA believes that the proposed rules will further the goals of investor protection and fair and orderly markets.

**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. As discussed above, the Plan requires that the Participants adopt rules requiring compliance by their members with the provisions of the Plan. FINRA believes that the other Participants will file similar proposals, and therefore, the proposed rule change will help to ensure consistent rules across the marketplace. In addition, FINRA does not believe that the Plan introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.<sup>12</sup>

**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**

Not applicable.

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>14</sup> in that the proposed rule change does not significantly affect the protection of investors or the public interest; does

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<sup>12</sup> 15 U.S.C. 78k-1(c)(1)(D).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).



not impose any significant burden on competition; and does not become operative for 30 days after filing or such shorter time as the Commission may designate. In accordance with Rule 19b-4(f)(6),<sup>15</sup> FINRA submitted 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, or such shorter time as the Commission may designate, as specified in Rule 19b-4(f)(6)(iii) under the Act.<sup>16</sup>

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

Not applicable.

**9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**11. Exhibits**

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

Exhibit 5. Text of proposed rule change.

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<sup>15</sup> 17 CFR 240.19b-4(f)(6).

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2013-016)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend FINRA Rules in Accordance with the Regulation NMS Plan to Address Extraordinary Market Volatility

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 , 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 in accordance with the provisions of the Regulation NMS Plan to Address Extraordinary Market Volatility.

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.

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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).

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

On May 31, 2012, the Commission approved a joint industry plan to address extraordinary market volatility ("Limit Up-Limit Down" or the "Plan") filed by FINRA and the other self-regulatory organizations ("Participants")<sup>4</sup> pursuant to Section 11A of the Act<sup>5</sup> and Rule 608 thereunder.<sup>6</sup> The Limit Up-Limit Down mechanism is intended to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010 by generally prohibiting the display of offers at prices below the lower price band and bids above the upper price band and the execution of trades outside the

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<sup>4</sup> See Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (Approval Order). A copy of the Plan is attached as Exhibit A to the Approval Order.

The Plan was subsequently amended to, among other things, revise the implementation schedule, as discussed further below. See Letter dated January 17, 2013 from Janet McGinness, EVP & Corporate Secretary, General Counsel, NYSE Markets, to Elizabeth M. Murphy, Secretary, SEC, available at [www.nyse.com/attachment/LULD\\_Plan\\_Amendment\\_No\\_2.pdf](http://www.nyse.com/attachment/LULD_Plan_Amendment_No_2.pdf).

<sup>5</sup> 15 U.S.C. 78k-1.

<sup>6</sup> 17 CFR 242.608.

price bands for NMS Stocks.<sup>7</sup> The Plan combines the use of the Limit Up-Limit Down mechanism with trading pauses to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). By its terms, the Plan will be implemented on a one-year pilot basis in two phases.<sup>8</sup> Pursuant to the Plan, each Participant must adopt rules requiring compliance by its members with the provisions of the Plan.<sup>9</sup>

To that end, in furtherance of its obligations under the Plan, FINRA is proposing to: (1) adopt new Rule 6190 (Compliance with Regulation NMS Plan to Address Extraordinary Market Volatility) and (2) amend Rules 5260 (Prohibition on Transactions, Publication of Quotations, or Publication of Indications of Interest During Trading Halts) and 6121 (Trading Halts Due to Extraordinary Market Volatility).

Proposed Rule 6190 requires members that are trading centers 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 permitted under the Plan; (2) the display of offers

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<sup>7</sup> The single plan processor responsible for the consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Act shall calculate and disseminate to the public the lower and upper price bands for an NMS Stock during regular trading hours.

<sup>8</sup> Phase I of Plan implementation will begin on April 8, 2013 in select Tier 1 NMS Stock symbols, with full Phase I implementation completed three months after the initial date of Plan operations (or such earlier date as may be announced by the Plan processor with at least 30 days notice). Phase II of the Plan will commence six months after the initial date of the Plan (or such earlier date as may be announced by the Plan processor with at least 30 days notice).

<sup>9</sup> See Section II(B) of the Plan.

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.<sup>10</sup> Under the Plan, the term “trading center” has the meaning set forth in Regulation NMS under the Exchange Act.<sup>11</sup>

FINRA is clarifying that the proposed rule applies to members to the extent that they are trading centers, as defined under the Plan, and are acting as such with respect to any given trade or quotation. For example, Firm A is an OTC market maker and also a trading center. Firm A, in its capacity as an OTC market maker, receives a customer order to sell and routes the order to an exchange or other trading center. In that instance, Firm A could rely on the exchange or other trading center to ensure compliance with the Plan, and for example, if the offer were displayed in violation of the Plan, FINRA would not deem Firm A to be in violation of proposed Rule 6190. This rule will be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

Rule 5260 generally prohibits members from directly or indirectly effecting any transaction or publishing any quotation during a trading halt, including a trading pause. Because the Plan permits all bids and offers in an NMS Stock to be displayed during a trading pause, FINRA is proposing to amend Rule 5260 to prohibit member quoting and trading activity during a trading halt, except as permitted under the Plan.

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<sup>10</sup> No trades in a paused NMS Stock may occur during the trading pause, but all bids and offers may be displayed. See Section VII(A) of the Plan.

<sup>11</sup> Specifically, Rule 600(b) of Regulation NMS defines “trading center” as a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent. 17 CFR 242.600(b).

In addition, FINRA is proposing to amend Rule 6121.01 to reflect the Plan's trading pause provisions and to clarify that if trading in an NMS Stock is permitted to resume after a trading pause under the Plan, then FINRA may permit the resumption of trading otherwise than on an exchange in such NMS Stock if trading has commenced on at least one other national securities exchange (i.e., when a transaction has been executed on an exchange, not merely when quoting has commenced on the exchange). This provision will be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

FINRA also is proposing to amend Rule 6121.01 to clarify that the current trading pause provisions will continue to apply to Tier 1 and Tier 2 NMS Stocks until the Plan is implemented for those securities. As noted above, Phase I of the Plan will begin on April 8, 2013 for certain Tier 1 NMS Stocks. As of that date, Rule 6121.01(b) will not apply to those Tier 1 NMS Stocks, but will continue to apply to all other Tier 1 and Tier 2 NMS Stocks. Upon full implementation of Phase I, this provision will apply only to Tier 2 NMS Stocks and will no longer be in effect upon full implementation of Phase II of the Plan.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change shall be the implementation date of the Regulation NMS Plan to Address Extraordinary Market Volatility, which currently is expected to be April 8, 2013.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>12</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. The proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act<sup>13</sup> 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, including severe volatility of the kind that occurred on May 6, 2010. 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. As discussed above, the Plan requires that the Participants adopt rules requiring compliance by their members with the provisions of the Plan. FINRA believes that the other Participants will file similar proposals, and therefore, the proposed rule change will help to ensure consistent rules across the marketplace. In addition, FINRA does not

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<sup>12</sup> 15 U.S.C. 78o-3(b)(6).

<sup>13</sup> 15 U.S.C. 78k-1(a)(1).

believe that the Plan introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.<sup>14</sup>

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and Rule 19b-4(f)(6) thereunder.<sup>16</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>14</sup> 15 U.S.C. 78k-1(c)(1)(D).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(6).



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-2013-016 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2013-016. 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; 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-2013-016 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>17</sup>

Elizabeth M. Murphy  
Secretary

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

**EXHIBIT 5**

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.<sup>1</sup>

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**5000. SECURITIES OFFERING AND TRADING STANDARDS AND PRACTICES**

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**5200. QUOTATION AND TRADING OBLIGATIONS AND PRACTICES**

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**5260. Prohibition on Transactions, Publication of Quotations, or Publication of Indications of Interest During Trading Halts**

(a) No member or person associated with a member shall, directly or indirectly, effect any transaction or publish a quotation, a priced bid and/or offer, an unpriced indication of interest (including “bid wanted” and “offer wanted” and name only indications), or a bid or offer accompanied by a modifier to reflect unsolicited customer interest, in any security as to which a trading halt is currently in effect, except as permitted under the Regulation NMS Plan to Address Extraordinary Market Volatility. If FINRA closes trading in a security pursuant to its authority under Rule 6120(a)(3), members would not be prohibited from trading through other markets for which trading is not halted.

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<sup>1</sup> The underlying rule text reflects amendments to Rule 6121 that have been approved by the SEC, but are not yet effective. See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (Approval Order; File No. SR-FINRA-2011-054). The operative date of the SR-FINRA-2011-054 amendments is April 8, 2013. See Securities Exchange Act Release No. 68778 (January 31, 2013), 78 FR 8668 (February 6, 2013) (Notice of Filing and Immediate Effectiveness; File No. SR-FINRA-2013-011).

(b) No Change.

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**6000. QUOTATION AND TRANSACTION REPORTING FACILITIES**

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

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**6121. Trading Halts Due to Extraordinary Market Volatility**

Pursuant to the procedures set forth in Rule 6120(b), FINRA shall halt all trading otherwise than on an exchange in any NMS stock, as defined in Rule 600(b)(47) of SEC Regulation NMS, if other major securities markets initiate market-wide trading halts in response to their rules or extraordinary market conditions or if otherwise directed by the Securities and Exchange Commission. Members must halt quoting and trading otherwise than on an exchange in any NMS stock as of the time the market-wide trading halt is publicly disseminated.

••• **Supplementary Material:** -----

**.01 Trading Pauses**

(a) The Regulation NMS Plan to Address Extraordinary Market Volatility (Plan) sets forth the circumstances under which the Primary Listing Exchange shall declare a Trading Pause for an NMS Stock. The Plan expressly provides that no trades in an NMS Stock shall occur during a Trading Pause. The Plan also sets forth the circumstances under which trading in an NMS Stock can resume after a Trading Pause. FINRA may permit the resumption of trading otherwise than on an exchange in such NMS Stock if trading has commenced on at least one other national securities exchange. The

provisions of this paragraph (a) shall be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

(b) For any Tier 1 or Tier 2 NMS Stock for which the Plan has not yet been implemented, [I]if a primary listing market has issued an individual stock trading pause under its Rules, FINRA will halt trading otherwise than on an exchange in that security until trading has resumed on the primary listing market. If, however, trading has not resumed on the primary listing market and ten minutes have passed since the individual stock trading pause message has been received from the responsible single plan processor or the primary listing market has issued notice that it cannot resume trading for a reason other than a significant imbalance, FINRA may permit the resumption of trading otherwise than on an exchange in such stock if trading has commenced on at least one other national securities exchange. Upon implementation of the Plan for any Tier 1 or Tier 2 NMS Stock, this paragraph (b) will cease to apply to that security and paragraph (a) will apply to that security.[(b)] The provisions of [Supplementary Material .01 of this Rule] this paragraph (b) shall be in effect during a pilot period set to end [on the earlier of the initial date of operations of the Regulation NMS Plan to Address Extraordinary Market Volatility or February 4, 2014] upon implementation of Phase II of the Plan. [During the pilot, the provisions in paragraph (a) above shall be in effect with respect to all NMS stocks, other than rights and warrants, covered by the trading pause pilot rules of a primary listing market.]

(c) For purposes of this Supplementary Material .01, the following terms shall have the meanings as set forth in the Regulation NMS Plan to Address Extraordinary

Market Volatility: “NMS Stock,” “Phase II,” “Primary Listing Exchange,” “Tier 1,” “Tier 2” and “Trading Pause.”

**.02 Market-wide Circuit Breakers in NMS Stocks**

(a) through (d) No Change.

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**6190. Compliance with Regulation NMS Plan to Address Extraordinary Market Volatility**

(a) A member that is a trading center in an NMS Stock shall establish, maintain and enforce written policies and procedures that are reasonably designed to comply with the requirements of the Regulation NMS Plan to Address Extraordinary Market Volatility (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 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.

(b) This Rule shall be in effect during a pilot period to coincide with the pilot period for the Plan (including any extensions to the pilot period for the Plan).

**••• Supplementary Material: -----**

**.01 For purposes of this Rule, the following terms shall have the meanings as set forth in the Regulation NMS Plan to Address Extraordinary Market Volatility: “Lower Price Band,” “NMS Stock,” “trading center,” “Trading Pause” and “Upper Price Band.”**

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