

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="50"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2013"/> - * <input type="text" value="056"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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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"/>
			Rule		
Pilot <input type="checkbox"/>	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)(5)
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(6)	<input checked="" type="checkbox"/> 19b-4(f)(3)

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 806(e)(2) * <input type="checkbox"/>
Section 3C(b)(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 Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials)

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 * <input type="text" value="Adam"/>	Last Name * <input type="text" value="Arkel"/>
Title * <input type="text" value="Associate General Counsel"/>	
E-mail * <input type="text" value="adam.arkel@finra.org"/>	
Telephone * <input type="text" value="(202) 728-6961"/>	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.

(Title *)

Date <input type="text" value="12/30/2013"/>	<input type="text" value="Senior Vice President and Deputy General Counsel"/>
By <input type="text" value="Patrice Gliniecki"/>	<input type="text" value="Patrice Gliniecki"/>

(Name *)

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 *

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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 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

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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

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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.

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,” “SEA” or “Exchange Act”),¹ Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend the provisions of FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials) relating to rates of reimbursement for expenses incurred in forwarding proxy and other issuer-related material, to establish a five-year fee for the development of an enhanced brokers internet platform and to make miscellaneous conforming revisions.

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

At its meeting on December 5, 2013, the FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. 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 and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change on January 1, 2014.

¹ 15 U.S.C. 78s(b)(1).

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

(a) Purpose

FINRA Rule 2251 requires FINRA members to transmit proxy materials and other communications to beneficial owners of securities and limits the circumstances in which FINRA members may vote proxies without instructions from those beneficial owners.² The Supplementary Material under FINRA Rule 2251 (FINRA Rule 2251.01) sets forth the rate reimbursement provisions pursuant to which FINRA members are entitled to receive fees in connection with the rule’s forwarding obligations. FINRA has previously indicated that, in the interest of ensuring regulatory clarity and harmonization with respect to proxy rate reimbursement, it intends to conform the rate reimbursement provisions of FINRA Rule 2251 with the New York Stock Exchange (“NYSE”) provisions in this area.³

On February 1, 2013, NYSE filed with the Commission a proposed rule change⁴ to amend the provisions set forth under NYSE Rules 451 and 465, and the related provisions of Section 402.10 of the NYSE Listed Company Manual, for the reimbursement of expenses by issuers to NYSE member organizations for the processing

² FINRA Rule 2251 was adopted as a consolidation of former NASD Rule 2260 and IM-2260 as part of FINRA’s rulebook consolidation process. See Securities Exchange Act Release No. 61052 (November 23, 2009), 74 FR 62857 (December 1, 2009) (Order Granting Approval of Proposed Rule Change; File No. SR-FINRA-2009-066).

³ See Securities Exchange Act Release No. 47392 (February 21, 2003), 68 FR 9730 (February 28, 2003) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-NASD-2003-019).

⁴ See Securities Exchange Act Release No. 68936 (February 15, 2013), 78 FR 12381 (February 22, 2013) (Notice of Filing of Proposed Rule Change; File No. SR-NYSE-2013-07).

and transmission of proxy materials and other issuer communications, and to establish a specified success fee for the development of qualified internet platforms for proxy voting purposes (the “Enhanced Brokers’ Internet Platform” or “EBIP”). The SEC approved NYSE’s proposed rule change on October 18, 2013 (for purposes of this filing, referred to as the “new NYSE proxy rate rules”).⁵ Consistent with the NYSE action, FINRA is proposing to amend FINRA Rule 2251 to establish, in language virtually identical to the corresponding provisions under the new NYSE proxy rate rules, the same rate reimbursement provisions that have been adopted by the NYSE, including the specified success fee for the development of EBIPs, and to delete the provisions under FINRA Rule 2251 that are rendered obsolete by the NYSE rule change, as described below.

- **Processing Unit Fees:** Proposed FINRA Rule 2251.01(a)(1)(B)⁶ establishes, for each set of proxy material, i.e., proxy statement, form of proxy and annual report when processed as a unit, a Processing Unit Fee based on the following schedule according to the number of nominee⁷ accounts through which the issuer’s securities are beneficially owned:
 - 50 cents for each account up to 10,000 accounts;
 - 47 cents for each account above 10,000 accounts, up to 100,000 accounts;

⁵ See Securities Exchange Act Release No. 70720 (October 18, 2013), 78 FR 63530 (October 24, 2013) (Order Granting Approval of Proposed Rule Change; File No. SR-NYSE-2013-07) (the “Approval Order”).

⁶ Proposed FINRA Rule 2251.01(a)(1)(B) corresponds to NYSE Rule 451.90(1)(b).

⁷ Proposed FINRA Rule 2251.01(a)(1)(A)(i) defines “nominee” to mean a broker or bank subject to SEA Rule 14b-1 or Rule 14b-2, respectively. This provision corresponds with NYSE Rule 451.90(1)(a)(i). The new rule, in combination with proposed new FINRA Rule 2251.01(a)(1)(A)(ii) as set forth in note 8 below, replaces current FINRA Rule 2251.01(a)(1)(A).

- 39 cents for each account above 100,000 accounts, up to 300,000 accounts;
- 34 cents for each account above 300,000 accounts, up to 500,000 accounts;
- 32 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers.

The proposed rule change provides that references in the Supplementary Material to the number of accounts means the number of accounts holding securities of the issuer at any nominee that is providing distribution services without the services of an intermediary, or when an intermediary⁸ is involved, the aggregate number of nominee accounts with beneficial ownership in the issuer served by the intermediary. Further, the proposed rule change provides that, in the case of a meeting for which an opposition proxy has been furnished to security holders, the Processing Unit Fee shall be \$1.00 per account, in lieu of the fees in the above schedule.

- **Intermediaries:** Proposed FINRA Rule 2251.01(a)(1)(C)⁹ establishes the following supplemental fees for intermediaries:
 - \$22.00 for each nominee served by the intermediary that has at least one account beneficially owning shares in the issuer;

⁸ Proposed FINRA Rule 2251.01(a)(1)(A)(ii) defines “intermediary” to mean a proxy service provider that coordinates the distribution of proxy or other materials for multiple nominees. This provision corresponds to NYSE Rule 451.90(1)(a)(ii).

⁹ Proposed FINRA Rule 2251.01(a)(1)(C) corresponds to NYSE Rule 451.90(1)(c).

- an Intermediary Unit Fee for each set of proxy material, based on the following schedule according to the number of nominee accounts through which the issuer's securities are beneficially owned:
 - 14 cents for each account up to 10,000 accounts;
 - 13 cents for each account above 10,000 accounts, up to 100,000 accounts;
 - 11 cents for each account above 100,000 accounts, up to 300,000 accounts;
 - 9 cents for each account above 300,000 accounts, up to 500,000 accounts;
 - 7 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. For special meetings, the proposed rule change provides that the Intermediary Unit Fee shall be based on the following schedule, in lieu of the fees described in the schedule above:

- 19 cents for each account up to 10,000 accounts;
- 18 cents for each account above 10,000 accounts, up to 100,000 accounts;
- 16 cents for each account above 100,000 accounts, up to 300,000 accounts;

- 14 cents for each account above 300,000 accounts, up to 500,000 accounts;
- 12 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. For purposes of the proposed rule, a special meeting is a meeting other than the issuer's meeting for the election of directors. Further, the proposed rule change provides that, in the case of a meeting for which an opposition proxy has been furnished to security holders, the Intermediary Unit Fee shall be 25 cents per account, with a minimum fee of \$5,000 per soliciting entity, in lieu of the fees described in the two schedules given in this paragraph above, as the case may be. Where there are separate solicitations by management and an opponent, the opponent is to be separately billed for the costs of its solicitation.

- **Proxy Follow-up Material:** The proposed rule change revises FINRA Rule 2251.01(a)(2)¹⁰ (Charges for Proxy Follow-Up Mailings) to establish, for each set of proxy follow-up material, a Processing Unit Fee of 40 cents per account, except for those relating to an issuer's annual meeting for the election of directors, for which the Processing Unit Fee shall be 20 cents per account. The proposed

¹⁰ FINRA Rule 2251.01(a)(2), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(2).

rule change revises the header of FINRA Rule 2251.01(a)(2) to read “Charges for Proxy Follow-Up Material” and deletes the current text under that rule provision.

- **Beneficial Ownership Information:** Current FINRA Rule 2251.01(a)(3)¹¹ (Charge for Providing Beneficial Ownership Information) establishes a rate of six and one-half cents per name of non-objecting beneficial owner (“NOBO”) provided to the issuer pursuant to the issuer’s request. The proposed rule change revises Rule 2251.01(a)(3) to provide that, where the non-objecting beneficial ownership information is not furnished directly to the issuer by the member, but is furnished through an agent designated by the member, the issuer will be expected to pay in addition the following fee to the agent, with a minimum fee of \$100 per requested list:

- 10 cents per name for the first 10,000 names or portion thereof;
- 5 cents per name for additional names up to 100,000 names; and
- 4 cents per name above 100,000.

The rule currently provides that any member that designates an agent for the purpose of furnishing requesting issuers with beneficial ownership information pursuant to SEA Rule 14b-1(c) and thereafter cancels that designation or appoints a new agent for such purpose should promptly inform interested issuers. The proposed rule change retains this language and provides that, when an issuer requests beneficial ownership information as of a date which is the record date for an annual or special meeting or a solicitation of written shareholder consent, the issuer may ask to eliminate names holding more or less than a specified number

¹¹ FINRA Rule 2251.01(a)(3), as revised by the proposed rule change, corresponds to NYSE Rule 451.92.

of shares, or names of shareholders that have already voted, and the issuer may not be charged a fee for the NOBO names so eliminated. In all other cases the issuer may be charged for all the names in the NOBO list.

- **Interim Report, Post Meeting Report and Other Material:** The proposed rule change revises FINRA Rule 2251.01(a)(4)¹² (Charges for Interim Report, Post Meeting Report and Other Material Mailings) to establish for interim reports, annual reports if processed separately, post meeting reports, or other material, a Processing Unit Fee of 15 cents per account. The proposed rule change revises the header of FINRA Rule 2251.01(a)(4) to read “Charges for Interim Report, Post Meeting Report and Other Material.”
- **Preference Management Fees:** The proposed rule change deletes the current text under FINRA Rule 2251.01(a)(5)¹³ (Incentive Fees) and establishes, with respect to each account for which the nominee has eliminated the need to send materials in paper format through the mails (or by courier service), a Preference Management Fee in the following amount:
 - 32 cents for each set of proxy material described in proposed FINRA Rule 2251.01(a)(1)(B); provided, however, that if the account is a Managed Account (as defined in proposed FINRA Rule 2251.01(a)(7), below), the Preference Management Fee shall be 16 cents.

¹² FINRA Rule 2251.01(a)(4), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(3).

¹³ FINRA Rule 2251.01(a)(5), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(4).

- 10 cents for each set of material described in either FINRA Rule 2251.01(a)(2) or (a)(4), as discussed above.

The proposed rule change provides that the Preference Management Fee is in addition to, and not in lieu of, the other fees set forth under FINRA Rule 2251.01 as revised by the rule change. The proposed rule change revises the header of FINRA Rule 2251.01(a)(5) to read “Preference Management Fees.”

- **Notice and Access Fees:** Proposed FINRA Rule 2251.01(a)(6)¹⁴ (Notice and Access Fees) provides that, when an issuer elects to utilize Notice and Access for a proxy distribution, there is an incremental fee based on all nominee accounts through which the issuer’s securities are beneficially owned as follows:
 - 25 cents for each account up to 10,000 accounts;
 - 20 cents for each account over 10,000 accounts, up to 100,000 accounts;
 - 15 cents for each account over 100,000 accounts, up to 200,000 accounts;
 - 10 cents for each account over 200,000 accounts, up to 500,000 accounts;
 - 5 cents for each account over 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. The proposed rule change further provides that follow up notices will not incur an incremental fee for Notice and Access. In addition, no incremental fee will be imposed for fulfillment transactions (i.e., a full package sent to a notice recipient

¹⁴ Proposed FINRA Rule 2251.01(a)(6) corresponds to NYSE Rule 451.90(5).

at the recipient's request), although out of pocket costs such as postage will be passed on as in ordinary distributions.

- **Managed Accounts:** Proposed FINRA Rule 2251.01(a)(7)¹⁵ (Fee Exclusion in Certain Circumstances) provides that, notwithstanding any other provision under the rule, no fee shall be imposed for a nominee account that is a Managed Account and contains five or fewer shares or units of the security involved. The proposed rule defines "Managed Account" to mean an account at a nominee which is invested in a portfolio of securities selected by a professional adviser, and for which the account holder is charged a separate asset-based fee for a range of services which may include ongoing advice, custody and execution services. The adviser can be either employed by or affiliated with the nominee, or a separate investment advisor contracted for the purpose of selecting investment portfolios for the managed account. Requiring that investments or changes to the account be approved by the client shall not preclude an account from being a "Managed Account," nor shall the fact that commissions or transaction-based charges are imposed in addition to the asset-based fee. Proposed FINRA Rule 2251.01(a)(7) further provides that, notwithstanding any other provision under the rule, no fee shall be imposed for any nominee account which contains only a fractional share, i.e., less than one share or unit of the security involved.

¹⁵ Proposed FINRA Rule 2251.01(a)(7) corresponds to NYSE Rule 451.90(6).

- **EBIP Fee:** Proposed FINRA Rule 2251.01(a)(8)¹⁶ (Enhanced Brokers' Internet Platform Fee) provides that, during the period ending December 31, 2018, there shall be a supplemental fee of 99 cents for each new account that elects, and each full package recipient among a brokerage firm's accounts that converts to, electronic delivery while having access to an EBIP. The proposed rule change provides that this fee does not apply to electronic delivery consents captured by issuers (for example, through an open-enrollment program), nor to positions held in Managed Accounts (as defined in proposed FINRA Rule 2251.01(a)(7)) nor to accounts voted by investment managers using electronic voting platforms.¹⁷ The proposed rule change provides that this is a one-time fee, meaning that an issuer may be billed this fee by a particular member only once for each account covered by this rule. Further, billing for this fee should be separately indicated on the issuer's invoice and must await the next proxy or consent solicitation by the issuer that follows the triggering election of electronic delivery by an eligible account. Accounts receiving a notice pursuant to the use of notice and access by the issuer, and accounts to which mailing is suppressed by householding, will not trigger the fee under the proposed rule change. The proposed rule change further provides:
 - To qualify under the rule, an EBIP must provide notices of upcoming corporate votes (including record and shareholder meeting dates) and the ability to access proxy materials and a voting instruction form, and cast

¹⁶ Proposed FINRA Rule 2251.01(a)(8) corresponds to NYSE Rule 451.90(7).

¹⁷ FINRA notes that the EBIP fee does not apply to accounts that converted to electronic delivery prior to January 1, 2014.

the vote, through the investor's account page on the member's website without an additional log-in.

- Any member that is not also a member of the NYSE with a qualifying EBIP must provide notice thereof to FINRA,¹⁸ including the date such EBIP became operational, and any limitations on the availability of the EBIP to its customers.
- Conversions to electronic delivery by accounts with access to an EBIP need to be tracked for the purpose of reporting the activity to FINRA when requested, as do records of marketing efforts to encourage account holders to use the EBIP. In addition, records need to be maintained and reported to FINRA when requested regarding the proportion of non-institutional accounts that vote proxies after being provided access to an EBIP.
- **Miscellaneous Revisions:** The proposed rule change revises the header of FINRA Rule 2251.01(a)(1) to read “Basic Processing and Intermediary Unit Fees.” To reflect the use of the term “process” throughout the new NYSE proxy rate rules, the proposed rule change revises “forward,” “forwarding” and “transmit” throughout FINRA Rule 2251 to read “process and forward,” “processing and forwarding” and “process and transmit,” respectively.

¹⁸ Under the new NYSE proxy rate rules, the notification applies to NYSE member organizations as to the NYSE. To avoid regulatory duplication, the proposed rule change applies the EBIP notification requirement only to FINRA members that are not NYSE members. However, as noted below, all FINRA members would need to maintain, and would be subject to requests by FINRA for, the specified EBIP tracking information and records.

FINRA notes that the guidance applicable to the new NYSE proxy rate rules as set forth in the Commission's Approval Order shall apply to Rule 2251 as revised by the proposed rule change.

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change on January 1, 2014.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁹ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that, by conforming the rate reimbursement provisions under FINRA Rule 2251 with the new NYSE proxy rate rules, the proposed rule change helps to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement, thereby facilitating the processing and transmittal of proxy and other issuer-related materials to investors and conducing to the orderly administration of the Commission's proxy rules. Further, for the reasons set forth in the Approval Order, the Commission found that the new NYSE proxy rate rules are consistent with the requirements of Section 6(b)(4),²⁰ Section 6(b)(5)²¹ and Section 6(b)(8)²² of the Act. Because the proposed rule

¹⁹ 15 U.S.C. 78q-3(b)(6).

²⁰ 15 U.S.C. 78f(b)(4). Section 6(b)(4) requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.

change conforms with the new NYSE proxy rate rules, FINRA believes that the proposed rule change is consistent with the corresponding provisions under Section 15A(b)(5),²³ Section 15A(b)(6)²⁴ and Section 15A(b)(9)²⁵ of the Act.

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. FINRA believes that, by conforming the rate reimbursement provisions under FINRA Rule 2251 with the new NYSE proxy rate rules, the proposed rule change helps to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement. FINRA believes that this will help FINRA members avoid conflicting requirements and related burdens that would otherwise result in the absence of the proposed rule change.

²¹ 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

²² 15 U.S.C. 78f(b)(8). Section 6(b)(8) prohibits any exchange rule from imposing any burden on competition that is not necessary or appropriate in furtherance of the Act.

²³ 15 U.S.C. 78o-3(b)(5). Section 15A(b)(5) requires that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Relatedly, SEA Rule 14b-1 conditions a broker-dealer's obligation to forward issuer proxy materials to beneficial owners on the issuer's assurance that it will reimburse the broker-dealer's reasonable expenses, both direct and indirect, incurred in connection with performing that obligation. See 17 CFR 240.14b-1.

²⁴ 15 U.S.C. 78o-3(b)(6).

²⁵ 15 U.S.C. 78o-3(b)(9).

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) of the Act²⁶ and paragraph (f)(6) of Rule 19b-4 thereunder,²⁷ in that the proposed rule change does not significantly affect the protection of investors or the public interest; does 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. FINRA believes that Rule 19b-4(f)(6)²⁸ is appropriate as the basis for the effectiveness of the proposed rule change because, as noted earlier, the Commission has already found in the Approval Order that the new NYSE proxy rate rules are consistent with the Act and the proposed rule change conforms FINRA Rule 2251 with the new NYSE proxy rate rules. Further, the proposed rule change does not impose any significant burden on competition because, by conforming FINRA Rule 2251 with the new NYSE proxy rate rules, it helps to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement. FINRA requests that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule 19b-

²⁶ 15 U.S.C. 78s(b)(3).

²⁷ 17 CFR 240.19b-4(f)(6).

²⁸ 17 CFR 240.19b-4(f)(6).

4(f)(6)(iii),²⁹ so FINRA can implement the proposed rule change on January 1, 2014, in alignment with the implementation date of the new NYSE proxy rate rules. In accordance with Rule 19b-4(f)(6),³⁰ 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.³¹

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

The proposed rule change establishes under FINRA Rule 2251 the rate reimbursement provisions under the new NYSE proxy rate rules as set forth in the Approval Order, including the specified success fee for the development of EBIPs and the conditions related thereto.

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.

²⁹ 17 CFR 240.19b-4(f)(6)(iii).

³⁰ 17 CFR 240.19b-4(f)(6).

³¹ 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2013-056)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act,” “SEA” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² 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,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to amend the provisions of FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials) relating to rates of reimbursement for expenses incurred in forwarding proxy and other issuer-related material, to establish a

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

five-year fee for the development of an enhanced brokers internet platform and to make miscellaneous conforming revisions.

The text of the proposed rule change is available on FINRA's website at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

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

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

FINRA Rule 2251 requires FINRA members to transmit proxy materials and other communications to beneficial owners of securities and limits the circumstances in which FINRA members may vote proxies without instructions from those beneficial owners.⁴ The Supplementary Material under FINRA Rule 2251 (FINRA Rule 2251.01) sets forth the rate reimbursement provisions pursuant to which FINRA members are entitled to receive fees in connection with the rule's forwarding obligations. FINRA has

⁴ FINRA Rule 2251 was adopted as a consolidation of former NASD Rule 2260 and IM-2260 as part of FINRA's rulebook consolidation process. See Securities Exchange Act Release No. 61052 (November 23, 2009), 74 FR 62857 (December 1, 2009) (Order Granting Approval of Proposed Rule Change; File No. SR-FINRA-2009-066).

previously indicated that, in the interest of ensuring regulatory clarity and harmonization with respect to proxy rate reimbursement, it intends to conform the rate reimbursement provisions of FINRA Rule 2251 with the New York Stock Exchange (“NYSE”) provisions in this area.⁵

On February 1, 2013, NYSE filed with the Commission a proposed rule change⁶ to amend the provisions set forth under NYSE Rules 451 and 465, and the related provisions of Section 402.10 of the NYSE Listed Company Manual, for the reimbursement of expenses by issuers to NYSE member organizations for the processing and transmission of proxy materials and other issuer communications, and to establish a specified success fee for the development of qualified internet platforms for proxy voting purposes (the “Enhanced Brokers’ Internet Platform” or “EBIP”). The SEC approved NYSE’s proposed rule change on October 18, 2013 (for purposes of this filing, referred to as the “new NYSE proxy rate rules”).⁷ Consistent with the NYSE action, FINRA is proposing to amend FINRA Rule 2251 to establish, in language virtually identical to the corresponding provisions under the new NYSE proxy rate rules, the same rate reimbursement provisions that have been adopted by the NYSE, including the specified

⁵ See Securities Exchange Act Release No. 47392 (February 21, 2003), 68 FR 9730 (February 28, 2003) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-NASD-2003-019).

⁶ See Securities Exchange Act Release No. 68936 (February 15, 2013), 78 FR 12381 (February 22, 2013) (Notice of Filing of Proposed Rule Change; File No. SR-NYSE-2013-07).

⁷ See Securities Exchange Act Release No. 70720 (October 18, 2013), 78 FR 63530 (October 24, 2013) (Order Granting Approval of Proposed Rule Change; File No. SR-NYSE-2013-07) (the “Approval Order”).

success fee for the development of EBIPs, and to delete the provisions under FINRA Rule 2251 that are rendered obsolete by the NYSE rule change, as described below.

- **Processing Unit Fees:** Proposed FINRA Rule 2251.01(a)(1)(B)⁸ establishes, for each set of proxy material, i.e., proxy statement, form of proxy and annual report when processed as a unit, a Processing Unit Fee based on the following schedule according to the number of nominee⁹ accounts through which the issuer's securities are beneficially owned:
 - 50 cents for each account up to 10,000 accounts;
 - 47 cents for each account above 10,000 accounts, up to 100,000 accounts;
 - 39 cents for each account above 100,000 accounts, up to 300,000 accounts;
 - 34 cents for each account above 300,000 accounts, up to 500,000 accounts;
 - 32 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers.

The proposed rule change provides that references in the Supplementary Material to the number of accounts means the number of accounts holding securities of the

⁸ Proposed FINRA Rule 2251.01(a)(1)(B) corresponds to NYSE Rule 451.90(1)(b).

⁹ Proposed FINRA Rule 2251.01(a)(1)(A)(i) defines “nominee” to mean a broker or bank subject to SEA Rule 14b-1 or Rule 14b-2, respectively. This provision corresponds with NYSE Rule 451.90(1)(a)(i). The new rule, in combination with proposed new FINRA Rule 2251.01(a)(1)(A)(ii) as set forth in note 10 below, replaces current FINRA Rule 2251.01(a)(1)(A).

issuer at any nominee that is providing distribution services without the services of an intermediary, or when an intermediary¹⁰ is involved, the aggregate number of nominee accounts with beneficial ownership in the issuer served by the intermediary. Further, the proposed rule change provides that, in the case of a meeting for which an opposition proxy has been furnished to security holders, the Processing Unit Fee shall be \$1.00 per account, in lieu of the fees in the above schedule.

- **Intermediaries:** Proposed FINRA Rule 2251.01(a)(1)(C)¹¹ establishes the following supplemental fees for intermediaries:
 - \$22.00 for each nominee served by the intermediary that has at least one account beneficially owning shares in the issuer;
 - an Intermediary Unit Fee for each set of proxy material, based on the following schedule according to the number of nominee accounts through which the issuer's securities are beneficially owned:
 - 14 cents for each account up to 10,000 accounts;
 - 13 cents for each account above 10,000 accounts, up to 100,000 accounts;
 - 11 cents for each account above 100,000 accounts, up to 300,000 accounts;

¹⁰ Proposed FINRA Rule 2251.01(a)(1)(A)(ii) defines "intermediary" to mean a proxy service provider that coordinates the distribution of proxy or other materials for multiple nominees. This provision corresponds to NYSE Rule 451.90(1)(a)(ii).

¹¹ Proposed FINRA Rule 2251.01(a)(1)(C) corresponds to NYSE Rule 451.90(1)(c).

- 9 cents for each account above 300,000 accounts, up to 500,000 accounts;
- 7 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. For special meetings, the proposed rule change provides that the Intermediary Unit Fee shall be based on the following schedule, in lieu of the fees described in the schedule above:

- 19 cents for each account up to 10,000 accounts;
- 18 cents for each account above 10,000 accounts, up to 100,000 accounts;
- 16 cents for each account above 100,000 accounts, up to 300,000 accounts;
- 14 cents for each account above 300,000 accounts, up to 500,000 accounts;
- 12 cents for each account above 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. For purposes of the proposed rule, a special meeting is a meeting other than the issuer's meeting for the

election of directors. Further, the proposed rule change provides that, in the case of a meeting for which an opposition proxy has been furnished to security holders, the Intermediary Unit Fee shall be 25 cents per account, with a minimum fee of \$5,000 per soliciting entity, in lieu of the fees described in the two schedules given in this paragraph above, as the case may be. Where there are separate solicitations by management and an opponent, the opponent is to be separately billed for the costs of its solicitation.

- **Proxy Follow-up Material:** The proposed rule change revises FINRA Rule 2251.01(a)(2)¹² (Charges for Proxy Follow-Up Mailings) to establish, for each set of proxy follow-up material, a Processing Unit Fee of 40 cents per account, except for those relating to an issuer’s annual meeting for the election of directors, for which the Processing Unit Fee shall be 20 cents per account. The proposed rule change revises the header of FINRA Rule 2251.01(a)(2) to read “Charges for Proxy Follow-Up Material” and deletes the current text under that rule provision.
- **Beneficial Ownership Information:** Current FINRA Rule 2251.01(a)(3)¹³ (Charge for Providing Beneficial Ownership Information) establishes a rate of six and one-half cents per name of non-objecting beneficial owner (“NOBO”) provided to the issuer pursuant to the issuer’s request. The proposed rule change revises Rule 2251.01(a)(3) to provide that, where the non-objecting beneficial

¹² FINRA Rule 2251.01(a)(2), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(2).

¹³ FINRA Rule 2251.01(a)(3), as revised by the proposed rule change, corresponds to NYSE Rule 451.92.

ownership information is not furnished directly to the issuer by the member, but is furnished through an agent designated by the member, the issuer will be expected to pay in addition the following fee to the agent, with a minimum fee of \$100 per requested list:

- 10 cents per name for the first 10,000 names or portion thereof;
- 5 cents per name for additional names up to 100,000 names; and
- 4 cents per name above 100,000.

The rule currently provides that any member that designates an agent for the purpose of furnishing requesting issuers with beneficial ownership information pursuant to SEA Rule 14b-1(c) and thereafter cancels that designation or appoints a new agent for such purpose should promptly inform interested issuers. The proposed rule change retains this language and provides that, when an issuer requests beneficial ownership information as of a date which is the record date for an annual or special meeting or a solicitation of written shareholder consent, the issuer may ask to eliminate names holding more or less than a specified number of shares, or names of shareholders that have already voted, and the issuer may not be charged a fee for the NOBO names so eliminated. In all other cases the issuer may be charged for all the names in the NOBO list.

- **Interim Report, Post Meeting Report and Other Material:** The proposed rule change revises FINRA Rule 2251.01(a)(4)¹⁴ (Charges for Interim Report, Post Meeting Report and Other Material Mailings) to establish for interim reports, annual reports if processed separately, post meeting reports, or other material, a

¹⁴ FINRA Rule 2251.01(a)(4), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(3).

Processing Unit Fee of 15 cents per account. The proposed rule change revises the header of FINRA Rule 2251.01(a)(4) to read “Charges for Interim Report, Post Meeting Report and Other Material.”

- **Preference Management Fees:** The proposed rule change deletes the current text under FINRA Rule 2251.01(a)(5)¹⁵ (Incentive Fees) and establishes, with respect to each account for which the nominee has eliminated the need to send materials in paper format through the mails (or by courier service), a Preference Management Fee in the following amount:
 - 32 cents for each set of proxy material described in proposed FINRA Rule 2251.01(a)(1)(B); provided, however, that if the account is a Managed Account (as defined in proposed FINRA Rule 2251.01(a)(7), below), the Preference Management Fee shall be 16 cents.
 - 10 cents for each set of material described in either FINRA Rule 2251.01(a)(2) or (a)(4), as discussed above.

The proposed rule change provides that the Preference Management Fee is in addition to, and not in lieu of, the other fees set forth under FINRA Rule 2251.01 as revised by the rule change. The proposed rule change revises the header of FINRA Rule 2251.01(a)(5) to read “Preference Management Fees.”

- **Notice and Access Fees:** Proposed FINRA Rule 2251.01(a)(6)¹⁶ (Notice and Access Fees) provides that, when an issuer elects to utilize Notice and Access for

¹⁵ FINRA Rule 2251.01(a)(5), as revised by the proposed rule change, corresponds to NYSE Rule 451.90(4).

¹⁶ Proposed FINRA Rule 2251.01(a)(6) corresponds to NYSE Rule 451.90(5).

a proxy distribution, there is an incremental fee based on all nominee accounts through which the issuer's securities are beneficially owned as follows:

- 25 cents for each account up to 10,000 accounts;
- 20 cents for each account over 10,000 accounts, up to 100,000 accounts;
- 15 cents for each account over 100,000 accounts, up to 200,000 accounts;
- 10 cents for each account over 200,000 accounts, up to 500,000 accounts;
- 5 cents for each account over 500,000 accounts.

The proposed rule change provides that, under the above schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers.

The proposed rule change further provides that follow up notices will not incur an incremental fee for Notice and Access. In addition, no incremental fee will be imposed for fulfillment transactions (i.e., a full package sent to a notice recipient at the recipient's request), although out of pocket costs such as postage will be passed on as in ordinary distributions.

- **Managed Accounts:** Proposed FINRA Rule 2251.01(a)(7)¹⁷ (Fee Exclusion in Certain Circumstances) provides that, notwithstanding any other provision under the rule, no fee shall be imposed for a nominee account that is a Managed Account and contains five or fewer shares or units of the security involved. The proposed rule defines "Managed Account" to mean an account at a nominee which is invested in a portfolio of securities selected by a professional adviser, and for which the account holder is charged a separate asset-based fee for a range

¹⁷ Proposed FINRA Rule 2251.01(a)(7) corresponds to NYSE Rule 451.90(6).

of services which may include ongoing advice, custody and execution services.

The adviser can be either employed by or affiliated with the nominee, or a separate investment advisor contracted for the purpose of selecting investment portfolios for the managed account. Requiring that investments or changes to the account be approved by the client shall not preclude an account from being a “Managed Account,” nor shall the fact that commissions or transaction-based charges are imposed in addition to the asset-based fee. Proposed FINRA Rule 2251.01(a)(7) further provides that, notwithstanding any other provision under the rule, no fee shall be imposed for any nominee account which contains only a fractional share, i.e., less than one share or unit of the security involved.

- **EBIP Fee:** Proposed FINRA Rule 2251.01(a)(8)¹⁸ (Enhanced Brokers’ Internet Platform Fee) provides that, during the period ending December 31, 2018, there shall be a supplemental fee of 99 cents for each new account that elects, and each full package recipient among a brokerage firm’s accounts that converts to, electronic delivery while having access to an EBIP. The proposed rule change provides that this fee does not apply to electronic delivery consents captured by issuers (for example, through an open-enrollment program), nor to positions held in Managed Accounts (as defined in proposed FINRA Rule 2251.01(a)(7)) nor to accounts voted by investment managers using electronic voting platforms.¹⁹ The proposed rule change provides that this is a one-time fee, meaning that an issuer may be billed this fee by a particular member only once for each account covered

¹⁸ Proposed FINRA Rule 2251.01(a)(8) corresponds to NYSE Rule 451.90(7).

¹⁹ FINRA notes that the EBIP fee does not apply to accounts that converted to electronic delivery prior to January 1, 2014.

by this rule. Further, billing for this fee should be separately indicated on the issuer's invoice and must await the next proxy or consent solicitation by the issuer that follows the triggering election of electronic delivery by an eligible account. Accounts receiving a notice pursuant to the use of notice and access by the issuer, and accounts to which mailing is suppressed by householding, will not trigger the fee under the proposed rule change. The proposed rule change further provides:

- To qualify under the rule, an EBIP must provide notices of upcoming corporate votes (including record and shareholder meeting dates) and the ability to access proxy materials and a voting instruction form, and cast the vote, through the investor's account page on the member's website without an additional log-in.
- Any member that is not also a member of the NYSE with a qualifying EBIP must provide notice thereof to FINRA,²⁰ including the date such EBIP became operational, and any limitations on the availability of the EBIP to its customers.
- Conversions to electronic delivery by accounts with access to an EBIP need to be tracked for the purpose of reporting the activity to FINRA when requested, as do records of marketing efforts to encourage account holders to use the EBIP. In addition, records need to be maintained and reported to FINRA when requested regarding the proportion of non-

²⁰ Under the new NYSE proxy rate rules, the notification applies to NYSE member organizations as to the NYSE. To avoid regulatory duplication, the proposed rule change applies the EBIP notification requirement only to FINRA members that are not NYSE members. However, as noted below, all FINRA members would need to maintain, and would be subject to requests by FINRA for, the specified EBIP tracking information and records.

institutional accounts that vote proxies after being provided access to an EBIP.

- **Miscellaneous Revisions:** The proposed rule change revises the header of FINRA Rule 2251.01(a)(1) to read “Basic Processing and Intermediary Unit Fees.” To reflect the use of the term “process” throughout the new NYSE proxy rate rules, the proposed rule change revises “forward,” “forwarding” and “transmit” throughout FINRA Rule 2251 to read “process and forward,” “processing and forwarding” and “process and transmit,” respectively.

FINRA notes that the guidance applicable to the new NYSE proxy rate rules as set forth in the Commission’s Approval Order shall apply to Rule 2251 as revised by the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change on January 1, 2014.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,²¹ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that, by conforming the rate reimbursement provisions under FINRA Rule 2251 with the new NYSE proxy rate rules, the proposed rule change helps

²¹ 15 U.S.C. 78q-3(b)(6).

to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement, thereby facilitating the processing and transmittal of proxy and other issuer-related materials to investors and conducing to the orderly administration of the Commission's proxy rules. Further, for the reasons set forth in the Approval Order, the Commission found that the new NYSE proxy rate rules are consistent with the requirements of Section 6(b)(4),²² Section 6(b)(5)²³ and Section 6(b)(8)²⁴ of the Act. Because the proposed rule change conforms with the new NYSE proxy rate rules, FINRA believes that the proposed rule change is consistent with the corresponding provisions under Section 15A(b)(5),²⁵ Section 15A(b)(6)²⁶ and Section 15A(b)(9)²⁷ of the Act.

²² 15 U.S.C. 78f(b)(4). Section 6(b)(4) requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.

²³ 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

²⁴ 15 U.S.C. 78f(b)(8). Section 6(b)(8) prohibits any exchange rule from imposing any burden on competition that is not necessary or appropriate in furtherance of the Act.

²⁵ 15 U.S.C. 78o-3(b)(5). Section 15A(b)(5) requires that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Relatedly, SEA Rule 14b-1 conditions a broker-dealer's obligation to forward issuer proxy materials to beneficial owners on the issuer's assurance that it will reimburse the broker-dealer's reasonable expenses, both direct and indirect, incurred in connection with performing that obligation. See 17 CFR 240.14b-1.

²⁶ 15 U.S.C. 78o-3(b)(6).

²⁷ 15 U.S.C. 78o-3(b)(9).

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. FINRA believes that, by conforming the rate reimbursement provisions under FINRA Rule 2251 with the new NYSE proxy rate rules, the proposed rule change helps to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement. FINRA believes that this will help FINRA members avoid conflicting requirements and related burdens that would otherwise result in the absence of the proposed rule change.

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 Act²⁸ and Rule 19b-4(f)(6) thereunder.²⁹

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

²⁸ 15 U.S.C. 78s(b)(3)(A).

²⁹ 17 CFR 240.19b-4(f)(6).

Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2013-056 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-2013-056. 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-2013-056 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.³⁰

Elizabeth M. Murphy

Secretary

³⁰ 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.

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2200. COMMUNICATIONS AND DISCLOSURES

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2250. Proxy Materials

2251. Processing and Forwarding of Proxy and Other Issuer-Related Materials

(a) A member shall process and forward promptly all information as required by this Rule and applicable SEC rules regarding a security to the beneficial owner (or the beneficial owner's designated investment adviser) if the member carries the account in which the security is held for the beneficial owner and the security is registered in a name other than the name of the beneficial owner.

(1) Equity Securities

For an equity security, the member, subject to paragraph (e) of this Rule and applicable SEC rules, shall process and forward:

(A) all proxy material, as provided in paragraph (c) of this Rule, that is furnished to the member by the issuer of the securities or a stockholder of such issuer; and

(B) all annual reports, information statements and other material sent to stockholders that are furnished to the member by the issuer of the securities.

(2) Debt Securities

For a debt security other than a municipal security, the member, subject to paragraph (e) of this Rule and applicable SEC rules, shall make reasonable efforts to

process and forward any communication, document, or collection of documents pertaining to the issue that:

(A) was prepared by or on behalf of, the issuer, or was prepared by or on behalf of, the trustee of the specific issue of the security; and

(B) contains material information about such issue including, but not limited to, notices concerning monetary or technical defaults, financial reports, information statements, and material event notices.

(b) No Change.

(c) (1) Whenever an issuer or stockholder of such issuer soliciting proxies shall, subject to paragraph (e) of this Rule and applicable SEC rules, timely furnish to a member:

(A) sufficient copies of all soliciting material that such person is sending to registered holders, and

(B) satisfactory assurance that he or she will reimburse such member for all out-of-pocket expenses, including reasonable clerical expenses incurred by such member in connection with such solicitation, such member shall process and transmit promptly to each beneficial owner of stock of such issuer (or the beneficial owner's designated investment adviser) that is in its possession or control and registered in a name other than the name of the beneficial owner, all such material furnished. Such material shall include a signed proxy indicating the number of shares held for such beneficial owner and bearing a symbol identifying the proxy with proxy records maintained by the member, and a letter informing the beneficial owner (or the beneficial owner's designated investment adviser) of

the time limit and necessity for completing the proxy form and processing and forwarding it to the person soliciting proxies prior to the expiration of the time limit in order for the shares to be represented at the meeting. A member shall furnish a copy of the symbols to the person soliciting the proxies and shall also retain a copy thereof pursuant to the provisions of SEA Rule 17a-4.

(2) Notwithstanding the provisions of paragraph (c)(1) of this Rule, a member may give a proxy to vote any stock pursuant to the rules of any national securities exchange of which it is a member provided that the records of the member clearly indicate the procedure it is following.

(3) This paragraph (c) shall not apply to beneficial owners residing outside of the United States, although members may voluntarily comply with the provisions hereof in respect to such persons if they so desire.

(d) (1) A member may give a proxy to vote any stock registered in its name if such member holds such stock as executor, administrator, guardian, trustee, or in a similar representative or fiduciary capacity with authority to vote.

(2) A member that has in its possession or within its control stock registered in the name of another member and that desires to process and transmit signed proxies pursuant to the provisions of paragraph (c) of this Rule, shall obtain the requisite number of signed proxies from such holder of record.

(3) Notwithstanding the foregoing,

(A) any member designated by a named Employee Retirement Income Security Act of 1974 (as amended) (“ERISA”) Plan fiduciary as the investment manager of stock held as assets of the ERISA Plan may vote the proxies in

accordance with the ERISA Plan fiduciary responsibilities if the ERISA Plan expressly grants discretion to the investment manager to manage, acquire, or dispose of any plan asset and has not expressly reserved the proxy voting right for the named ERISA Plan fiduciary; and

(B) any designated investment adviser may vote such proxies.

(e) (1) As required in paragraph (a) of this Rule, a member must process and forward promptly the material set forth in paragraph (a)(1), in connection with an equity security, or must make reasonable efforts to process and forward promptly the material set forth in paragraph (a)(2), in connection with a debt security, provided that the member:

(A) is furnished with sufficient copies of the material (e.g., annual reports, information statements or other material sent to security holders) by the issuer, stockholder, or trustee;

(B) is requested by the issuer, stockholder, or trustee to process and forward the material to security holders; and,

(C) receives satisfactory assurance that it will be reimbursed, consistent with Rule 2251.01 and applicable SEC rules, by such issuer, stockholder, or trustee for all out-of-pocket expenses, including reasonable clerical expenses.

(2) This paragraph (e) shall not apply to beneficial owners residing outside of the United States although members may voluntarily comply with the provisions hereof in respect to such persons if they so desire.

(f) No Change.

(g) The Board of Governors for the guidance of members is authorized to establish a suggested rate of reimbursement of members for expenses incurred in connection with

processing and transmitting the proxy solicitation to the beneficial owners of the securities pursuant to paragraph (c) of this Rule or in processing and transmitting information statements or other material to the beneficial owners of securities pursuant to paragraph (e) of this Rule.

••• **Supplementary Material:** -----

.01 Approved Rates of Reimbursement[.]

(a) The following approved rates of reimbursement for expenses incurred in processing and forwarding proxy material, annual reports, information statements and other material shall be considered reasonable rates of reimbursement. In addition to the charges specified in this Supplementary Material, members also are entitled to receive reimbursement for: (1) actual postage costs (including return postage at the lowest available rate); (2) the actual cost of envelopes (provided they are not furnished by the issuer, the trustee, or a person soliciting proxies); and (3) any actual communication expenses (excluding overhead) incurred in receiving voting returns either telephonically or electronically.

(1) [Charges for Initial Proxy and/or Annual Report Mailings] Basic

Processing and Intermediary Unit Fees

[(A) 40 cents for each set of proxy material, i.e., proxy statement, form of proxy and annual report when mailed as a unit, unless an opposition proxy statement has been furnished to securities holders, with a minimum of \$5.00 for all sets mailed;]

[(B) 15 cents for each copy, plus postage, for annual reports that are mailed separately from the proxy material pursuant to the instruction of the person soliciting proxies with a minimum of \$3.00 for all sets mailed;]

[(C) \$1.00 for each set of proxy material, i.e., proxy statement, form of proxy and annual report when mailed as a unit, for a meeting for which an opposition proxy statement has been furnished to security holders, with a minimum of \$5.00 for all sets mailed;]

[(D) FINRA has approved, as fair and reasonable, the following supplemental proxy fees for intermediaries that coordinate multiple nominees: \$20.00 per nominee plus (i) 10 cents for each set of proxy material, with respect to issuers whose shares are held in fewer than 200,000 nominee accounts, or (ii) 5 cents for each set of proxy material, with respect to issuers whose shares are held in at least 200,000 nominee accounts.]

(A) Definitions: For purposes of this Supplementary Material:

(i) the term “nominee” shall mean a broker or bank subject to SEA Rule 14b-1 or Rule 14b-2, respectively;

(ii) the term “intermediary” shall mean a proxy service provider that coordinates the distribution of proxy or other materials for multiple nominees.

(B) (i) For each set of proxy material, i.e., proxy statement, form of proxy and annual report when processed as a unit, a Processing Unit Fee based on the following schedule according to the number of nominee accounts through which the issuer’s securities are beneficially owned:

a. 50 cents for each account up to 10,000 accounts;

b. 47 cents for each account above 10,000 accounts, up to 100,000 accounts;

c. 39 cents for each account above 100,000 accounts, up to 300,000 accounts;

d. 34 cents for each account above 300,000 accounts, up to 500,000 accounts;

e. 32 cents for each account above 500,000 accounts.

To clarify, under this schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. References in this Supplementary Material to the number of accounts means the number of accounts holding securities of the issuer at any nominee that is providing distribution services without the services of an intermediary, or when an intermediary is involved, the aggregate number of nominee accounts with beneficial ownership in the issuer served by the intermediary.

(ii) In the case of a meeting for which an opposition proxy has been furnished to security holders, the Processing Unit Fee shall be \$1.00 per account, in lieu of the fees in the above schedule.

(C) The following are supplemental fees for intermediaries:

(i) \$22.00 for each nominee served by the intermediary that has at least one account beneficially owning shares in the issuer;

(ii) an Intermediary Unit Fee for each set of proxy material, based on the following schedule according to the number of nominee accounts through which the issuer's securities are beneficially owned:

a. 14 cents for each account up to 10,000 accounts;

b. 13 cents for each account above 10,000 accounts, up to 100,000 accounts;

c. 11 cents for each account above 100,000 accounts, up to 300,000 accounts;

d. 9 cents for each account above 300,000 accounts, up to 500,000 accounts;

e. 7 cents for each account above 500,000 accounts.

To clarify, under this schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers.

(iii) For special meetings, the Intermediary Unit Fee shall be based on the following schedule, in lieu of the fees described in (ii) above:

a. 19 cents for each account up to 10,000 accounts;

b. 18 cents for each account above 10,000 accounts, up to 100,000 accounts;

c. 16 cents for each account above 100,000 accounts, up to 300,000 accounts;

d. 14 cents for each account above 300,000 accounts, up to 500,000 accounts;

e. 12 cents for each account above 500,000 accounts.

To clarify, under this schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers. For purposes of this paragraph, a special meeting is a meeting other than the issuer's meeting for the election of directors.

(iv) In the case of a meeting for which an opposition proxy has been furnished to security holders, the Intermediary Unit Fee shall be 25 cents per account, with a minimum fee of \$5,000.00 per soliciting entity, in lieu of the fees described in (ii) or (iii) above, as the case may be. Where there are separate solicitations by management and an opponent, the opponent is to be separately billed for the costs of its solicitation.

(2) Charges for Proxy Follow-Up [Mailings] Material

[40 cents for each set of follow-up material, plus postage.] For each set of follow-up material, a Processing Unit Fee of 40 cents per account, except for those relating to an issuer's annual meeting for the election of directors, for which the Processing Unit Fee shall be 20 cents per account.

(3) Charge for Providing Beneficial Ownership Information

Six and one-half cents per name of non-objecting beneficial owner ("NOBO") provided to the issuer pursuant to the issuer's request. Where the non-objecting beneficial ownership information is not furnished directly to the issuer by the member, but is furnished through an agent designated by the member, the issuer will be expected to pay [the reasonable expenses of the agent in providing such information, as provided

pursuant to SEA Rules 14a-13(b) and 14c-7(b) and applicable SEC guidance, in addition to the rate described above.] in addition the following fee to the agent:

(A) 10 cents per name for the first 10,000 names or portion thereof;

(B) 5 cents per name for additional names up to 100,000 names; and

(C) 4 cents per name above 100,000;

with a minimum fee of \$100 per requested list.

Any member that designates an agent for the purpose of furnishing requesting issuers with beneficial ownership information pursuant to SEA Rule 14b-1(c) and thereafter cancels that designation or appoints a new agent for such purpose should promptly inform interested issuers.

When an issuer requests beneficial ownership information as of a date which is the record date for an annual or special meeting or a solicitation of written shareholder consent, the issuer may ask to eliminate names holding more or less than a specified number of shares, or names of shareholders that have already voted, and the issuer may not be charged a fee for the NOBO names so eliminated. In all other cases the issuer may be charged for all the names in the NOBO list.

(4) Charges for Interim Report, Post Meeting Report and Other Material

[Mailings]

[15 cents for each copy, plus postage, f]For interim reports, annual reports if processed separately, post meeting reports, or other material, a Processing Unit Fee of 15 cents per account [with a minimum of \$2.00 for all sets mailed].

(5) [Incentive] Preference Management Fees

[A fee (for purposes of this Supplementary Material, an "incentive fee") for proxy material mailings, including the annual report, and 10 cents for interim report mailings, with respect to each account where the member has eliminated the need to send materials in paper format through the mails (such as by including multiple proxy ballots or forms in one envelope with one set of material mailed to the same household, by distributing multiple proxy ballots or forms electronically thereby reducing the sets of material mailed, or by distributing some or all material electronically) shall be: (i) 25 cents with respect to issuers whose shares are held in at least 200,000 nominee accounts; and (ii) 50 cents with respect to issuers whose shares are held in fewer than 200,000 nominee accounts.]

With respect to each account for which the nominee has eliminated the need to send materials in paper format through the mails (or by courier service), a Preference Management Fee in the following amount:

(A) For each set of proxy material described in paragraph (a)(1)(B) of this Supplementary Material, 32 cents; provided, however, that if the account is a Managed Account (as defined in paragraph (a)(7) of this Supplementary Material), the Preference Management Fee shall be 16 cents.

(B) For each set of material described in either paragraph (a)(2) or paragraph (a)(4) of this Supplementary Material, the Preference Management Fee shall be 10 cents.

To clarify, the Preference Management Fee is in addition to, and not in lieu of, the other fees provided for in this Supplementary Material.

(6) Notice and Access Fees

When an issuer elects to utilize Notice and Access for a proxy distribution, there is an incremental fee based on all nominee accounts through which the issuer's securities are beneficially owned as follows:

(A) 25 cents for each account up to 10,000 accounts;

(B) 20 cents for each account over 10,000 accounts, up to 100,000

accounts;

(C) 15 cents for each account over 100,000 accounts, up to 200,000

accounts;

(D) 10 cents for each account over 200,000 accounts, up to 500,000

accounts;

(E) 5 cents for each account over 500,000 accounts.

To clarify, under this schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers.

Follow up notices will not incur an incremental fee for Notice and Access.

No incremental fee will be imposed for fulfillment transactions (i.e., a full package sent to a notice recipient at the recipient's request), although out of pocket costs such as postage will be passed on as in ordinary distributions.

(7) Fee Exclusion in Certain Circumstances

Notwithstanding any other provision of this Supplementary Material, no fee shall be imposed for a nominee account that is a Managed Account (as hereinafter defined) and contains five or fewer shares or units of the security involved.

For purposes of this Supplementary Material, the term “Managed Account” shall mean an account at a nominee which is invested in a portfolio of securities selected by a professional adviser, and for which the account holder is charged a separate asset-based fee for a range of services which may include ongoing advice, custody and execution services. The adviser can be either employed by or affiliated with the nominee, or a separate investment advisor contracted for the purpose of selecting investment portfolios for the managed account. Requiring that investments or changes to the account be approved by the client shall not preclude an account from being a “Managed Account,” nor shall the fact that commissions or transaction-based charges are imposed in addition to the asset-based fee.

Notwithstanding any other provision of this Supplementary Material, no fee shall be imposed for any nominee account which contains only a fractional share, i.e., less than one share or unit of the security involved.

(8) Enhanced Brokers’ Internet Platform Fee

During the period ending December 31, 2018, there shall be a supplemental fee of 99 cents for each new account that elects, and each full package recipient among a brokerage firm’s accounts that converts to, electronic delivery while having access to an Enhanced Brokers’ Internet Platform (“EBIP”). This fee does not apply to electronic delivery consents captured by issuers (for example, through an open-enrollment program), nor to positions held in Managed Accounts (as defined in paragraph (a)(7) of this Supplementary Material) nor to accounts voted by investment managers using electronic voting platforms. This is a one-time fee, meaning that an issuer may be billed this fee by a particular member only once for each account covered by this Rule. Billing

for this fee should be separately indicated on the issuer's invoice and must await the next proxy or consent solicitation by the issuer that follows the triggering election of electronic delivery by an eligible account. Accounts receiving a notice pursuant to the use of notice and access by the issuer, and accounts to which mailing is suppressed by householding, will not trigger the fee under this Supplementary Material.

To qualify under this Supplementary Material, an EBIP must provide notices of upcoming corporate votes (including record and shareholder meeting dates) and the ability to access proxy materials and a voting instruction form, and cast the vote, through the investor's account page on the member's website without an additional log-in.

Any member that is not also a member of the NYSE with a qualifying EBIP must provide notice thereof to FINRA, including the date such EBIP became operational, and any limitations on the availability of the EBIP to its customers.

Conversions to electronic delivery by accounts with access to an EBIP need to be tracked for the purpose of reporting the activity to FINRA when requested, as do records of marketing efforts to encourage account holders to use the EBIP. In addition, records need to be maintained and reported to FINRA when requested regarding the proportion of non-institutional accounts that vote proxies after being provided access to an EBIP.

(b) Any charges for forwarding pursuant to this Supplementary Material must be reasonable. Members may request reimbursement of expenses at less than the approved rates; however, no member may seek reimbursement at rates higher than the approved rates or for items or services not specifically enumerated in paragraph (a) of this Supplementary Material without the prior notification to and consent of the person soliciting proxies or the company.

(c) For purposes of this Rule, members are not required to process and transmit more than one annual report, interim report, proxy statement or other material to beneficial owners with more than one account (including trust accounts). In addition, members may eliminate multiple transmissions of reports, statements or other materials to beneficial owners having the same address, provided they comply with SEA Rule 14b-1 and other applicable SEC rules.

.02 Investment Adviser Registration. For purposes of this Rule, members may verify registration of an investment adviser through the use of the Investment Adviser Registration Depository (“IARD”).

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