

## Limit Up/Limit Down

### FINRA Adopts Amendments Relating to the Regulation NMS Plan to Address Extraordinary Market Volatility

Effective date: August 22, 2016

#### Executive Summary

On July 22, 2016,<sup>1</sup> FINRA filed a rule change with the SEC to clarify the operation of the Regulation NMS Plan to Address Extraordinary Volatility (“LULD Plan”) following a trading pause or regulatory halt in a security subject to the LULD Plan. The rule text is available in the online FINRA Manual.

Questions regarding this *Notice* should be directed to:

- ▶ FINRA Operations at (866) 776-0800; or
- ▶ Office of General Counsel at (202) 728-8071.

#### Background and Discussion

FINRA Rule 6121.01 (Resumption of Trading in Securities Subject to the Regulation NMS Plan to Address Extraordinary Market Volatility) provides, among other things, that no trades in an NMS stock are permitted to occur during a trading pause. The rule also addresses the resumption of trading otherwise than on an exchange in an NMS stock following a trading pause.<sup>2</sup> The amendment to Rule 6121.01 is part of an effort by FINRA and other self-regulatory organizations to clarify the operation of the LULD Plan during the short period of time following the resumption of trading after a trading pause or regulatory halt and before the price bands are received from the processor for securities that are subject to the LULD Plan.<sup>3</sup>

#### July 2016

##### Notice Type

- ▶ Rule Amendment

##### Suggested Routing

- ▶ Compliance
- ▶ Legal
- ▶ Operations
- ▶ Senior Management
- ▶ Systems
- ▶ Trading

##### Key Topics

- ▶ Limit Up/Limit Down (LULD)
- ▶ NMS Security
- ▶ Regulatory Halt
- ▶ Trading Center
- ▶ Trading Halt
- ▶ Trading Pause

##### Referenced Rules

- ▶ FINRA Rule 6121.01
- ▶ FINRA Rule 6190

Specifically, amended FINRA Rule 6121.01 provides that, following a trading pause or regulatory halt in an NMS stock that is subject to the LULD Plan, a firm may resume trading otherwise than on an exchange if trading has commenced on the primary listing exchange (or on another national securities exchange in the case of the resumption of trading following a ten-minute trading pause)<sup>4</sup> **and** either: (1) the firm has received the price bands from the processor; or (2) if immediately following a trading pause or regulatory halt the firm has not yet received the price bands from the processor, the firm has calculated an upper price band and lower price band consistent with the methodology provided for in Section V of the LULD Plan and ensures that any transactions prior to the receipt of the price bands from the processor are within the ranges provided for pursuant to the plan, consistent with Section VI(A)(1) of the LULD Plan.

The amendment is intended to help ensure that trades do not occur outside of the bands prescribed by the LULD Plan by requiring firms to take measures to ensure bands are in place (either by waiting for the receipt of the price bands from the processor or calculating an interim upper price band and lower price band and ensuring that trades occur within those bands).<sup>5</sup> A firm may not rely on interim bands beyond the short period of time (generally up to three milliseconds) between the resumption of trading and the receipt of price bands by market participants.

## Endnotes

1. See Securities Exchange Act Release No. 78435 (July 28, 2016) (File No. SR-FINRA-2016-028).
2. The pilot period for the LULD Plan was recently extended through April 21, 2017. See Securities Exchange Act Release No. 77679 (April 21, 2016), 81 FR 24908 (April 27, 2016).
3. See NASDAQ Equity Trader Alert # 2016-79 (NASDAQ Announces Improved Protections for Equity Markets Coming Out of Halts (“Leaky Bands”)) (April 12, 2016); See Bats Release Notes (Bats Announces Updates to Halt Resumption Behavior Effective July 15, 2016) (June 2, 2016). FINRA anticipates that other SROs will adopt similar measures to calculate an interim band for their listed securities to be applied in the brief time between the resumption of trading and when the price bands are subsequently received from the processor.
4. Where the primary listing exchange does not re-open for trading at the end of a ten-minute trading pause (and has issued notice that it cannot resume trading for a reason other than a significant imbalance), a firm may resume trading otherwise than on an exchange if trading has commenced in such NMS stock on at least one other national securities exchange if the other requirements of the rule are met.
5. FINRA Rule 6190 (Compliance with Regulation NMS Plan to Address Extraordinary Market Volatility) provides, among other things, that a member that is a trading center in an NMS stock must establish, maintain and enforce written policies and procedures reasonably designed to comply with the requirements of the LULD Plan, including to prevent the execution of trades at prices below the lower price band or above the upper price band for an NMS stock.