

*Required fields are shown with yellow backgrounds and asterisks.*

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

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

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

<b>Exhibit 2 Sent As Paper Document</b>	<b>Exhibit 3 Sent As Paper Document</b>
<input type="checkbox"/>	<input type="checkbox"/>

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Proposed Rule Change to Amend FINRA Rule 1220(a)(4) (Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal)

**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 \* Afshin Last Name \* Atabaki

Title \* Associate General Counsel

E-mail \* afshin.atabaki@finra.org

Telephone \* (202) 728-8902 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 \*)

Date 08/15/2018 Senior Vice President and Deputy General Counsel

By Patrice M. Gliniecki 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”),<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 Rule 1220(a)(4) (Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal) to: (1) reflect that certain firms remain exempt from the requirement to designate an individual as a Financial and Operations Principal (“FINOP”) or an Introducing Broker-Dealer Financial and Operations Principal (“Introducing FINOP”); and (2) provide that the individual designated as Principal Financial Officer and Principal Operations Officer of these exempt firms is not required to be qualified and registered as a FINOP or an Introducing FINOP.

The text of the proposed rule change is attached as Exhibit 5.<sup>2</sup>

(b) Not applicable.

(c) Not applicable.

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

The Chief Legal Officer of FINRA authorized the filing of the proposed rule change with the SEC pursuant to delegated authority. No other action by FINRA is necessary for the filing of the proposed rule change.

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

<sup>2</sup> The Exhibit 5 reflects rule text that has been approved pursuant to SR-FINRA-2017-007 but is not yet effective. SR-FINRA-2017-007 will be effective on October 1, 2018. See Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR-FINRA-2017-007).

As discussed further below, FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation date of the consolidated registration rules.<sup>3</sup>

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

(a) Purpose

In July 2017, the SEC approved a proposed rule change to,<sup>4</sup> among other things, adopt the NASD and Incorporated NYSE rules<sup>5</sup> relating to individuals responsible for a member’s financial and operational activities as FINRA Rule 1220(a)(4) in the Consolidated FINRA Rulebook.<sup>6</sup> The rule change will become effective on October 1,

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<sup>3</sup> See supra note 2.

<sup>4</sup> See Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR-FINRA-2017-007). For ease of reference, FINRA revised the titles of some of the registration categories as part of SR-FINRA-2017-007. For instance, FINRA changed “Limited Principal—Financial and Operations” and “Limited Principal—Introducing Broker/Dealer Financial and Operations” to “Financial and Operations Principal” and “Introducing Broker-Dealer Financial and Operations Principal,” respectively. This proposed rule change refers to the titles that were approved as part of SR-FINRA-2017-007, though the changes are not yet effective.

<sup>5</sup> Current NASD Rules 1022(b) (Limited Principal—Financial and Operations) and 1022(c) (Limited Principal—Introducing Broker/Dealer Financial and Operations) and Incorporated NYSE Rule Interpretations 311(b)(5)/02 (Examination Requirements for Chief Financial Officers (“CFO”) and Chief Operations Officers (“COO”)) and /03 (Dual Designation of CFO and COO).

<sup>6</sup> The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) Incorporated NYSE rules. While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE (“dual members”). The FINRA rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see Information Notice, March 12, 2008 (Rulebook Consolidation Process).

2018.<sup>7</sup>

Subparagraph (A) of FINRA Rule 1220(a)(4) requires that each firm designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities,<sup>8</sup> including, for example, supervision of individuals who assist in the preparation of financial reports. Such individuals must pass the FINOP examination (Series 27) or Introducing FINOP examination (Series 28), as applicable, or obtain a waiver of the examination. They must also register in the Central Registration Depository (“CRD<sup>®</sup>”) system with the designation FN (for FINOP) or FI (for Introducing FINOP).

Certain members, hereinafter referred to as exempt firms, are exempt from the requirement in current NASD Rules 1022(b) and 1022(c) to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities, including from the requirement that such an individual pass the Series 27 or Series 28 examination (or obtain a waiver of the examination) and register in the CRD system with the designation FN or FI.<sup>9</sup> FINRA preserved these exemptions when it

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<sup>7</sup> See Regulatory Notice 17-30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

<sup>8</sup> The determination of whether a firm is eligible to designate an Introducing FINOP, rather than a FINOP, depends on the firm’s minimum net capital requirements.

<sup>9</sup> See Securities Exchange Act Release No. 44332 (May 21, 2001), 66 FR 29196, 29197 (May 29, 2001) (Order Approving File No. SR-NASD-00-77). See also Notice to Members (“NTM”) 01-52 (SEC Approves NASD Rule Proposal Relating To Registration Requirements For Limited Principals-Financial And Operations And Limited Principals-Introducing Broker/Dealer Financial And Operations) (August 2001).

proposed to adopt FINRA Rule 1220(a)(4)(A).<sup>10</sup> However, these exemptions were not reflected in the rule text.

Subparagraph (B) of FINRA Rule 1220(a)(4) requires each firm to designate an individual as Principal Financial Officer with primary responsibility over the firm's financial filings and the related books and records and an individual as Principal Operations Officer with primary responsibility over the firm's day-to-day operations. Such individuals must also pass the Series 27 or Series 28 examination, as applicable, or obtain a waiver of the examination. Further, they must register in the CRD system with the designation FN or FI. The responsibilities of a designated Principal Financial Officer and Principal Operations Officer intersect with the responsibilities of a designated FINOP or Introducing FINOP. However, the responsibilities of a designated FINOP or Introducing FINOP are more specific in nature (e.g., they are required to supervise individuals who assist in the preparation of financial reports). In addition, a member's designated FINOP or Introducing FINOP is eligible to perform the responsibilities of a Principal Financial Officer and a Principal Operations Officer.

As stated in Regulatory Notice 17-30, the requirement to designate a Principal Financial Officer and Principal Operations Officer applies to all firms, including exempt firms. As a result, by October 1, 2018, exempt firms would have been required to designate as Principal Financial Officer and Principal Operations Officer an individual who is qualified and registered as a FINOP or an Introducing FINOP (i.e., the individual

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<sup>10</sup> See Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336, 17338, n.12 (April 10, 2017) (Notice of Filing of File No. SR-FINRA-2017-007) (stating that “[t]hose members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal based on an exemption granted to them prior to September 17, 2001 will continue to be exempt from this requirement.”).

must have passed the Series 27 or Series 28 examination (or obtained a waiver of the examination) and registered in the CRD system with the designation FN or FI).

Exempt firms have noted that the responsibilities of a Principal Financial Officer and a Principal Operations Officer are functional equivalents to the responsibilities that a designated FINOP or Introducing FINOP would carry out at their firms. Exempt firms have also noted that, given their exempt status, they do not have an individual designated as a FINOP or an Introducing FINOP to whom to assign the responsibilities of a Principal Financial Officer and Principal Operations Officer. Similarly, they do not have any other associated persons who are qualified and registered as a FINOP or an Introducing FINOP (e.g., individuals who have passed the Series 27 examination and registered in the CRD system with the designation FN) to whom to assign the specified responsibilities.

Therefore, exempt firms have stated that FINRA Rule 1220(a)(4)(B) would have the indirect impact of eliminating their FINOP and Introducing FINOP exemptions by requiring them to designate an individual who is qualified and registered as a FINOP or an Introducing FINOP to carry out responsibilities that are functionally equivalent to those responsibilities that would otherwise be carried out by a designated FINOP or Introducing FINOP.

FINRA recognizes that the rule change would have the impact of eliminating longstanding exemptions that were granted to members, which was not the intended purpose of the rule change. The purpose of the rule change is to ensure that each member has designated individual(s) with primary responsibility for specified financial and operational functions carried out by the firm.

Accordingly, FINRA is proposing to amend FINRA Rule 1220(a)(4)(A) to reflect that exempt firms remain exempt from the requirements of FINRA Rule 1220(a)(4)(A). FINRA is also proposing to amend FINRA Rule 1220(a)(4)(B) to provide that individuals designated as Principal Financial Officers and Principal Operations Officers of exempt firms are not required to be qualified and registered as FINOPs or Introducing FINOPs. FINRA Rule 1220(a)(4)(B) would continue to require exempt firms to designate an individual as a Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities, but such individual would not be required to be qualified and registered as a FINOP or an Introducing FINOP.<sup>11</sup>

Finally, as indicated in NTM 01-52, FINRA reserves the right to require exempt firms to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities if changes occur in the circumstances under which the original exemption was granted, such as a substantial increase in business or the addition of new lines of business. FINRA also may require exempt firms to designate an individual as a FINOP or an Introducing FINOP if FINRA determines that there is a material financial-related examination finding that would necessitate it. However, in the case of any of these events, the member would have the right to appeal such actions pursuant to FINRA Rule 9630 (Appeal). In addition, FINRA may impose a disciplinary sanction that would require exempt firms to designate an individual as a FINOP or an Introducing FINOP. In the event that a member is no longer exempt under the circumstances described above, the firm would also have to ensure that the individual

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<sup>11</sup> In addition, FINRA notes that individuals designated as Principal Financial Officers and Principal Operations Officers of exempt firms would likely be required to be qualified and registered as principals, such as General Securities Principals, given the scope of their responsibilities.



designated as Principal Financial Officer and Principal Operations Officer is qualified and registered as a FINOP or an Introducing FINOP.

As noted in Item 2 of this filing, FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation date of the consolidated registration rules.

(b) 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. FINRA believes it is appropriate to continue to provide an exemption under FINRA Rule 1220(a)(4) to those firms that were previously granted an exemption from the requirement to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities. FINRA also believes the proposed rule change strikes an appropriate balance in that exempt firms would still be required to designate an individual as a Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities, though the individual would not have to be qualified and registered as a FINOP or an Introducing FINOP.

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

**4. Self-Regulatory Organization's Statement on Burden on Competition**

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed rule change, the economic baseline of analysis, the economic impact and the alternatives considered.

Regulatory Need

Exempt firms are not required to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities. The requirements under FINRA Rule 1220(a)(4)(B), which become operative on October 1, 2018, would effectively and unintentionally undo these exemptions. FINRA is therefore preserving these exemptions, while ensuring that each FINRA member, including exempt firms, has a designated Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities.

Economic Baseline

The economic baseline for the proposed rule change relates to the activities and costs associated with financial and operational controls conducted by exempt firms.

There are approximately 140 current exempt firms.

Economic Impact

For purposes of this discussion, FINRA has identified the potentially material impacts of the proposed rule change.

Impact on Firms and Associated Persons

The proposed rule change would preserve the ability of exempt firms to maintain financial and operational controls without the addition of a designated individual as FINOP or Introducing FINOP. Relative to current practices, the proposed rule change would not impose material costs on members or associated persons. However, the proposed rule change would eliminate, or significantly reduce, the operational, administrative and cost burden on exempt firms once FINRA Rule 1220(a)(4)(B) becomes effective.

Among other benefits, exempt firms would not be required to employ, or otherwise associate with, an individual who is currently qualified and registered as a FINOP or an Introducing FINOP by October 1, 2018 to carry out the responsibilities of Principal Financial Officer and Principal Operations Officer. Alternatively, exempt firms would not be required to ensure that a current associated person is qualified and registered as a FINOP or an Introducing FINOP by October 1, 2018 to carry out the responsibilities of Principal Financial Officer and Principal Operations Officer. The proposed rule change would also reduce the costs and burdens on current associated persons of exempt firms who will be designated as Principal Financial Officers and Principal Operations Officers because such individuals would not be required to qualify and register as FINOPs or Introducing FINOPs.

The proposed rule change would not alter the obligations of members that are currently required to have a designated individual as FINOP or Introducing FINOP. As noted above, a firm's designated FINOP or Introducing FINOP is eligible to perform the responsibilities of a Principal Financial Officer and a Principal Operations Officer.

Impact on Customers of Exempt Firms

The proposed rule change is not expected to materially alter the protections that customers of exempt firms currently receive.

Alternatives Considered

FINRA considered whether alternative qualifications and registrations would be appropriate for Principal Financial Officers and Principal Operations Officers, other than qualification and registration as a FINOP or an Introducing FINOP. However, FINRA determined not to adopt an alternative qualification and registration requirement pending its evaluation of the structure of its principal-level examinations.

**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 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 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

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

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

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>

FINRA believes that continuing to provide an exemption under FINRA Rule 1220(a)(4) to exempt firms is appropriate so that these firms can continue their business operations with minimum impact. FINRA believes that the proposed rule change will not significantly affect the protection of investors or the public interest because exempt firms would still be required to identify and designate an individual who is qualified and registered as a principal to carry out the specified financial and operational responsibilities of a Principal Financial Officer and Principal Operations Officer.

**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.

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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 5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2018-031)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 1220(a)(4) (Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal)

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 Rule 1220(a)(4) (Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal) to: (1) reflect that certain firms remain exempt from the requirement to designate an individual as a Financial and Operations Principal (“FINOP”) or an Introducing Broker-Dealer

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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).

Financial and Operations Principal (“Introducing FINOP”); and (2) provide that the individual designated as Principal Financial Officer and Principal Operations Officer of these exempt firms is not required to be qualified and registered as a FINOP or an Introducing FINOP.

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

In July 2017, the SEC approved a proposed rule change to,<sup>4</sup> among other things,

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<sup>4</sup> See Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR-FINRA-2017-007). For ease of reference, FINRA revised the titles of some of the registration categories as part of SR-FINRA-2017-007. For instance, FINRA changed “Limited Principal—Financial and Operations” and “Limited Principal—Introducing Broker/Dealer Financial and Operations” to “Financial and Operations Principal” and “Introducing Broker-Dealer Financial and Operations Principal,” respectively. This proposed rule change refers to the titles that were approved as part of SR-FINRA-2017-007, though the changes are not yet effective.



adopt the NASD and Incorporated NYSE rules<sup>5</sup> relating to individuals responsible for a member's financial and operational activities as FINRA Rule 1220(a)(4) in the Consolidated FINRA Rulebook.<sup>6</sup> The rule change will become effective on October 1, 2018.<sup>7</sup>

Subparagraph (A) of FINRA Rule 1220(a)(4) requires that each firm designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities,<sup>8</sup> including, for example, supervision of individuals who assist in the preparation of financial reports. Such individuals must pass the FINOP examination (Series 27) or Introducing FINOP examination (Series 28), as applicable, or obtain a waiver of the examination. They must also register in the Central Registration Depository ("CRD<sup>®</sup>") system with the designation FN (for FINOP) or FI (for Introducing FINOP).

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<sup>5</sup> Current NASD Rules 1022(b) (Limited Principal—Financial and Operations) and 1022(c) (Limited Principal—Introducing Broker/Dealer Financial and Operations) and Incorporated NYSE Rule Interpretations 311(b)(5)/02 (Examination Requirements for Chief Financial Officers ("CFO") and Chief Operations Officers ("COO")) and /03 (Dual Designation of CFO and COO).

<sup>6</sup> The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) Incorporated NYSE rules. While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE ("dual members"). The FINRA rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see Information Notice, March 12, 2008 (Rulebook Consolidation Process).

<sup>7</sup> See Regulatory Notice 17-30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

<sup>8</sup> The determination of whether a firm is eligible to designate an Introducing FINOP, rather than a FINOP, depends on the firm's minimum net capital requirements.

Certain members, hereinafter referred to as exempt firms, are exempt from the requirement in current NASD Rules 1022(b) and 1022(c) to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities, including from the requirement that such an individual pass the Series 27 or Series 28 examination (or obtain a waiver of the examination) and register in the CRD system with the designation FN or FI.<sup>9</sup> FINRA preserved these exemptions when it proposed to adopt FINRA Rule 1220(a)(4)(A).<sup>10</sup> However, these exemptions were not reflected in the rule text.

Subparagraph (B) of FINRA Rule 1220(a)(4) requires each firm to designate an individual as Principal Financial Officer with primary responsibility over the firm's financial filings and the related books and records and an individual as Principal Operations Officer with primary responsibility over the firm's day-to-day operations. Such individuals must also pass the Series 27 or Series 28 examination, as applicable, or obtain a waiver of the examination. Further, they must register in the CRD system with the designation FN or FI. The responsibilities of a designated Principal Financial Officer and Principal Operations Officer intersect with the responsibilities of a designated FINOP

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<sup>9</sup> See Securities Exchange Act Release No. 44332 (May 21, 2001), 66 FR 29196, 29197 (May 29, 2001) (Order Approving File No. SR-NASD-00-77). See also Notice to Members ("NTM") 01-52 (SEC Approves NASD Rule Proposal Relating To Registration Requirements For Limited Principals-Financial And Operations And Limited Principals-Introducing Broker/Dealer Financial And Operations) (August 2001).

<sup>10</sup> See Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336, 17338, n.12 (April 10, 2017) (Notice of Filing of File No. SR-FINRA-2017-007) (stating that "[t]hose members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal based on an exemption granted to them prior to September 17, 2001 will continue to be exempt from this requirement.").

or Introducing FINOP. However, the responsibilities of a designated FINOP or Introducing FINOP are more specific in nature (e.g., they are required to supervise individuals who assist in the preparation of financial reports). In addition, a member's designated FINOP or Introducing FINOP is eligible to perform the responsibilities of a Principal Financial Officer and a Principal Operations Officer.

As stated in Regulatory Notice 17-30, the requirement to designate a Principal Financial Officer and Principal Operations Officer applies to all firms, including exempt firms. As a result, by October 1, 2018, exempt firms would have been required to designate as Principal Financial Officer and Principal Operations Officer an individual who is qualified and registered as a FINOP or an Introducing FINOP (i.e., the individual must have passed the Series 27 or Series 28 examination (or obtained a waiver of the examination) and registered in the CRD system with the designation FN or FI).

Exempt firms have noted that the responsibilities of a Principal Financial Officer and a Principal Operations Officer are functional equivalents to the responsibilities that a designated FINOP or Introducing FINOP would carry out at their firms. Exempt firms have also noted that, given their exempt status, they do not have an individual designated as a FINOP or an Introducing FINOP to whom to assign the responsibilities of a Principal Financial Officer and Principal Operations Officer. Similarly, they do not have any other associated persons who are qualified and registered as a FINOP or an Introducing FINOP (e.g., individuals who have passed the Series 27 examination and registered in the CRD system with the designation FN) to whom to assign the specified responsibilities.

Therefore, exempt firms have stated that FINRA Rule 1220(a)(4)(B) would have the indirect impact of eliminating their FINOP and Introducing FINOP exemptions by

requiring them to designate an individual who is qualified and registered as a FINOP or an Introducing FINOP to carry out responsibilities that are functionally equivalent to those responsibilities that would otherwise be carried out by a designated FINOP or Introducing FINOP.

FINRA recognizes that the rule change would have the impact of eliminating longstanding exemptions that were granted to members, which was not the intended purpose of the rule change. The purpose of the rule change is to ensure that each member has designated individual(s) with primary responsibility for specified financial and operational functions carried out by the firm.

Accordingly, FINRA is proposing to amend FINRA Rule 1220(a)(4)(A) to reflect that exempt firms remain exempt from the requirements of FINRA Rule 1220(a)(4)(A). FINRA is also proposing to amend FINRA Rule 1220(a)(4)(B) to provide that individuals designated as Principal Financial Officers and Principal Operations Officers of exempt firms are not required to be qualified and registered as FINOPs or Introducing FINOPs. FINRA Rule 1220(a)(4)(B) would continue to require exempt firms to designate an individual as a Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities, but such individual would not be required to be qualified and registered as a FINOP or an Introducing FINOP.<sup>11</sup>

Finally, as indicated in NTM 01-52, FINRA reserves the right to require exempt firms to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities if changes occur in the circumstances

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<sup>11</sup> In addition, FINRA notes that individuals designated as Principal Financial Officers and Principal Operations Officers of exempt firms would likely be required to be qualified and registered as principals, such as General Securities Principals, given the scope of their responsibilities.

under which the original exemption was granted, such as a substantial increase in business or the addition of new lines of business. FINRA also may require exempt firms to designate an individual as a FINOP or an Introducing FINOP if FINRA determines that there is a material financial-related examination finding that would necessitate it. However, in the case of any of these events, the member would have the right to appeal such actions pursuant to FINRA Rule 9630 (Appeal). In addition, FINRA may impose a disciplinary sanction that would require exempt firms to designate an individual as a FINOP or an Introducing FINOP. In the event that a member is no longer exempt under the circumstances described above, the firm would also have to ensure that the individual designated as Principal Financial Officer and Principal Operations Officer is qualified and registered as a FINOP or an Introducing FINOP.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation date of the consolidated registration rules.

## 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. FINRA believes it is appropriate to continue to provide an exemption under FINRA Rule 1220(a)(4) to those firms that were previously granted an exemption from the requirement to designate an individual as a FINOP or an Introducing FINOP to carry

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

out specified financial and operational responsibilities. FINRA also believes the proposed rule change strikes an appropriate balance in that exempt firms would still be required to designate an individual as a Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities, though the individual would not have to be qualified and registered as a FINOP or an Introducing FINOP.

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.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed rule change, the economic baseline of analysis, the economic impact and the alternatives considered.

Regulatory Need

Exempt firms are not required to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities. The requirements under FINRA Rule 1220(a)(4)(B), which become operative on October 1, 2018, would effectively and unintentionally undo these exemptions. FINRA is therefore preserving these exemptions, while ensuring that each FINRA member, including exempt firms, has a designated Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities.

Economic Baseline

The economic baseline for the proposed rule change relates to the activities and costs associated with financial and operational controls conducted by exempt firms.

There are approximately 140 current exempt firms.

Economic Impact

For purposes of this discussion, FINRA has identified the potentially material impacts of the proposed rule change.

Impact on Firms and Associated Persons

The proposed rule change would preserve the ability of exempt firms to maintain financial and operational controls without the addition of a designated individual as FINOP or Introducing FINOP. Relative to current practices, the proposed rule change would not impose material costs on members or associated persons. However, the proposed rule change would eliminate, or significantly reduce, the operational, administrative and cost burden on exempt firms once FINRA Rule 1220(a)(4)(B) becomes effective.

Among other benefits, exempt firms would not be required to employ, or otherwise associate with, an individual who is currently qualified and registered as a FINOP or an Introducing FINOP by October 1, 2018 to carry out the responsibilities of Principal Financial Officer and Principal Operations Officer. Alternatively, exempt firms would not be required to ensure that a current associated person is qualified and registered as a FINOP or an Introducing FINOP by October 1, 2018 to carry out the responsibilities of Principal Financial Officer and Principal Operations Officer. The proposed rule change would also reduce the costs and burdens on current associated

persons of exempt firms who will be designated as Principal Financial Officers and Principal Operations Officers because such individuals would not be required to qualify and register as FINOPs or Introducing FINOPs.

The proposed rule change would not alter the obligations of members that are currently required to have a designated individual as FINOP or Introducing FINOP. As noted above, a firm's designated FINOP or Introducing FINOP is eligible to perform the responsibilities of a Principal Financial Officer and a Principal Operations Officer.

#### Impact on Customers of Exempt Firms

The proposed rule change is not expected to materially alter the protections that customers of exempt firms currently receive.

#### Alternatives Considered

FINRA considered whether alternative qualifications and registrations would be appropriate for Principal Financial Officers and Principal Operations Officers, other than qualification and registration as a FINOP or an Introducing FINOP. However, FINRA determined not to adopt an alternative qualification and registration requirement pending its evaluation of the structure of its principal-level examinations.

#### 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>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</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.

#### 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-2018-031 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Robert W. Errett, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

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

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

All submissions should refer to File Number SR-FINRA-2018-031. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2018-031 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>15</sup>

Robert W. Errett  
Deputy Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

Below is the proposed rule text. Proposed new language is underlined>.

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**1000. MEMBER APPLICATION AND ASSOCIATED PERSON REGISTRATION**

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**1200. REGISTRATION AND QUALIFICATION**

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**1220. Registration Categories**

**(a) Definition of Principal and Principal Registration Categories**

**(1)** through **(3)** No Change.

**(4) Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal**

**(A) Requirement**

Each member that is operating pursuant to the provisions of SEA Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), shall designate a Financial and Operations Principal. Each member subject to the requirements of SEA Rule 15c3-1, other than a member operating pursuant to SEA Rules 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), shall designate either a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal.

A Financial and Operations Principal and an Introducing Broker-Dealer Financial and Operations Principal shall be responsible for performing the following duties:

(i) final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body;

(ii) final preparation of such reports;

(iii) supervision of individuals who assist in the preparation of such reports;

(iv) supervision of and responsibility for individuals who are involved in the actual maintenance of the member's books and records from which such reports are derived;

(v) supervision and performance of the member's responsibilities under all financial responsibility rules promulgated pursuant to the provisions of the Exchange Act;

(vi) overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member's back office operations; and

(vii) any other matter involving the financial and operational management of the member.

The requirements of paragraph (a)(4)(A) of this Rule shall not apply to a member that is exempt from the requirement to designate a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal.

**(B) Designation of Principal Financial Officer and Principal Operations Officer**

Each member shall designate a:

(i) Principal Financial Officer with primary responsibility for financial filings and those books and records related to such filings; and

(ii) Principal Operations Officer with primary responsibility for the day-to-day operations of the member's business, including overseeing the receipt and delivery of securities and funds, safeguarding customer and member assets, calculation and collection of margin from customers and processing dividend receivables and payables and reorganization redemptions and those books and records related to such activities.

Each member that self-clears, or that clears for other members, shall be required to designate separate persons to function as Principal Financial Officer and Principal Operations Officer. Such persons may also carry out the other responsibilities of a Financial and Operations Principal and an Introducing Broker-Dealer Financial and Operations Principal as specified in paragraph (a)(4)(A) of this Rule. If such member is limited in size and resources, it may, pursuant to the Rule 9600 Series, request a waiver of the requirement to designate separate persons to function as Principal Financial Officer and Principal Operations Officer.

Each member that is an introducing member may designate the same person to function as Financial and Operations Principal (or

Introducing Broker-Dealer Financial and Operations Principal), Principal Financial Officer and Principal Operations Officer.

Each person designated as a Principal Financial Officer or Principal Operations Officer, other than a person associated with a member that is exempt from the requirement to designate a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal, shall be required to register as a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal pursuant to paragraph (a)(4)(A) of this Rule.

(C) No Change.

(5) through (14) No Change.

(b) No Change.

••• **Supplementary Material:** -----

.01 through .06 No Change.

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