

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

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

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

**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed Rule Change to Amend NASD Rules 4632E, 6130E, 6140E and 6160E

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name  Last Name   
 Title   
 E-mail   
 Telephone  Fax

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date   
 By  Vice President and Associate General Counsel  
 (Name) (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information**

[Add](#) [Remove](#) [View](#)

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

[Add](#) [Remove](#) [View](#)

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

[Add](#) [Remove](#) [View](#)

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

[Add](#) [Remove](#) [View](#)

Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

[Add](#) [Remove](#) [View](#)

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

[Add](#) [Remove](#) [View](#)

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

[Add](#) [Remove](#) [View](#)

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of Proposed Rule Change**

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to reflect a change in the functionality of the NASD/NYSE Trade Reporting Facility (the “NASD/NYSE TRF”)<sup>2</sup> to permit participants to submit trades to the NASD/NYSE TRF for submission to the National Securities Clearing Corporation (“NSCC”) for clearance and settlement. Below is the text of the proposed rule change.<sup>3</sup> Proposed new language is underlined; proposed deletions are in brackets.

\* \* \* \* \*

**4000E. THE NASD/NYSE TRADE REPORTING FACILITY**

\* \* \* \* \*

**4632E. Transaction Reporting**

(a) through (d) No Change.

---

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

<sup>2</sup> Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation, Inc. Accordingly, the NASD/NYSE TRF is now doing business as the FINRA/NYSE TRF. The formal name change of each of FINRA’s Trade Reporting Facilities (“TRFs”) is pending and once completed, FINRA will file a separate proposed rule change to reflect those changes in the Manual.

<sup>3</sup> The text of NASD Rule 4632E(e)(3)(B) below reflects amendments adopted pursuant to proposed rule change SR-NASD-2007-040, which was filed for immediate effectiveness, but is not yet operative. See Securities Exchange Act Release No. 55962 (June 26, 2007), 72 FR 36536 (July 3, 2007) (notice of filing and immediate effectiveness of SR-NASD-2007-040).

**(e) Procedures for Reporting Price and Volume**

Members that report transactions to the NASD/NYSE Trade Reporting Facility, pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in designated securities in the following manner:

(1) through (2) No Change.

(3) (A) No Change.

(B) Exception: A “riskless” principal transaction in which a member after having received an order to buy a security, purchases the security as principal at the same price to satisfy the order to buy or, after having received an order to sell, sells the security as principal at the same price to satisfy the order to sell, shall be reported to the NASD/NYSE Trade Reporting Facility as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down, commission-equivalent, or other fee. Alternatively, a member may report a riskless principal transaction by submitting the following report(s):

(i) The member with the obligation to report the transaction pursuant to paragraph (b) above must submit a last sale report for the initial leg of the transaction.

(ii) Where the initial leg of the transaction has been reported to NASD, regardless of whether a member has a reporting obligation pursuant to paragraph (b) above, the firm must submit, for the offsetting, “riskless” portion of the transaction, either:

a. a clearing-only report with a capacity indicator

of “riskless principal,” if a clearing report is necessary to clear the transaction; or

b. a non-tape, non-clearing report with a capacity indicator of “riskless principal[.],” if a clearing report is not necessary to clear the transaction.

**Example:**

SELL as a principal 100 shares to another member at 40 to fill an existing order;

BUY as principal 100 shares from a customer at 40 minus a mark-down of \$12.50;

REPORT 100 shares at 40 by submitting a single trade report marked with a “riskless principal” capacity indicator to the NASD/NYSE Trade Reporting Facility or by submitting the following reports:

a. where required by this Rule, a tape report marked with a “principal” capacity indicator; and

b. either a non-tape, non-clearing report or a clearing-only report marked with a “riskless principal” capacity indicator.

In a riskless principal transaction in which a member purchases or sells the security on an exchange to satisfy a customer's order, the trade will be reported by the exchange. A member may, however, submit to the NASD/NYSE Trade Reporting Facility a clearing-only report or a non-

tape, non-clearing report for the “riskless” leg of a riskless principal transaction where the initial leg has been reported on or through an exchange. Any such report submitted to the NASD/NYSE Trade Reporting Facility shall comply with all applicable requirements for trade reports set forth in this Rule 4632E.

**Example:**

BUY as principal 100 shares on an exchange at 40 to fill an existing order;  
DO NOT REPORT this leg (will be reported by exchange).

SELL as principal 100 shares to a customer at 40 plus a mark-up of  
\$12.50.

A member MAY submit to the NASD/NYSE Trade Reporting Facility either a non-tape, non-clearing report or a clearing-only report for this leg marked with a "riskless principal" capacity indicator.

(f) through (i) No Change.

\* \* \* \* \*

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

**6100E. CLEARING AND COMPARISON RULES**

\* \* \* \* \*

**6130E. Trade Report Input**

**(a) Reportable Transactions**

Members shall comply with the Rule 6100E Series when reporting transactions to the System, including executions of less than one round lot. All trades that are reportable

transactions will be processed pursuant to an effective transaction reporting plan. Trades that are not already locked-in trades will not be accepted by the System. [and] [m]Members must use an alternative mechanism to report and clear these [such] trades. [The System will not submit any trades to clearing. Where appropriate, Participants must have a valid Qualified Service Representative (“QSR”) agreement with the National Securities Clearing Corporation or similar arrangement to clear trades submitted to the System. The System will accept trades reported as other than regular way settlement (i.e., Cash, Next-Day, Seller’s Option); however, as with all trade types, the System will not compare or submit these trades to clearing.]

(b) through (e) No Change.

**(f) Reporting Certain Transactions for Purposes of Regulatory Transaction**

**Fee Assessment**

Reports submitted to the System for the following types of transactions that are assessed a regulatory transaction fee in accordance with Section 3 of Schedule A to the NASD By-Laws must comply with the requirements set forth below. Transactions must be submitted by 8:00 p.m. Eastern Time (or the end of the System reporting session that is in effect at that time).

(1) Odd-Lot Transactions

Reports of transactions for less than a normal unit of trading shall include a modifier of .RO to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(2) Away From the Market Sales

Reports of transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, and consideration is given, shall include a modifier of .RA to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws.

Transactions may be entered as clearing or non-clearing.

(3) Exercises of OTC Options

Reports of transactions effected pursuant to the exercise of an OTC option shall include a modifier of .RX to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as

clearing or non-clearing.

(g) through (h) No Change.

\* \* \* \* \*

**6140E. Trade Report Processing**

All trades submitted to the System must be locked-in trades prior to entry into the System. [The System will not submit any trades to clearing. Where appropriate, Participants must have a valid Qualified Service Representative (“QSR”) agreement with the National Securities Clearing Corporation or similar arrangement to clear trades submitted to the System.]

**6160E. Obligation to Honor Trades**

If a Participant is reported by the System as a party to a trade that has been treated

as locked-in and sent to DTCC, notwithstanding any other agreement to the contrary, that party shall be obligated to act as a principal to the trade and shall honor such trade on the scheduled settlement date.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

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

The proposed rule change was approved and authorized for filing with the SEC pursuant to a delegation of authority granted by the Board of Governors of FINRA (then known as NASD) at its meeting on April 19, 2007. 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 requested a waiver of the 30-day operative delay. FINRA proposes that the proposed rule change will be operative on September 19, 2007, by which date the NASD/NYSE TRF will have made the necessary systems changes to implement this proposed rule change.

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

(a) Purpose

The NASD/NYSE TRF provides FINRA members a mechanism for reporting locked-in trades in NMS stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Act,<sup>4</sup> effected otherwise than on an exchange. NASD Rules 6130E(a) and 6140E

---

<sup>4</sup> 17 CFR 242.600(b)(47).

currently provide that the NASD/NYSE TRF will not submit trades to clearing and where appropriate, Participants must have a valid Qualified Service Representative (“QSR”) agreement with the NSCC or similar arrangement to clear trades submitted to the NASD/NYSE TRF.<sup>5</sup>

FINRA is proposing to amend Rules 6130E(a) and 6140E to reflect a change in the functionality of the NASD/NYSE TRF to permit Participants to submit trades to the NASD/NYSE TRF for submission to the NSCC for clearance and settlement. Thus, locked-in trades (including locked-in trades reported as other than regular way settlement) will be accepted by the NASD/NYSE TRF, as they are today, and at the option of the Participant, clearing information for such trades will be submitted to the NSCC. In addition, FINRA is proposing to amend Rules 4632E(e)(3)(B) and 6130E(f) to include references to “clearing” and “clearing-only” reports (in addition to non-clearing reports), where appropriate, and Rule 6160E to refer to trades that have been treated as locked-in “and sent to DTCC.” The amendments proposed herein are identical to the rules relating to the NASD/NSX Trade Reporting Facility (the “NASD/NSX TRF”)<sup>6</sup> and are substantially similar to the rules relating to the NASD/Nasdaq Trade Reporting

---

<sup>5</sup> See also Securities Exchange Act Release No. 55325 (February 21, 2007), 72 FR 8820 (February 27, 2007) (notice of filing and immediate effectiveness of SR-NASD-2007-011).

<sup>6</sup> See NASD Rules 4632C(d), 6130C(a), 6140C and 6160C. NASD Rule 6130C(a) was recently amended by proposed rule change SR-FINRA-2007-003, which was filed for immediate effectiveness, but is not yet operative. See Securities Exchange Act Release No. 56321 (August 24, 2007), 72 FR 50425 (August 31, 2007) (notice of filing and immediate effectiveness of SR-FINRA-2007-003).

Facility (the “NASD/Nasdaq TRF”).<sup>7</sup>

The proposed rule change will provide members another mechanism for clearing trades that they report to FINRA and will ensure consistency in the trade reporting rules relating to the TRFs, to the extent practicable.

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness and requested a waiver of the 30-day operative delay. FINRA proposes that the proposed rule change will be operative on September 19, 2007, by which date the NASD/NYSE TRF will have made the necessary systems changes to implement this proposed rule change.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>8</sup> which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will assist members in complying with their reporting obligations by providing another mechanism for members to clear trades reported to FINRA.

---

<sup>7</sup> See Rules 4632(d), 6130(a), 6140 and 6160. The NASD/Nasdaq TRF offers trade comparison functionality, while the NASD/NYSE TRF and NASD/NSX TRF accept locked-in trades only. The pertinent rules reflect this difference in functionality.

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

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

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

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

Written comments were neither solicited nor received.

**6. Extension of Time Period for Commission Action**

Not applicable.

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>10</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. FINRA believes that the filing is appropriately designated as “non-controversial” because the proposed rule change is substantially similar to the current rules relating to the NASD/NSX TRF and NASD/Nasdaq TRF.<sup>11</sup> In accordance with Rule 19b-4,<sup>12</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.

---

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> See NASD Rules 4632(d), 4632C(d), 6130(a), 6140, 6160, 6130C(a), 6140C and 6160C.

<sup>12</sup> 17 CFR 240.19b-4.

FINRA requests that the Commission waive the 5-day pre-filing notice requirement and the 30-day period for the proposed rule change to become operative, as set forth in Rule 19b-4(f)(6).<sup>13</sup> The requested waivers are necessary in light of the imminent closing of the NASD/BSE Trade Reporting Facility (the “NASD/BSE TRF”), which is expected to occur on or before September 21, 2007. A FINRA member, which is currently an NASD/BSE TRF participant only, has indicated its desire to report trades to the NASD/NYSE TRF upon the closing of the NASD/BSE TRF and is currently performing systems testing with the NASD/NYSE TRF so that it can fully comply with its reporting obligations at that time. The proposed rule change would accommodate this (and any other) member that, for systems or business reasons, chooses to use the NASD/NYSE TRF as an alternative facility through which to report trades to FINRA, but that may also need a facility through which to clear those trades.

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

Not applicable.

**9. Exhibits**

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

---

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34- ; File No. SR-FINRA-2007-015)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend NASD Rules 4632E, 6130E, 6140E and 6160E

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”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) 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 its rules to reflect a change in the functionality of the NASD/NYSE Trade Reporting Facility (the “NASD/NYSE TRF”)<sup>4</sup> to permit

---

<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).

<sup>4</sup> Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation, Inc. Accordingly, the NASD/NYSE TRF is now doing business as the FINRA/NYSE TRF. The formal

participants to submit trades to the NASD/NYSE TRF for submission to the National Securities Clearing Corporation (“NSCC”) for clearance and settlement. Below is the text of the proposed rule change.<sup>5</sup> Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

**4000E. THE NASD/NYSE TRADE REPORTING FACILITY**

\* \* \* \* \*

**4632E. Transaction Reporting**

(a) through (d) No Change.

**(e) Procedures for Reporting Price and Volume**

Members that report transactions to the NASD/NYSE Trade Reporting Facility, pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in designated securities in the following manner:

(1) through (2) No Change.

(3) (A) No Change.

(B) Exception: A “riskless” principal transaction in which a member after having received an order to buy a security, purchases the security as principal at the same price to satisfy the order to buy or, after having received an order to sell, sells the security as principal at the same

---

name change of each of FINRA’s Trade Reporting Facilities (“TRFs”) is pending and once completed, FINRA will file a separate proposed rule change to reflect those changes in the Manual.

<sup>5</sup> The text of NASD Rule 4632E(e)(3)(B) below reflects amendments adopted pursuant to proposed rule change SR-NASD-2007-040, which was filed for immediate effectiveness, but is not yet operative. See Securities Exchange Act Release No. 55962 (June 26, 2007), 72 FR 36536 (July 3, 2007) (notice of filing and immediate effectiveness of SR-NASD-2007-040).

price to satisfy the order to sell, shall be reported to the NASD/NYSE Trade Reporting Facility as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down, commission-equivalent, or other fee. Alternatively, a member may report a riskless principal transaction by submitting the following report(s):

(i) The member with the obligation to report the transaction pursuant to paragraph (b) above must submit a last sale report for the initial leg of the transaction.

(ii) Where the initial leg of the transaction has been reported to NASD, regardless of whether a member has a reporting obligation pursuant to paragraph (b) above, the firm must submit, for the offsetting, “riskless” portion of the transaction, either:

a. a clearing-only report with a capacity indicator of “riskless principal,” if a clearing report is necessary to clear the transaction; or

b. a non-tape, non-clearing report with a capacity indicator of “riskless principal[.],” if a clearing report is not necessary to clear the transaction.

**Example:**

SELL as a principal 100 shares to another member at 40 to fill an existing order;

BUY as principal 100 shares from a customer at 40 minus a mark-down of \$12.50;

REPORT 100 shares at 40 by submitting a single trade report marked with a “riskless principal” capacity indicator to the NASD/NYSE Trade Reporting Facility or by submitting the following reports:

- a. where required by this Rule, a tape report marked with a “principal” capacity indicator; and
- b. either a non-tape, non-clearing report or a clearing-only report marked with a “riskless principal” capacity indicator.

In a riskless principal transaction in which a member purchases or sells the security on an exchange to satisfy a customer's order, the trade will be reported by the exchange. A member may, however, submit to the NASD/NYSE Trade Reporting Facility a clearing-only report or a non-tape, non-clearing report for the “riskless” leg of a riskless principal transaction where the initial leg has been reported on or through an exchange. Any such report submitted to the NASD/NYSE Trade Reporting Facility shall comply with all applicable requirements for trade reports set forth in this Rule 4632E.

**Example:**

BUY as principal 100 shares on an exchange at 40 to fill an existing order;  
DO NOT REPORT this leg (will be reported by exchange).  
SELL as principal 100 shares to a customer at 40 plus a mark-up of \$12.50.

A member MAY submit to the NASD/NYSE Trade Reporting Facility either a non-tape, non-clearing report or a clearing-only report for this leg marked with a "riskless principal" capacity indicator.

(f) through (i) No Change.

\* \* \* \* \*

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

**6100E. CLEARING AND COMPARISON RULES**

\* \* \* \* \*

**6130E. Trade Report Input**

**(a) Reportable Transactions**

Members shall comply with the Rule 6100E Series when reporting transactions to the System, including executions of less than one round lot. All trades that are reportable transactions will be processed pursuant to an effective transaction reporting plan. Trades that are not already locked-in trades will not be accepted by the System. [and] [m]Members must use an alternative mechanism to report and clear these [such] trades. [The System will not submit any trades to clearing. Where appropriate, Participants must have a valid Qualified Service Representative ("QSR") agreement with the National Securities Clearing Corporation or similar arrangement to clear trades submitted to the System. The System will accept trades reported as other than regular way settlement (i.e., Cash, Next-Day, Seller's Option); however, as with all trade types, the System will not compare or submit these trades to clearing.]

(b) through (e) No Change.

**(f) Reporting Certain Transactions for Purposes of Regulatory Transaction**

**Fee Assessment**

Reports submitted to the System for the following types of transactions that are assessed a regulatory transaction fee in accordance with Section 3 of Schedule A to the NASD By-Laws must comply with the requirements set forth below. Transactions must be submitted by 8:00 p.m. Eastern Time (or the end of the System reporting session that is in effect at that time).

(1) Odd-Lot Transactions

Reports of transactions for less than a normal unit of trading shall include a modifier of .RO to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(2) Away From the Market Sales

Reports of transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, and consideration is given, shall include a modifier of .RA to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(3) Exercises of OTC Options

Reports of transactions effected pursuant to the exercise of an OTC option shall include a modifier of .RX to designate the transaction as

submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(g) through (h) No Change.

\* \* \* \* \*

**6140E. Trade Report Processing**

All trades submitted to the System must be locked-in trades prior to entry into the System. [The System will not submit any trades to clearing. Where appropriate, Participants must have a valid Qualified Service Representative (“QSR”) agreement with the National Securities Clearing Corporation or similar arrangement to clear trades submitted to the System.]

**6160E. Obligation to Honor Trades**

If a Participant is reported by the System as a party to a trade that has been treated as locked-in and sent to DTCC, notwithstanding any other agreement to the contrary, that party shall be obligated to act as a principal to the trade and shall honor such trade on the scheduled settlement date.

\* \* \* \* \*

**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

The NASD/NYSE TRF provides FINRA members a mechanism for reporting locked-in trades in NMS stocks, as defined in Rule 600(b)(47) of Regulation NMS under the Act,<sup>6</sup> effected otherwise than on an exchange. NASD Rules 6130E(a) and 6140E currently provide that the NASD/NYSE TRF will not submit trades to clearing and where appropriate, Participants must have a valid Qualified Service Representative (“QSR”) agreement with the NSCC or similar arrangement to clear trades submitted to the NASD/NYSE TRF.<sup>7</sup>

FINRA is proposing to amend Rules 6130E(a) and 6140E to reflect a change in the functionality of the NASD/NYSE TRF to permit Participants to submit trades to the NASD/NYSE TRF for submission to the NSCC for clearance and settlement. Thus, locked-in trades (including locked-in trades reported as other than regular way settlement) will be accepted by the NASD/NYSE TRF, as they are today, and at the option of the Participant, clearing information for such trades will be submitted to the NSCC. In addition, FINRA is proposing to amend Rules 4632E(e)(3)(B) and 6130E(f) to include references to “clearing” and “clearing-only” reports (in addition to non-clearing reports), where appropriate, and Rule 6160E to refer to trades that have been treated as locked-in “and sent to DTCC.” The amendments proposed herein are identical to the

---

<sup>6</sup> 17 CFR 242.600(b)(47).

<sup>7</sup> See also Securities Exchange Act Release No. 55325 (February 21, 2007), 72 FR 8820 (February 27, 2007) (notice of filing and immediate effectiveness of SR-NASD-2007-011).

rules relating to the NASD/NSX Trade Reporting Facility (the “NASD/NSX TRF”)<sup>8</sup> and are substantially similar to the rules relating to the NASD/Nasdaq Trade Reporting Facility (the “NASD/Nasdaq TRF”).<sup>9</sup>

The proposed rule change will provide members another mechanism for clearing trades that they report to FINRA and will ensure consistency in the trade reporting rules relating to the TRFs, to the extent practicable.

FINRA has filed the proposed rule change for immediate effectiveness and requested a waiver of the 30-day operative delay. FINRA proposes that the proposed rule change will be operative on September 19, 2007, by which date the NASD/NYSE TRF will have made the necessary systems changes to implement this proposed rule change.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>10</sup> which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest.

---

<sup>8</sup> See NASD Rules 4632C(d), 6130C(a), 6140C and 6160C. Rule 6130C(a) was recently amended by proposed rule change SR-FINRA-2007-003, which was filed for immediate effectiveness, but is not yet operative. See Securities Exchange Act Release No. 56321 (August 24, 2007), 72 FR 50425 (August 31, 2007) (notice of filing and immediate effectiveness of SR-FINRA-2007-003).

<sup>9</sup> See Rules 4632(d), 6130(a), 6140 and 6160. The NASD/Nasdaq TRF offers trade comparison functionality, while the NASD/NYSE TRF and NASD/NSX TRF accept locked-in trades only. The pertinent rules reflect this difference in functionality.

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

FINRA believes that the proposed rule change will assist members in complying with their reporting obligations by providing another mechanism for members to clear trades reported to FINRA.

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

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

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

Written comments were neither solicited nor received.

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

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>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup> FINRA believes that the filing is appropriately designated as “non-controversial” because the proposed rule change is substantially similar to the current rules relating to the NASD/NSX TRF

---

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

and NASD/Nasdaq TRF.<sup>13</sup> In accordance with Rule 19b-4,<sup>14</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.

FINRA has requested that the Commission waive the 5-day pre-filing notice requirement and the 30-day period for the proposed rule change to become operative, as set forth in Rule 19b-4(f)(6).<sup>15</sup> The requested waivers are necessary in light of the imminent closing of the NASD/BSE Trade Reporting Facility (the “NASD/BSE TRF”), which is expected to occur on or before September 21, 2007. A FINRA member, which is currently an NASD/BSE TRF participant only, has indicated its desire to report trades to the NASD/NYSE TRF upon the closing of the NASD/BSE TRF and is currently performing systems testing with the NASD/NYSE TRF so that it can fully comply with its reporting obligations at that time. The proposed rule change would accommodate this (and any other) member that, for systems or business reasons, chooses to use the NASD/NYSE TRF as an alternative facility through which to report trades to FINRA, but that may also need a facility through which to clear those trades.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

---

<sup>13</sup> See NASD Rules 4632(d), 4632C(d), 6130(a), 6140, 6160, 6130C(a), 6140C and 6160C.

<sup>14</sup> 17 CFR 240.19b-4.

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

#### **IV. Solicitation of Comments**

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

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2007-015 on the subject line.

##### Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2007-015. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such

filing also will be available for inspection and copying at the principal office of FINRA.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2007-015 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

Nancy M. Morris

Secretary

---

<sup>16</sup> 17 CFR 200.30-3(a)(12).