

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

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| Initial <input checked="" type="checkbox"/> | Amendment <input type="checkbox"/> | Withdrawal <input type="checkbox"/> | Section 19(b)(2) <input type="checkbox"/> | Section 19(b)(3)(A) <input checked="" type="checkbox"/> | Section 19(b)(3)(B) <input type="checkbox"/> |
| | | | Rule | | |
| Pilot <input type="checkbox"/> | Extension of Time Period for Commission Action <input type="checkbox"/> | Date Expires <input type="text"/> | <input type="checkbox"/> 19b-4(f)(1) | <input type="checkbox"/> 19b-4(f)(4) | <input type="checkbox"/> 19b-4(f)(5) |
| | | | <input type="checkbox"/> 19b-4(f)(2) | <input type="checkbox"/> 19b-4(f)(6) | <input checked="" type="checkbox"/> 19b-4(f)(3) |

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| Exhibit 2 Sent As Paper Document <input type="checkbox"/> | Exhibit 3 Sent As Paper Document <input type="checkbox"/> |
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Description
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed Rule Change to Reflect that the FINRA/NYSE Trade Reporting Facility Does Not Support Three-Party Trade Report Functionality

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

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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 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 Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ 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 amend its rules to reflect that the NASD/NYSE Trade Reporting Facility (“NASD/NYSE TRF”) currently does not support the three party trade report functionality for purposes of reporting trades to the NASD/NYSE TRF. Specifically, FINRA is proposing to delete the three party trade report provisions from the NASD/NYSE TRF rules and to conform the two party trade report provisions in the NASD/NYSE TRF rules to the rules relating to FINRA’s other Trade Reporting Facilities (“TRFs”).² Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

4000E. THE NASD/NYSE TRADE REPORTING FACILITY

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation. Accordingly, the NASD/NYSE TRF is now doing business as the FINRA/NYSE TRF. In addition to the NASD/NYSE TRF, there are two other TRFs in operation: the NASD/Nasdaq Trade Reporting Facility (the “NASD/Nasdaq TRF”) and the NASD/NSX Trade Reporting Facility (the “NASD/NSX TRF”). The formal name change of each TRF is pending and once completed, FINRA will file a separate proposed rule change to reflect those changes in the Manual.

4632E. Transaction Reporting

(a) through (b) No Change.

[(c) Information To Be Reported — Two Party Trade Reports]

[(1) A two party trade report is a last sale report that denotes a trade between one Reporting Member (i.e., the member with the obligation to report the trade under Rule 4632E(b)) and one Non-Reporting Member (or other contra party). The Reporting Member is denoted as the (“MMID”) side of the trade report and the Non-Reporting Member is denoted as the (“OEID”) side of the report.]

[(2) Each two party last sale report submitted by a Reporting Member shall contain the following information:]

[(A) Security Identification Symbol (SECID) of the designated security;]

[(B) Number of shares or bonds;]

[(C) Price of the transaction as required by paragraph (e) below;]

[(D) A symbol indicating whether the transaction, from the perspective of the Reporting Member, is a buy, sell, sell short, or cross;]

[(E) If known, a designated symbol indicating whether the transaction, from the perspective of the Non-Reporting Member (or other contra party), is a buy, sell, or sell short;]

[(F) A designated symbol indicating whether the transaction, from the perspective of the Reporting Member, is a principal, riskless principal, or agent;]

[(G) If known, a designated symbol indicating whether the transaction, from the perspective of the Non-Reporting Member (or other contra party), is a principal, riskless principal, or agent;]

[(H) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include an order identifier, meeting such parameters as may be prescribed by NASD, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1));]

[(I) The time of execution expressed in hours, minutes and seconds based on Eastern Time in military format, unless another provision of NASD rules requires that a different time be included in the report;]

[(J) The market participant identifier of the Reporting Member and the Non-Reporting Member, unless the contra side to the trade report is a customer of the Reporting Member or a non-NASD member, in which case, the Reporting Member shall indicate in a manner prescribed by NASD that the contra side is a customer or non-member;]

[(K) Reporting Member clearing broker;]

[(L) Reporting Member Executing Broker in the case of a give up agreement, as defined in Rule 4632E(h);]

[(M) Non-Reporting Member Executing Broker;]

[(N) Non-Reporting Member introducing broker in the case of a give up agreement, as defined in Rule 4632E(h);]

[(O) Non-Reporting Member clearing broker;]

[(P) A designated symbol indicating whether the trade report should be published; and]

[(Q) For two party trade reports submitted pursuant to a give up agreement, as defined in Rule 4632E(h), or a Qualified Service Representative (“QSR”) Agreement, disclosure of the information set forth in subparagraphs (e)(2)(E) and (G) is mandatory.]

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) Stock symbol of the designated security;

(2) Number of shares or bonds;

(3) Price of the transaction as required by paragraph (d) below;

(4) A symbol indicating whether the transaction is a buy, sell, sell short,

or cross;

(5) The time of execution expressed in hours, minutes and seconds based on Eastern Time in military format, unless another provision of NASD rules requires that a different time be included in the report; and

(6) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include an order identifier, meeting such parameters as may be prescribed by NASD, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1)).

[(d) Information To Be Reported — Three Party Trade Reports]

[(1) A three party trade report is a single last sale trade report that denotes one Reporting Member and two contra parties. The Reporting Member is denoted as the MMID side of the trade report and the two non-reporting sides are denoted as the OEID side of the trade report. In a three party trade report, the Reporting Member is the buyer to one OEID and the seller to the other OEID. Reporting ECNs, as defined in Rule 6110E, must use the three party trade report when reporting trades to the NASD/NYSE Trade Reporting Facility. Riskless principal trades also may be submitted by Reporting Members as three party trade reports.]

[(2) Each three party trade report submitted by a Reporting Member shall contain the following information:]

[(A) Security Identification Symbol (SECID) of the designated security;]

[(B) Number of shares or bonds;]

[(C) Price of the transaction as required by paragraph (e) below;]

[(D) The time of execution expressed in hours, minutes and seconds based on Eastern Time in military format, unless another provision of NASD rules requires that a different time be included in the report;]

[(E) The market participant identifier of the Reporting Member and the two Non-Reporting Members, unless the contra side to the trade report is a customer of the Reporting Member or a non-NASD member, in which case, the Reporting Member shall indicate in a manner prescribed

by NASD that the contra side is a customer or non-member;]

[(F) A designated symbol indicating whether the trade should be published;]

[(G) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include an order identifier, meeting such parameters as may be prescribed by NASD, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1)).]

[MMID Side]

[(H) All three party trade reports from ECNs must be marked as agency cross transactions;]

[(I) All three party trade reports from non-ECNs must be denoted as riskless principal trade reports and shall include a designated symbol indicating whether the trade between the non-ECN and the buy-side OEID is a sell, or sell short transaction;]

[(J) Reporting Member clearing broker;]

[(K) Reporting Member Executing Broker in the case of a give up agreement, as defined in Rule 4632E(h);]

[Buy Side OEID]

[(L) Buy Side OEID executing broker;]

[(M) Buy Side OEID introducing broker in case of a give up agreement, as defined in Rule 4632E(h);]

[(N) Buy Side OEID clearing broker;]

[(O) If known, a designated symbol indicating whether the trade, from the Buy Side OEID's perspective, is as principal, riskless principal, or agent;]

[(P) If the Buy Side OEID is a customer of the Reporting Member or a non-NASD member, the Reporting Member shall indicate in a manner prescribed by NASD that the Buy Side OEID is a customer or non-member;]

[Sell Side OEID]

[(Q) Sell Side OEID executing broker;]

[(R) Sell Side OEID introducing broker in case of a give up agreement, as defined in Rule 4632E(h);]

[(S) Sell Side OEID clearing broker;]

[(T) If known, a designated symbol indicating whether the trade, from the Sell Side OEID's perspective, is as principal, riskless principal, or agent;]

[(U) If known, a symbol indicating whether the trade, from the Sell Side OEID's perspective, is a sell, or sell short transaction;]

[(V) If the Sell Side OEID is a customer of the Reporting Member or a non-NASD member, the Reporting Member shall indicate in a manner prescribed by NASD that the Sell Side OEID is a customer or non-member;]

[(W) If the transaction between the Buy Side OEID and the Reporting Member is reported pursuant to a give up agreement, as defined

in Rule 4632E(h), or a QSR agreement, disclosure of the information set forth in subparagraph (d)(2)(O) is mandatory; and]

[(X) If the transaction between the Sell Side OEID and the Reporting Member is reported pursuant to a give up agreement, as defined in Rule 4632E(h), or a QSR agreement, disclosure of the information set forth in subparagraphs (d)(2)(T) and (U) is mandatory.]

(e) through (f) redesignated (d) through (e)

([g]f) Reporting Cancelled Trades

(1) Obligation and Party Responsible for Reporting Cancelled Trades

With the exception of trades cancelled in accordance with Rule 11890, members shall report to the NASD/NYSE Trade Reporting Facility the cancellation of any trade previously submitted to the NASD/NYSE Trade Reporting Facility. The member responsible for submitting the original trade report shall submit the cancellation report in accordance with the procedures set forth in paragraph ([g]f)(2).

(2) Deadlines for Reporting Cancelled Trades

(A) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled before 4:00 p.m. on the date of execution, the member responsible under paragraph ([g]f)(1) shall report the cancellation within 90 seconds of the time the trade is cancelled.

(B) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 4:00 p.m., but before 8:00 p.m. on the date of execution, the member responsible under paragraph ([g]f)(1) shall use its

best efforts to report the cancellation not later than 8:00 p.m. on the date of execution, and otherwise it shall report the cancellation on the following business day by 8:00 p.m.

(C) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 8:00 p.m. on the date of execution, the member responsible under paragraph ([g]f)(1) shall report the cancellation on the following business day by 8:00 p.m.

(D) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled prior to 8:00 p.m. on the date of execution, the member responsible for reporting under paragraph ([g]f)(1) shall report the cancellation by 8:00 p.m.

(E) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled after 8:00 p.m. on the date of execution, the member responsible under paragraph ([g]f)(1) shall report the cancellation on the following business day by 8:00 p.m.

(F) For any trade cancelled on any date after the date of execution, the member responsible under paragraph ([g]f)(1) shall report the cancellation (i) by 8:00 p.m. on the date of cancellation if the trade is cancelled before 6:30 p.m., or (ii) by 8:00 p.m. on the following business day if the trade is cancelled at or after 8:00 p.m.

(G) For purposes of determining the deadline by which a trade cancellation must be reported pursuant to subparagraph ([g]f) of this rule the term "cancelled" shall mean the time at which (i) the member with the

reporting responsibility informs its contra party, or is informed by its contra party, that a trade is being cancelled, (ii) the member with the reporting responsibility and its contra party agree to cancel a trade if neither party can unilaterally cancel the trade, or (iii) the member with the reporting responsibility takes an action to cancel the trade on its books and records, whichever event occurs first.

(h) through (i) redesignated (g) through (h)

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

* * * * *

6130E. Trade Report Input

(a) through (b) No Change.

(c) Which Party Inputs Trade Reports

Participants shall, subject to the input requirements below, input trade reports. Trade data input obligations are as follows:

(1) through (4) No Change.

(5) in transactions conducted through a Reporting ECN that are reported to the System, the Reporting ECN shall ensure that transactions are reported in accordance with one of the following methods:

(A) through (C) No Change.

When a Reporting ECN reports transactions in accordance with subparagraph (A), the Reporting ECN shall be responsible for ensuring

that the trade reports are accurate and contain all information required by subsection (d) of this rule for both the Reporting ECN and the identified non-reporting party.

When a Reporting ECN reports transactions in accordance with subparagraph (B), both the Reporting ECN and the party identified as the Reporting Party shall be responsible for ensuring that the trade reports are accurate and contain all information required by subsection (d) of this rule for both the Reporting ECN and the identified Reporting Party.

When a Reporting ECN requires reporting of transactions in accordance with subparagraph (C), the Reporting Party shall be responsible for ensuring the accuracy and completeness of the trade report.

[Pursuant to Rule 4632E(d), a Reporting ECN must use the three party trade report when reporting trades to the NASD/NYSE Trade Reporting Facility.]

A Reporting ECN shall provide written notice to NASD of the method of trade reporting used by the Reporting ECN for each of its subscribers and may change the method of trade reporting used for a subscriber by providing advance written notice of the change to NASD;

(6) through (7) No Change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (8) No Change.

(9) Reporting side executing broker in the case of a give up agreement, as defined in Rule 4632E([h]g);

(10) No Change.

(11) Contra side Introducing Broker in the case of a give up agreement, as defined in Rule 4632E([h]g);

(12) through (13) No Change.

(e) through (g) No Change.

(h) Members shall not submit to the System any report (including but not limited to reports of step-outs and reversals) associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632E([e]d), to reflect the offsetting riskless portion of a riskless principal transaction.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

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

FINRA has filed the proposed rule change for immediate effectiveness and requested a waiver of the 30-day operative delay. FINRA proposes that the proposed rule change be operative on the date of filing.

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

(a) Purpose

The TRFs, including the NASD/NYSE TRF, provide members mechanisms for reporting trades in NMS stocks, as defined in SEC Rule 600(b)(47) of Regulation NMS under the Act, executed otherwise than on an exchange. When the NASD/NYSE TRF was established, it was contemplated that members would be able to report trades to the NASD/NYSE TRF using either a two or three party trade report. See NASD Rules 4632E(c) and 4632E(d), respectively. A three party trade report is a single trade report that denotes one Reporting Member (i.e., the member with the obligation to report the trade under FINRA’s rules) and two contra parties. NASD Rules 4632E(c) and (d) are substantially similar to the reporting requirements relating to two and three party trade reports for FINRA’s Alternative Display Facility (the “ADF”). See Rules 4632A(c) and (d).

However, the NASD/NYSE TRF has not implemented the three party trade report functionality and today, members can only submit reports to the NASD/NYSE TRF in the two party trade report format.³ Accordingly, in order for the rules to accurately reflect the functionality of the system, FINRA is proposing to delete Rule 4632E(d) relating to three party trade reports. In addition, FINRA is proposing to replace the current two party trade report provisions found in paragraph (c) of Rule 4632E with a new paragraph (c), which is identical to the two party trade report provisions for the NASD/Nasdaq TRF and the NASD/NSX TRF. This will conform, to the extent practicable, the rules relating to the three TRFs.⁴ Finally, FINRA is proposing technical

³ The NASD/NYSE TRF may implement this functionality at a later date, in which case FINRA would submit a proposed rule change to amend its rules accordingly.

⁴ Neither the NASD/Nasdaq TRF nor the NASD/NSX TRF supports three party trade reports. Accordingly, today members can only submit trades to a TRF in

changes to paragraphs (c), (d) and (h) of Rule 6130E to reflect the deletion of Rule 4632E(d) and the resulting renumbering of paragraphs in Rule 4632E.

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 be operative on the date of filing.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁵ 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, and, in general, to protect investors and the public interest. FINRA believes that by deleting rules that apply to functionality that is not currently supported by the NASD/NYSE TRF, the proposed rule change will prevent potential member confusion and trade reporting errors.

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.

the two party trade report format. Members can submit trades in the three party trade report format to the ADF.

⁵ 15 U.S.C. 78o-3(b)(6).

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 Act⁶ and paragraph (f)(6) of Rule 19b-4 thereunder,⁷ 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 not impacting members’ reporting obligations or current capability, but is merely amending FINRA’s trade reporting rules to accurately reflect the current functionality of the NASD/NYSE TRF. In accordance with Rule 19b-4,⁸ 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.

FINRA requests that the Commission waive the 30-day period for the proposed rule change to become operative, as set forth in Rule 19b-4(f)(6).⁹ The requested waiver is necessary to expedite the deletion of rules relating to the three party trade report functionality, which is currently not supported by the NASD/NYSE TRF, and the adoption of conforming changes to the two party trade report provisions in the

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ 17 CFR 240.19b-4.

⁹ 17 CFR 240.19b-4(f)(6).

NASD/NYSE TRF rules, thereby preventing potential member confusion and trade reporting errors.

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.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-002)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reflect that the NASD/NYSE Trade Reporting Facility Does Not Support Three Party Trade Report Functionality

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

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

FINRA is proposing to amend its rules to reflect that the NASD/NYSE Trade Reporting Facility (“NASD/NYSE TRF”) currently does not support the three party trade report functionality for purposes of reporting trades to the NASD/NYSE TRF.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

Specifically, FINRA is proposing to delete the three party trade report provisions from the NASD/NYSE TRF rules and to conform the two party trade report provisions in the NASD/NYSE TRF rules to the rules relating to FINRA's other Trade Reporting Facilities ("TRFs").⁴ Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

4000E. THE NASD/NYSE TRADE REPORTING FACILITY

* * * * *

4632E. Transaction Reporting

(a) through (b) No Change.

[(c) Information To Be Reported — Two Party Trade Reports]

[(1) A two party trade report is a last sale report that denotes a trade between one Reporting Member (i.e., the member with the obligation to report the trade under Rule 4632E(b)) and one Non-Reporting Member (or other contra party). The Reporting Member is denoted as the ("MMID") side of the trade report and the Non-Reporting Member is denoted as the ("OEID") side of the report.]

[(2) Each two party last sale report submitted by a Reporting Member shall contain the following information:]

⁴ Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation. Accordingly, the NASD/NYSE TRF is now doing business as the FINRA/NYSE TRF. In addition to the NASD/NYSE TRF, there are two other TRFs in operation: the NASD/Nasdaq Trade Reporting Facility (the "NASD/Nasdaq TRF") and the NASD/NSX Trade Reporting Facility (the "NASD/NSX TRF"). The formal name change of each TRF is pending and once completed, FINRA will file a separate proposed rule change to reflect those changes in the Manual.

[(A) Security Identification Symbol (SECID) of the designated security;]

[(B) Number of shares or bonds;]

[(C) Price of the transaction as required by paragraph (e) below;]

[(D) A symbol indicating whether the transaction, from the perspective of the Reporting Member, is a buy, sell, sell short, or cross;]

[(E) If known, a designated symbol indicating whether the transaction, from the perspective of the Non-Reporting Member (or other contra party), is a buy, sell, or sell short;]

[(F) A designated symbol indicating whether the transaction, from the perspective of the Reporting Member, is a principal, riskless principal, or agent;]

[(G) If known, a designated symbol indicating whether the transaction, from the perspective of the Non-Reporting Member (or other contra party), is a principal, riskless principal, or agent;]

[(H) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include an order identifier, meeting such parameters as may be prescribed by NASD, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1));]

[(I) The time of execution expressed in hours, minutes and seconds based on Eastern Time in military format, unless another provision of NASD rules requires that a different time be included in the

report;]

[(J) The market participant identifier of the Reporting Member and the Non-Reporting Member, unless the contra side to the trade report is a customer of the Reporting Member or a non-NASD member, in which case, the Reporting Member shall indicate in a manner prescribed by NASD that the contra side is a customer or non-member;]

[(K) Reporting Member clearing broker;]

[(L) Reporting Member Executing Broker in the case of a give up agreement, as defined in Rule 4632E(h);]

[(M) Non-Reporting Member Executing Broker;]

[(N) Non-Reporting Member introducing broker in the case of a give up agreement, as defined in Rule 4632E(h);]

[(O) Non-Reporting Member clearing broker;]

[(P) A designated symbol indicating whether the trade report should be published; and]

[(Q) For two party trade reports submitted pursuant to a give up agreement, as defined in Rule 4632E(h), or a Qualified Service Representative (“QSR”) Agreement, disclosure of the information set forth in subparagraphs (e)(2)(E) and (G) is mandatory.]

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) Stock symbol of the designated security;

(2) Number of shares or bonds;

(3) Price of the transaction as required by paragraph (d) below;

(4) A symbol indicating whether the transaction is a buy, sell, sell short, or cross;

(5) The time of execution expressed in hours, minutes and seconds based on Eastern Time in military format, unless another provision of NASD rules requires that a different time be included in the report; and

(6) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include an order identifier, meeting such parameters as may be prescribed by NASD, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1)).

[(d) Information To Be Reported — Three Party Trade Reports]

[(1) A three party trade report is a single last sale trade report that denotes one Reporting Member and two contra parties. The Reporting Member is denoted as the MMID side of the trade report and the two non-reporting sides are denoted as the OEID side of the trade report. In a three party trade report, the Reporting Member is the buyer to one OEID and the seller to the other OEID. Reporting ECNs, as defined in Rule 6110E, must use the three party trade report when reporting trades to the NASD/NYSE Trade Reporting Facility. Riskless principal trades also may be submitted by Reporting Members as three party trade reports.]

[(2) Each three party trade report submitted by a Reporting Member shall contain the following information:]

[(A) Security Identification Symbol (SECID) of the designated

security;]

[(B) Number of shares or bonds;]

[(C) Price of the transaction as required by paragraph (e) below;]

[(D) The time of execution expressed in hours, minutes and seconds based on Eastern Time in military format, unless another provision of NASD rules requires that a different time be included in the report;]

[(E) The market participant identifier of the Reporting Member and the two Non-Reporting Members, unless the contra side to the trade report is a customer of the Reporting Member or a non-NASD member, in which case, the Reporting Member shall indicate in a manner prescribed by NASD that the contra side is a customer or non-member;]

[(F) A designated symbol indicating whether the trade should be published;]

[(G) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include an order identifier, meeting such parameters as may be prescribed by NASD, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1)).]

[MMID Side]

[(H) All three party trade reports from ECNs must be marked as agency cross transactions;]

[(I) All three party trade reports from non-ECNs must be denoted

as riskless principal trade reports and shall include a designated symbol indicating whether the trade between the non-ECN and the buy-side OEID is a sell, or sell short transaction;]

[(J) Reporting Member clearing broker;]

[(K) Reporting Member Executing Broker in the case of a give up agreement, as defined in Rule 4632E(h);]

[Buy Side OEID]

[(L) Buy Side OEID executing broker;]

[(M) Buy Side OEID introducing broker in case of a give up agreement, as defined in Rule 4632E(h);]

[(N) Buy Side OEID clearing broker;]

[(O) If known, a designated symbol indicating whether the trade, from the Buy Side OEID's perspective, is as principal, riskless principal, or agent;]

[(P) If the Buy Side OEID is a customer of the Reporting Member or a non-NASD member, the Reporting Member shall indicate in a manner prescribed by NASD that the Buy Side OEID is a customer or non-member;]

[Sell Side OEID]

[(Q) Sell Side OEID executing broker;]

[(R) Sell Side OEID introducing broker in case of a give up agreement, as defined in Rule 4632E(h);]

[(S) Sell Side OEID clearing broker;]

[(T) If known, a designated symbol indicating whether the trade, from the Sell Side OEID's perspective, is as principal, riskless principal, or agent;]

[(U) If known, a symbol indicating whether the trade, from the Sell Side OEID's perspective, is a sell, or sell short transaction;]

[(V) If the Sell Side OEID is a customer of the Reporting Member or a non-NASD member, the Reporting Member shall indicate in a manner prescribed by NASD that the Sell Side OEID is a customer or non-member;]

[(W) If the transaction between the Buy Side OEID and the Reporting Member is reported pursuant to a give up agreement, as defined in Rule 4632E(h), or a QSR agreement, disclosure of the information set forth in subparagraph (d)(2)(O) is mandatory; and]

[(X) If the transaction between the Sell Side OEID and the Reporting Member is reported pursuant to a give up agreement, as defined in Rule 4632E(h), or a QSR agreement, disclosure of the information set forth in subparagraphs (d)(2)(T) and (U) is mandatory.]

(e) through (f) redesignated (d) through (e)

[(g)] Reporting Cancelled Trades

(1) Obligation and Party Responsible for Reporting Cancelled Trades

With the exception of trades cancelled in accordance with Rule 11890, members shall report to the NASD/NYSE Trade Reporting Facility the cancellation of any trade previously submitted to the NASD/NYSE Trade

Reporting Facility. The member responsible for submitting the original trade report shall submit the cancellation report in accordance with the procedures set forth in paragraph (g)(2).

(2) Deadlines for Reporting Cancelled Trades

(A) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled before 4:00 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation within 90 seconds of the time the trade is cancelled.

(B) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 4:00 p.m., but before 8:00 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall use its best efforts to report the cancellation not later than 8:00 p.m. on the date of execution, and otherwise it shall report the cancellation on the following business day by 8:00 p.m.

(C) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 8:00 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation on the following business day by 8:00 p.m.

(D) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled prior to 8:00 p.m. on the date of execution, the member responsible for reporting under paragraph (g)(1) shall report the cancellation by 8:00 p.m.

(E) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m.

Eastern Time and cancelled after 8:00 p.m. on the date of execution, the member responsible under paragraph ([g]f)(1) shall report the cancellation on the following business day by 8:00 p.m.

(F) For any trade cancelled on any date after the date of execution, the member responsible under paragraph ([g]f)(1) shall report the cancellation (i) by 8:00 p.m. on the date of cancellation if the trade is cancelled before 6:30 p.m., or (ii) by 8:00 p.m. on the following business day if the trade is cancelled at or after 8:00 p.m.

(G) For purposes of determining the deadline by which a trade cancellation must be reported pursuant to subparagraph ([g]f) of this rule the term "cancelled" shall mean the time at which (i) the member with the reporting responsibility informs its contra party, or is informed by its contra party, that a trade is being cancelled, (ii) the member with the reporting responsibility and its contra party agree to cancel a trade if neither party can unilaterally cancel the trade, or (iii) the member with the reporting responsibility takes an action to cancel the trade on its books and records, whichever event occurs first.

(h) through (i) redesignated (g) through (h)

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

* * * * *

6130E. Trade Report Input

(a) through (b) No Change.

(c) Which Party Inputs Trade Reports

Participants shall, subject to the input requirements below, input trade reports. Trade data input obligations are as follows:

(1) through (4) No Change.

(5) in transactions conducted through a Reporting ECN that are reported to the System, the Reporting ECN shall ensure that transactions are reported in accordance with one of the following methods:

(A) through (C) No Change.

When a Reporting ECN reports transactions in accordance with subparagraph (A), the Reporting ECN shall be responsible for ensuring that the trade reports are accurate and contain all information required by subsection (d) of this rule for both the Reporting ECN and the identified non-reporting party.

When a Reporting ECN reports transactions in accordance with subparagraph (B), both the Reporting ECN and the party identified as the Reporting Party shall be responsible for ensuring that the trade reports are accurate and contain all information required by subsection (d) of this rule for both the Reporting ECN and the identified Reporting Party.

When a Reporting ECN requires reporting of transactions in accordance with subparagraph (C), the Reporting Party shall be responsible for ensuring the accuracy and completeness of the trade report.

[Pursuant to Rule 4632E(d), a Reporting ECN must use the three party trade report when reporting trades to the NASD/NYSE Trade Reporting Facility.]

A Reporting ECN shall provide written notice to NASD of the method of trade reporting used by the Reporting ECN for each of its subscribers and may change the method of trade reporting used for a subscriber by providing advance written notice of the change to NASD;

(6) through (7) No Change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (8) No Change.

(9) Reporting side executing broker in the case of a give up agreement, as defined in Rule 4632E([h]g);

(10) No Change.

(11) Contra side Introducing Broker in the case of a give up agreement, as defined in Rule 4632E([h]g);

(12) through (13) No Change.

(e) through (g) No Change.

(h) Members shall not submit to the System any report (including but not limited to reports of step-outs and reversals) associated with a previously executed trade that was not reported to the System, unless such report is submitted, pursuant to Rule 4632E([e]d), to reflect the offsetting riskless portion of a riskless principal transaction.

* * * * *

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 TRFs, including the NASD/NYSE TRF, provide members mechanisms for reporting trades in NMS stocks, as defined in SEC Rule 600(b)(47) of Regulation NMS under the Act, executed otherwise than on an exchange. When the NASD/NYSE TRF was established, it was contemplated that members would be able to report trades to the NASD/NYSE TRF using either a two or three party trade report. See NASD Rules 4632E(c) and 4632E(d), respectively. A three party trade report is a single trade report that denotes one Reporting Member (i.e., the member with the obligation to report the trade under FINRA's rules) and two contra parties. NASD Rules 4632E(c) and (d) are substantially similar to the reporting requirements relating to two and three party trade reports for FINRA's Alternative Display Facility (the "ADF"). See Rules 4632A(c) and (d).

However, the NASD/NYSE TRF has not implemented the three party trade report functionality and today, members can only submit reports to the NASD/NYSE TRF in

the two party trade report format.⁵ Accordingly, in order for the rules to accurately reflect the functionality of the system, FINRA is proposing to delete Rule 4632E(d) relating to three party trade reports. In addition, FINRA is proposing to replace the current two party trade report provisions found in paragraph (c) of Rule 4632E with a new paragraph (c), which is identical to the two party trade report provisions for the NASD/Nasdaq TRF and the NASD/NSX TRF. This will conform, to the extent practicable, the rules relating to the three TRFs.⁶ Finally, FINRA is proposing technical changes to paragraphs (c), (d) and (h) of Rule 6130E to reflect the deletion of Rule 4632E(d) and the resulting renumbering of paragraphs in Rule 4632E.

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 be operative on the date of filing.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁷ 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, and, in general, to protect investors and the public interest. FINRA believes that by deleting rules that apply to functionality that is not currently

⁵ The NASD/NYSE TRF may implement this functionality at a later date, in which case FINRA would submit a proposed rule change to amend its rules accordingly.

⁶ Neither the NASD/Nasdaq TRF nor the NASD/NSX TRF supports three party trade reports. Accordingly, today members can only submit trades to a TRF in the two party trade report format. Members can submit trades in the three party trade report format to the ADF.

⁷ 15 U.S.C. 78o-3(b)(6).

supported by the NASD/NYSE TRF, the proposed rule change will prevent potential member confusion and trade reporting errors.

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 Act⁸ and Rule 19b-4(f)(6) thereunder.⁹ FINRA believes that the filing is appropriately designated as “non-controversial” because the proposed rule change is not impacting members’ reporting obligations or current capability, but is merely amending FINRA’s trade reporting rules to accurately reflect the current functionality of the NASD/NYSE TRF. In accordance with Rule 19b-4,¹⁰ FINRA submitted written notice of its intent to file the proposed rule change, along with a brief

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4.

description and text of the proposed rule change, at least five business days prior to the date of filing.

FINRA has requested that the Commission waive the 30-day period for the proposed rule change to become operative, as set forth in Rule 19b-4(f)(6).¹¹ The requested waiver is necessary to expedite the deletion of rules relating to the three party trade report functionality, which is currently not supported by the NASD/NYSE TRF, and the adoption of conforming changes to the two party trade report provisions in the NASD/NYSE TRF rules, thereby preventing potential member confusion and trade reporting errors.

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.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2008-002 on the subject line.

¹¹ 17 CFR 240.19b-4(f)(6).

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-2008-002. 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-2008-002 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.¹²

Nancy M. Morris

Secretary

¹² 17 CFR 200.30-3(a)(12).