

Proposed Rule Change by National Association of Securities Dealers
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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).

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

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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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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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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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 Sent As Paper Document

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

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”),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”) Amendment No. 1 to SR-NASD-2007-052, which proposes to amend the NASD Rule 9700 Series to streamline the existing procedural rules applicable to general grievances related to FINRA automated systems.

The text of the proposed rule change is attached as Exhibit 5 to this rule filing.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on April 19, 2007, the Board of Governors of FINRA (then known as NASD) authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Regulatory Notice announcing Commission approval.

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

(a) Purpose

¹ 15 U.S.C. 78s(b)(1).

Rule Filing History

On July 23, 2007, FINRA filed with the Commission SR-NASD-2007-052, proposing amendments to the Rule 9700 Series to streamline the existing procedural rules applicable to general grievances related to FINRA automated systems.

FINRA is filing this Amendment No. 1 to SR-NASD-2007-052 (“Amendment No. 1”) to amend the proposed rule text and Purpose section of the rule filing to provide discretionary review by the National Adjudicatory Council (“NAC”), acting through the NAC’s Review Subcommittee,² and to delete certain text that is no longer necessary.

Proposal

The Rule 9700 Series, Procedures on Grievances Concerning the Automated Systems, provides redress, where justified, for persons aggrieved by the operations of any automated quotation, execution or communication system owned or operated by FINRA that is not otherwise provided for under the Code of Procedure (Rule 9000 Series) or the Uniform Practice Code (Rule 11000 Series). FINRA established the Rule 9700 Series to ensure adequate procedural protections to users of FINRA systems.³ Although by its terms the Rule 9700 Series has potentially broader application, it historically has been used only for appeals of staff Over-the-Counter Bulletin Board (OTCBB) eligibility determinations under Rule 6530.⁴

² For purposes of the proposed rule change, the term “Review Subcommittee” will have the meaning set forth in Rule 9120(aa).

³ See Securities Exchange Act Release No. 27867, 55 FR 12978 (April 6, 1990) (order approving SR-NASD-90-6).

⁴ The OTCBB is a facility for the publication of quotations in eligible OTC equity securities of issuers that are subject to the filing of financial reports with the SEC (or other appropriate regulator) and are current in their reporting. FINRA staff

Currently under the Rule 9700 Series, a party that is aggrieved by the operation of a FINRA automated system may request a review by a hearing panel. In accordance with the Rule 9700 Series, the aggrieved party may also request a review of the hearing panel's decision by a Committee designated by the Board.⁵ With respect to OTCBB eligibility reviews, both of these reviews pursuant to the Rule 9700 Series are solely to determine whether the issuer filed a complete report by the applicable due date and, thus, its security is eligible for continued quotation. There is no discretion to grant extensions of time for ineligible securities to become eligible or any other form of relief.

Given that these reviews focus on one narrow issue, FINRA now is proposing to amend the Rule 9700 Series to streamline the review process. Specifically, reviews of staff determinations under the Rule 9700 Series would be adjudicated by a Hearing Officer⁶ appointed by FINRA's Office of Hearing Officers (OHO), subject to discretionary review by the by the NAC, acting through the NAC's Review Subcommittee.⁷

monitors the submission of such periodic reports to determine an issuer's initial and continued eligibility for quotation on the OTCBB and, pursuant to Rule 6530, restricts the quoting of securities of issuers that are late or delinquent in filing periodic reports.

⁵ Currently, the Nasdaq Listing and Hearing Review Council (NLHRC) has authority to review hearing panel decisions and has only ever had one such review, which upheld the decision of the hearing panel. NLHRC decisions may be called for further review by FINRA's Board solely upon the request of one or more Governors. Finally, an aggrieved party also has the right to appeal a decision to the SEC.

⁶ For purposes of the proposed rule change, the term "Hearing Officer" will have the meaning set forth in Rule 9120(p).

⁷ Subject to the NAC's discretionary review (acting through the NAC's Review Subcommittee), a Hearing Officer currently acts as the adjudicator in expedited

After the review hearing, the Hearing Officer will prepare a written decision and provide that written decision to the NAC's Review Subcommittee, which would have the ability to call the decision for review during certain specified timeframes.⁸ As is currently the case with most expedited actions under the Rule 9550 Series, aggrieved parties will not have the right to appeal the decision to the NAC's Review Subcommittee.⁹ The Hearing Officer decision, if not called for review by the NAC's Review Subcommittee, would constitute final FINRA action on the matter.¹⁰

If a decision is called for review by the NAC's Review Subcommittee, the NAC or NAC's Review Subcommittee would appoint a Subcommittee¹¹ of the NAC to conduct a review.¹² Based on its review, the Subcommittee would make a recommendation to the

actions involving (1) a failure to pay FINRA dues, fees or other charges and (2) a failure to pay an arbitration award or related settlement, pursuant to Rules 9553 and 9554, respectively.

⁸ The NAC's Review Subcommittee will have the right to call an OHO decision for review within 21 days after receipt of such decision, which is consistent with the timeframe for the Review Subcommittee's call right involving expedited actions under the Rule 9550 Series.

⁹ Under many of the existing rules with expedited components, respondents may not appeal the matter to a FINRA appellate body, such as the NAC. For example, the decision of the Hearing Officer under Rule 9553 (Failure to Pay Dues, Fees and Other Charges) is not appealable, at the request of a party, to the NAC or any other internal, FINRA appellate body under the existing system.

¹⁰ Currently under Rule 9780, FINRA's Board has a right to review NLHRC decisions issued pursuant to Rule 9770. The proposed rule change would provide the NAC (rather than the Board) with a call right, which is consistent with other expedited actions under the Rule 9550 Series.

¹¹ For purposes of the proposed rule change, the term "Subcommittee" will have the meaning set forth in Rule 9120(cc). The Subcommittee will be comprised as set forth in Rule 9331(a)(1).

¹² If the NAC's Review Subcommittee calls a matter for review, the timelines for such review would be as set forth in proposed Rule 9760.

NAC and the NAC, in turn, would issue a decision on the matter. The decision of the NAC would constitute final FINRA action.

An aggrieved party also would continue to have the right to appeal the Hearing Officer's decision, or the NAC decision, as the case may be, to the SEC. FINRA believes that this abbreviated review process is appropriate given the narrow and straightforward issue presented and the experience of OHO and the NAC in adjudicating matters. FINRA further believes the streamlined review process strikes an appropriate balance between the need to ensure fairness to aggrieved parties and the need for expedited action in these instances.

FINRA also is proposing to make conforming and non-substantive changes to Rules 6530 and 9120 to reflect the amended review process contained in the Rule 9700 Series. There are no proposed changes to other aspects of the review process relating to OTCBB eligibility determinations under Rule 6530 (e.g., notifications and time periods for requesting review, the scope of review and the applicable fees for such review).¹³

FINRA also is proposing to make a technical change to the text of Rule 9710. As noted above, Rule 9710 provides that the scope of the Rule 9700 Series is to provide redress, where justified, for persons aggrieved by the operations of any automated

¹³ In accordance with Rule 6530, an aggrieved party requesting a review of an OTCBB eligibility determination by a Hearing Officer will continue to be required to pay a \$4,000 fee for such review. Given that aggrieved parties would only have the right to appeal to OHO and any further level of review would be at the discretion of the NAC's Review Subcommittee, the additional \$4,000 fee currently provided for in Rule 6530(f)(3) would be eliminated.

Also in accordance with Rule 6530, a request for review will stay the OTCBB security's removal until the Hearing Officer issues a decision. If the NAC's Review Subcommittee calls a mater for review, the OTCBB security's removal will be stayed until the NAC issues a decision.

quotation, execution or communication system owned or operated by FINRA that is not otherwise provided for under the NASD Code of Procedure (Rule 9000 Series) or the Uniform Practice Code (Rule 11000 Series). There are certain appeal and procedural rights contained in FINRA Rules other than the Rule 9000 Series or the Rule 11000 Series. For example, within the Alternative Display Facility (ADF) Rules (the Rule 4000A Series), there are certain appeals rights and procedures relating to ADF related grievances (e.g., ADF Trading Center excused withdrawals reviews under Rule 4619A). In such cases, given the language in Rule 9710, there may be confusion whether the Rule 9700 Series or the Rule 4000A Series governs such disputes. Therefore, FINRA is proposing to amend the text of Rule 9710 to clarify that the scope of the Rule 9700 Series is to address general grievances not otherwise provided for by any other FINRA Rules. FINRA believes this clarification will alleviate any potential confusion in this regard and is consistent with the history and intent of the Rule 9700 Series.

Lastly, FINRA is proposing to delete language in Rule 6530(e) that is no longer necessary. Specifically, Rule 6530(e) contains text indicating that periodic filings for reporting periods ended before October 1, 2005 will not count toward determining eligibility for quotation on the OTCBB pursuant to paragraph (e). Given that the text relating to the October 1, 2005 timeframe is no longer necessary, FINRA proposes to delete that text as part of this proposed rule change.

Implementation

As noted above, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following

Commission approval. The effective date will be 30 days following publication of the Regulatory Notice announcing Commission approval.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁴ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change strikes an appropriate balance between the need to ensure fairness to aggrieved parties and the need for expedited action in these instances.

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.¹⁵

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

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.¹⁶

¹⁴ 15 U.S.C. 78o-3(b)(6).

¹⁵ 15 U.S.C. 78a.

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

Not applicable.

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 4. Exhibit 4 shows the full text of rule change marking changes from the originally filed proposed rule change, with the original language changes shown as if adopted, and the new language in this Amendment No. 1 marked to show additions and deletions.

Exhibit 5. Exhibit 5 shows the text of the proposed rule change.

¹⁶ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2007-052)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Relating to Streamline Reviews under the Rule 9700 Series Applicable to General Grievances Related to FINRA Automated Systems

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”) Amendment No. 1 to SR-NASD-2007-052 as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to amend the NASD Rule 9700 Series to streamline the existing procedural rules applicable to general grievances related to FINRA automated systems. The text of the proposed rule change is attached as Exhibit 5.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

Rule Filing History

On July 23, 2007, FINRA filed with the Commission SR-NASD-2007-052, proposing amendments to the Rule 9700 Series to streamline the existing procedural rules applicable to general grievances related to FINRA automated systems.

FINRA is filing this Amendment No. 1 to SR-NASD-2007-052 (“Amendment No. 1”) to amend the proposed rule text and Purpose section of the rule filing to provide discretionary review by the National Adjudicatory Council (“NAC”), acting through the NAC’s Review Subcommittee,³ and to delete certain text that is no longer necessary.

Proposal

The Rule 9700 Series, Procedures on Grievances Concerning the Automated Systems, provides redress, where justified, for persons aggrieved by the operations of any automated quotation, execution or communication system owned or operated by FINRA that is not otherwise provided for under the Code of Procedure (Rule 9000 Series) or the Uniform Practice Code (Rule 11000 Series). FINRA established the Rule 9700 Series to ensure adequate procedural protections to users of FINRA systems.⁴ Although by its

³ For purposes of the proposed rule change, the term “Review Subcommittee” will have the meaning set forth in Rule 9120(aa).

⁴ See Securities Exchange Act Release No. 27867, 55 FR 12978 (April 6, 1990) (order approving SR-NASD-90-6).

terms the Rule 9700 Series has potentially broader application, it historically has been used only for appeals of staff Over-the-Counter Bulletin Board (OTCBB) eligibility determinations under Rule 6530.⁵

Currently under the Rule 9700 Series, a party that is aggrieved by the operation of a FINRA automated system may request a review by a hearing panel. In accordance with the Rule 9700 Series, the aggrieved party may also request a review of the hearing panel's decision by a Committee designated by the Board.⁶ With respect to OTCBB eligibility reviews, both of these reviews pursuant to the Rule 9700 Series are solely to determine whether the issuer filed a complete report by the applicable due date and, thus, its security is eligible for continued quotation. There is no discretion to grant extensions of time for ineligible securities to become eligible or any other form of relief.

Given that these reviews focus on one narrow issue, FINRA now is proposing to amend the Rule 9700 Series to streamline the review process. Specifically, reviews of staff determinations under the Rule 9700 Series would be adjudicated by a Hearing

⁵ The OTCBB is a facility for the publication of quotations in eligible OTC equity securities of issuers that are subject to the filing of financial reports with the SEC (or other appropriate regulator) and are current in their reporting. FINRA staff monitors the submission of such periodic reports to determine an issuer's initial and continued eligibility for quotation on the OTCBB and, pursuant to Rule 6530, restricts the quoting of securities of issuers that are late or delinquent in filing periodic reports.

⁶ Currently, the Nasdaq Listing and Hearing Review Council (NLHRC) has authority to review hearing panel decisions and has only ever had one such review, which upheld the decision of the hearing panel. NLHRC decisions may be called for further review by FINRA's Board solely upon the request of one or more Governors. Finally, an aggrieved party also has the right to appeal a decision to the SEC.

Officer⁷ appointed by FINRA's Office of Hearing Officers (OHO), subject to discretionary review by the by the NAC, acting through the NAC's Review Subcommittee.⁸

After the review hearing, the Hearing Officer will prepare a written decision and provide that written decision to the NAC's Review Subcommittee, which would have the ability to call the decision for review during certain specified timeframes.⁹ As is currently the case with most expedited actions under the Rule 9550 Series, aggrieved parties will not have the right to appeal the decision to the NAC's Review Subcommittee.¹⁰ The Hearing Officer decision, if not called for review by the NAC's Review Subcommittee, would constitute final FINRA action on the matter.¹¹

⁷ For purposes of the proposed rule change, the term "Hearing Officer" will have the meaning set forth in Rule 9120(p).

⁸ Subject to the NAC's discretionary review (acting through the NAC's Review Subcommittee), a Hearing Officer currently acts as the adjudicator in expedited actions involving (1) a failure to pay FINRA dues, fees or other charges and (2) a failure to pay an arbitration award or related settlement, pursuant to Rules 9553 and 9554, respectively.

⁹ The NAC's Review Subcommittee will have the right to call an OHO decision for review within 21 days after receipt of such decision, which is consistent with the timeframe for the Review Subcommittee's call right involving expedited actions under the Rule 9550 Series.

¹⁰ Under many of the existing rules with expedited components, respondents may not appeal the matter to a FINRA appellate body, such as the NAC. For example, the decision of the Hearing Officer under Rule 9553 (Failure to Pay Dues, Fees and Other Charges) is not appealable, at the request of a party, to the NAC or any other internal, FINRA appellate body under the existing system.

¹¹ Currently under Rule 9780, FINRA's Board has a right to review NLHRC decisions issued pursuant to Rule 9770. The proposed rule change would provide the NAC (rather than the Board) with a call right, which is consistent with other expedited actions under the Rule 9550 Series.

If a decision is called for review by the NAC's Review Subcommittee, the NAC or NAC's Review Subcommittee would appoint a Subcommittee¹² of the NAC to conduct a review.¹³ Based on its review, the Subcommittee would make a recommendation to the NAC and the NAC, in turn, would issue a decision on the matter. The decision of the NAC would constitute final FINRA action.

An aggrieved party also would continue to have the right to appeal the Hearing Officer's decision, or the NAC decision, as the case may be, to the SEC. FINRA believes that this abbreviated review process is appropriate given the narrow and straightforward issue presented and the experience of OHO and the NAC in adjudicating matters. FINRA further believes the streamlined review process strikes an appropriate balance between the need to ensure fairness to aggrieved parties and the need for expedited action in these instances.

FINRA also is proposing to make conforming and non-substantive changes to Rules 6530 and 9120 to reflect the amended review process contained in the Rule 9700 Series. There are no proposed changes to other aspects of the review process relating to OTCBB eligibility determinations under Rule 6530 (e.g., notifications and time periods for requesting review, the scope of review and the applicable fees for such review).¹⁴

¹² For purposes of the proposed rule change, the term "Subcommittee" will have the meaning set forth in Rule 9120(cc). The Subcommittee will be comprised as set forth in Rule 9331(a)(1).

¹³ If the NAC's Review Subcommittee calls a matter for review, the timelines for such review would be as set forth in proposed Rule 9760.

¹⁴ In accordance with Rule 6530, an aggrieved party requesting a review of an OTCBB eligibility determination by a Hearing Officer will continue to be required to pay a \$4,000 fee for such review. Given that aggrieved parties would only have the right to appeal to OHO and any further level of review would be at

FINRA also is proposing to make a technical change to the text of Rule 9710. As noted above, Rule 9710 provides that the scope of the Rule 9700 Series is to provide redress, where justified, for persons aggrieved by the operations of any automated quotation, execution or communication system owned or operated by FINRA that is not otherwise provided for under the NASD Code of Procedure (Rule 9000 Series) or the Uniform Practice Code (Rule 11000 Series). There are certain appeal and procedural rights contained in FINRA Rules other than the Rule 9000 Series or the Rule 11000 Series. For example, within the Alternative Display Facility (ADF) Rules (the Rule 4000A Series), there are certain appeals rights and procedures relating to ADF related grievances (e.g., ADF Trading Center excused withdrawals reviews under Rule 4619A). In such cases, given the language in Rule 9710, there may be confusion whether the Rule 9700 Series or the Rule 4000A Series governs such disputes. Therefore, FINRA is proposing to amend the text of Rule 9710 to clarify that the scope of the Rule 9700 Series is to address general grievances not otherwise provided for by any other FINRA Rules. FINRA believes this clarification will alleviate any potential confusion in this regard and is consistent with the history and intent of the Rule 9700 Series.

Lastly, FINRA is proposing to delete language in Rule 6530(e) that is no longer necessary. Specifically, Rule 6530(e) contains text indicating that periodic filings for reporting periods ended before October 1, 2005 will not count toward determining

the discretion of the NAC's Review Subcommittee, the additional \$4,000 fee currently provided for in Rule 6530(f)(3) would be eliminated.

Also in accordance with Rule 6530, a request for review will stay the OTCBB security's removal until the Hearing Officer issues a decision. If the NAC's Review Subcommittee calls a mater for review, the OTCBB security's removal will be stayed until the NAC issues a decision.

eligibility for quotation on the OTCBB pursuant to paragraph (e). Given that the text relating to the October 1, 2005 timeframe is no longer necessary, FINRA proposes to delete that text as part of this proposed rule change.

Implementation

As noted above, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Regulatory Notice announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁵ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change strikes an appropriate balance between the need to ensure fairness to aggrieved parties and the need for expedited action in these instances.

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.¹⁶

¹⁵ 15 U.S.C. 78o-3(b)(6).

¹⁶ 15 U.S.C. 78a.

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**

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. **Solicitation of Comments**

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

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2007-052 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-NASD-2007-052. 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-NASD-2007-052 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.¹⁷

Nancy M. Morris
Secretary

¹⁷ 17 CFR 200.30-3(a)(12).

EXHIBIT 4

Exhibit 4 shows the full text of rule change marking changes from the originally filed proposed rule change, with the original language changes shown as if adopted, and the new language in this Amendment No. 1 marked to show additions and deletions.

Proposed new language in this Amendment No. 1 is underlined.
Proposed deletions in this Amendment No. 1 are bracketed.

* * * * *

6530. OTCBB-Eligible Securities

A member shall be permitted to quote the following categories of securities in the Service:

(a) through (d) No Change.

(e)(1) No Change.

(2) If an issuer's security becomes ineligible for quotation on the OTCBB pursuant to paragraph (e)(1)(A) above, the security will be removed from quotation on the OTCBB without the benefit of any grace period for the third delinquency, except that NASD will provide seven calendar days from the date notification is mailed to the issuer pursuant to paragraph (f)(1) to permit an aggrieved party to request a review of the determination by a Hearing Officer (as defined in Rule 9120(p)) pursuant to paragraph (f) below. Following the removal of an issuer's security pursuant to this paragraph (e), such security shall not be eligible for quotation until the issuer has timely filed in a complete form all required annual and quarterly reports due in a one-year period. For purposes of this paragraph, a report filed within any applicable extensions permitted by Rule 12b-25 under the Exchange Act will be considered timely filed. [Furthermore, filings for reporting periods ending before October 1, 2005 will not be considered for purposes of this paragraph (e).]

(f)(1) and (2) No Change.

(3) The decision of the Hearing Officer may be called for review by the Review Subcommittee of the National Adjudicatory Council as set forth in Rule 9760. This review will only consider whether the issuer's security, at the time of the initial review under paragraph (f)(2), was eligible for quotation in the Service and/or whether the issuer filed a complete report by the applicable due date taking into account any extensions pursuant to Rule 12b-25 under the Exchange Act. There will be no discretion to grant extensions of time for ineligible securities to become eligible. The removal of the issuer's security from the Service will be stayed until the earlier of written notice that the National Adjudicatory Council's Review Subcommittee will not call the decision for review, the expiration of the time allowed to exercise a call for review under Rule 9760 or a decision is issued by the National Adjudicatory Council as set forth in Rule 9760. Notwithstanding any contrary provision in the Rule 9700 Series, a review under this paragraph (f)(3) will be based on the written record, unless additional hearings are ordered by the Subcommittee as set forth in Rule 9760. If any further hearings are ordered, the hearings may be conducted via telephone and NASD will provide the aggrieved party at least five business days notice of the hearing unless the aggrieved party waives such notice.

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9120. No change.

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9700. Procedures on Grievances Concerning the Automated Systems

9710 through 9740 No Change.

9750. Decision

Decisions on applications shall be in writing and a copy shall be sent to the National Adjudicatory Council's Review Subcommittee (as defined in Rule 9120(aa))[by mail to the applicant]. If not called for review in accordance with Rule 9760, the Hearing Officer shall issue its decision after being notified by the National Adjudicatory Council's Review Subcommittee that the decision will not be called for review or upon expiration of the time allowed for call for review. The Hearing Officer shall promptly [may communicate its determination to the applicant prior to the issuance of a written decision]provide a copy of the written decision to the applicant, which shall be effective as of the time of such issuance[communication]. The written decision shall contain the reasons supporting the Hearing Officer's conclusions. The Hearing Officer's decision shall constitute final NASD action.

9760. Call for Review by the National Adjudicatory Council

The National Adjudicatory Council's Review Subcommittee (as defined in Rule 9120(aa)) may call for review a proposed decision that was prepared pursuant to Rule 9750 within 21 days after receipt of the decision from the Office of Hearing Officers. If the Review Subcommittee calls the proceeding for review within the prescribed time, a Subcommittee (as defined in Rule 9120(cc)) of the National Adjudicatory Council shall meet and conduct a review not later than 40 days after the call for review. The Subcommittee shall be composed in accordance with Rule 9331(a)(1). The Subcommittee may elect to hold a hearing or decide the matter on the basis of the record made before the Hearing Officer. Not later than 60 days after the call for review, the Subcommittee shall make its recommendation to the National Adjudicatory Council. Not

later than 60 days after receipt of the Subcommittee's recommendation, the National Adjudicatory Council shall serve a final written decision on the applicant via overnight courier or facsimile. The National Adjudicatory Council may affirm, modify or reverse the decision of the Hearing Officer. In addition, the National Adjudicatory Council may remand the matter to the Office of Hearing Officers for further consideration of specified matters. In any such proceeding a record shall be kept. The National Adjudicatory Council's written decision shall constitute final NASD action. The institution of a call for review by the National Adjudicatory Council shall stay the effectiveness of the Hearing Officer's decision.

9770. Application to Commission for Review

Any decision issued under Rule 9750 or Rule 9760, as applicable, shall constitute final NASD action. [In any case where a] A person [feels] aggrieved by any final NASD action issued pursuant to Rule 9750 or Rule 9760[, the person] may file an application for review with the Commission in accordance with the Act.

EXHIBIT 5

Exhibit 5 shows the text of the proposed rule change. Proposed new language is underlined; Proposed deletions are in brackets.

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6530. OTCBB-Eligible Securities

A member shall be permitted to quote the following categories of securities in the Service:

(a) through (d) No Change.

(e)(1) Notwithstanding the foregoing paragraphs, a member shall not be permitted to quote a security if:

(A)~~(1)~~ while quoted on the OTCBB, the issuer of the security has failed to file a complete required annual or quarterly report by the due date for such report (including, if applicable, any extensions permitted by SEC Rule 12b-25) three times in the prior two-year period; or

(B)~~(2)~~ the security has been removed from the OTCBB due to the issuer's failure to satisfy paragraph (a)(2), (3) or (4), above, two times in the prior two-year period.

(2) If an issuer's security becomes ineligible for quotation on the OTCBB pursuant to paragraph (e)(1)(A) above, the security will be removed from quotation on the OTCBB without the benefit of any grace period for the third delinquency, except that NASD will provide seven calendar days from the date notification is mailed to the issuer pursuant to paragraph (f)(1) to permit an aggrieved party to request a review of the determination by a Hearing Officer (as defined in Rule 9120(p))~~[hearing panel]~~ pursuant

to paragraph (f) below. Following the removal of an issuer's security pursuant to this paragraph (e), such security shall not be eligible for quotation until the issuer has timely filed in a complete form all required annual and quarterly reports due in a one-year period. For purposes of this paragraph, a report filed within any applicable extensions permitted by Rule 12b-25 under the Exchange Act will be considered timely filed.

[Furthermore, filings for reporting periods ending before October 1, 2005 will not be considered for purposes of this paragraph (e).]

(f)(1) No Change.

(2) Pursuant to the Rule 9700 Series, as modified herein, an aggrieved party may request a review by a H[hearing [panel]Officer of the determination that an issuer's security is ineligible for quotation under this rule. NASD must receive the request for review at least two business days prior to the scheduled removal of the security, together with a \$4,000 hearing fee payable to NASD to cover the cost of review. A request for review under this paragraph (f)(2) will stay the removal of the issuer's security from the Service until the H[hearing [panel]Officer issues a decision under Rule 9750. The H[hearing [panel]Officer will consider only the issues of whether the issuer's security is then eligible for quotation in the Service and/or whether the issuer filed a complete report by the applicable due date taking into account any extensions pursuant to Rule 12b-25 under the Exchange Act. The H[hearing [panel]Officer shall not have discretion to grant any extensions of time for ineligible securities to become eligible. Notwithstanding any contrary provision in the Rule 9700 Series, hearings will be conducted via telephone and NASD will provide the aggrieved party at least five business days notice of the hearing unless the aggrieved party waives such notice.

(3) [The aggrieved party may request a review of a hearing panel's decision under Rule 9760. Such a request for review must be accompanied by a \$4,000 fee payable to NASD to cover the cost of review.] The decision of the Hearing Officer may be called for review by the Review Subcommittee of the National Adjudicatory Council as set forth in Rule 9760. This review will only consider whether the issuer's security, at the time of the initial review under paragraph (f)(2), was eligible for quotation in the Service and/or whether the issuer filed a complete report by the applicable due date taking into account any extensions pursuant to Rule 12b-25 under the Exchange Act. There will be no discretion to grant extensions of time for ineligible securities to become eligible. [A request for review under this paragraph (f)(3) shall not stay t]The removal of the issuer's security from the Service will be stayed until the earlier of written notice that the National Adjudicatory Council's Review Subcommittee will not call the decision for review, the expiration of the time allowed to exercise a call for review under Rule 9760 or a decision is issued by the National Adjudicatory Council as set forth in Rule 9760[and there will be no discretion to grant extensions of time for ineligible securities to become eligible]. Notwithstanding any contrary provision in the Rule 9700 Series, a review under this paragraph (f)(3) will be based on the written record, unless additional hearings are ordered by the Subcommittee as set forth in Rule 9760. If any further hearings are ordered, the hearings may[will] be conducted via telephone and NASD will provide the aggrieved party at least five business days notice of the hearing unless the aggrieved party waives such notice.

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9120. Definitions

(a) through (o) No Change.

(p) **“Hearing Officer”**

The term “Hearing Officer” means an employee of NASD who is an attorney and who is appointed by the Chief Hearing Officer to act in an adjudicative role and fulfill various adjudicative responsibilities and duties described in the Rule 9200 Series regarding disciplinary proceedings, the Rule 9550 Series regarding expedited proceedings, the Rule 9700 Series relating to grievances concerning NASD automated systems, and the Rule 9800 Series regarding temporary cease and desist proceedings brought against members and associated persons.

(q) through (cc) No Change.

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9700. Procedures on Grievances Concerning the Automated Systems

9710. Purpose

The purpose of this Rule 9700 Series is to provide, where justified, redress for persons aggrieved by the operations of any automated quotation, execution, or communication system owned or operated by NASD, or any subsidiary thereof, and approved by the Commission, not otherwise provided for by NASD Rules[the Code of Procedure as set forth in the Rule 9000 Series, or the Uniform Practice Code as set forth in the Rule 11000 Series].

9720. Form of Application

All applications shall be in writing, and shall specify in reasonable detail the nature of and basis for the redress requested. If the application consists of several allegations,

each allegation shall be stated separately. All applications must be signed and shall be directed to NASD's Office of Hearing Officers relating to automated quotation, execution or communications system owned or operated by NASD.

9730. Request for Hearing

Upon request, the applicant shall be granted a hearing after reasonable notice. In the absence of such request for a hearing, NASD's Office of Hearing Officers may, in its discretion, have any application set down for hearing or consider the matter on the basis of the application and supporting documents.

9740. Consideration of Applications

All applications shall be considered by a Hearing Officer (as defined in Rule 9120(p)) appointed by the Chief Hearing Officer (as defined in Rule 9120(b))[hearing panel designated by the Board of Governors]. Unless otherwise specified in NASD rules, [T]the applicant shall be entitled to be heard in person or telephonically and by counsel and to submit any relevant matter. In any such proceeding a record shall be kept.

9750. Decision

Decisions on applications shall be in writing and a copy shall be sent to the National Adjudicatory Council's Review Subcommittee (as defined in Rule 9120(aa))[by mail to the applicant]. If not called for review in accordance with Rule 9760, the Hearing Officer shall issue its decision after being notified by the National Adjudicatory Council's Review Subcommittee that the decision will not be called for review or upon expiration of the time allowed for call for review. The Hearing Officer[hearing panel may] shall promptly[communicate its determination] provide a copy of the written decision to the applicant [prior to the issuance of a written decision], which shall be

effective as of the time of such issuance[communication]. The written decision shall contain the reasons supporting the Hearing Officer's[hearing panel's] conclusions. The Hearing Officer's decision shall constitute final NASD action.

9760. [Review by the Committee]

[The decision shall be subject to review by a committee designated by the Board of Governors that is comprised of at least 50% non-industry committee members (the "Committee") on its own motion within 45 calendar days after issuance of the written decision. Any such decision shall also be subject to review upon application of any person aggrieved thereby, filed within 15 calendar days after issuance. The institution of a review, whether on application or on the initiative of the Committee, shall not operate as a stay of the decision.]

[9770. Findings of the Committee on Review]

[Upon consideration of the record, and after such further hearings as it shall order, the Committee shall affirm, modify, reverse, dismiss, or remand the decision. The Committee shall set forth specific grounds upon which its determination is based.]

[9780. Discretionary Review by the Board] Call for Review by the National Adjudicatory Council

[Determinations of the Committee may be reviewed by the NASD Board of Governors solely upon the request of one or more Governors not later than the NASD Board meeting next following the Committee's decision but which is 15 calendar days or more following the decision of the Committee. Notwithstanding the preceding sentence, the NASD Board may determine it is advisable to call for review any decision of the Committee within the 15 calendar day period following the decision of the Committee.]

Such review, which may be undertaken solely at the discretion of the Board, shall be in accordance with resolutions of the Board governing the review of Committee determinations. The Board shall affirm, modify or reverse the determinations of the Committee or remand the matter to the Committee with appropriate instructions. The institution of discretionary review by the Board shall not operate as a stay of the decision.]

The National Adjudicatory Council's Review Subcommittee (as defined in Rule 9120(aa)) may call for review a proposed decision that was prepared pursuant to Rule 9750 within 21 days after receipt of the decision from the Office of Hearing Officers. If the Review Subcommittee calls the proceeding for review within the prescribed time, a Subcommittee (as defined in Rule 9120(cc)) of the National Adjudicatory Council shall meet and conduct a review not later than 40 days after the call for review. The Subcommittee shall be composed in accordance with Rule 9331(a)(1). The Subcommittee may elect to hold a hearing or decide the matter on the basis of the record made before the Hearing Officer. Not later than 60 days after the call for review, the Subcommittee shall make its recommendation to the National Adjudicatory Council. Not later than 60 days after receipt of the Subcommittee's recommendation, the National Adjudicatory Council shall serve a final written decision on the applicant via overnight courier or facsimile. The National Adjudicatory Council may affirm, modify or reverse the decision of the Hearing Officer. In addition, the National Adjudicatory Council may remand the matter to the Office of Hearing Officers for further consideration of specified matters. In any such proceeding a record shall be kept. The National Adjudicatory Council's written decision shall constitute final NASD action. The institution of a call

for review by the National Adjudicatory Council shall stay the effectiveness of the Hearing Officer's decision.

[9790.]9770. Application to Commission for Review

Any decision issued [not appealed] under Rule 9750 or Rule 9760, as applicable, [or called for review under Rule 9760 or Rule 9780] shall constitute [become the] final NASD action [upon expiration of the time allowed for appeal or call for review]. [In any case where a] A person [feels] aggrieved by any final NASD action issued pursuant to Rule 9750[9770] or Rule 9760[9780, the person] may make application for review to the Commission in accordance with the Act.