

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

Initial <input checked="" type="checkbox"/>	Amendment <input 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"/>
			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input 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).

Proposed rule change to clarify the application of transaction-related charges for trade reporting to the OTC Reporting Facility pursuant to FINRA Rule 7710.

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 Senior Vice President and Director of Capital Markets Policy
 (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”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to clarify the application of transaction-related charges for trade reporting to the OTC Reporting Facility (“ORF”) pursuant to FINRA Rule 7710.

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

* * * * *

7000. CLEARING, TRANSACTION AND ORDER DATA REQUIREMENTS, AND FACILITY CHARGES

* * * * *

7700. CHARGES FOR OTC REPORTING FACILITY, OTC BULLETIN BOARD AND TRADE REPORTING AND COMPLIANCE ENGINE SERVICES

7710. OTC Reporting Facility

The following charges shall be paid by the participant for trade reporting to the OTC Reporting Facility:

Transaction Related Charges:	
Reporting of transactions [in OTC Equity Securities (as defined in Rule 6420)] not subject to comparison through the OTC Reporting Facility	\$0.029/side
Comparison	\$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares)

¹ 15 U.S.C. 78s(b)(1).

Late Report—T + N	\$0.288/side
Query	\$0.50/query
Corrective Transaction Charge	\$0.25/Cancel, Error, Inhibit, Kill, or 'No' portion of No/Was transaction, paid by reporting side; \$0.25/Break, Decline transaction, paid by each party

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change has been approved by the General Counsel of FINRA (or his officer designee) pursuant to delegated authority. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA is proposing that the operative date of the proposed rule change be retroactive from March 5, 2007, to June 17, 2009.

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

(a) Purpose

The FINRA Rule 7700 Series, among other things, sets forth the pricing schedule for the ORF, the OTC Bulletin Board, and the Trade Reporting and Compliance Engine Services. On March 1, 2007, FINRA filed a proposed rule change (SR-NASD-2007-018) for immediate effectiveness that deleted certain fee provisions from the FINRA Rule

7700 Series² and amended certain other provisions.³ In that filing, NASD Rule 7010(g) was renumbered as NASD Rule 7010, renamed, and amended to apply only to the ORF.⁴ The amendments became operative on March 5, 2007.⁵ As FINRA stated in the filing, the amendments made to the rule language were not intended to modify any of the charges relating to the ORF.

Although there was no intent to modify any charges in connection with reporting transactions to the ORF, the rule language, as amended by SR-NASD-2007-018, omitted some securities from the rule because of the definition of “OTC Equity Security” in FINRA Rule 6420. The previous rule, NASD Rule 7010(g), included a catch-all provision that applied a charge of \$0.029/side to the “reporting of all other transactions not subject to comparison.” This language included, for example, PORTAL equity securities, which are reported to the ORF pursuant to the PORTAL rules in the FINRA Rule 6630 Series. The term “OTC Equity Security,” however, specifically excludes

² At the time of the rule filing, the FINRA Rule 7700 Series was the NASD Rule 7000 Series. The NASD Rule 7000 Series was renumbered as the FINRA Rule 7700 Series in 2008. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008); see also FINRA Regulatory Notice 08-57 (October 2008).

³ See Securities Exchange Act Release No. 55538 (March 27, 2007), 72 FR 15924 (April 3, 2007) (Notice of Filing and Immediate Effectiveness of SR-NASD-2007-018).

⁴ NASD Rule 7010 was later renumbered as FINRA Rule 7710. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008).

⁵ See Securities Exchange Act Release No. 55538 (March 27, 2007), 72 FR 15924 (April 3, 2007) (Notice of Filing and Immediate Effectiveness of SR-NASD-2007-018).

PORTAL securities and restricted securities from the definition.⁶ Thus, by using the defined term “OTC Equity Security” from March 5, 2007, until June 17, 2009, PORTAL equity securities were inadvertently omitted from the scope of the rule language.⁷

The proposed rule change deletes the prior reference to “OTC Equity Security” in FINRA Rule 7710 to clarify that, from March 5, 2007, until June 17, 2009, the transaction reporting charges imposed pursuant to the rule applied to the reporting of transactions in any security, not just OTC Equity Securities, to the ORF that were not subject to comparison through the ORF.

As noted in Item 2 of this filing, FINRA is proposing that the operative date of the proposed rule change be retroactive from March 5, 2007, to June 17, 2009.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,⁸ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule change clarifies the charges that were assessed with respect to transactions that were reported to the ORF from March 5, 2007,

⁶ See FINRA Rule 6420(c), (d).

⁷ On June 17, 2009, FINRA filed a proposed rule change for immediate effectiveness that deleted the reference to OTC Equity Securities in the rule. See Securities Exchange Act Release No. 60168 (June 24, 2009), 74 FR 31471 (July 1, 2009).

⁸ 15 U.S.C. 78o-3(b)(5).

until June 17, 2009, and correctly reflects FINRA's intent when it amended the rule in SR-NASD-2007-018.

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

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

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

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

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.⁹

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.

⁹ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2009-045)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to Transaction-Related Charges for Trade Reporting to the OTC Reporting Facility

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. 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 clarify the application of transaction-related charges for trade reporting to the OTC Reporting Facility (“ORF”) pursuant to FINRA Rule 7710.

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 FINRA Rule 7700 Series, among other things, sets forth the pricing schedule for the ORF, the OTC Bulletin Board, and the Trade Reporting and Compliance Engine Services. On March 1, 2007, FINRA filed a proposed rule change (SR-NASD-2007-018) for immediate effectiveness that deleted certain fee provisions from the FINRA Rule 7700 Series³ and amended certain other provisions.⁴ In that filing, NASD Rule 7010(g) was renumbered as NASD Rule 7010, renamed, and amended to apply only to the ORF.⁵

³ At the time of the rule filing, the FINRA Rule 7700 Series was the NASD Rule 7000 Series. The NASD Rule 7000 Series was renumbered as the FINRA Rule 7700 Series in 2008. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008); see also FINRA Regulatory Notice 08-57 (October 2008).

⁴ See Securities Exchange Act Release No. 55538 (March 27, 2007), 72 FR 15924 (April 3, 2007) (Notice of Filing and Immediate Effectiveness of SR-NASD-2007-018).

⁵ NASD Rule 7010 was later renumbered as FINRA Rule 7710. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008).

The amendments became operative on March 5, 2007.⁶ As FINRA stated in the filing, the amendments made to the rule language were not intended to modify any of the charges relating to the ORF.

Although there was no intent to modify any charges in connection with reporting transactions to the ORF, the rule language, as amended by SR-NASD-2007-018, omitted some securities from the rule because of the definition of “OTC Equity Security” in FINRA Rule 6420. The previous rule, NASD Rule 7010(g), included a catch-all provision that applied a charge of \$0.029/side to the “reporting of all other transactions not subject to comparison.” This language included, for example, PORTAL equity securities, which are reported to the ORF pursuant to the PORTAL rules in the FINRA Rule 6630 Series. The term “OTC Equity Security,” however, specifically excludes PORTAL securities and restricted securities from the definition.⁷ Thus, by using the defined term “OTC Equity Security” from March 5, 2007, until June 17, 2009, PORTAL equity securities were inadvertently omitted from the scope of the rule language.⁸

The proposed rule change deletes the prior reference to “OTC Equity Security” in FINRA Rule 7710 to clarify that, from March 5, 2007, until June 17, 2009, the transaction reporting charges imposed pursuant to the rule applied to the reporting of

⁶ See Securities Exchange Act Release No. 55538 (March 27, 2007), 72 FR 15924 (April 3, 2007) (Notice of Filing and Immediate Effectiveness of SR-NASD-2007-018).

⁷ See FINRA Rule 6420(c), (d).

⁸ On June 17, 2009, FINRA filed a proposed rule change for immediate effectiveness that deleted the reference to OTC Equity Securities in the rule. See Securities Exchange Act Release No. 60168 (June 24, 2009), 74 FR 31471 (July 1, 2009).

transactions in any security, not just OTC Equity Securities, to the ORF that were not subject to comparison through the ORF.

FINRA is proposing that the operative date of the proposed rule change be retroactive from March 5, 2007, to June 17, 2009.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,⁹ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule change clarifies the charges that were assessed with respect to transactions that were reported to the ORF from March 5, 2007, until June 17, 2009, and correctly reflects FINRA's intent when it amended the rule in SR-NASD-2007-018.

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.

⁹ 15 U.S.C. 78q-3(b)(5).

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-FINRA-2009-045 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Florence E. Harmon, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2009-045. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; 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-2009-045 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.¹⁰

Florence E. Harmon

Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).