

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

<b>Initial</b> <input checked="" type="checkbox"/>	<b>Amendment</b> <input type="checkbox"/>	<b>Withdrawal</b> <input type="checkbox"/>	<b>Section 19(b)(2)</b> <input checked="" type="checkbox"/>	<b>Section 19(b)(3)(A)</b> <input type="checkbox"/>	<b>Section 19(b)(3)(B)</b> <input type="checkbox"/>
			Rule		
<b>Pilot</b> <input type="checkbox"/>	<b>Extension of Time Period for Commission Action</b> <input type="checkbox"/>	<b>Date Expires</b> <input type="text"/>	<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 Adopt FINRA Rule 6490, Relating to Processing of Company-Related Actions and Implementing Fees for Such Services

**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	<input type="text" value="Kosha"/>	Last Name	<input type="text" value="Dalal"/>
Title	<input type="text" value="Associate Vice President and Associate General Counsel"/>		
E-mail	<input type="text" value="kosha.dalal@finra.org"/>		
Telephone	<input type="text" value="(202) 782-6903"/>	Fax	<input type="text" value="(202) 728-8264"/>

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

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

Date	<input type="text" value="12/07/2009"/>
By	<input type="text" value="Stephanie Dumont"/>
	(Name)
	<input type="text" value="Senior Vice President and Director of Capital Markets Policy"/>
	(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”),<sup>1</sup> Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to adopt FINRA Rule 6490 (Processing of Company-Related Actions) to clarify the scope of FINRA’s regulatory authority and discretionary power when processing documents related to announcements for company-related actions for non-exchange listed equity and debt securities and to implement fees for such services.

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

(b) Not applicable.

(c) Not applicable.

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

At its meeting on July 15, 2009, the FINRA Board of Governors authorized the filing of the 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. The effective date will be no later than 90 days following Commission approval.

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

(a) Purpose

FINRA is proposing to: (1) adopt FINRA Rule 6490 (Processing of Company-Related Actions) to clarify the scope of FINRA’s regulatory authority and discretionary power when processing documents related to announcements for company-related actions

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

for non-exchange listed equity and debt securities; and (2) implement fees for such services.

### **FINRA's Current Role in the OTC Market**

FINRA performs several critical functions with respect to the over-the-counter (OTC) market, including the operation of the OTC Bulletin Board (OTCBB), which provides a mechanism for FINRA members to quote certain SEC-registered OTC equity securities, and the OTC Reporting Facility (ORF), which provides a mechanism for FINRA members to trade report, for both regulatory and dissemination purposes, transactions in OTC equity securities.

In addition to these functions, FINRA performs other more limited functions relating to the processing of non-exchange listed issuer company actions in the OTC market. Specifically, in furtherance of FINRA's obligations to foster cooperation and coordination of the clearing, settling and processing of transactions in equity and debt securities of issuers with a class of publicly traded, non-exchange listed securities, FINRA reviews and processes documents related to announcements for company-related actions pursuant to Rule 10b-17 (Untimely Announcements of Record Dates) of the Act ("SEA Rule 10b-17").

OTC issuers provide notice to FINRA to affect a full range of company-related actions pursuant to SEA Rule 10b-17, including dividends or other distributions in cash or kind, stock splits or reverse stock splits, or rights or other subscriptions offerings ("SEA Rule 10b-17 Actions"). In addition, FINRA processes documents related to other company actions, including the issuance or change to a trading symbol or company name, mergers, acquisition, dissolutions or other company control transactions, bankruptcy or

liquidations (“Other Company-Related Actions”; and together with SEA Rule 10b-17 Actions, collectively referred to hereinafter as “Company-Related Actions”). FINRA also maintains the symbols database for issuers. FINRA, in turn, provides notice to the marketplace of such events and adjusts issuers’ stock prices, if necessary. These functions are important to trading and settlement in the OTC marketplace and help promote investor protection and market integrity.

In performing these issuer-related functions, FINRA’s role has been primarily ministerial in nature, due in large part to its limited jurisdictional reach. FINRA does not impose listing standards for securities and maintains no formal relationship with, or direct jurisdiction over, issuers. FINRA’s authority to perform these functions flows primarily from two sources: SEA Rule 10b-17 and FINRA’s Uniform Practice Code (NASD Rule 11000 Series) (“UPC”). SEA Rule 10b-17 requires issuers with a class of publicly traded, non-exchange listed, securities to provide notice to FINRA generally 10-days before the record date involved in the following corporate actions: dividends or other distributions in cash or kind, stock splits or reverse stock splits, or rights or other subscriptions offerings. The UPC sets forth a basic framework of rules between broker-dealers for the settlement of non-exchange listed securities quoted and/or traded in the OTC market.

The SEC has expressed concern that certain parties may be attempting to use the facilities of FINRA, including the noted ministerial functions described above and requests to announce Company-Related Actions, to further fraudulent activities.<sup>2</sup> While

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<sup>2</sup> See, for example, SEC Order of Suspension of Trading In the Matter of Andros Isle, Corporation, et. al., dated March 13, 2008 (File No. 500-1), wherein the SEC suspended trading pursuant to SEA Section 12(k), in the securities of approximately 26 Pink Sheet securities stating “[c]ertain persons appear to have

it is understood that FINRA does not operate a “listing market” and has no privity with OTC issuers, FINRA’s OTC operations involve a wide range of touch points with OTC issuers and require FINRA to carry out a variety of labor-intensive tasks (*e.g.*, OTC issuers interact directly with FINRA operations staff to announce a full range of Company-Related Actions). As such, there is concern that FINRA’s Company-Related Action processing services may potentially be utilized by parties to further microcap fraud on the part of the OTC issuers and penny stock promoters.

**Proposal**

FINRA is proposing to adopt new FINRA Rule 6490 (Processing of Company-Related Actions) that would clarify the scope of FINRA’s regulatory authority and discretionary power when reviewing and processing documents related to requests for Company-Related Actions. In addition, FINRA is also proposing to implement fees for such services to more equitably allocate costs related to the processing of Company-Related Actions. The proposed rule would codify the authority of FINRA’s Department of Operations (Department) to conduct in-depth reviews of Company-Related Actions and allow the staff discretion not to process such actions that are incomplete or when certain indicators of potential fraud exist.

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usurped the identity of a defunct or inactive publicly traded corporation, initially by incorporating a new entity using the same name, and then by obtaining a new CUSIP number and ticker symbol based on the apparently false representation that they were duly authorized officers, directors and/or agents of the original publicly traded corporation.” See also, SEC v. Irwin Boock, Stanton B.J. DeFreitas, Nicolette D. Loisel, Roger L. Shoss, and Jason C. Wong, Birte Boock, and 1621566 Ontario, Inc., Civil Action No. 09 CV 8261 (S.D.N.Y.) (DLC), Litigation Release No. 21243 / October 8, 2009 (SEC Charges Five With Dozens of Fraudulent Corporate Hijackings and Unregistered Offerings of Securities and Names Two Relief Defendants).

Specifically, the proposed rule would establish procedures for the submission, review, and determination of Company-Related Actions. The proposed rule would permit the Department to prescribe the forms, supporting documentation and procedures necessary to conduct more in-depth reviews of OTC issuer Company-Related Actions. Specifically, the proposed rule would provide that an issuer or other duly authorized representative of the issuer (“Requesting Party”) must submit a request for FINRA to review and process documentation related to an SEA Rule 10b-17 Action or Other Company-Related Action within the time frames specified by either SEA Rule 10b-17<sup>3</sup> or, for Other Company-Related Actions no later than ten (10) calendar days prior to the effective date of the company action. All such requests must be accompanied by proof of payment of a non-refundable fee specified in the proposed fee table. In addition, the proposed rule would provide that initial symbol set up requests may also be submitted by members or associated persons of members in order to comply with regulatory reporting requirements.

However, in recognition of the lack of privity FINRA has with OTC issuers, FINRA is proposing to adopt Supplementary Material .02 (Requests by Third-Parties), which would permit FINRA, in its discretion, to announce a Company-Related Action when it is contacted by a third party, such as The Depository Trust & Clearing

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<sup>3</sup> SEA Rule 10b-17 provides that notice must be given to FINRA no later than 10 days prior to the record date involved or, in case of a rights subscription or other offering, if such 10 days advance notice is not practical, on or before the record date and in no event later than the effective date of the registration statement to which the offering relates. For example, an issuer of non-exchange listed publicly traded securities that is planning a stock split on shares of its common stock to holders of record on February 25<sup>th</sup> would be required under SEA Rule 10b-17 to provide written notice to FINRA no later than 10 days prior to the record date for such transaction, or by February 15<sup>th</sup>.

Corporation (DTCC), foreign exchanges or regulators, members or associated persons. FINRA would request that the third-party contact the issuer in question regarding its obligations under SEA Rule 10b-17 or other rules and regulations, as applicable, and instruct the issuer to contact FINRA directly to provide notice and complete the requisite forms. However, FINRA may in its discretion review and process a Company-Related Action based on information from a third-party when it believes such action is necessary for the protection of the market and investors and/or FINRA has been unable to obtain notification of the Company-Related Action from the issuer.

The proposed rule would permit the Department to request additional information or documentation as may be necessary for the Department to verify the accuracy of the information submitted by the Requesting Party. If the Requesting Party does not sufficiently respond within 90 calendar days of the date the Department requests additional information or documentation, the request will be deemed “lapsed” and will be closed.

The proposed rule would also provide that where a Company-Related Action is deemed deficient, the Department may determine that it is necessary for the protection of investors, the public interest and to maintain fair and orderly markets, that documentation related to a Company-Related Action will not be processed.

Factors that may be considered by the Department in finding a request to process documentation deficient are *explicitly limited* to the following: (1) FINRA staff reasonably believes the forms and all supporting documentation, in whole or in part, may not be complete, accurate or with proper authority; (2) the issuer is not current in its reporting obligations, if applicable, to the SEC or other regulatory authority; (3) FINRA

has actual knowledge that parties related to the Company-Related Action are the subject of pending, adjudicated or settled regulatory action or investigation by a regulatory body, or civil or criminal action related to fraud or securities laws violations<sup>4</sup>; (4) a government authority or regulator has provided information to FINRA, or FINRA has actual knowledge, indicating that persons related to the Company-Related Action may be potentially involved in fraudulent activities related to the securities market and/or pose a threat to public investors; and/or (5) there is significant uncertainty in the settlement and clearance process for the security.

Following a determination by the Department that a request to process a Company-Related Action is deficient, the Department must provide written notice to the Requesting Party. Such written notice shall state the specific factor(s) that caused the request to be deemed deficient. A Requesting Party may appeal such determination to a three-member subcommittee comprised of current or former industry members of FINRA's Uniform Practice Code Committee in writing within seven (7) calendar days after service of the notice. The written request for an appeal must be accompanied by proof of payment of the non-refundable Action Determination Appeal Fee and must set forth with specificity any and all defenses to the Department's determination that a request was deficient. An appeal to the subcommittee will operate to stay the processing of the Company-Related Action (*i.e.*, the requested Company-Related Action shall not be processed during the period that the Requesting Party requests an appeal or while any such appeal is pending). The subcommittee will convene once each calendar month to

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<sup>4</sup> This would include instances where FINRA has actual knowledge that the SEC has issued an order pursuant to Section 12(k) of the Exchange Act temporarily suspending the issuer's securities or pursuant to Section 12(j) of the Exchange Act revoking registration of the issuer's securities.

consider all appeals received during the prior month and will render a determination within three (3) business days following the day the appeal is considered by the subcommittee. The subcommittee's determination will constitute final action by FINRA. If the Requesting Party fails to file a written request for an appeal within seven (7) calendar days after service of notice, the Department's determination shall constitute final action by FINRA.

In addition, FINRA is proposing to establish fees for Requesting Parties submitting documentation to announce a Company-Related Action. The proposed fees would include late fees for Requesting Parties that fail to provide timely notice of Company-Related Actions. FINRA believes that late fees will encourage OTC issuers to meet the various deadlines, including those associated with SEA Rule 10b-17, which is critical to enable FINRA to process such requests in a timely fashion in order to provide adequate notice to market participants. In addition, the proposed fees will also prove beneficial in that they will offset some of the significant costs that FINRA is currently bearing for the benefit of OTC issuers that are not otherwise paying to support the OTC symbol database and OTC issuer Company-Related Action processing.

Specifically, FINRA is proposing to charge the following non-refundable fees for the review and processing of documentation related to SEA Rule 10b-17 Actions and Other Company-Related Actions:

<b><u>SEA Rule 10b-17 Action</u></b>	<b><u>Fee</u></b>
Timely SEA Rule 10b-17 Notification	\$200
Late SEA Rule 10b-17 Notification Submitted at least 5 calendar days prior to Corporate Action Date	\$1,000

Late SEA Rule 10b-17 Notification Submitted at least 1 calendar day prior to Corporate Action Date	\$2,000
Late SEA Rule 10b-17 Notification Submitted on or after Corporate Action Date	\$5,000
<b><u>Other Company-Related Action</u></b>	<b><u>Fee</u></b>
Voluntary Symbol Request Change	\$500
Initial Symbol Set Up	No Charge
Symbol Deletion	No Charge
<b><u>Appeals</u></b>	<b><u>Fee</u></b>
Action Determination Appeal Fee	\$4,000

However, in recognition of the critical nature of SEA Rule 10b-17 information to the marketplace, FINRA is proposing to adopt Supplementary Material .01 (SEA Rule 10b-17 Fee Accumulations), which would permit FINRA to process documentation for Company-Related Actions, absent a determination that the action is deficient, even if the fee is not paid. All unpaid SEA Rule 10b-17 Action fees associated with a specific OTC issuer would be accumulated and FINRA would not process Voluntary Symbol Request Changes until all unpaid accumulated fees are paid. FINRA believes that this accumulation authority would create incentives for issuers that are not otherwise subject to FINRA’s direct jurisdiction, to comply with the requirements of this rule without compromising FINRA’s investor protection mission. Acceptance and processing of “late” Company-Related Action requests and related fees by FINRA, will not act to relieve an issuer of potential violations of SEA Rule 10b-17 or other federal, state or SRO rules.

In addition, in connection with mandatory symbol set ups or changes, FINRA generally assigns issuers random symbols. As a result, FINRA will not charge a voluntary symbol request change fee in connection with a mandatory symbol change that results from an SEA Rule 10b-17 Action (*i.e.*, a mandatory symbol change required because of a CUSIP number change or otherwise in direct connection with an SEA Rule 10b-17 Action will not require the payment of the Voluntary Symbol Request Change fee). However, the request (and granting, subject to symbol availability) of a specific symbol in connection with an SEA Rule 10b-17 Action will result in such a fee being assessed in addition to the requisite SEA Rule 10b-17 Action fee.

As noted in Item 2 of this filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 90 days following 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,<sup>5</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(5) of the Act,<sup>6</sup> 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 will codify FINRA's

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<sup>5</sup> 15 U.S.C. 78o-3(b)(6).

<sup>6</sup> 15 U.S.C. 78o-3(b)(5).

authority and discretion to review and process documents related to requests for Company-Related Actions in the OTC securities and, along with the proposed new fees for such services, act to ensure there is more complete, accurate and timely information concerning Company-Related Actions.

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

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

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

Written comments were neither solicited nor received.

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

Not applicable.

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

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 5. Proposed FINRA Rule 6490 (Processing of Company-Related Actions).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2009-089)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed FINRA Rule 6490 (Processing of Company-Related Actions), to Clarify the Scope of FINRA’s Authority When Processing Documents Related to Announcements for Company-Related Actions for Non-Exchange Listed Securities and to Implement Fees for Such Services

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on , Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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 adopt proposed FINRA Rule 6490 (Processing of Company-Related Actions), to clarify the scope of FINRA’s regulatory authority and discretionary power when processing documents related to announcements for company-related actions for non-exchange listed equity and debt securities and to implement fees for such services.

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

<sup>2</sup> 17 CFR 240.19b-4.

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.

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

FINRA is proposing to: (1) adopt FINRA Rule 6490 (Processing of Company-Related Actions) to clarify the scope of FINRA's regulatory authority and discretionary power when processing documents related to announcements for company-related actions for non-exchange listed equity and debt securities; and (2) implement fees for such services.

**FINRA's Current Role in the OTC Market**

FINRA performs several critical functions with respect to the over-the-counter (OTC) market, including the operation of the OTC Bulletin Board (OTCBB), which provides a mechanism for FINRA members to quote certain SEC-registered OTC equity securities, and the OTC Reporting Facility (ORF), which provides a mechanism for

FINRA members to trade report, for both regulatory and dissemination purposes, transactions in OTC equity securities.

In addition to these functions, FINRA performs other more limited functions relating to the processing of non-exchange listed issuer company actions in the OTC market. Specifically, in furtherance of FINRA's obligations to foster cooperation and coordination of the clearing, settling and processing of transactions in equity and debt securities of issuers with a class of publicly traded, non-exchange listed securities, FINRA reviews and processes documents related to announcements for company-related actions pursuant to Rule 10b-17 (Untimely Announcements of Record Dates) of the Act ("SEA Rule 10b-17").

OTC issuers provide notice to FINRA to affect a full range of company-related actions pursuant to SEA Rule 10b-17, including dividends or other distributions in cash or kind, stock splits or reverse stock splits, or rights or other subscriptions offerings ("SEA Rule 10b-17 Actions"). In addition, FINRA processes documents related to other company actions, including the issuance or change to a trading symbol or company name, mergers, acquisition, dissolutions or other company control transactions, bankruptcy or liquidations ("Other Company-Related Actions"; and together with SEA Rule 10b-17 Actions, collectively referred to hereinafter as "Company-Related Actions"). FINRA also maintains the symbols database for issuers. FINRA, in turn, provides notice to the marketplace of such events and adjusts issuers' stock prices, if necessary. These functions are important to trading and settlement in the OTC marketplace and help promote investor protection and market integrity.

In performing these issuer-related functions, FINRA's role has been primarily ministerial in nature, due in large part to its limited jurisdictional reach. FINRA does not impose listing standards for securities and maintains no formal relationship with, or direct jurisdiction over, issuers. FINRA's authority to perform these functions flows primarily from two sources: SEA Rule 10b-17 and FINRA's Uniform Practice Code (NASD Rule 11000 Series) ("UPC"). SEA Rule 10b-17 requires issuers with a class of publicly traded, non-exchange listed, securities to provide notice to FINRA generally 10-days before the record date involved in the following corporate actions: dividends or other distributions in cash or kind, stock splits or reverse stock splits, or rights or other subscriptions offerings. The UPC sets forth a basic framework of rules between broker-dealers for the settlement of non-exchange listed securities quoted and/or traded in the OTC market.

The SEC has expressed concern that certain parties may be attempting to use the facilities of FINRA, including the noted ministerial functions described above and requests to announce Company-Related Actions, to further fraudulent activities.<sup>3</sup> While it is understood that FINRA does not operate a "listing market" and has no privity with

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<sup>3</sup> See, for example, SEC Order of Suspension of Trading In the Matter of Andros Isle, Corporation, et. al., dated March 13, 2008 (File No. 500-1), wherein the SEC suspended trading pursuant to SEA Section 12(k), in the securities of approximately 26 Pink Sheet securities stating "[c]ertain persons appear to have usurped the identity of a defunct or inactive publicly traded corporation, initially by incorporating a new entity using the same name, and then by obtaining a new CUSIP number and ticker symbol based on the apparently false representation that they were duly authorized officers, directors and/or agents of the original publicly traded corporation." See also, SEC v. Irwin Boock, Stanton B.J. DeFreitas, Nicolette D. Loisel, Roger L. Shoss, and Jason C. Wong, Birte Boock, and 1621566 Ontario, Inc., Civil Action No. 09 CV 8261 (S.D.N.Y.) (DLC), Litigation Release No. 21243 / October 8, 2009 (SEC Charges Five With Dozens of Fraudulent Corporate Hijackings and Unregistered Offerings of Securities and Names Two Relief Defendants).

OTC issuers, FINRA's OTC operations involve a wide range of touch points with OTC issuers and require FINRA to carry out a variety of labor-intensive tasks (*e.g.*, OTC issuers interact directly with FINRA operations staff to announce a full range of Company-Related Actions). As such, there is concern that FINRA's Company-Related Action processing services may potentially be utilized by parties to further microcap fraud on the part of the OTC issuers and penny stock promoters.

**Proposal**

FINRA is proposing to adopt new FINRA Rule 6490 (Processing of Company-Related Actions) that would clarify the scope of FINRA's regulatory authority and discretionary power when reviewing and processing documents related to requests for Company-Related Actions. In addition, FINRA is also proposing to implement fees for such services to more equitably allocate costs related to the processing of Company-Related Actions. The proposed rule would codify the authority of FINRA's Department of Operations (Department) to conduct in-depth reviews of Company-Related Actions and allow the staff discretion not to process such actions that are incomplete or when certain indicators of potential fraud exist.

Specifically, the proposed rule would establish procedures for the submission, review, and determination of Company-Related Actions. The proposed rule would permit the Department to prescribe the forms, supporting documentation and procedures necessary to conduct more in-depth reviews of OTC issuer Company-Related Actions. Specifically, the proposed rule would provide that an issuer or other duly authorized representative of the issuer ("Requesting Party") must submit a request for FINRA to review and process documentation related to an SEA Rule 10b-17 Action or Other

Company-Related Action within the time frames specified by either SEA Rule 10b-17<sup>4</sup> or, for Other Company-Related Actions no later than ten (10) calendar days prior to the effective date of the company action. All such requests must be accompanied by proof of payment of a non-refundable fee specified in the proposed fee table. In addition, the proposed rule would provide that initial symbol set up requests may also be submitted by members or associated persons of members in order to comply with regulatory reporting requirements.

However, in recognition of the lack of privity FINRA has with OTC issuers, FINRA is proposing to adopt Supplementary Material .02 (Requests by Third-Parties), which would permit FINRA, in its discretion, to announce a Company-Related Action when it is contacted by a third party, such as The Depository Trust & Clearing Corporation (DTCC), foreign exchanges or regulators, members or associated persons. FINRA would request that the third-party contact the issuer in question regarding its obligations under SEA Rule 10b-17 or other rules and regulations, as applicable, and instruct the issuer to contact FINRA directly to provide notice and complete the requisite forms. However, FINRA may in its discretion review and process a Company-Related Action based on information from a third-party when it believes such action is necessary

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<sup>4</sup> SEA Rule 10b-17 provides that notice must be given to FINRA no later than 10 days prior to the record date involved or, in case of a rights subscription or other offering, if such 10 days advance notice is not practical, on or before the record date and in no event later than the effective date of the registration statement to which the offering relates. For example, an issuer of non-exchange listed publicly traded securities that is planning a stock split on shares of its common stock to holders of record on February 25<sup>th</sup> would be required under SEA Rule 10b-17 to provide written notice to FINRA no later than 10 days prior to the record date for such transaction, or by February 15<sup>th</sup>.

for the protection of the market and investors and/or FINRA has been unable to obtain notification of the Company-Related Action from the issuer.

The proposed rule would permit the Department to request additional information or documentation as may be necessary for the Department to verify the accuracy of the information submitted by the Requesting Party. If the Requesting Party does not sufficiently respond within 90 calendar days of the date the Department requests additional information or documentation, the request will be deemed “lapsed” and will be closed.

The proposed rule would also provide that where a Company-Related Action is deemed deficient, the Department may determine that it is necessary for the protection of investors, the public interest and to maintain fair and orderly markets, that documentation related to a Company-Related Action will not be processed.

Factors that may be considered by the Department in finding a request to process documentation deficient are *explicitly limited* to the following: (1) FINRA staff reasonably believes the forms and all supporting documentation, in whole or in part, may not be complete, accurate or with proper authority; (2) the issuer is not current in its reporting obligations, if applicable, to the SEC or other regulatory authority; (3) FINRA has actual knowledge that parties related to the Company-Related Action are the subject of pending, adjudicated or settled regulatory action or investigation by a regulatory body, or civil or criminal action related to fraud or securities laws violations<sup>5</sup>; (4) a government authority or regulator has provided information to FINRA, or FINRA has actual

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<sup>5</sup> This would include instances where FINRA has actual knowledge that the SEC has issued an order pursuant to Section 12(k) of the Exchange Act temporarily suspending the issuer’s securities or pursuant to Section 12(j) of the Exchange Act revoking registration of the issuer’s securities.

knowledge, indicating that persons related to the Company-Related Action may be potentially involved in fraudulent activities related to the securities market and/or pose a threat to public investors; and/or (5) there is significant uncertainty in the settlement and clearance process for the security.

Following a determination by the Department that a request to process a Company-Related Action is deficient, the Department must provide written notice to the Requesting Party. Such written notice shall state the specific factor(s) that caused the request to be deemed deficient. A Requesting Party may appeal such determination to a three-member subcommittee comprised of current or former industry members of FINRA's Uniform Practice Code Committee in writing within seven (7) calendar days after service of the notice. The written request for an appeal must be accompanied by proof of payment of the non-refundable Action Determination Appeal Fee and must set forth with specificity any and all defenses to the Department's determination that a request was deficient. An appeal to the subcommittee will operate to stay the processing of the Company-Related Action (*i.e.*, the requested Company-Related Action shall not be processed during the period that the Requesting Party requests an appeal or while any such appeal is pending). The subcommittee will convene once each calendar month to consider all appeals received during the prior month and will render a determination within three (3) business days following the day the appeal is considered by the subcommittee. The subcommittee's determination will constitute final action by FINRA. If the Requesting Party fails to file a written request for an appeal within seven (7) calendar days after service of notice, the Department's determination shall constitute final action by FINRA.

In addition, FINRA is proposing to establish fees for Requesting Parties submitting documentation to announce a Company-Related Action. The proposed fees would include late fees for Requesting Parties that fail to provide timely notice of Company-Related Actions. FINRA believes that late fees will encourage OTC issuers to meet the various deadlines, including those associated with SEA Rule 10b-17, which is critical to enable FINRA to process such requests in a timely fashion in order to provide adequate notice to market participants. In addition, the proposed fees will also prove beneficial in that they will offset some of the significant costs that FINRA is currently bearing for the benefit of OTC issuers that are not otherwise paying to support the OTC symbol database and OTC issuer Company-Related Action processing.

Specifically, FINRA is proposing to charge the following non-refundable fees for the review and processing of documentation related to SEA Rule 10b-17 Actions and Other Company-Related Actions:

<b><u>SEA Rule 10b-17 Action</u></b>	<b><u>Fee</u></b>
Timely SEA Rule 10b-17 Notification	\$200
Late SEA Rule 10b-17 Notification Submitted at least 5 calendar days prior to Corporate Action Date	\$1,000
Late SEA Rule 10b-17 Notification Submitted at least 1 calendar day prior to Corporate Action Date	\$2,000
Late SEA Rule 10b-17 Notification Submitted on or after Corporate Action Date	\$5,000
<b><u>Other Company-Related Action</u></b>	<b><u>Fee</u></b>
Voluntary Symbol Request Change	\$500

Initial Symbol Set Up	No Charge
Symbol Deletion	No Charge
<b><u>Appeals</u></b>	<b><u>Fee</u></b>
Action Determination Appeal Fee	\$4,000

However, in recognition of the critical nature of SEA Rule 10b-17 information to the marketplace, FINRA is proposing to adopt Supplementary Material .01 (SEA Rule 10b-17 Fee Accumulations), which would permit FINRA to process documentation for Company-Related Actions, absent a determination that the action is deficient, even if the fee is not paid. All unpaid SEA Rule 10b-17 Action fees associated with a specific OTC issuer would be accumulated and FINRA would not process Voluntary Symbol Request Changes until all unpaid accumulated fees are paid. FINRA believes that this accumulation authority would create incentives for issuers that are not otherwise subject to FINRA's direct jurisdiction, to comply with the requirements of this rule without compromising FINRA's investor protection mission. Acceptance and processing of "late" Company-Related Action requests and related fees by FINRA, will not act to relieve an issuer of potential violations of SEA Rule 10b-17 or other federal, state or SRO rules.

In addition, in connection with mandatory symbol set ups or changes, FINRA generally assigns issuers random symbols. As a result, FINRA will not charge a voluntary symbol request change fee in connection with a mandatory symbol change that results from an SEA Rule 10b-17 Action (*i.e.*, a mandatory symbol change required because of a CUSIP number change or otherwise in direct connection with an SEA Rule 10b-17 Action will not require the payment of the Voluntary Symbol Request Change

fee). However, the request (and granting, subject to symbol availability) of a specific symbol in connection with an SEA Rule 10b-17 Action will result in such a fee being assessed in addition to the requisite SEA Rule 10b-17 Action fee.

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 90 days following 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,<sup>6</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(5) of the Act,<sup>7</sup> 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 will codify FINRA's authority and discretion to review and process documents related to requests for Company-Related Actions in the OTC securities and, along with the proposed new fees for such services, act to ensure there is more complete, accurate and timely information concerning Company-Related Actions.

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

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

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

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

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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2009-089 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-2009-089. 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-2009-089 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon

Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

**Below is the text of the proposed rule change. Proposed new language is underlined.**

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**6000. QUOTATION AND TRANSACTION REPORTING FACILITIES**

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**6400. QUOTING AND TRADING IN OTC EQUITY SECURITIES**

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**6490. Processing of Company-Related Actions**

**(a) General**

(1) In furtherance of FINRA’s obligations to foster cooperation and coordination of the clearing, settling and processing of transactions in equity and debt securities of any issuer with a class of publicly traded, non-exchange listed, securities in the OTC market and, in general, to protect investors and the public interest, FINRA’s Operations Department (“Department”) reviews and processes documents related to announcements for SEA Rule 10b-17 Actions and Other Company-Related Actions to facilitate the orderly trading and settlement of OTC securities.

(2) For purposes of this Rule, the term “SEA Rule 10b-17 Actions” includes, dividends or other distributions in cash or kind, stock splits or reverse stock splits, or rights or other subscription offerings, and such other actions as are provided for in SEA Rule 10b-17; and the term “Other Company-Related Actions” includes, but is not limited to, any issuance or change to a symbol or

name, mergers, acquisitions, dissolutions or other company control transactions; and bankruptcy or liquidations.

(3) This Rule details the advance notification, supporting documentation and fees required by FINRA to process documentation related to such requests.

**(b) Request for FINRA Action**

(1) An issuer or other duly authorized representative of the issuer may request that FINRA process documentation related to an SEA Rule 10b-17 Action or Other Company-Related Action by submitting a signed request in the manner and form required by FINRA (“Requesting Party”). Initial symbol set up requests may also be submitted by members or associated persons of members in order to comply with regulatory reporting requirements.

(2) All requests to process documentation related to an SEA Rule 10b-17 Action must be complete and submitted to the Department, in the manner and form required, no later than the time frame specified in SEA Rule 10b-17. A Requesting Party that does not submit a completed request to the Department, in the manner and form required, within the time frame specified in SEA Rule 10b-17, shall be deemed “late” and, as set forth in this Rule, subject to an additional fee before the request may be processed. Nothing in the Rule shall alter the obligations of an issuer under SEA Rule 10b-17 and the processing of documentation related to a “late” SEA Rule 10b-17 Action request by FINRA shall not relieve an issuer of any violations under such rule.

(3) All requests to process documentation related to Other Company-Related Actions must be complete and submitted to the Department, in the

manner and form required, no later than the time period prescribed for such Other Company-Related Action by FINRA. Notice and information submitted for Other Company-Related Actions must be submitted no later than 10 calendar days prior to the effective date of the company action. A Requesting Party that does not submit a completed FINRA action form to the Department, in the manner and form prescribed, at least ten (10) calendar days prior to the proposed effective date of the company action, shall be deemed “late” and as set forth in this Rule, subject to an additional fee before being processed.

(4) The Department may request such additional information or documentation as may be necessary for the Department to review the request to process documentation related to an SEA Rule 10b-17 Action or Other Company-Related Action and verify the accuracy of the information submitted.

**(c) Fees**

The Requesting Party shall pay the following non-refundable fees for the review and processing of documentation related to an SEA Rule 10b-17 Action and Other Company-Related Action:

<b><u>SEA Rule 10b-17 Action</u></b>	<b><u>Fee</u></b>
<u>Timely SEA Rule 10b-17 Notification</u>	<u>\$200</u>
<u>Late SEA Rule 10b-17 Notification Submitted at least 5 calendar days prior to Corporate Action Date</u>	<u>\$1,000</u>
<u>Late SEA Rule 10b-17 Notification Submitted at least 1 calendar day prior to Corporate Action Date</u>	<u>\$2,000</u>
<u>Late SEA Rule 10b-17 Notification</u>	<u>\$5,000</u>

Submitted on or after Corporate Action Date

<b><u>Other Company-Related Action</u></b>	<b><u>Fee</u></b>
<u>Voluntary Symbol Request Change</u>	<u>\$500</u>
<u>Initial Symbol Set Up</u>	<u>No Charge</u>
<u>Symbol Deletion</u>	<u>No Charge</u>
<b><u>Appeals</u></b>	<b><u>Fee</u></b>
<u>Action Determination Appeal Fee</u>	<u>\$4,000</u>

**(d) Procedures for Reviewing Submissions**

**(1) Review**

The Department shall review all requests to process documentation related to SEA Rule 10b-17 Actions and Other Company-Related Actions that are submitted pursuant to this Rule, including any additional documents or information requested in accordance with paragraph (b) above. All such requests must be accompanied by proof of payment of the requisite fee when appropriate in accordance with paragraph (c) above.

**(2) Lapsed Requests**

Where a Requesting Party does not, in the reasonable determination of the Department, sufficiently respond to any request by the Department for additional information or documentation pursuant to paragraph (b)(3) above within 90 calendar days following such Department request, such party's request shall be deemed "lapsed" and be closed.

**(3) Deficiency Determination**

In circumstances where an SEA Rule 10b-17 Action or Other Company-Related Action is deemed deficient, the Department may determine that it is necessary for the protection of investors, the public interest and to maintain fair and orderly markets, that documentation related to such SEA Rule 10b-17 Action or Other Company-Related Action will not be processed. In instances where the Department makes such a deficiency determination, the request to process documentation related to the SEA Rule 10b-17 Action or Other Company-Related Action, as applicable, will be closed, subject to paragraphs (d)(4) and (e) of this Rule. The Department shall make such deficiency determinations solely on the basis of one or more of the following factors: (1) FINRA staff reasonably believes the forms and all supporting documentation, in whole or in part, may not be complete, accurate or with proper authority; (2) the issuer is not current in its reporting requirements, if applicable, to the SEC or other regulatory authority; (3) FINRA has actual knowledge that the issuer, associated persons, officers, directors, transfer agent, legal adviser, promoters or other persons connected to the issuer or the SEA Rule 10b-17 Action or Other Company-Related Action are the subject of a pending, adjudicated or settled regulatory action or investigation by a federal, state or foreign regulatory agency, or a self-regulatory organization; or a civil or criminal action related to fraud or securities laws violations; (4) a state, federal or foreign authority or self-regulatory organization has provided information to FINRA, or FINRA otherwise has actual knowledge indicating that the issuer, associated persons, officers, directors, transfer agent, legal adviser, promoters or other persons connected with the issuer or the SEA Rule 10b-17

Action or Other Company-Related Action may be potentially involved in fraudulent activities related to the securities markets and/or pose a threat to public investors; and/or (5) there is significant uncertainty in the settlement and clearance process for the security.

**(4) Notice Regarding Determination**

If the Department determines that a request to process documentation related to a SEA Rule 10b-17 Action or a Other Company-Related Action is deficient, FINRA staff shall provide written notice to the Requesting Party. Any notice issued under this paragraph shall state the specific factor(s) that caused the request to be deemed deficient and the Requesting Party may appeal a determination pursuant to paragraph (e) of this Rule.

**(5) Notice Issuance**

A notice issued under this paragraph shall be issued by facsimile or electronic mail, or pursuant to Rule 9134.

**(e) Request for an Appeal to Subcommittee of Uniform Practice Code**

**Committee**

A Requesting Party issued a notice under this Rule may appeal a determination made under paragraph (d)(3) of this Rule to a three-member subcommittee comprised of current or former industry members of FINRA's Uniform Practice Code Committee in writing, via facsimile, electronic mail or otherwise in writing, within seven (7) calendar days after service of the notice. The written request for an appeal must be accompanied by proof of payment of the non-refundable Action Determination Appeal Fee. A request for an appeal must set forth with specificity any and all defenses to the Department's

determination that a request was unacceptable or otherwise deficient. An appeal to the subcommittee shall operate to stay the processing of the company-related action (i.e., the requested company-related action shall not be processed during the period that the Requesting Party requests an appeal or while any such appeal is pending). Once a written appeal has been received, the Requesting Party may submit any additional supporting written documentation, via facsimile, electronic mail or otherwise, up until the time the appeal is considered by the subcommittee. The subcommittee shall convene once each calendar month to consider all appeals received under this Rule during the prior month. The subcommittee shall render a determination within three (3) business days following the day the appeal is considered by the subcommittee. The subcommittee's determination shall constitute final action by FINRA. The subcommittee's determination shall not constitute an estoppel as to FINRA nor bind FINRA in any subsequent administrative, civil, or disciplinary proceeding. If the Requesting Party fails to file a written request for an appeal within seven (7) calendar days after service of the notice by the Department, the Department's determination shall constitute final action by FINRA.

**••• Supplementary Material: -----**

**.01 SEA Rule 10b-17 Fee Accumulations.**

In accordance with the time-frames specified in SEA Rule 10b-17, OTC issuers must provide FINRA with written notice prior to a dividend or any other distribution in cash or in kind, rights or other subscription offerings, forward stock splits, and reverse stock splits. In addition, pursuant to Rule 6490 OTC issuers must pay any applicable fees. Notwithstanding the timeliness of the SEA Rule 10b-17 Action submission or the failure to pay applicable fees, FINRA will make its best efforts to process documentation related

to SEA Rule 10b-17 Actions that are not otherwise deemed incomplete or otherwise deficient by FINRA because of the critical nature of this information to the marketplace. Although FINRA may process documentation related to SEA Rule 10b-17 Actions even if a fee remains unpaid, FINRA accumulates all unpaid SEA Rule 10b-17 Action fees associated with a specific OTC issuer symbol. Regardless of the current ownership status or transaction history of an OTC issuer, FINRA will not process documentation related to Voluntary Symbol Request Changes until all unpaid accumulated late fees have been paid for the associated OTC symbol.

**.02 Requests by Third-Parties.**

Pursuant to SEA Rule 10b-17, OTC issuers must provide FINRA with written notice generally within the time-frames specified in SEA Rule 10b-17. In certain circumstances, FINRA is contacted by a third-party, such as DTCC, foreign exchanges or regulators, members or associated persons, regarding an SEA Rule 10b-17 Action or Other Company Related Action. In such cases, FINRA requests that the third-party contact the issuer in question regarding its obligations under SEA Rule 10b-17 or other rules and regulations, as applicable, and instruct such issuer to contact FINRA directly to provide notice and complete the requisite forms. However, FINRA may in its discretion review and process an SEA Rule 10b-17 Action or Other Company-Related Action based on information from a third-party when it believes such action is necessary for the protection of the market and investors and/or FINRA has been unable to obtain notification from the issuer.

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