

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"/>
--	--

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

Proposed Rule Change Relating to the Restated Certificate of Incorporation of Financial Industry Regulatory Authority, Inc.

**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 Deputy General Counsel  
 (Name) (Title)

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information**

Add Remove View

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

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

Add Remove View

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

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

Add Remove View

Exhibit Sent As Paper Document

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

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

Add Remove View

Exhibit Sent As Paper Document

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

**Exhibit 4 - Marked Copies**

Add Remove View

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

**Exhibit 5 - Proposed Rule Text**

Add Remove View

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

**Partial Amendment**

Add Remove View

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

**1. Text of Proposed Rule Change**

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend the Restated Certificate of Incorporation of FINRA (the “Certificate of Incorporation”) to specify the quorum requirements for a meeting of FINRA members, in anticipation of amendments to the General Corporation Law of the State of Delaware (the “General Corporation Law”). The proposed rule change would serve to maintain the status quo with respect to the quorum requirements for meetings of members.

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**

Pursuant to action dated May 13, 2010, the FINRA Board of Governors 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.

The effective date of the proposed rule change will be the date of approval by the Commission; provided, however, assuming Commission approval of the proposed rule change, the amendment to the Certificate of Incorporation will become effective upon filing with the Secretary of State of the State of Delaware.

---

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

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

(a) Purpose

The proposed rule change would amend FINRA’s Certificate of Incorporation to specify the quorum required at a meeting of FINRA members and where a separate vote by classes or groups is required. FINRA is proposing this rule change in anticipation of amendments to the General Corporation Law, described in detail below, to preserve FINRA’s current quorum requirements.

FINRA is a nonstock corporation under the General Corporation Law. Generally, Section 215(c) of the General Corporation Law provides that the certificate of incorporation or bylaws of a nonstock corporation may specify the number of members having voting power who shall be present or represented by proxy at any meeting in order to constitute a quorum for, and the votes that shall be necessary for, the transaction of any business.<sup>2</sup> However, in the absence of such specification in the certificate of incorporation or bylaws of a nonstock corporation, one-third of the members of such corporation constitute a quorum at a meeting of such members.<sup>3</sup>

Neither FINRA’s Certificate of Incorporation nor its By-Laws specify the quorum required at a meeting of its members. Accordingly, pursuant to Section 215(c)(1) of the General Corporation Law, attendance in person or by proxy of one-third of FINRA members currently constitutes a quorum at a meeting of such members.<sup>4</sup>

---

<sup>2</sup> Del. Code Ann. tit. 8 § 215(c) (2010).

<sup>3</sup> Del. Code Ann. tit. 8 § 215(c)(1) (2010).

<sup>4</sup> Del. Code Ann. tit. 8 § 215(c)(1) (2010).

On August 1, 2010, the General Corporation Law will be amended to, among other things, clarify the application of the statute to nonstock corporations. As part of the amendments, a new Section 215(c)(4) will define the quorum necessary to take action where a separate vote by a class or group of members is required and the certificate of incorporation or bylaws of the nonstock corporation do not specify the requisite quorum. Specifically, from and after August 1, 2010, if the certificate of incorporation or bylaws of a nonstock corporation do not specify the quorum necessary to transact business at a meeting of its members, (1) one-third of the members shall constitute a quorum at a meeting of members; and (2) “[w]here a separate vote by a class or group or classes or groups is required, a majority of the members of such class or group or classes or groups, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter.” (emphasis added)<sup>5</sup>

FINRA is proposing an amendment to its Certificate of Incorporation to maintain the status quo with respect to its current quorum requirements. Accordingly, the proposed rule change would amend Article Ninth of FINRA’s Certificate of Incorporation to specify that, at all meetings of members of FINRA, the presence in person or by proxy of one-third of the members entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum; provided, however, where a separate vote by a class or group or classes or groups is required, the presence in person or by proxy of one-third of the members of such class or group or classes or groups shall be necessary and sufficient to constitute a quorum with respect to that vote on that matter.

---

<sup>5</sup> Del. H.B. 341, 145th Gen. Assem. § 19 (2010).

By specifying the quorum requirements in the Certification of Incorporation, the proposed rule change would maintain the one-third quorum requirement where separate votes of classes or groups of members is required, thus avoiding the new default quorum requirement (i.e., a majority) for such votes as set forth in the new Section 215(c)(4) of the General Corporation Law. Pursuant to the FINRA Certificate of Incorporation and the FINRA By-Laws, members vote as three distinct classes, based upon firm size, to elect the FINRA Board of Governors, i.e., Small Firm Governors, Mid-Size Firm Governors and Large Firm Governors. In this regard, the proposed rule change not only would preserve the status quo, but it also would facilitate the ability of members to conduct business at meetings and exercise their voting rights.

As noted in Item 2 of this filing, the effective date of the proposed rule change will be the date of approval by the Commission; provided, however, assuming Commission approval of the proposed rule change, the amendment to the Certificate of Incorporation will become effective upon filing with the Secretary of State of the State of Delaware.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>6</sup> including Section 15A(b)(2) of the Act,<sup>7</sup> in that it will permit FINRA to carry out the purposes of the Act, to comply with the Act, and to enforce compliance by FINRA members and persons associated with members with the Act, the rules and regulations thereunder, and FINRA rules. The proposed rule change will

---

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

<sup>7</sup> 15 U.S.C. 78o-3(b)(2).

preserve FINRA's current quorum requirements, facilitating the ability of members to conduct business at meetings.

**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.<sup>8</sup>

**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. Text of the proposed rule change.

---

<sup>8</sup> 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2010-027)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to the Restated Certificate of Incorporation of Financial Industry Regulatory Authority, Inc.

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 amend the Restated Certificate of Incorporation of FINRA (the “Certificate of Incorporation”) to specify the quorum requirements for a meeting of FINRA members, in anticipation of amendments to the General Corporation Law of the State of Delaware (the “General Corporation Law”). The proposed rule change would serve to maintain the status quo with respect to the quorum requirements for meetings of members.

---

<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

The proposed rule change would amend FINRA's Certificate of Incorporation to specify the quorum required at a meeting of FINRA members and where a separate vote by classes or groups is required. FINRA is proposing this rule change in anticipation of amendments to the General Corporation Law, described in detail below, to preserve FINRA's current quorum requirements.

FINRA is a nonstock corporation under the General Corporation Law. Generally, Section 215(c) of the General Corporation Law provides that the certificate of incorporation or bylaws of a nonstock corporation may specify the number of members having voting power who shall be present or represented by proxy at any meeting in order to constitute a quorum for, and the votes that shall be necessary for, the transaction

of any business.<sup>3</sup> However, in the absence of such specification in the certificate of incorporation or bylaws of a nonstock corporation, one-third of the members of such corporation constitute a quorum at a meeting of such members.<sup>4</sup>

Neither FINRA's Certificate of Incorporation nor its By-Laws specify the quorum required at a meeting of its members. Accordingly, pursuant to Section 215(c)(1) of the General Corporation Law, attendance in person or by proxy of one-third of FINRA members currently constitutes a quorum at a meeting of such members.<sup>5</sup>

On August 1, 2010, the General Corporation Law will be amended to, among other things, clarify the application of the statute to nonstock corporations. As part of the amendments, a new Section 215(c)(4) will define the quorum necessary to take action where a separate vote by a class or group of members is required and the certificate of incorporation or bylaws of the nonstock corporation do not specify the requisite quorum. Specifically, from and after August 1, 2010, if the certificate of incorporation or bylaws of a nonstock corporation do not specify the quorum necessary to transact business at a meeting of its members, (1) one-third of the members shall constitute a quorum at a meeting of members; and (2) “[w]here a separate vote by a class or group or classes or groups is required, a majority of the members of such class or group or classes or groups, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter.” (emphasis added)<sup>6</sup>

---

<sup>3</sup> Del. Code Ann. tit. 8 § 215(c) (2010).

<sup>4</sup> Del. Code Ann. tit. 8 § 215(c)(1) (2010).

<sup>5</sup> Del. Code Ann. tit. 8 § 215(c)(1) (2010).

<sup>6</sup> Del. H.B. 341, 145th Gen. Assem. § 19 (2010).

FINRA is proposing an amendment to its Certificate of Incorporation to maintain the status quo with respect to its current quorum requirements. Accordingly, the proposed rule change would amend Article Ninth of FINRA's Certificate of Incorporation to specify that, at all meetings of members of FINRA, the presence in person or by proxy of one-third of the members entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum; provided, however, where a separate vote by a class or group or classes or groups is required, the presence in person or by proxy of one-third of the members of such class or group or classes or groups shall be necessary and sufficient to constitute a quorum with respect to that vote on that matter.

By specifying the quorum requirements in the Certification of Incorporation, the proposed rule change would maintain the one-third quorum requirement where separate votes of classes or groups of members is required, thus avoiding the new default quorum requirement (i.e., a majority) for such votes as set forth in the new Section 215(c)(4) of the General Corporation Law. Pursuant to the FINRA Certificate of Incorporation and the FINRA By-Laws, members vote as three distinct classes, based upon firm size, to elect the FINRA Board of Governors, i.e., Small Firm Governors, Mid-Size Firm Governors and Large Firm Governors. In this regard, the proposed rule change not only would preserve the status quo, but it also would facilitate the ability of members to conduct business at meetings and exercise their voting rights.

The effective date of the proposed rule change will be the date of approval by the Commission; provided, however, assuming Commission approval of the proposed rule change, the amendment to the Certificate of Incorporation will become effective upon filing with the Secretary of State of the State of Delaware.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>7</sup> including Section 15A(b)(2) of the Act,<sup>8</sup> in that it will permit FINRA to carry out the purposes of the Act, to comply with the Act, and to enforce compliance by FINRA members and persons associated with members with the Act, the rules and regulations thereunder, and FINRA rules. The proposed rule change will preserve FINRA's current quorum requirements, facilitating the ability of members to conduct business at meetings.

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

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

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

Written comments were neither solicited nor received.

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

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

---

<sup>7</sup> 15 U.S.C. 78o-3.

<sup>8</sup> 15 U.S.C. 78o-3(b)(2).

(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-2010-027 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2010-027. 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 Web site viewing and printing 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-2010-027 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>9</sup>

Florence E. Harmon

Deputy Secretary

---

<sup>9</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5**

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

\* \* \* \* \*

**Restated Certificate of Incorporation  
of  
[National Association of Securities Dealers, Inc.]Financial Industry Regulatory  
Authority, Inc.**

The present name of the corporation is [National Association of Securities Dealers, Inc.]Financial Industry Regulatory Authority, Inc. (the "Corporation"). The Corporation was originally incorporated as a nonstock corporation under the name of Investment Bankers Conference, Inc., and its original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on September 3, 1936. This Restated Certificate of Incorporation of the Corporation, which both restates and further amends the provisions of the Corporation's Certificate of Incorporation as heretofore amended, was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

**Name**

**First:** No Change.

**Delaware Office and Agent**

**Second:** No Change.

**Objects or Purposes**

**Third:** No Change.

**Form of Organization**

**Fourth:** No Change.

**Indemnification; Liability**

**Fifth:** No Change.

**Perpetual Existence**

**Sixth:** No Change.

**Members' Liability**

**Seventh:** No Change.

**Governors**

**Eighth:** No Change.

**Meetings and Offices**

**Ninth:** Both members and the Board of Governors shall have power, if the By-Laws so provide, to hold their meetings and to have one or more offices within or without the State of Delaware and to keep the books of the Corporation (subject to the provision of the statutes), outside the State of Delaware at such places as may be from time to time designated by the Board of Governors. At all meetings of members of the Corporation the presence in person or by proxy of one-third of the members entitled to vote at the meeting shall be necessary and sufficient to constitute a quorum; provided, however, where a separate vote by a class or group or classes or groups is required, the presence in person or by proxy of one-third of the members of such class or group or classes or groups shall be necessary and sufficient to constitute a quorum with respect to that vote on that matter.

**Right to Amend Certificate of Incorporation**

**Tenth:** No Change.



**Transitional Governance**

**Eleventh:** No Change.

**Definitions**

**Twelfth:** No Change.

**IN WITNESS WHEREOF**, this Restated Certificate of Incorporation has been signed under the seal of the Corporation the \_\_\_\_ day of \_\_\_\_\_.

**[NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.]FINANCIAL  
INDUSTRY REGULATORY AUTHORITY, INC.**

By: \_\_\_\_\_

\* \* \* \* \*