

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 15	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2011 - * 029 Amendment No. (req. for Amendments *)
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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 type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action * <input type="checkbox"/> Date Expires * <input type="text"/>			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 checked="" 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, required when Initial is checked \*).  
Proposed Rule Change Relating to Exemptions from the Order Audit Trail System Recording and Reporting Requirements.

**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 \* Brant Last Name \* Brown  
 Title \* Associate General Counsel  
 E-mail \* brant.brown@finra.org  
 Telephone \* (202) 728-6927 Fax (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 06/14/2011  
 By Stephanie Dumont (Name \*) 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.  
 Stephanie Dumont,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information (required)**

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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 (required)**

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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 amend FINRA Rule 7470 to extend for four years FINRA’s ability to exempt certain members from the recording and reporting requirements of the Order Audit Trail System (“OATS”) Rules (“OATS Rules”) for manual orders received by the member.

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**

\* \* \* \* \*

**7400. ORDER AUDIT TRAIL SYSTEM**

\* \* \* \* \*

**7470. Exemption to the Order Recording and Data Transmission Requirements**

(a) through (b) No Change.

(c) This Rule shall be in effect until July 10, 2015<sup>[1]</sup>.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

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

**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 has filed the proposed rule change for immediate effectiveness. The operative date will be July 9, 2011.

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

(a) Purpose

On September 28, 2005, the SEC approved amendments to the OATS Rules that, among other things, permitted FINRA to grant exemptive relief from the OATS reporting requirements for manual orders.<sup>2</sup> In 2006, FINRA's exemptive authority was expanded to include the authority to exempt manual orders received by members from the OATS recording requirements.<sup>3</sup> At a minimum, under FINRA Rule 7470, members must meet the following criteria to be eligible to request an exemption from the OATS recording and reporting requirements for manual orders: (1) the member and current control affiliates and associated persons of the member have not been subject within the last five years to any final disciplinary action, and within the last ten years to any disciplinary action involving fraud; (2) the member has annual revenues of less than \$2 million; (3)

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<sup>2</sup> See Securities Exchange Act Release No. 52521 (September 28, 2005), 70 FR 57909 (October 4, 2005).

<sup>3</sup> See Securities Exchange Act Release No. 53580 (March 30, 2006), 71 FR 17529 (April 6, 2006). In 2006, the exemptive provision was also relocated from NASD Rule 6955(d) to NASD Rule 6958. As of December 15, 2008, NASD Rule 6958 was renumbered as FINRA Rule 7470. See FINRA Regulatory Notice 08-57 (October 2008).

the member does not conduct any market making activities in any security subject to the OATS Rules; (4) the member does not execute principal transactions with its customers (with limited exceptions for principal transactions executed pursuant to error corrections); and (5) the member does not conduct clearing or carrying activities for other firms.<sup>4</sup> An exemption granted by FINRA pursuant to Rule 7470 is for a maximum of two years; however, a member that continues to meet the criteria may request subsequent exemptions at or prior to the expiration of a grant of exemptive relief.<sup>5</sup> Finally, Rule 7470 includes a sunset provision of five years from the original effective date of the rule, which was July 10, 2006. Consequently, Rule 7470 is set to expire as of July 10, 2011.

FINRA adopted this exemptive authority so that it would have the ability to grant relief to members that meet certain criteria in situations where, for example, the reporting of order information would be unduly burdensome for the member or where temporary relief from the rules, in the form of additional time to achieve compliance, would permit the members to avoid unnecessary expense or hardship.<sup>6</sup> FINRA believes that these concerns continue to be present for many firms and, consequently, proposes to extend the period for FINRA to grant exemptive relief for an additional four years. In addition, as part of its recent proposal to create a consolidated audit trail across self-regulatory organizations, the SEC is evaluating, among other things, the impact of consolidated

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<sup>4</sup> See FINRA Rule 7470(a).

<sup>5</sup> See FINRA Rule 7470(b).

<sup>6</sup> See Securities Exchange Act Release No. 52521 (September 28, 2005), 70 FR 57909 (October 4, 2005).

audit trail requirements on smaller member firms.<sup>7</sup> FINRA believes it is appropriate to allow firms that have received an exemption from OATS to continue to rely on their current exemption (or request an additional two-year exemption) until the scope and application of the SEC's consolidated audit trail is determined.

FINRA is not proposing any substantive changes to the criteria necessary for firms to qualify for an exemption because FINRA believes that the criteria continue to ensure that only those firms with limited revenue, no recent final disciplinary actions, and limited business models will be eligible for exemptions.<sup>8</sup>

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness. The operative date will be July 9, 2011.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>9</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. FINRA believes that the proposed rule change will provide a continued way to exempt manual orders received by certain small firms from the OATS Rules and avoid

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<sup>7</sup> See Securities Exchange Act Release No. 62174 (May 26, 2010), 75 FR 32556 (June 8, 2010).

<sup>8</sup> FINRA notes that although many of the members relying on current exemptions pursuant to Rule 7470 also qualify for the exception from the definition of "Reporting Member" in Rule 7410(o), some firms relying on exemptions route orders to multiple clearing firms or otherwise fail to meet the exception in Rule 7410(o).

<sup>9</sup> 15 U.S.C. 78o-3(b)(6).

imposing potentially unnecessary expense or hardship on those firms that qualify for the exemption.

**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)**

The proposed rule change is effective upon filing pursuant to Section 19(b)(3) of the Act<sup>10</sup> and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>11</sup> in that the proposed rule change does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and does not become operative for 30 days after filing or such shorter time as the Commission may designate.

FINRA requests that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule 19b-4(f)(6)(iii).<sup>12</sup> FINRA believes that the proposed rule change should become

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<sup>10</sup> 15 U.S.C. 78s(b)(3).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

operative on July 9, 2011, to avoid any lapse in the application of the rule. In accordance with Rule 19b-4(f)(6),<sup>13</sup> FINRA submitted written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as the Commission may designate, as specified in Rule 19b-4(f)(6)(iii) under the Act.<sup>14</sup>

**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.

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<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CRF 240.19b-4(f)(6)(iii).



EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2011-029)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exemptions from the Order Audit Trail System Recording and Reporting Requirements

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 and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to amend FINRA Rule 7470 to extend for four years FINRA’s ability to exempt certain members from the recording and reporting requirements of the Order Audit Trail System (“OATS”) Rules (“OATS Rules”) for manual orders received by the member.

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

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

On September 28, 2005, the SEC approved amendments to the OATS Rules that, among other things, permitted FINRA to grant exemptive relief from the OATS reporting requirements for manual orders.<sup>4</sup> In 2006, FINRA's exemptive authority was expanded to include the authority to exempt manual orders received by members from the OATS recording requirements.<sup>5</sup> At a minimum, under FINRA Rule 7470, members must meet the following criteria to be eligible to request an exemption from the OATS recording and reporting requirements for manual orders: (1) the member and current control

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<sup>4</sup> See Securities Exchange Act Release No. 52521 (September 28, 2005), 70 FR 57909 (October 4, 2005).

<sup>5</sup> See Securities Exchange Act Release No. 53580 (March 30, 2006), 71 FR 17529 (April 6, 2006). In 2006, the exemptive provision was also relocated from NASD Rule 6955(d) to NASD Rule 6958. As of December 15, 2008, NASD Rule 6958 was renumbered as FINRA Rule 7470. See FINRA Regulatory Notice 08-57 (October 2008).

affiliates and associated persons of the member have not been subject within the last five years to any final disciplinary action, and within the last ten years to any disciplinary action involving fraud; (2) the member has annual revenues of less than \$2 million; (3) the member does not conduct any market making activities in any security subject to the OATS Rules; (4) the member does not execute principal transactions with its customers (with limited exceptions for principal transactions executed pursuant to error corrections); and (5) the member does not conduct clearing or carrying activities for other firms.<sup>6</sup> An exemption granted by FINRA pursuant to Rule 7470 is for a maximum of two years; however, a member that continues to meet the criteria may request subsequent exemptions at or prior to the expiration of a grant of exemptive relief.<sup>7</sup> Finally, Rule 7470 includes a sunset provision of five years from the original effective date of the rule, which was July 10, 2006. Consequently, Rule 7470 is set to expire as of July 10, 2011.

FINRA adopted this exemptive authority so that it would have the ability to grant relief to members that meet certain criteria in situations where, for example, the reporting of order information would be unduly burdensome for the member or where temporary relief from the rules, in the form of additional time to achieve compliance, would permit the members to avoid unnecessary expense or hardship.<sup>8</sup> FINRA believes that these concerns continue to be present for many firms and, consequently, proposes to extend the period for FINRA to grant exemptive relief for an additional four years. In addition, as part of its recent proposal to create a consolidated audit trail across self-regulatory

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<sup>6</sup> See FINRA Rule 7470(a).

<sup>7</sup> See FINRA Rule 7470(b).

<sup>8</sup> See Securities Exchange Act Release No. 52521 (September 28, 2005), 70 FR 57909 (October 4, 2005).

organizations, the SEC is evaluating, among other things, the impact of consolidated audit trail requirements on smaller member firms.<sup>9</sup> FINRA believes it is appropriate to allow firms that have received an exemption from OATS to continue to rely on their current exemption (or request an additional two-year exemption) until the scope and application of the SEC's consolidated audit trail is determined.

FINRA is not proposing any substantive changes to the criteria necessary for firms to qualify for an exemption because FINRA believes that the criteria continue to ensure that only those firms with limited revenue, no recent final disciplinary actions, and limited business models will be eligible for exemptions.<sup>10</sup>

FINRA has filed the proposed rule change for immediate effectiveness. The operative date will be July 9, 2011.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>11</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. FINRA believes that the proposed rule change will provide a continued way to exempt manual orders received by certain small firms from the OATS Rules and avoid

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<sup>9</sup> See Securities Exchange Act Release No. 62174 (May 26, 2010), 75 FR 32556 (June 8, 2010).

<sup>10</sup> FINRA notes that although many of the members relying on current exemptions pursuant to Rule 7470 also qualify for the exception from the definition of "Reporting Member" in Rule 7410(o), some firms relying on exemptions route orders to multiple clearing firms or otherwise fail to meet the exception in Rule 7410(o).

<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

imposing potentially unnecessary expense or hardship on those firms that qualify for the exemption.

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

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

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

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-2011-029 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-2011-029. 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-2011-029 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>14</sup>

Elizabeth M. Murphy  
Secretary

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<sup>14</sup> 17 CFR 200.30-3(a)(12).