

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="21"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2011"/> - * <input type="text" value="058"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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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 checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <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, required when Initial is checked \*).

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name \*  Last Name \*

Title \*

E-mail \*

Telephone \*  Fax

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

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

Date

By  Senior Vice President and Director of Capital Markets Policy  
(Name \*) (Title \*)

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information (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 6433 (Minimum Quotation Size Requirements for OTC Equity Securities).

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

\* \* \* \* \*

**6000. QUOTATION AND TRANSACTION REPORTING FACILITIES**

\* \* \* \* \*

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

\* \* \* \* \*

**6430. OTC Equity Quotation Requirements**

\* \* \* \* \*

**6433. Minimum Quotation Size Requirements for OTC Equity Securities**

[Every member firm that functions as a market maker in OTC Equity Securities by entering firm] Every member entering quotations in [into the OTC Bulletin Board Service (OTCBB) (or) any [other] inter-dealer quotation system that permits quotation updates on a real-time basis[])] must enter and honor those quotations for at least the minimum size defined in the table below. In this regard, it is the [market maker's] member's responsibility to determine the minimum size requirement applicable to its

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

quotation [firm bid and/or offer in each of its registered securities (excluding OTC Equity Securities for which the OTCBB will not accept firm quotations)]. Depending on the price level of the quotation [bid or offer], a different minimum size can apply to each side of the market being quoted by the member [firm] in a given security.

<b>Price (Bid or Offer)</b>	<b>Minimum Quote Size</b>
[0-.50] <u>0.0001-0.0199</u> <sup>[1]</sup>	[5,000] <u>10,000</u>
[.51-1.00] <u>0.02-0.2599</u>	[2,500] <u>1,000</u>
[1.01-10.00] <u>0.26-0.5099</u>	500
[10.01-100.00] <u>0.51-0.9999</u>	200
[100.01-200.00] <u>1.00-174.99</u>	100
[200.01-500.00] <u>175.00+</u>	[25] <u>1</u>
[500.01-1000.00]	[10]
[1000.01-2500.00]	[5]
[2500.01 +]	[1]

[<sup>1</sup> The OTCBB can accept bids/offers expressed in fractions as small as 1/256 or in decimals up to six places. In applying the price test for minimum quotation size, any increment beyond an upper limit in the right hand column will trigger application of the minimum quote size for the next tier. For example, a bid (or offer) of \$.505 must be firm for a size of 2,500 shares.]

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

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

At its meeting on December 7, 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.

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 180 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 Rule 6433 (Minimum Quotation Size Requirements For OTC Equity Securities) (the “Rule”) requires every member functioning as an OTC Market Maker<sup>2</sup> in an OTC Equity Security<sup>3</sup> that enters firm quotations into any inter-dealer quotation system that permits quotation updates on a real-time basis to honor those quotations for certain minimum sizes (“minimum quotation sizes”). Under the Rule, different minimum quotation sizes apply depending upon the price level of the bid or offer and, therefore, a different minimum quotation size can apply to each side of the market being quoted by the member in a given security.

FINRA is proposing changes to the minimum quotation sizes to, among other things, simplify the tier structure, facilitate the display of customer limit orders under new FINRA Rule 6460 (Display of Customer Limit Orders) (the “limit order display

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<sup>2</sup> See FINRA Rule 6420(f).

<sup>3</sup> “OTC Equity Security” means any equity security that is not an “NMS stock” as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term OTC Equity Security shall not include any Restricted Equity Security. See FINRA Rule 6420(e).

rule”)<sup>4</sup> and expand the scope of the rule, as further discussed below.<sup>5</sup>

Under the proposed approach, the minimum quotation size required for display of a quotation in an OTC Equity Security would fall into one of six tiers rather than nine tiers. Specifically, for OTC Equity Securities priced between \$0.51 and \$0.9999/share, the minimum quotation size would be 200 shares; between \$0.26 and \$0.5099/share, the minimum quotation size would be 500 shares; between \$0.02 and \$0.2599/share, the minimum quotation size would be 1,000 shares; and between \$0.0001 and \$0.0199/share, the minimum quotation size would be 10,000 shares.<sup>6</sup> For quotations in securities priced at least \$1.00/share, the proposed rule generally would parallel the approach taken by the exchanges by setting the minimum quotation size at a round lot of 100 shares,<sup>7</sup> except that, with respect to OTC Equity Securities priced at or above \$175.00/share, the

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<sup>4</sup> See Securities Exchange Act Release No. 62359 (June 22, 2010), 75 FR 37488 (June 29, 2010) (File No. SR-FINRA-2009-054; Order Approving NMS-Principled Rules for OTC Equity Securities) (“NMS-Principled Rules Approval Order”). FINRA Rule 6460 became effective on May 9, 2011.

<sup>5</sup> The proposal also would incorporate the requirements of FINRA Rule 6434 (Minimum Pricing Increments for OTC Equity Securities) which, among other things, prohibits members from displaying a bid or offer in an OTC Equity Security in an increment smaller than \$0.01 if the bid or offer is priced \$1.00 or greater per share, or in an increment smaller than \$0.0001 if the bid or offer is priced below \$1.00. See FINRA Rule 6460(b)(8).

<sup>6</sup> Under the proposed revisions, securities priced under \$0.02/share would be subject to a larger minimum quotation size than the current Rule. Increasing the minimum for quotations in this lower-priced tier should result in more substantive dollar-value commitments to the market. For securities priced at or above \$0.02/share, the minimum quotation size requirements would be reduced so that a greater percentage of customer limit orders priced in this range would be eligible for display, while continuing to recognize the utility of requiring that displayed quotations represent a minimum aggregate dollar value commitment to the market.

<sup>7</sup> A round lot of 100 shares applies to most NASDAQ and NYSE listed securities.

minimum quotation size would equal the round lot size applicable to those securities, which is one (1) share.<sup>8</sup>

In addition to simplifying the tier structure, FINRA believes that the proposed revisions will benefit investors by facilitating display of customer limit orders under the limit order display rule, which generally requires that OTC Market Makers fully display better-priced customer limit orders (or same-priced customer limit orders that are at the best bid or offer and that increase the OTC Market Maker's size by more than a de minimis amount).<sup>9</sup> OTC Market Makers are not required to display a customer limit order unless doing so would comply with the minimum quotation sizes applicable to the display of quotations on an inter-dealer quotation system.<sup>10</sup> Therefore, although a customer limit order may otherwise have been required to be displayed under the limit order display rule because it improved price or size more than a de minimis amount, if the order is less than the minimum quotation size set forth in this Rule, the member is not required to display the order.

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<sup>8</sup> The unit of trade for OTC Equity Securities traded at or above \$175.00/share is one (1) share (i.e., transactions in these securities for fewer than 100 shares no longer are considered "odd-lot transactions" for dissemination purposes). See Trade Reporting Notice, OTC Equity Security Transactions (April 21, 2008).

<sup>9</sup> The limit order display rule was adopted as part of a broader effort to extend certain protections in place for NMS stocks to quoting and trading in OTC Equity Securities. See NMS-Principled Rules Approval Order. As stated in the proposal for the limit order display rule, FINRA believes that applying the display requirements to OTC Equity Securities will improve transparency in the OTC equity market and advances the goal of the public availability of quotation information, as well as fair competition, market efficiency, best execution and disintermediation. See Securities Exchange Act Release No. 60515 (August 17, 2009), 74 FR 43207 (August 26, 2009) (Notice of Filing File No. SR-FINRA-2009-054).

<sup>10</sup> See Regulatory Notice 10-42 (September 2010).

FINRA believes that the proposed modifications to the Rule's tiers will result in the display of a larger number of customer limit orders because more limit orders should meet the revised minimums than those currently in place under the Rule. Based upon a review of a sample of Order Audit Trail System data submitted over the past year in OTC Equity Securities, only approximately 50% of customer limit orders in the sample met the current Rule's thresholds and would have been eligible to be displayed. For example, the existing tiers apply a 2,500 share minimum to OTC Equity Securities priced between \$0.51 and \$1.00/share, resulting in minimum dollar commitments to the market that range from \$1,275.00 (for 2,500 shares priced at \$0.51/share) to \$2,500.00 (for 2,500 shares priced at \$1.00/share). In contrast, the proposed minimum quotation size of 200 shares applicable to quotes priced between \$0.51 and \$0.9999/share would have resulted in a significant increase in the number of limit orders that would have been eligible to be displayed – over 90% of the orders comprising the sample.

FINRA also is proposing to expand the scope of the Rule to apply to all quotations or orders displayed in an inter-dealer quotation system, including quotations displayed by alternative trading systems (ATs) or those representing customer trading interest. The scope of the current rule is limited to quotations where the member “functions as a market maker in OTC Equity Securities.” Therefore, the Rule does not currently apply to quotes by ATs (because they are not market makers) and quotes representing customer trading interest (e.g., customer limit orders). However, ATs have become increasingly active in the over-the-counter market and FINRA believes that the minimum quotation size requirements should apply uniformly for any trading interest displayed on an inter-dealer quotation system by members, whether submitted by an OTC



Market Maker or an ATS.<sup>11</sup> In addition, FINRA believes that expanding the scope of the Rule to include quotations representing customer limit orders will ensure that minimum quotation sizes are observed consistently by all members displaying quotations on an inter-dealer quotation system.

Of course, each member would continue to be required to honor its quotations to the full quantity displayed in accordance with Rule 5220 (Offers at Stated Prices), which generally provides that no member shall make an offer to buy or sell any security at a stated price unless such member is prepared to purchase or sell the security at such price and under such conditions as are stated at the time of such offer to buy or sell.<sup>12</sup>

Likewise, member obligations pursuant to Rule 5210 (Publication of Transactions and Quotations) continue to apply. Among other things, Rule 5210 generally prohibits members from publishing, circulating, or causing to be published or circulated, any quotation which purports to quote the bid price or asked price for any security, unless such member believes that such quotation represents a bona fide bid for, or offer of, such security.<sup>13</sup>

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 180 days following Commission approval.

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<sup>11</sup> While ATS quotes and quotes representing customer trading interest currently are not captured within the scope of the Rule, as a practical matter, members displaying any quotation on an inter-dealer quotation system often must post a size that is at least equal to this Rule's minimums due to the systems requirements of inter-dealer quotation systems that program the size field consistent with this Rule.

<sup>12</sup> See also Rule 5220.01 (Firmness of Quotations).

<sup>13</sup> See also Rule 5210.01 (Manipulative and Deceptive Quotations).

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>14</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 also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(11) of the Act.<sup>15</sup> Section 15A(b)(11) requires that FINRA rules include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied.

FINRA believes that the proposed rule change meets these requirements by simplifying the tier structure and facilitating display of customer limit orders consistent with Rule 6460, while still recognizing the utility of requiring that quotes in lower-priced securities represent a minimum dollar-value commitment to the market. FINRA believes that the proposed revisions to the minimum quotation sizes should benefit investors by increasing the percentage of customer limit orders that will be eligible for display under Rule 6460. This should improve transparency and enhance execution of customer limit orders. Finally, FINRA believes that the applicability of the minimum quotation sizes to all members posting quotations in an inter-dealer quotation system will promote

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<sup>14</sup> 15 U.S.C. 78o-3(b)(6).

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

consistency in the minimum quotation sizes displayed on an inter-dealer quotation system.

**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>16</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.

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<sup>16</sup> 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2011-058)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Amend FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities)

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 FINRA Rule 6433 (Minimum Quotation Size Requirements for OTC Equity Securities).

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

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

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

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

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

FINRA Rule 6433 (Minimum Quotation Size Requirements For OTC Equity Securities) (the "Rule") requires every member functioning as an OTC Market Maker<sup>3</sup> in an OTC Equity Security<sup>4</sup> that enters firm quotations into any inter-dealer quotation system that permits quotation updates on a real-time basis to honor those quotations for certain minimum sizes ("minimum quotation sizes"). Under the Rule, different minimum quotation sizes apply depending upon the price level of the bid or offer and, therefore, a different minimum quotation size can apply to each side of the market being quoted by the member in a given security.

FINRA is proposing changes to the minimum quotation sizes to, among other things, simplify the tier structure, facilitate the display of customer limit orders under

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<sup>3</sup> See FINRA Rule 6420(f).

<sup>4</sup> "OTC Equity Security" means any equity security that is not an "NMS stock" as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term OTC Equity Security shall not include any Restricted Equity Security. See FINRA Rule 6420(e).

new FINRA Rule 6460 (Display of Customer Limit Orders) (the “limit order display rule”)<sup>5</sup> and expand the scope of the rule, as further discussed below.<sup>6</sup>

Under the proposed approach, the minimum quotation size required for display of a quotation in an OTC Equity Security would fall into one of six tiers rather than nine tiers. Specifically, for OTC Equity Securities priced between \$0.51 and \$0.9999/share, the minimum quotation size would be 200 shares; between \$0.26 and \$0.5099/share, the minimum quotation size would be 500 shares; between \$0.02 and \$0.2599/share, the minimum quotation size would be 1,000 shares; and between \$0.0001 and \$0.0199/share, the minimum quotation size would be 10,000 shares.<sup>7</sup> For quotations in securities priced at least \$1.00/share, the proposed rule generally would parallel the approach taken by the exchanges by setting the minimum quotation size at a round lot of 100 shares,<sup>8</sup> except

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<sup>5</sup> See Securities Exchange Act Release No. 62359 (June 22, 2010), 75 FR 37488 (June 29, 2010) (File No. SR-FINRA-2009-054; Order Approving NMS-Principled Rules for OTC Equity Securities) (“NMS-Principled Rules Approval Order”). FINRA Rule 6460 became effective on May 9, 2011.

<sup>6</sup> The proposal also would incorporate the requirements of FINRA Rule 6434 (Minimum Pricing Increments for OTC Equity Securities) which, among other things, prohibits members from displaying a bid or offer in an OTC Equity Security in an increment smaller than \$0.01 if the bid or offer is priced \$1.00 or greater per share, or in an increment smaller than \$0.0001 if the bid or offer is priced below \$1.00. See FINRA Rule 6460(b)(8).

<sup>7</sup> Under the proposed revisions, securities priced under \$0.02/share would be subject to a larger minimum quotation size than the current Rule. Increasing the minimum for quotations in this lower-priced tier should result in more substantive dollar-value commitments to the market. For securities priced at or above \$0.02/share, the minimum quotation size requirements would be reduced so that a greater percentage of customer limit orders priced in this range would be eligible for display, while continuing to recognize the utility of requiring that displayed quotations represent a minimum aggregate dollar value commitment to the market.

<sup>8</sup> A round lot of 100 shares applies to most NASDAQ and NYSE listed securities.

that, with respect to OTC Equity Securities priced at or above \$175.00/share, the minimum quotation size would equal the round lot size applicable to those securities, which is one (1) share.<sup>9</sup>

In addition to simplifying the tier structure, FINRA believes that the proposed revisions will benefit investors by facilitating display of customer limit orders under the limit order display rule, which generally requires that OTC Market Makers fully display better-priced customer limit orders (or same-priced customer limit orders that are at the best bid or offer and that increase the OTC Market Maker's size by more than a de minimis amount).<sup>10</sup> OTC Market Makers are not required to display a customer limit order unless doing so would comply with the minimum quotation sizes applicable to the display of quotations on an inter-dealer quotation system.<sup>11</sup> Therefore, although a customer limit order may otherwise have been required to be displayed under the limit order display rule because it improved price or size more than a de minimis amount, if

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<sup>9</sup> The unit of trade for OTC Equity Securities traded at or above \$175.00/share is one (1) share (i.e., transactions in these securities for fewer than 100 shares no longer are considered "odd-lot transactions" for dissemination purposes). See Trade Reporting Notice, OTC Equity Security Transactions (April 21, 2008).

<sup>10</sup> The limit order display rule was adopted as part of a broader effort to extend certain protections in place for NMS stocks to quoting and trading in OTC Equity Securities. See NMS-Principled Rules Approval Order. As stated in the proposal for the limit order display rule, FINRA believes that applying the display requirements to OTC Equity Securities will improve transparency in the OTC equity market and advances the goal of the public availability of quotation information, as well as fair competition, market efficiency, best execution and disintermediation. See Securities Exchange Act Release No. 60515 (August 17, 2009), 74 FR 43207 (August 26, 2009) (Notice of Filing File No. SR-FINRA-2009-054).

<sup>11</sup> See Regulatory Notice 10-42 (September 2010).

the order is less than the minimum quotation size set forth in this Rule, the member is not required to display the order.

FINRA believes that the proposed modifications to the Rule's tiers will result in the display of a larger number of customer limit orders because more limit orders should meet the revised minimums than those currently in place under the Rule. Based upon a review of a sample of Order Audit Trail System data submitted over the past year in OTC Equity Securities, only approximately 50% of customer limit orders in the sample met the current Rule's thresholds and would have been eligible to be displayed. For example, the existing tiers apply a 2,500 share minimum to OTC Equity Securities priced between \$0.51 and \$1.00/share, resulting in minimum dollar commitments to the market that range from \$1,275.00 (for 2,500 shares priced at \$0.51/share) to \$2,500.00 (for 2,500 shares priced at \$1.00/share). In contrast, the proposed minimum quotation size of 200 shares applicable to quotes priced between \$0.51 and \$0.9999/share would have resulted in a significant increase in the number of limit orders that would have been eligible to be displayed – over 90% of the orders comprising the sample.

FINRA also is proposing to expand the scope of the Rule to apply to all quotations or orders displayed in an inter-dealer quotation system, including quotations displayed by alternative trading systems (ATs) or those representing customer trading interest. The scope of the current rule is limited to quotations where the member "functions as a market maker in OTC Equity Securities." Therefore, the Rule does not currently apply to quotes by ATs (because they are not market makers) and quotes representing customer trading interest (e.g., customer limit orders). However, ATs have become increasingly active in the over-the-counter market and FINRA believes that the



minimum quotation size requirements should apply uniformly for any trading interest displayed on an inter-dealer quotation system by members, whether submitted by an OTC Market Maker or an ATS.<sup>12</sup> In addition, FINRA believes that expanding the scope of the Rule to include quotations representing customer limit orders will ensure that minimum quotation sizes are observed consistently by all members displaying quotations on an inter-dealer quotation system.

Of course, each member would continue to be required to honor its quotations to the full quantity displayed in accordance with Rule 5220 (Offers at Stated Prices), which generally provides that no member shall make an offer to buy or sell any security at a stated price unless such member is prepared to purchase or sell the security at such price and under such conditions as are stated at the time of such offer to buy or sell.<sup>13</sup>

Likewise, member obligations pursuant to Rule 5210 (Publication of Transactions and Quotations) continue to apply. Among other things, Rule 5210 generally prohibits members from publishing, circulating, or causing to be published or circulated, any quotation which purports to quote the bid price or asked price for any security, unless such member believes that such quotation represents a bona fide bid for, or offer of, such security.<sup>14</sup>

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<sup>12</sup> While ATS quotes and quotes representing customer trading interest currently are not captured within the scope of the Rule, as a practical matter, members displaying any quotation on an inter-dealer quotation system often must post a size that is at least equal to this Rule's minimums due to the systems requirements of inter-dealer quotation systems that program the size field consistent with this Rule.

<sup>13</sup> See also Rule 5220.01 (Firmness of Quotations).

<sup>14</sup> See also Rule 5210.01 (Manipulative and Deceptive Quotations).

FINRA will announce the effective date of the proposed rule change in a Regulatory Notice. The effective date will be no later than 180 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>15</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 also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(11) of the Act.<sup>16</sup> Section 15A(b)(11) requires that FINRA rules include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied.

FINRA believes that the proposed rule change meets these requirements by simplifying the tier structure and facilitating display of customer limit orders consistent with Rule 6460, while still recognizing the utility of requiring that quotes in lower-priced securities represent a minimum dollar-value commitment to the market. FINRA believes that the proposed revisions to the minimum quotation sizes should benefit investors by increasing the percentage of customer limit orders that will be eligible for display under Rule 6460. This should improve transparency and enhance execution of customer limit

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

<sup>16</sup> 15 U.S.C. 78o-3(b)(11).

orders. Finally, FINRA believes that the applicability of the minimum quotation sizes to all members posting quotations in an inter-dealer quotation system will promote consistency in the minimum quotation sizes displayed on an inter-dealer quotation system.

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 45 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 or disapprove 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-2011-058 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-2011-058. 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 website (<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 website 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-2011-058 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>17</sup>

Elizabeth M. Murphy

Secretary

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