

of the Act<sup>9</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>10</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>11</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii)<sup>12</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding the investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.<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.

#### 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 Email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-FINRA-2012-037 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-2012-037. This file number should be included on the subject line if email 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. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2012-037 and should be submitted by August 29, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Kevin M. O'Neill,**  
*Deputy Secretary.*

[FR Doc. 2012-19381 Filed 8-7-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67588; File No. SR-FINRA-2009-028]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Withdrawal of Proposed Rule Change To Adopt FINRA Rule 2231 (Customer Account Statements) in the Consolidated FINRA Rulebook

August 2, 2012.

On April 22, 2009, the Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change that would have adopted NASD Rule 2340 ("Customer Account Statements") with certain changes as FINRA Rule 2231 in the consolidated FINRA rulebook ("Consolidated FINRA Rulebook").<sup>3</sup> The proposed rule change would also have deleted NYSE Rule 409 ("Statements of Accounts of Customers"), except for paragraph (f) and certain of its related interpretations. The proposed rule change was published for comment in the **Federal Register** on May 21, 2009.<sup>4</sup> The Commission received 12 comments on the proposal.<sup>5</sup>

On July 12, 2011, FINRA filed Amendment No. 1 to the proposed rule change that was published in **Federal Register** on August 2, 2011.<sup>6</sup> On October 7, 2011, the Commission published a notice to correct the timing of required Commission action.<sup>7</sup> The Commission

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

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

<sup>3</sup> The FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *FINRA Information Notice*, March 12, 2008 (Rulebook Consolidation Process). For convenience, the proposed rule change refers to Incorporated NYSE Rules as NYSE Rules.

<sup>4</sup> See Securities Exchange Act Release No. 59921 (May 14, 2009), 74 FR 23912 (May 21, 2009).

<sup>5</sup> <http://www.sec.gov/comments/sr-finra-2009-028/finra2009028.shtml> (last visited July 30, 2012).

<sup>6</sup> See Securities Exchange Act Release No. 64969 (July 26, 2011), 76 FR 46340 (August 2, 2011).

<sup>7</sup> See Exchange Act Release No. 64969A (Oct. 7, 2011), 76 FR 63969 (Oct. 14, 2011).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires FINRA to give the Commission written notice of FINRA's 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 of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

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

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

<sup>13</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

received 9 comments on the proposal as amended by Amendment No. 1.<sup>8</sup>

On July 30, 2012, FINRA withdrew the proposed change (SR-FINRA-2009-028).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Kevin O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-19365 Filed 8-7-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67585; File No. SR-NYSE-2012-33]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Implementing Certain Changes to the Credits Within the New York Stock Exchange Price List That Are Applicable to Supplemental Liquidity Providers

August 2, 2012.

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 July 25, 2012, New York Stock Exchange LLC (the “Exchange” or “NYSE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. 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

The Exchange proposes to certain changes to the credits within its Price List that are applicable to Supplemental Liquidity Providers (“SLPs”), which the Exchange proposes to become operative on August 1, 2012. The text of the proposed rule change is available on the Exchange’s Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, 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, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

###### 1. Purpose

The Exchange is proposing certain changes to the credits within its Price List that are applicable to SLPs, which the Exchange proposes to become operative on August 1, 2012.

SLPs are eligible for credits when adding liquidity to the NYSE.<sup>3</sup> The amount of the credit is currently determined by the “tier” that the SLP qualifies for, which is based on the SLP’s level of quoting and the average daily volume (“ADV”) <sup>4</sup> of liquidity added by the SLP in assigned securities.

The Exchange proposes to amend the Price List, such that only the following three credit rates would apply to SLPs:<sup>5</sup>

1. [sic] The current standard credit of \$0.0015 per share (or \$0.0010 per share if a Non-Displayed Reserve Order) would apply when adding liquidity to the Exchange in securities with a per share price of \$1.00 or more, if the SLP does not qualify for the higher credit set forth in paragraph 2, below.

2. [sic] The current credit of \$0.0020 per share (or \$0.0015 per share if a Non-Displayed Reserve Order) would be increased to \$0.0021 per share (or \$0.0016 per share if a Non-Displayed Reserve Order) and would apply when adding liquidity to the Exchange in securities with a per share price of \$1.00 or more if the SLP (i) meets the 10% average or more quoting requirement in the assigned security pursuant to Rule 107B <sup>6</sup> and (ii) adds liquidity of an ADV

of more than 10 million shares for all assigned SLP securities in the aggregate.<sup>7</sup> The current requirement related to adding liquidity of a certain percentage of consolidated ADV (“CADV”) for an assigned security in the applicable month would no longer be applicable.

3. [sic] The current credit of \$0.005 per share when adding liquidity to the Exchange in securities with a per share price of less than \$1.00 if the SLP (i) meets the 10% average or more quoting requirement in an assigned security pursuant to Rule 107B <sup>8</sup> and (ii) adds liquidity of an ADV of more than 10 million shares for all assigned SLP securities in the aggregate.<sup>9</sup>

The result of this proposed change is that the current credit tiers of \$0.0021 per share (or \$0.0016 per share if a Non-Displayed Reserve Order) and \$0.0024 per share (or \$0.0019 per share if a Non-Displayed Reserve Order) will be removed from the Price List, as will the corresponding threshold requirements that are currently applicable to these credits.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),<sup>10</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>11</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed rule change is reasonable, equitable and not unfairly discriminatory because it would encourage SLPs to send additional orders to the Exchange for execution in order to qualify for an incrementally higher credit for such executions that add liquidity on the Exchange. In this regard, the Exchange believes that this may incentivize SLPs to increase the orders sent directly to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency.

SLP registered as a market maker at the Exchange (“SLMM”) of the same member organization are not aggregated for purposes of this calculation.

<sup>7</sup> This calculation includes shares of both an SLP-Prop and an SLMM of the same member organization.

<sup>8</sup> See *supra* note 3.

<sup>9</sup> See *supra* note 4.

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

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>3</sup> SLP credits are not applicable to executions of securities with a per share price of \$1.00 or more at the close.

<sup>4</sup> For purposes of SLP liquidity credits, ADV calculations exclude early closing days.

<sup>5</sup> SLP execution of securities with a per share price of \$1.00 or more at the close would continue to be free.

<sup>6</sup> Quotes of an SLP that is a proprietary trading unit of a member organization (“SLP-Prop”) and an

<sup>8</sup> See *supra* note 5.

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

<sup>10</sup> 15 U.S.C. 78s(b)(1).

<sup>11</sup> 17 CFR 240.19b-4.