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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2021 - * 032

Amendment No. (req. for Amendments *)

Filing 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"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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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)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
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Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * <input type="checkbox"/>

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 action (limit 250 characters, required when Initial is checked *).

Proposed Rule Change to Amend FINRA Rule 2251 (Processing and Forwarding of Proxy and Other Issuer-Related Materials)

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 action.

First Name *	Adam	Last Name *	Arkel
Title *	Associate General Counsel		
E-mail *	adam.arkel@finra.org		
Telephone *	(202) 728-6961	Fax	(202) 728-8264

Signature

Pursuant to the requirements of the Securities Exchange of 1934, Financial Industry Regulatory Authority has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date	12/07/2021	(Title *)
By	Patrice Gliniecki (Name *)	Senior Vice President and Deputy General Cou

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

Patrice Gliniecki
Digitally signed by Patrice Gliniecki
Date: 2021.12.07 14:54:55 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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FINRA-2021-032 19b-4.docx

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

Exhibit 1 - Notice of Proposed Rule Change *

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FINRA-2021-032 Exhibit 1 re Rule 225

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 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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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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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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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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 Sent As Paper Document

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

Add Remove View

FINRA-2021-032 Exhibit 5 re Rule 225

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 the Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “SEA” or “Exchange Act”),¹ the Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend the provisions of FINRA Rule 2251 (Processing and Forwarding of Proxy and Other Issuer-Related Materials) relating to seeking reimbursement from issuers for forwarding proxy and other materials and to make minor conforming revisions.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

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 has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

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

(a) Purpose

¹ 15 U.S.C. 78s(b)(1).

FINRA Rule 2251 requires FINRA members to transmit proxy materials and other communications to beneficial owners of securities and limits the circumstances in which FINRA members may vote proxies without instructions from those beneficial owners.² The Supplementary Material under FINRA Rule 2251 (FINRA Rule 2251.01) sets forth the rate reimbursement provisions pursuant to which FINRA members are entitled to receive fees in connection with the rule's forwarding obligations. FINRA has previously indicated that, in the interest of ensuring regulatory clarity and harmonization with respect to proxy rate reimbursement, it intends to conform the rate reimbursement provisions of FINRA Rule 2251 with the New York Stock Exchange ("NYSE") provisions in this area.³ Consistent with this approach, FINRA is proposing amendments to Supplementary Material .01 under Rule 2251, as described further below, in alignment with rulemakings by the NYSE that have amended certain provisions under NYSE rules.

² FINRA Rule 2251 was adopted as a consolidation of former NASD Rule 2260 and IM-2260 as part of FINRA's rulebook consolidation process. See Securities Exchange Act Release No. 61052 (November 23, 2009), 74 FR 62857 (December 1, 2009) (Order Granting Approval of Proposed Rule Change to Adopt FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials) in the Consolidated FINRA Rulebook; File No. SR-FINRA-2009-066).

³ See Securities Exchange Act Release No. 71272 (January 9, 2014), 79 FR 2741 (January 15, 2014) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials), Which Includes Fees for Processing and Forwarding Proxy and Other Issuer Communications to Beneficial Owners, and Establish a Fee Under Certain Conditions for an Enhanced Brokers' Internet Platform; File No. SR-FINRA-2013-056); see also Securities Exchange Act Release No. 47392 (February 21, 2003), 68 FR 9730 (February 28, 2003) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to an Amendment to NASD Interpretive Material 2260 ("IM-2260"); File No. SR-NASD-2003-019).

i. Proposed “Notice and Access” Amendments

In 2018, the SEC adopted⁴ Investment Company Act (“ICA”) Rule 30e-3,⁵ which permits specified registered investment companies to satisfy their shareholder report delivery obligations by making the reports available electronically on a website using a “notice and access” process, subject to conditions as set forth in the rule. When Rule 30e-3 was proposed, but not yet adopted by the SEC, the NYSE proposed⁶ to adopt amendments under NYSE Rule 451 that set maximum fees its member organizations could charge to issuers utilizing a notice and access process for proxy distribution. The NYSE noted that, absent amendment to NYSE Rule 451, the notice and access fees under the NYSE rule would not apply to the distribution of investment company shareholder reports.⁷

The SEC approved⁸ the NYSE’s proposal to amend the notice and access fee

⁴ See Securities Exchange Act Release No. 83380 (June 5, 2018), 83 FR 29158 (June 22, 2018) (Final Rule: Optional Internet Availability of Investment Company Shareholder Reports).

⁵ 17 CFR 270.30e-3 (hereinafter referred to as “Rule 30e-3”).

⁶ See Securities Exchange Act Release No. 78589 (August 16, 2016), 81 FR 56717 (August 22, 2016) (Notice of Filing of Proposed Rule Change Adopting Maximum Fees Member Organizations May Charge in Connection with the Distribution of Investment Company Shareholder Reports Pursuant to Any Electronic Delivery Rules Adopted by the Securities and Exchange Commission; File No. SR-NYSE-2016-55).

⁷ See supra note 6, at 81 FR 56717, 56718.

⁸ See Securities Exchange Act Release No. 79355 (November 18, 2016), 81 FR 85291 (November 25, 2016) (Order Granting Approval of Proposed Rule Change Adopting Maximum Fees Member Organizations May Charge in Connection with the Distribution of Investment Company Shareholder Reports Pursuant to Any Electronic Delivery Rules Adopted by the Securities and Exchange Commission; File No. SR-NYSE-2016-55) (the “Notice and Access Fee Approval Order”).

provisions under NYSE Rule 451 to provide that the notice and access fees set forth under the rule apply with respect to the distribution of investment company shareholder reports pursuant to any notice and access rules adopted by the SEC in relation to such distributions. The amendments provide that NYSE member organizations may not charge the notice and access fee for any account with respect to which an investment company pays a “preference management fee” in connection with a distribution of investment company shareholder reports.⁹ In addition, to address investment companies that issue multiple classes of shares, the NYSE amendments also provide that all accounts holding shares of any class of stock of the investment company eligible to receive the same report distribution will be aggregated in determining the appropriate pricing tier as specified under the notice and access fee provisions of the rule.¹⁰

FINRA Rule 2251.01(a)(6) sets forth the notice and access fees that are designed to correspond with NYSE Rule 451.90(5). FINRA proposes to amend FINRA Rule 2251.01(a)(6) to conform the rule, in virtually identical language,¹¹ with the NYSE’s notice and access amendments. FINRA believes this is appropriate to ensure harmonized

⁹ Under the NYSE rule, and corresponding FINRA Rule 2251.01(a)(5), a “preference management fee” refers to specified fees that the member may charge for each account for which the need to send materials in paper format through the mails or by courier service has been eliminated. The Notice and Access Fee Approval Order noted that, as a result of the rule change, notice and access fees would only be charged with respect to accounts that actually receive a notice and access mailing. Prior to the rule change, an issuer utilizing notice and access for proxy distributions would pay the notice and access fee for all shareholder accounts, including those for which it also would pay the preference management fee. See supra note 8, at 81 FR 85291, 85293.

¹⁰ See supra note 8, at 81 FR 85291, 85293; see also NYSE Rule 451.90(5).

¹¹ The proposed rule change makes minor adjustments to the NYSE rule provisions to conform with FINRA rules.

treatment of notice and access fees under NYSE and FINRA rules. As such, FINRA Rule 2251.01(a)(6), as proposed to be revised pursuant to this rule change, would provide: “The Notice and Access fees set forth herein will also be charged with respect to the distribution of investment company shareholder reports pursuant to the SEC’s ‘notice and access’ rules in relation to such distributions. The Notice and Access fee will not be charged for any account with respect to which an investment company pays a Preference Management Fee in connection with a distribution of investment company shareholder reports.”¹² Further, the rule as revised would provide: “In calculating the rates at which the issuer will be charged Notice and Access fees for investment company shareholder report distributions, all accounts holding shares of any class of stock of the applicable issuer eligible to receive the same distribution will be aggregated in determining the appropriate pricing tier under this Supplementary Material .01(a)(6).”¹³

ii. Proposed Prohibition on Processing Fees for Securities Transferred at No Cost

On August 13, 2021, the SEC approved a proposed rule change by the NYSE¹⁴

¹² See Exhibit 5.

¹³ See Exhibit 5.

¹⁴ See Securities Exchange Act Release No. 92667 (August 13, 2021), 86 FR 46733 (August 19, 2021) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, to Amend Its Rules to Prohibit Member Organizations from Seeking Reimbursement, in Certain Circumstances, from Issuers for Forwarding Proxy and Other Materials to Beneficial Owners; File No. SR-NYSE-2020-98) (the “Prohibited Fee Approval Order”). See also Securities Exchange Act Release No. 90653 (December 14, 2020), 85 FR 82539 (December 18, 2020) (Notice of Filing of Proposed Rule Change to Amend Its Rules to Prohibit Member Organizations from Seeking Reimbursement, in Certain Circumstances, from Issuers for Forwarding Proxy and Other Materials to Beneficial Owners; File No. SR-NYSE-2020-98).

that, in connection with forwarding proxy and related materials to beneficial owners, prohibits NYSE member organizations from imposing a fee¹⁵ for a nominee¹⁶ account that contains only shares or units of the securities involved that were transferred to the account holder by the member organization at no cost.¹⁷ The NYSE stated that the rule is meant to address a recent practice in which retail brokers provide customers, without charge, a small number of shares with a very small dollar value as a commercial incentive, for example, upon opening a new account or referring a new customer to the broker.¹⁸ The NYSE said that, in certain cases, issuers can experience a significant increase in their distribution reimbursement expenses solely due to their shares being included in these broker promotional schemes, and that it would be more appropriate for

¹⁵ The NYSE stated that the prohibition on “fees” does not apply to reimbursements for postage, envelope and voting return communication expenses incurred in connection with a distribution of proxy and other materials. See 86 FR 46733, 46734. The same would be the case under FINRA’s corresponding amendments pursuant to this rule filing.

¹⁶ The term “nominee” is defined under NYSE Rule 451.90, and correspondingly under FINRA Rule 2251.01, to mean a broker or bank subject to SEA Rule 14b-1 or SEA Rule 14b-2, respectively.

¹⁷ The NYSE stated that the rule would not limit a broker’s right to reimbursement for distributions to any beneficial owner if any part of that beneficial owner’s position in an issuer’s securities was received by any means other than a transfer without charge from the broker. The NYSE also stated that the new rule would not limit a broker’s right to receive reimbursement under NYSE Rules 451 and 465 unless that broker itself transferred the issuer’s shares without charge into the account of the beneficial owner. Further, the NYSE stated that NYSE Rules 451 and 465 would continue to apply to all distributions, so the broker would continue to be fully obligated to solicit votes from, and make other distributions on behalf of issuers to, all beneficial owners notwithstanding the limitations on reimbursement of expenses imposed by the new rule. See 86 FR 46733, 46735. These statements would apply under FINRA’s corresponding amendments pursuant to this rule filing.

¹⁸ See 86 FR 46733, 46734.

the broker to bear the proxy distribution costs in these circumstances.¹⁹

FINRA believes that some member firms that are not NYSE members engage in the promotional practices as described by the NYSE, and the costs to affected issuers may be significant. FINRA believes that it is appropriate to amend FINRA Rule 2251 to align with the NYSE's new rule provision, both for the reasons provided by the NYSE and, as discussed above, in the interest of ensuring regulatory clarity and harmonization with respect to proxy rate reimbursement. As such, FINRA proposes to amend FINRA Rule 2251.01(a)(7) by adding, in language virtually identical to the corresponding NYSE provision,²⁰ a sentence stating: "Further, notwithstanding any other provision of this Supplementary Material, no fee shall be imposed for a nominee account that contains only shares or units of the securities involved that were transferred to the account holder by the member at no cost."²¹

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of

¹⁹ See supra note 18.

²⁰ The proposed rule change makes minor adjustments to the NYSE rule provisions to conform with FINRA rules.

²¹ FINRA notes that the proposed rule change would not impact members that are funding portals and would not impact members that have elected to be treated as capital acquisition brokers ("CABs"). These members are not subject to FINRA Rule 2251.

Section 15A(b)(6) of the Act,²² 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, by conforming the rate reimbursement provisions under FINRA Rule 2251 with the NYSE proxy rate rules, as amended pursuant to the Notice and Access Fee Approval Order and the Prohibited Fee Approval Order, and thereby establishing these requirements under the FINRA rule, the proposed rule change would help to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement. This will facilitate the processing and transmittal of proxy and other issuer-related materials to investors and conduce to the orderly administration of the Commission's proxy rules. Further, for the reasons set forth in the Notice and Access Fee Approval Order and the Prohibited Fee Approval Order, the Commission found that the NYSE proxy rate rule amendments as set forth pursuant to those respective rulemakings are, with respect to the Notice and Access Fee Approval Order, consistent with the requirements of Section 6(b)(4),²³ Section 6(b)(5)²⁴ and Section 6(b)(8)²⁵ of the

²² 15 U.S.C. 78o-3(b)(6).

²³ 15 U.S.C. 78f(b)(4). Section 6(b)(4) requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.

²⁴ 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

²⁵ 15 U.S.C. 78f(b)(8). Section 6(b)(8) prohibits any exchange rule from imposing

Act and, with respect to the Prohibited Fee Approval Order, consistent with Section 6(b)(4) and Section 6(b)(5) of the Act. Because the proposed rule change conforms with the NYSE's proxy rate reimbursement amendments, FINRA believes that the proposed rule change is consistent with the corresponding provisions under Section 15A(b)(5),²⁶ Section 15A(b)(6)²⁷ and Section 15A(b)(9)²⁸ of the Act.

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.

Economic Impact Assessment

Issuers have an obligation to distribute certain communications to their shareholders of record; however, they typically lack contact information for shareholders who hold their stock in "street name" (beneficial owners) with a broker-dealer. As discussed above, SEA Rule 14b-1 requires a broker-dealer to forward issuer communications to beneficial owners of the issuer's stock, unless the issuer does not

any burden on competition that is not necessary or appropriate in furtherance of the Act.

²⁶ 15 U.S.C. 78o-3(b)(5). Section 15A(b)(5) requires that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Relatedly, SEA Rule 14b-1 conditions a broker-dealer's obligation to forward issuer proxy materials to beneficial owners on the issuer's assurance that it will reimburse the broker-dealer's reasonable expenses, both direct and indirect, incurred in connection with performing that obligation. See 17 CFR 240.14b-1.

²⁷ 15 U.S.C. 78o-3(b)(6).

²⁸ 15 U.S.C. 78o-3(b)(9).

provide assurance of reimbursement of the broker-dealer's reasonable expenses incurred in connection with performing this obligation. The proposed rule change will conform FINRA Rule 2251 to changes made by the NYSE to its rules regarding the reimbursement of expenses concerning the processing and forwarding of issuer communications to beneficial owners.

i. Proposed "Notice and Access" Amendments

As discussed above, Rule 30e-3 permits specified registered investment companies to satisfy their shareholder report delivery obligations by making the reports available electronically on a website using a "notice and access" process, subject to conditions as set forth in the rule. The NYSE's processing fee rule applies the notice and access maximum fee schedule to shareholder reports from investment companies that choose to rely on Rule 30e-3. Under the NYSE rule, the notice and access fee may not be charged if the preference management fee is charged.²⁹ While FINRA Rule 2251 currently has a notice and access maximum fee schedule for proxy materials, absent amendment to align the rule with the NYSE provisions, the notice and access portion of the fee schedules under Rule 2251 would not apply to fund shareholder reports. The proposed rule change could impact any investment companies electing to distribute shareholder reports using notice and access through member broker-dealers that charge fees higher than the notice and access maximum fee schedule.³⁰ Several factors in

²⁹ As noted earlier, under the NYSE rule as revised, notice and access fees would only be charged with respect to accounts that actually receive a notice and access mailing. See supra note 9.

³⁰ FINRA understands that most, if not all, firms outsource the distribution of shareholder reports to third party vendors and that the majority of those vendors already use the notice and access fee schedules.

addition to notice and access impact fees charged to investment companies for distributing shareholder reports. Thus, it is not possible to determine whether costs would increase or decrease for any individual investment company. FINRA has been informed that a substantial majority of eligible registered investment companies rely on Rule 30e-3.

ii. Proposed Prohibition on Processing Fees for Securities Transferred at No Cost

Recently, certain retail broker-dealers have begun offering free shares of stock as a commercial incentive, in many cases to acquire new customers or reward current customers who refer a new customer. A broker-dealer may choose to engage in such a practice because it believes it will result in a benefit to the firm. By so doing, the recent proliferation of this practice has led to substantial increases for certain issuers in their shareholder rolls as well as costs for distributing communications to those shareholders.³¹ Many of these shareholders own very few shares and thus have little voting power at these issuers and do little to affect the liquidity of the issuers' stock.³² Further, FINRA

³¹ For example, see Letter from Patrick J. McEnany, Chairman and CEO, Catalyst Pharmaceuticals, Inc., to Vanessa Countryman, Secretary, SEC, dated June 9, 2021 (“Catalyst”) (letter commenting on File No. SR-NYSE-2020-98). Catalyst estimates that the number of beneficial owners increased from approximately 25,000 in 2019 to about 280,000 in 2020, largely due to free shares given to investors by Robinhood Markets, Inc. Distributing materials to those additional shareholders increased Catalyst’s costs by 1779%, approximately \$221,500 in one year. While this is only one example, it is likely illustrative of the potential increase in costs that issuers may experience due to broker-dealer stock promotions.

³² The average number of Catalyst shares held by shareholders through Robinhood was less than 1.25. Id. See also Letter from Kim O. Warnica, Senior Vice President, General Counsel and Secretary, Marathon Oil Corporation, to Vanessa A. Countryman, Secretary, SEC, dated April 27, 2021 (“Marathon Oil”) (letter commenting on File No. SR-NYSE-2020-98). Marathon Oil estimates that as of

notes that customers of at least one broker-dealer do not independently select an issuer's shares, as the firm selects issuers' free shares randomly. Therefore, issuers would likely incur significant costs to communicate with shareholders having limited voting power.

The proposed rule change will transfer the fee-related costs of providing shareholder communications from issuers to broker-dealers in the instance where an account contains only shares of stock transferred at no cost to the account holder by the broker-dealer. This transfer would more closely align the cost burden with the benefits received from the practice. FINRA estimates that approximately 12 to 15 member firms will be impacted by the proposed change.³³ The amount by which these firms will be impacted depends on the number of accounts that contain only the free promotional stock and the costs for the firms to process and forward issuer-related communications. Given the voluntary nature of the practice, firms may decide to modify or eliminate free stock promotions if the costs outweigh the benefits. FINRA notes that the firms engaging in this practice today represent a limited set of business models. Thus, to the extent that shifting these costs to the broker-dealer is material, it could have a competitive impact. These broker-dealers, however, may identify alternative inducements that retain most of their intended benefit.

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.

2020, 80% of Robinhood's Marathon Oil stockholder base held fewer than five shares.

³³ FINRA has approximately 1,370 member firms with retail clients.

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) or Section 19(b)(7)(D)**

The proposed rule change is effective upon filing pursuant to Section 19(b)(3) of the Act³⁴ and paragraph (f)(6) of Rule 19b-4 thereunder,³⁵ 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),³⁶ so FINRA can implement the proposed rule change immediately. FINRA believes this is appropriate, in the interest of regulatory clarity and harmonization, because the NYSE amendments pursuant to the Notice and Access Fee Approval Order and the Prohibited Fee Approval Order are already implemented.

In accordance with Rule 19b-4(f)(6),³⁷ 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

³⁴ 15 U.S.C. 78s(b)(3).

³⁵ 17 CFR 240.19b-4(f)(6).

³⁶ 17 CFR 240.19b-4(f)(6)(iii).

³⁷ 17 CFR 240.19b-4(f)(6).

Act.³⁸

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change establishes under FINRA Rule 2251 the proxy rate reimbursement provisions under the amended NYSE proxy rate rules as set forth in the Notice and Access Fee Approval Order and the Prohibited Fee Approval Order. In establishing these NYSE rule provisions under FINRA Rule 2251, the proposed rule change makes minor adjustments to conform with FINRA rules.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 5. Text of the proposed rule change.

³⁸ 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2021-032)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 2251 (Processing and Forwarding of Proxy and Other Issuer-Related Materials)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on , the 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. 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,³ 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 the provisions of FINRA Rule 2251 (Processing and Forwarding of Proxy and Other Issuer-Related Materials) relating to seeking reimbursement from issuers for forwarding proxy and other materials and to make minor conforming revisions.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

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.

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 2251 requires FINRA members to transmit proxy materials and other communications to beneficial owners of securities and limits the circumstances in which FINRA members may vote proxies without instructions from those beneficial owners.⁴ The Supplementary Material under FINRA Rule 2251 (FINRA Rule 2251.01) sets forth the rate reimbursement provisions pursuant to which FINRA members are entitled to receive fees in connection with the rule's forwarding obligations. FINRA has previously indicated that, in the interest of ensuring regulatory clarity and harmonization

⁴ FINRA Rule 2251 was adopted as a consolidation of former NASD Rule 2260 and IM-2260 as part of FINRA's rulebook consolidation process. See Securities Exchange Act Release No. 61052 (November 23, 2009), 74 FR 62857 (December 1, 2009) (Order Granting Approval of Proposed Rule Change to Adopt FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials) in the Consolidated FINRA Rulebook; File No. SR-FINRA-2009-066).

with respect to proxy rate reimbursement, it intends to conform the rate reimbursement provisions of FINRA Rule 2251 with the New York Stock Exchange (“NYSE”) provisions in this area.⁵ Consistent with this approach, FINRA is proposing amendments to Supplementary Material .01 under Rule 2251, as described further below, in alignment with rulemakings by the NYSE that have amended certain provisions under NYSE rules.

i. Proposed “Notice and Access” Amendments

In 2018, the SEC adopted⁶ Investment Company Act (“ICA”) Rule 30e-3,⁷ which permits specified registered investment companies to satisfy their shareholder report delivery obligations by making the reports available electronically on a website using a “notice and access” process, subject to conditions as set forth in the rule. When Rule 30e-3 was proposed, but not yet adopted by the SEC, the NYSE proposed⁸ to adopt

⁵ See Securities Exchange Act Release No. 71272 (January 9, 2014), 79 FR 2741 (January 15, 2014) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend FINRA Rule 2251 (Forwarding of Proxy and Other Issuer-Related Materials), Which Includes Fees for Processing and Forwarding Proxy and Other Issuer Communications to Beneficial Owners, and Establish a Fee Under Certain Conditions for an Enhanced Brokers’ Internet Platform; File No. SR-FINRA-2013-056); see also Securities Exchange Act Release No. 47392 (February 21, 2003), 68 FR 9730 (February 28, 2003) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to an Amendment to NASD Interpretive Material 2260 (“IM-2260”); File No. SR-NASD-2003-019).

⁶ See Securities Exchange Act Release No. 83380 (June 5, 2018), 83 FR 29158 (June 22, 2018) (Final Rule: Optional Internet Availability of Investment Company Shareholder Reports).

⁷ 17 CFR 270.30e-3 (hereinafter referred to as “Rule 30e-3”).

⁸ See Securities Exchange Act Release No. 78589 (August 16, 2016), 81 FR 56717 (August 22, 2016) (Notice of Filing of Proposed Rule Change Adopting Maximum Fees Member Organizations May Charge in Connection with the Distribution of Investment Company Shareholder Reports Pursuant to Any

amendments under NYSE Rule 451 that set maximum fees its member organizations could charge to issuers utilizing a notice and access process for proxy distribution. The NYSE noted that, absent amendment to NYSE Rule 451, the notice and access fees under the NYSE rule would not apply to the distribution of investment company shareholder reports.⁹

The SEC approved¹⁰ the NYSE's proposal to amend the notice and access fee provisions under NYSE Rule 451 to provide that the notice and access fees set forth under the rule apply with respect to the distribution of investment company shareholder reports pursuant to any notice and access rules adopted by the SEC in relation to such distributions. The amendments provide that NYSE member organizations may not charge the notice and access fee for any account with respect to which an investment company pays a "preference management fee" in connection with a distribution of investment company shareholder reports.¹¹ In addition, to address investment companies

Electronic Delivery Rules Adopted by the Securities and Exchange Commission; File No. SR-NYSE-2016-55).

⁹ See supra note 8, at 81 FR 56717, 56718.

¹⁰ See Securities Exchange Act Release No. 79355 (November 18, 2016), 81 FR 85291 (November 25, 2016) (Order Granting Approval of Proposed Rule Change Adopting Maximum Fees Member Organizations May Charge in Connection with the Distribution of Investment Company Shareholder Reports Pursuant to Any Electronic Delivery Rules Adopted by the Securities and Exchange Commission; File No. SR-NYSE-2016-55) (the "Notice and Access Fee Approval Order").

¹¹ Under the NYSE rule, and corresponding FINRA Rule 2251.01(a)(5), a "preference management fee" refers to specified fees that the member may charge for each account for which the need to send materials in paper format through the mails or by courier service has been eliminated. The Notice and Access Fee Approval Order noted that, as a result of the rule change, notice and access fees would only be charged with respect to accounts that actually receive a notice and access mailing. Prior to the rule change, an issuer utilizing notice and access for proxy distributions would pay the notice and access fee for all shareholder

that issue multiple classes of shares, the NYSE amendments also provide that all accounts holding shares of any class of stock of the investment company eligible to receive the same report distribution will be aggregated in determining the appropriate pricing tier as specified under the notice and access fee provisions of the rule.¹²

FINRA Rule 2251.01(a)(6) sets forth the notice and access fees that are designed to correspond with NYSE Rule 451.90(5). FINRA proposes to amend FINRA Rule 2251.01(a)(6) to conform the rule, in virtually identical language,¹³ with the NYSE's notice and access amendments. FINRA believes this is appropriate to ensure harmonized treatment of notice and access fees under NYSE and FINRA rules. As such, FINRA Rule 2251.01(a)(6), as proposed to be revised pursuant to this rule change, would provide: "The Notice and Access fees set forth herein will also be charged with respect to the distribution of investment company shareholder reports pursuant to the SEC's 'notice and access' rules in relation to such distributions. The Notice and Access fee will not be charged for any account with respect to which an investment company pays a Preference Management Fee in connection with a distribution of investment company shareholder reports."¹⁴ Further, the rule as revised would provide: "In calculating the rates at which the issuer will be charged Notice and Access fees for investment company shareholder report distributions, all accounts holding shares of any class of stock of the applicable

accounts, including those for which it also would pay the preference management fee. See supra note 10, at 81 FR 85291, 85293.

¹² See supra note 10, at 81 FR 85291, 85293; see also NYSE Rule 451.90(5).

¹³ The proposed rule change makes minor adjustments to the NYSE rule provisions to conform with FINRA rules.

¹⁴ See Exhibit 5.

issuer eligible to receive the same distribution will be aggregated in determining the appropriate pricing tier under this Supplementary Material .01(a)(6).”¹⁵

ii. Proposed Prohibition on Processing Fees for Securities Transferred at No Cost

On August 13, 2021, the SEC approved a proposed rule change by the NYSE¹⁶ that, in connection with forwarding proxy and related materials to beneficial owners, prohibits NYSE member organizations from imposing a fee¹⁷ for a nominee¹⁸ account that contains only shares or units of the securities involved that were transferred to the account holder by the member organization at no cost.¹⁹ The NYSE stated that the rule is

¹⁵ See Exhibit 5.

¹⁶ See Securities Exchange Act Release No. 92667 (August 13, 2021), 86 FR 46733 (August 19, 2021) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, to Amend Its Rules to Prohibit Member Organizations from Seeking Reimbursement, in Certain Circumstances, from Issuers for Forwarding Proxy and Other Materials to Beneficial Owners; File No. SR-NYSE-2020-98) (the “Prohibited Fee Approval Order”). See also Securities Exchange Act Release No. 90653 (December 14, 2020), 85 FR 82539 (December 18, 2020) (Notice of Filing of Proposed Rule Change to Amend Its Rules to Prohibit Member Organizations from Seeking Reimbursement, in Certain Circumstances, from Issuers for Forwarding Proxy and Other Materials to Beneficial Owners; File No. SR-NYSE-2020-98).

¹⁷ The NYSE stated that the prohibition on “fees” does not apply to reimbursements for postage, envelope and voting return communication expenses incurred in connection with a distribution of proxy and other materials. See 86 FR 46733, 46734. The same would be the case under FINRA’s corresponding amendments pursuant to this rule filing.

¹⁸ The term “nominee” is defined under NYSE Rule 451.90, and correspondingly under FINRA Rule 2251.01, to mean a broker or bank subject to SEA Rule 14b-1 or SEA Rule 14b-2, respectively.

¹⁹ The NYSE stated that the rule would not limit a broker’s right to reimbursement for distributions to any beneficial owner if any part of that beneficial owner’s position in an issuer’s securities was received by any means other than a transfer without charge from the broker. The NYSE also stated that the new rule would not limit a broker’s right to receive reimbursement under NYSE Rules 451 and

meant to address a recent practice in which retail brokers provide customers, without charge, a small number of shares with a very small dollar value as a commercial incentive, for example, upon opening a new account or referring a new customer to the broker.²⁰ The NYSE said that, in certain cases, issuers can experience a significant increase in their distribution reimbursement expenses solely due to their shares being included in these broker promotional schemes, and that it would be more appropriate for the broker to bear the proxy distribution costs in these circumstances.²¹

FINRA believes that some member firms that are not NYSE members engage in the promotional practices as described by the NYSE, and the costs to affected issuers may be significant. FINRA believes that it is appropriate to amend FINRA Rule 2251 to align with the NYSE's new rule provision, both for the reasons provided by the NYSE and, as discussed above, in the interest of ensuring regulatory clarity and harmonization with respect to proxy rate reimbursement. As such, FINRA proposes to amend FINRA Rule 2251.01(a)(7) by adding, in language virtually identical to the corresponding NYSE provision,²² a sentence stating: "Further, notwithstanding any other provision of this

465 unless that broker itself transferred the issuer's shares without charge into the account of the beneficial owner. Further, the NYSE stated that NYSE Rules 451 and 465 would continue to apply to all distributions, so the broker would continue to be fully obligated to solicit votes from, and make other distributions on behalf of issuers to, all beneficial owners notwithstanding the limitations on reimbursement of expenses imposed by the new rule. See 86 FR 46733, 46735. These statements would apply under FINRA's corresponding amendments pursuant to this rule filing.

²⁰ See 86 FR 46733, 46734.

²¹ See supra note 20.

²² The proposed rule change makes minor adjustments to the NYSE rule provisions to conform with FINRA rules.

Supplementary Material, no fee shall be imposed for a nominee account that contains only shares or units of the securities involved that were transferred to the account holder by the member at no cost.”²³

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,²⁴ 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, by conforming the rate reimbursement provisions under FINRA Rule 2251 with the NYSE proxy rate rules, as amended pursuant to the Notice and Access Fee Approval Order and the Prohibited Fee Approval Order, and thereby establishing these requirements under the FINRA rule, the proposed rule change would help to ensure regulatory clarity and harmonization with respect to proxy rate reimbursement. This will facilitate the processing and transmittal of proxy and other issuer-related materials to investors and conduce to the orderly administration of the

²³ FINRA notes that the proposed rule change would not impact members that are funding portals and would not impact members that have elected to be treated as capital acquisition brokers (“CABs”). These members are not subject to FINRA Rule 2251.

²⁴ 15 U.S.C. 78o-3(b)(6).

Commission's proxy rules. Further, for the reasons set forth in the Notice and Access Fee Approval Order and the Prohibited Fee Approval Order, the Commission found that the NYSE proxy rate rule amendments as set forth pursuant to those respective rulemakings are, with respect to the Notice and Access Fee Approval Order, consistent with the requirements of Section 6(b)(4),²⁵ Section 6(b)(5)²⁶ and Section 6(b)(8)²⁷ of the Act and, with respect to the Prohibited Fee Approval Order, consistent with Section 6(b)(4) and Section 6(b)(5) of the Act. Because the proposed rule change conforms with the NYSE's proxy rate reimbursement amendments, FINRA believes that the proposed rule change is consistent with the corresponding provisions under Section 15A(b)(5),²⁸

²⁵ 15 U.S.C. 78f(b)(4). Section 6(b)(4) requires that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members, issuers and other persons using its facilities.

²⁶ 15 U.S.C. 78f(b)(5). Section 6(b)(5) requires that the rules of an exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

²⁷ 15 U.S.C. 78f(b)(8). Section 6(b)(8) prohibits any exchange rule from imposing any burden on competition that is not necessary or appropriate in furtherance of the Act.

²⁸ 15 U.S.C. 78o-3(b)(5). Section 15A(b)(5) requires that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Relatedly, SEA Rule 14b-1 conditions a broker-dealer's obligation to forward issuer proxy materials to beneficial owners on the issuer's assurance that it will reimburse the broker-dealer's reasonable expenses, both direct and indirect, incurred in connection with performing that obligation. See 17 CFR 240.14b-1.

Section 15A(b)(6)²⁹ and Section 15A(b)(9)³⁰ of the Act.

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.

Economic Impact Assessment

Issuers have an obligation to distribute certain communications to their shareholders of record; however, they typically lack contact information for shareholders who hold their stock in “street name” (beneficial owners) with a broker-dealer. As discussed above, SEA Rule 14b-1 requires a broker-dealer to forward issuer communications to beneficial owners of the issuer’s stock, unless the issuer does not provide assurance of reimbursement of the broker-dealer’s reasonable expenses incurred in connection with performing this obligation. The proposed rule change will conform FINRA Rule 2251 to changes made by the NYSE to its rules regarding the reimbursement of expenses concerning the processing and forwarding of issuer communications to beneficial owners.

i. Proposed “Notice and Access” Amendments

As discussed above, Rule 30e-3 permits specified registered investment companies to satisfy their shareholder report delivery obligations by making the reports available electronically on a website using a “notice and access” process, subject to conditions as set forth in the rule. The NYSE’s processing fee rule applies the notice and

²⁹ 15 U.S.C. 78o-3(b)(6).

³⁰ 15 U.S.C. 78o-3(b)(9).

access maximum fee schedule to shareholder reports from investment companies that choose to rely on Rule 30e-3. Under the NYSE rule, the notice and access fee may not be charged if the preference management fee is charged.³¹ While FINRA Rule 2251 currently has a notice and access maximum fee schedule for proxy materials, absent amendment to align the rule with the NYSE provisions, the notice and access portion of the fee schedules under Rule 2251 would not apply to fund shareholder reports. The proposed rule change could impact any investment companies electing to distribute shareholder reports using notice and access through member broker-dealers that charge fees higher than the notice and access maximum fee schedule.³² Several factors in addition to notice and access impact fees charged to investment companies for distributing shareholder reports. Thus, it is not possible to determine whether costs would increase or decrease for any individual investment company. FINRA has been informed that a substantial majority of eligible registered investment companies rely on Rule 30e-3.

ii. Proposed Prohibition on Processing Fees for Securities Transferred at No Cost

Recently, certain retail broker-dealers have begun offering free shares of stock as a commercial incentive, in many cases to acquire new customers or reward current customers who refer a new customer. A broker-dealer may choose to engage in such a

³¹ As noted earlier, under the NYSE rule as revised, notice and access fees would only be charged with respect to accounts that actually receive a notice and access mailing. See supra note 11.

³² FINRA understands that most, if not all, firms outsource the distribution of shareholder reports to third party vendors and that the majority of those vendors already use the notice and access fee schedules.

practice because it believes it will result in a benefit to the firm. By so doing, the recent proliferation of this practice has led to substantial increases for certain issuers in their shareholder rolls as well as costs for distributing communications to those shareholders.³³ Many of these shareholders own very few shares and thus have little voting power at these issuers and do little to affect the liquidity of the issuers' stock.³⁴ Further, FINRA notes that customers of at least one broker-dealer do not independently select an issuer's shares, as the firm selects issuers' free shares randomly. Therefore, issuers would likely incur significant costs to communicate with shareholders having limited voting power.

The proposed rule change will transfer the fee-related costs of providing shareholder communications from issuers to broker-dealers in the instance where an account contains only shares of stock transferred at no cost to the account holder by the broker-dealer. This transfer would more closely align the cost burden with the benefits received from the practice. FINRA estimates that approximately 12 to 15 member firms

³³ For example, see Letter from Patrick J. McEnany, Chairman and CEO, Catalyst Pharmaceuticals, Inc., to Vanessa Countryman, Secretary, SEC, dated June 9, 2021 ("Catalyst") (letter commenting on File No. SR-NYSE-2020-98). Catalyst estimates that the number of beneficial owners increased from approximately 25,000 in 2019 to about 280,000 in 2020, largely due to free shares given to investors by Robinhood Markets, Inc. Distributing materials to those additional shareholders increased Catalyst's costs by 1779%, approximately \$221,500 in one year. While this is only one example, it is likely illustrative of the potential increase in costs that issuers may experience due to broker-dealer stock promotions.

³⁴ The average number of Catalyst shares held by shareholders through Robinhood was less than 1.25. Id. See also Letter from Kim O. Warnica, Senior Vice President, General Counsel and Secretary, Marathon Oil Corporation, to Vanessa A. Countryman, Secretary, SEC, dated April 27, 2021 ("Marathon Oil") (letter commenting on File No. SR-NYSE-2020-98). Marathon Oil estimates that as of 2020, 80% of Robinhood's Marathon Oil stockholder base held fewer than five shares.

will be impacted by the proposed change.³⁵ The amount by which these firms will be impacted depends on the number of accounts that contain only the free promotional stock and the costs for the firms to process and forward issuer-related communications. Given the voluntary nature of the practice, firms may decide to modify or eliminate free stock promotions if the costs outweigh the benefits. FINRA notes that the firms engaging in this practice today represent a limited set of business models. Thus, to the extent that shifting these costs to the broker-dealer is material, it could have a competitive impact. These broker-dealers, however, may identify alternative inducements that retain most of their intended benefit.

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 Act³⁶ and Rule 19b-4(f)(6) thereunder.³⁷

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

³⁵ FINRA has approximately 1,370 member firms with retail clients.

³⁶ 15 U.S.C. 78s(b)(3)(A).

³⁷ 17 CFR 240.19b-4(f)(6).

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.

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. Please include File Number SR-FINRA-2021-032 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2021-032. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2021-032 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.³⁸

Jill M. Peterson
Assistant Secretary

³⁸ 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.

* * * * *

2200. COMMUNICATIONS AND DISCLOSURES

* * * * *

2250. Proxy Materials

2251. Processing and Forwarding of Proxy and Other Issuer-Related Materials

(a) through (g) No Change.

••• Supplementary Material: -----

.01 Approved Rates of Reimbursement

(a) The following approved rates of reimbursement for expenses incurred in processing and forwarding proxy material, annual reports, information statements and other material shall be considered reasonable rates of reimbursement. In addition to the charges specified in this Supplementary Material, members also are entitled to receive reimbursement for: (1) actual postage costs (including return postage at the lowest available rate); (2) the actual cost of envelopes (provided they are not furnished by the issuer, the trustee, or a person soliciting proxies); and (3) any actual communication expenses (excluding overhead) incurred in receiving voting returns either telephonically or electronically.

(1) through (5) No Change.

(6) Notice and Access Fees

When an issuer elects to utilize Notice and Access for a proxy distribution, there is an incremental fee based on all nominee accounts through which the issuer's securities are beneficially owned as follows:

(A) 25 cents for each account up to 10,000 accounts;

(B) 20 cents for each account over 10,000 accounts, up to 100,000 accounts;

(C) 15 cents for each account over 100,000 accounts, up to 200,000 accounts;

(D) 10 cents for each account over 200,000 accounts, up to 500,000 accounts;

(E) 5 cents for each account over 500,000 accounts.

To clarify, under this schedule, a member may charge the issuer the tier one rate for the first 10,000 accounts, or portion thereof, with decreasing rates applicable only on additional accounts in the additional tiers.

Follow up notices will not incur an incremental fee for Notice and Access.

The Notice and Access fees set forth herein will also be charged with respect to the distribution of investment company shareholder reports pursuant to the SEC's "notice and access" rules in relation to such distributions. The Notice and Access fee will not be charged for any account with respect to which an investment company pays a Preference Management Fee in connection with a distribution of investment company shareholder reports.

In calculating the rates at which the issuer will be charged Notice and Access fees for investment company shareholder report distributions, all accounts holding shares of any class of stock of the applicable issuer eligible to receive the same distribution will be aggregated in determining the appropriate pricing tier under this Supplementary Material .01(a)(6).

No incremental fee will be imposed for fulfillment transactions (i.e., a full package sent to a notice recipient at the recipient's request), although out of pocket costs such as postage will be passed on as in ordinary distributions.

(7) Fee Exclusion in Certain Circumstances

Notwithstanding any other provision of this Supplementary Material, no fee shall be imposed for a nominee account that is a Managed Account (as hereinafter defined) and contains five or fewer shares or units of the security involved.

For purposes of this Supplementary Material, the term "Managed Account" shall mean an account at a nominee which is invested in a portfolio of securities selected by a professional adviser, and for which the account holder is charged a separate asset-based fee for a range of services which may include ongoing advice, custody and execution services. The adviser can be either employed by or affiliated with the nominee, or a separate investment advisor contracted for the purpose of selecting investment portfolios for the managed account. Requiring that investments or changes to the account be approved by the client shall not preclude an account from being a "Managed Account," nor shall

the fact that commissions or transaction-based charges are imposed in addition to the asset-based fee.

Notwithstanding any other provision of this Supplementary Material, no fee shall be imposed for any nominee account which contains only a fractional share, i.e., less than one share or unit of the security involved.

Further, notwithstanding any other provision of this Supplementary Material, no fee shall be imposed for a nominee account that contains only shares or units of the securities involved that were transferred to the account holder by the member at no cost.

(8) No Change.

(b) through (c) No Change.

.02 No Change.

* * * * *