

OMB APPROVAL

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

File No. SR - 2008 - 016

Amendment No.

Proposed Rule Change by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial ☒ Amendment ☐ Withdrawal ☐Section 19(b)(2) ☒Section 19(b)(3)(A) ☐Section 19(b)(3)(B) ☐

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)☐ 19b-4(f)(2) ☐ 19b-4(f)(5)☐ 19b-4(f)(3) ☐ 19b-4(f)(6)Pilot ☐ Extension of Time Period
for Commission Action ☐ Date Expires Exhibit 2 Sent As Paper Document ☐Exhibit 3 Sent As Paper Document ☐

Description

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

Proposed rule change to align the reporting requirements and dissemination protocols for over-the-counter (OTC) equity transactions involving foreign securities with all other OTC equity securities

Contact Information

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

First Name Brant Last Name Brown

Title Associate General Counsel

E-mail brant.brown@finra.org

Telephone (202) 728-6927 Fax (202) 728-8264

Signature

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

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

Date 04/25/2008

By Stephanie Dumont
(Name)

Vice President and Director of Capital Markets Policy

(Title)

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

Stephanie Dumont,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information

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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

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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

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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”),¹ Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change (1) to amend NASD Rule 6620 to align the reporting requirements for over-the-counter (“OTC”) equity transactions involving foreign securities with the reporting requirements for other OTC equity transactions and (2) to align the dissemination protocols for all last sale reports of OTC equity transactions.²

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

At its meeting on April 17, 2008, 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 to be published no later than 60 days following Commission approval.

¹ 15 U.S.C. 78s(b)(1).

² On October 10, 2007, FINRA filed SR-FINRA-2007-018 with the Commission proposing to disseminate all last sale reports of transactions in OTC American Depositary Receipts (“ADRs”) and Canadian issues immediately upon receipt of such reports by FINRA. Because the current proposed rule change also includes the proposed changes to FINRA’s dissemination protocols in SR-FINRA-2007-018, FINRA withdrew SR-FINRA-2007-018 upon the filing of this proposed rule change.

The effective date will be 30 days following publication of the Regulatory Notice announcing Commission approval.

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

(a) Purpose

NASD Rule 6620(a) generally requires that transactions in OTC Equity Securities that are executed between 8:00 a.m. and 8:00 p.m. Eastern Time be reported to the OTC Reporting Facility within 90 seconds of execution.³ This 90-second reporting requirement currently applies to transactions in OTC Equity Securities that are domestic equity securities, ADRs, and Canadian issues.⁴ Thus, all ADRs and Canadian issues, including those that are not registered with the SEC and otherwise subject to financial reporting, are subject to 90-second reporting under NASD Rule 6620. All other foreign equity securities are excluded from the 90-second reporting requirement and instead must be reported by 1:30 p.m. Eastern Time the day after the transaction is executed.⁵

³ For purposes of the NASD Rule 6600 Series, "OTC Equity Securities" means equity securities for which real-time trade reporting is not otherwise required. See NASD Rule 6600. NASD Rule 6610(d) further defines "OTC Equity Security" as "any non-exchange-listed security and certain exchange-listed securities that do not otherwise qualify for real-time trade reporting."

⁴ An ADR is a negotiable instrument that represents an ownership interest in a specified number or fraction of securities that have been deposited with a depositary. The deposited securities are typically equity securities of a foreign issuer, and the depositary is usually a U.S. bank or trust company. See Securities Exchange Act Release No. 48482 (September 11, 2003) (File No. S7-16-03).

⁵ See NASD Rule 6620(a)(3)(C)(iii).

Although not required, a member may choose to report transactions in foreign securities within 90 seconds of execution.⁶

In addition to the disparity in the trade reporting requirements under NASD Rule 6620, there is also a disparity in the way last sale information of OTC equity transactions is disseminated to the marketplace. Although last sale information for transactions in domestic OTC Equity Securities reported pursuant to Rule 6620 is disseminated on a real-time basis, irrespective of whether the security is registered with the SEC, there is no uniformity regarding the dissemination of last sale information for transactions in ADRs and foreign securities. Last sale reports of ADRs and Canadian issues that are quoted on the OTC Bulletin Board (“OTCBB”), which requires registration with the SEC, are disseminated on a real-time basis; however, only summary information is disseminated at the end of each trading day for OTC ADRs and Canadian issues that are not quoted on the OTCBB, whether or not they are registered with the SEC. Transactions in foreign securities, other than Canadian issues and ADRs, that are quoted on the OTCBB are disseminated on a real-time basis if they are received on the day of the trade; however, as noted above, there is no current requirement to report these trades to FINRA within 90 seconds of execution, or even on trade date. If an OTC transaction in a foreign security is not reported on the trade date, last sale information for that transaction is not disseminated.

The bifurcation with respect to dissemination of OTC ADRs and foreign securities arose in the broader context of the establishment and evolution of the OTCBB. When real-time reporting for OTC Equity Securities, including ADRs and Canadian

⁶ See NASD Rule 6620 n.1.

securities, was proposed in 1992, FINRA agreed not to publish quotations and trade reports of foreign securities and ADRs in order to avoid any reconsideration of the exemption from registration pursuant to SEC Rule 12g3-2(b).⁷ In connection with the permanent approval of the OTCBB in 1997, unregistered ADRs and foreign securities became ineligible for quotation on the OTCBB, and at that time, real-time dissemination of transactions in those securities was limited to only those quoted on the OTCBB.⁸ Since the SEC approved FINRA's assumption of direct authority for the activities related to OTC trading, including but not limited to the OTCBB,⁹ FINRA staff has been reviewing, among other areas, the trade reporting and dissemination requirements for OTC Equity Securities.

FINRA staff believes that the different treatment with respect to the reporting and dissemination of trade reports for OTC equity transactions in domestic securities, foreign

⁷ See Securities Exchange Act Release No. 31695 (January 6, 1993), 58 FR 4189 (January 13, 1993) (notice of proposed rule change SR-NASD-92-48).

During the OTCBB pilot phase, the SEC had permitted the quotation of unregistered foreign securities on the OTCBB, but raised concerns that quotation of such securities on the OTCBB would provide an active secondary trading market in unregistered securities and could result in such securities no longer meeting the terms of the SEC Rule 12g3-2(b) exemption, which is not available for securities quoted in an automated inter-dealer quotation system. Therefore, the quotation of foreign securities on the OTCBB was limited at that time to "non-firm" quotations that could be updated a maximum of two times per day (thus, quotes in foreign securities on the OTCBB were effectively stale) and trade report information was not publicly disseminated. See, e.g., Securities Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 (April 7, 1997) (order approving SR-NASD-92-7).

⁸ See Securities Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 (April 7, 1997) (order approving SR-NASD-92-7).

⁹ See Securities Exchange Act Release No. 52508 (September 26, 2005), 70 FR 57346 (September 30, 2005) (order approving SR-NASD-2005-089).

securities, ADRs, and Canadian issues should be eliminated and that all transactions in OTC Equity Securities should be reported within 90 seconds of execution and that last sale information regarding those transactions should be disseminated on a real-time basis. FINRA created the exclusion to the 90-second reporting requirement for foreign securities in the early 1990s in response to concerns that requiring 90-second reporting for transactions in foreign equity securities could pose significant and costly operational problems for firms.¹⁰ Currently, FINRA receives an overwhelming majority of reports for OTC transactions in foreign securities within 90 seconds of execution and believes that the operational issues that may have been present when the exclusion was adopted are no longer applicable. Consequently, the proposed rule change would eliminate the distinctions between domestic, foreign, ADR, and Canadian securities and would treat all OTC transactions in the same manner, from both a reporting and a dissemination standpoint.¹¹

By requiring 90-second reporting for foreign securities transactions, FINRA can uniformly disseminate that information on a real-time basis as well, providing improved transparency to the OTC market. Accordingly, the proposed rule change would not only eliminate the exclusion to the 90-second reporting requirement for transactions in foreign securities (and thus impose the same reporting requirements on all transactions in OTC

¹⁰ See Securities Exchange Act Release No. 32647 (July 16, 1993), 58 FR 39262 (July 22, 1993) (order approving SR-NASD-92-48).

¹¹ The single exception would be for OTC transactions in foreign equity securities reported to a foreign regulator. See NASD Rule 6620(g)(2)(B). Transactions in foreign equity securities executed on and reported to a foreign securities exchange also are excepted from the FINRA reporting requirements. See NASD Rule 6620(g)(2)(A).

equity securities) but would also provide for the real-time dissemination of this information.¹² FINRA believes that moving to a transaction reporting regime where all transactions in OTC equity securities are subject to prompt last sale reporting and real-time dissemination would substantially improve the transparency of the OTC market.¹³

FINRA believes that prompt last sale reporting and real-time dissemination of trade reports for all OTC ADRs, foreign securities, and Canadian issues will enhance the amount of market information available to investors and better enable investors to monitor the executions they receive in these securities. FINRA would not be providing a vehicle for quoting or trading unregistered securities, a prior concern raised by the SEC.¹⁴ Instead, FINRA would merely be disseminating on a real-time basis reports of transactions that have already occurred in the OTC market and have been submitted to

¹² With the exception of NASD Rule 6250, which applies to dissemination of transaction information for TRACE-eligible securities, dissemination of trade reports is typically not governed by FINRA's rules, but rather by its protocols. Thus, FINRA is not proposing to amend any rules to effectuate the changes to the dissemination protocols discussed in this rule filing.

¹³ Section 31 of the Act requires FINRA to pay transaction fees and assessments to the SEC for sales transacted by or through its members otherwise than on a national securities exchange of securities subject to prompt last sale reporting (pursuant to the rules of the SEC or FINRA). This fee is designed to recover the costs related to the government's supervision and regulation of the securities markets and securities professionals. To recover the costs of FINRA's Section 31 obligation, FINRA assesses a regulatory transaction fee on its members under Section 3 of Schedule A to the FINRA By-Laws, the amount of which is set in accordance with Section 31. Because transactions in foreign securities (other than ADRs and Canadian issues) are not currently required to be reported "promptly," they are excluded from the regulatory transaction fee. The requirement to report transactions in foreign securities to FINRA within 90 seconds of execution would result in those transactions being subject to the regulatory transaction fee.

¹⁴ Quotations in unregistered ADRs and foreign securities, including some Canadian issues, already are published via the Electronic Pink Sheets.

FINRA by its members within 90 seconds of execution. FINRA believes that real-time dissemination is wholly consistent with the SEC's own views stated in its order approving the OTCBB on a permanent basis: "[FINRA] could increase transparency with less customer confusion by requiring transaction reporting for foreign securities traded over-the-counter in the U.S. Transaction reporting information has the potential to greatly enhance the amount of market information available to investors and better enable investors to monitor the executions they receive in foreign securities."¹⁵

FINRA does not believe that the proposed rule change gives rise to the concerns previously voiced by the SEC in the context of the OTCBB regarding the quotation of "unregistered securities on a visible U.S. market operated by a self-regulatory organization."¹⁶ Nor would it produce what the SEC has sought to avoid: "a regulated public marketplace for unregistered securities."¹⁷

As noted in Item 2 of this filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Regulatory Notice announcing Commission approval.

¹⁵ See Securities Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 (April 7, 1997) (order approving SR-NASD-92-7).

¹⁶ See id.

¹⁷ See id.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁸ 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. In addition, Section 11A(a)(1) of the Act¹⁹ articulates the Congressional findings and policy goals and objectives with respect to the development of a national market system.²⁰ Essentially, Congress found that new data processing and communication techniques should be applied to improve the efficiency of market operations, broaden the distribution of market information, enhance opportunities to achieve best execution and promote competition among market participants. FINRA believes that the proposed rule change will enhance transparency in foreign securities and promote pricing efficiency. Investors and other market participants will be afforded greater market information and be better able to monitor the executions they receive in these securities.

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.

¹⁸ 15 U.S.C. 78o-3(b)(6).

¹⁹ 15 U.S.C. 78k-1(a)(1).

²⁰ Although Section 11A does not provide the Commission with authority to approve a self-regulatory organization's proposal, it is relevant in that it sets forth the Act's general policy goals for securities markets.

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. However, in connection with two other rule filings, SR-NASD-2005-089 and SR-NASD-2007-039, the SEC received eight written comment letters,²¹ in which the commenters urged the Commission to require real-time dissemination of OTC-traded ADRs. For example, several commenters noted that real-time trade information enables investors to evaluate the quality of executions they receive and deters “trading ahead” of orders and other improper trading practices.²² One commenter argued that the “assertion that the dissemination of this data will encourage trading in unregistered securities is unsustainable, given the fact that FINRA already releases real-time data on unregistered domestic issues. Especially as regards unregistered ADRs, more information, delivered in a more timely way, can only serve to benefit investors.”²³ Another commenter, in discussing the delisting of an ADR from the NYSE, stated that “[d]eprived of access to real time trading information, I, a market participant, just lost the ability to monitor the

²¹ See Letter dated August 26, 2005 from R. Cromwell Coulson, Pink Sheets LLC, to Jonathan Katz; Letter dated September 19, 2005 from William Vance and Kimberly Unger, The Security Traders Association of New York, Inc., to Jonathan Katz; Letter dated August 13, 2007 from R. Cromwell Coulson, Pink Sheets LLC, to Nancy Morris (“Coulson Letter”); Letter dated August 13, 2007 from Stephen Kay and Kimberly Unger, The Security Traders Association of New York, Inc., to Nancy Morris (“Kay/Unger Letter”); Letter dated August 13, 2007 from Lisa Utasi and John Giese, Security Traders Association, to Nancy Morris (“Utasi/Giese Letter”); Letter dated August 17, 2007 from Bryce Engel, TD Ameritrade, Inc., to Nancy Morris (“Engel Letter”); Letter dated August 23, 2007 from Xin Ye to Nancy Morris (“Ye Letter”); and Letter dated August 30, 2007 from Leonard Amoruso, Knight Capital Group Inc., to Nancy Morris.

²² See Coulson Letter; Kay/Unger Letter; Engel Letter.

²³ Utasi/Giese Letter. See also Coulson Letter.

quality and firmness of quotation executions of the security, thus hampering my ability to have a full grasp of the pulse of its trading.”²⁴

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.²⁵

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

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

Not applicable.

9. Exhibits

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

Exhibit 2. A list of the written comment letters is attached as Exhibit 2a. Copies of the comment letters are attached as Exhibit 2b.

Exhibit 5. Proposed changes to rule text.

²⁴ Ye Letter.

²⁵ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-016)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Align the Reporting Requirements and Dissemination Protocols for Over-The-Counter (“OTC”) Equity Transactions Involving Foreign Securities with all Other OTC Equity Securities

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 , 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”) 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 (1) amend NASD Rule 6620 to align the reporting requirements for over-the-counter (“OTC”) equity transactions involving foreign securities with the reporting requirements for other OTC equity transactions and (2) to align the dissemination protocols for all last sale reports of OTC equity transactions. The text of the proposed rule change is attached as Exhibit 5.

¹ 15 U.S.C. 78s(b)(1).

² 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

NASD Rule 6620(a) generally requires that transactions in OTC Equity Securities that are executed between 8:00 a.m. and 8:00 p.m. Eastern Time be reported to the OTC Reporting Facility within 90 seconds of execution.³ This 90-second reporting requirement currently applies to transactions in OTC Equity Securities that are domestic equity securities, ADRs, and Canadian issues.⁴ Thus, all ADRs and Canadian issues, including those that are not registered with the SEC and otherwise subject to financial reporting, are subject to 90-second reporting under NASD Rule 6620. All other foreign equity securities are excluded from the 90-second reporting requirement and instead must

³ For purposes of the NASD Rule 6600 Series, "OTC Equity Securities" means equity securities for which real-time trade reporting is not otherwise required. See NASD Rule 6600. NASD Rule 6610(d) further defines "OTC Equity Security" as "any non-exchange-listed security and certain exchange-listed securities that do not otherwise qualify for real-time trade reporting."

⁴ An ADR is a negotiable instrument that represents an ownership interest in a specified number or fraction of securities that have been deposited with a depositary. The deposited securities are typically equity securities of a foreign issuer, and the depositary is usually a U.S. bank or trust company. See Securities Exchange Act Release No. 48482 (September 11, 2003) (File No. S7-16-03).

be reported by 1:30 p.m. Eastern Time the day after the transaction is executed.⁵

Although not required, a member may choose to report transactions in foreign securities within 90 seconds of execution.⁶

In addition to the disparity in the trade reporting requirements under NASD Rule 6620, there is also a disparity in the way last sale information of OTC equity transactions is disseminated to the marketplace. Although last sale information for transactions in domestic OTC Equity Securities reported pursuant to Rule 6620 is disseminated on a real-time basis, irrespective of whether the security is registered with the SEC, there is no uniformity regarding the dissemination of last sale information for transactions in ADRs and foreign securities. Last sale reports of ADRs and Canadian issues that are quoted on the OTC Bulletin Board (“OTCBB”), which requires registration with the SEC, are disseminated on a real-time basis; however, only summary information is disseminated at the end of each trading day for OTC ADRs and Canadian issues that are not quoted on the OTCBB, whether or not they are registered with the SEC. Transactions in foreign securities, other than Canadian issues and ADRs, that are quoted on the OTCBB are disseminated on a real-time basis if they are received on the day of the trade; however, as noted above, there is no current requirement to report these trades to FINRA within 90 seconds of execution, or even on trade date. If an OTC transaction in a foreign security is not reported on the trade date, last sale information for that transaction is not disseminated.

⁵ See NASD Rule 6620(a)(3)(C)(iii).

⁶ See NASD Rule 6620 n.1.

The bifurcation with respect to dissemination of OTC ADRs and foreign securities arose in the broader context of the establishment and evolution of the OTCBB. When real-time reporting for OTC Equity Securities, including ADRs and Canadian securities, was proposed in 1992, FINRA agreed not to publish quotations and trade reports of foreign securities and ADRs in order to avoid any reconsideration of the exemption from registration pursuant to SEC Rule 12g3-2(b).⁷ In connection with the permanent approval of the OTCBB in 1997, unregistered ADRs and foreign securities became ineligible for quotation on the OTCBB, and at that time, real-time dissemination of transactions in those securities was limited to only those quoted on the OTCBB.⁸ Since the SEC approved FINRA's assumption of direct authority for the activities related to OTC trading, including but not limited to the OTCBB,⁹ FINRA staff has been reviewing, among other areas, the trade reporting and dissemination requirements for OTC Equity Securities.

⁷ See Securities Exchange Act Release No. 31695 (January 6, 1993), 58 FR 4189 (January 13, 1993) (notice of proposed rule change SR-NASD-92-48).

During the OTCBB pilot phase, the SEC had permitted the quotation of unregistered foreign securities on the OTCBB, but raised concerns that quotation of such securities on the OTCBB would provide an active secondary trading market in unregistered securities and could result in such securities no longer meeting the terms of the SEC Rule 12g3-2(b) exemption, which is not available for securities quoted in an automated inter-dealer quotation system. Therefore, the quotation of foreign securities on the OTCBB was limited at that time to "non-firm" quotations that could be updated a maximum of two times per day (thus, quotes in foreign securities on the OTCBB were effectively stale) and trade report information was not publicly disseminated. See, e.g., Securities Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 (April 7, 1997) (order approving SR-NASD-92-7).

⁸ See Securities Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 (April 7, 1997) (order approving SR-NASD-92-7).

⁹ See Securities Exchange Act Release No. 52508 (September 26, 2005), 70 FR 57346 (September 30, 2005) (order approving SR-NASD-2005-089).

FINRA staff believes that the different treatment with respect to the reporting and dissemination of trade reports for OTC equity transactions in domestic securities, foreign securities, ADRs, and Canadian issues should be eliminated and that all transactions in OTC Equity Securities should be reported within 90 seconds of execution and that last sale information regarding those transactions should be disseminated on a real-time basis. FINRA created the exclusion to the 90-second reporting requirement for foreign securities in the early 1990s in response to concerns that requiring 90-second reporting for transactions in foreign equity securities could pose significant and costly operational problems for firms.¹⁰ Currently, FINRA receives an overwhelming majority of reports for OTC transactions in foreign securities within 90 seconds of execution and believes that the operational issues that may have been present when the exclusion was adopted are no longer applicable. Consequently, the proposed rule change would eliminate the distinctions between domestic, foreign, ADR, and Canadian securities and would treat all OTC transactions in the same manner, from both a reporting and a dissemination standpoint.¹¹

By requiring 90-second reporting for foreign securities transactions, FINRA can uniformly disseminate that information on a real-time basis as well, providing improved transparency to the OTC market. Accordingly, the proposed rule change would not only eliminate the exclusion to the 90-second reporting requirement for transactions in foreign

¹⁰ See Securities Exchange Act Release No. 32647 (July 16, 1993), 58 FR 39262 (July 22, 1993) (order approving SR-NASD-92-48).

¹¹ The single exception would be for OTC transactions in foreign equity securities reported to a foreign regulator. See NASD Rule 6620(g)(2)(B). Transactions in foreign equity securities executed on and reported to a foreign securities exchange also are excepted from the FINRA reporting requirements. See NASD Rule 6620(g)(2)(A).

securities (and thus impose the same reporting requirements on all transactions in OTC equity securities) but would also provide for the real-time dissemination of this information.¹² FINRA believes that moving to a transaction reporting regime where all transactions in OTC equity securities are subject to prompt last sale reporting and real-time dissemination would substantially improve the transparency of the OTC market.¹³

FINRA believes that prompt last sale reporting and real-time dissemination of trade reports for all OTC ADRs, foreign securities, and Canadian issues will enhance the amount of market information available to investors and better enable investors to monitor the executions they receive in these securities. FINRA would not be providing a vehicle for quoting or trading unregistered securities, a prior concern raised by the SEC.¹⁴ Instead, FINRA would merely be disseminating on a real-time basis reports of transactions that have already occurred in the OTC market and have been submitted to

¹² With the exception of NASD Rule 6250, which applies to dissemination of transaction information for TRACE-eligible securities, dissemination of trade reports is typically not governed by FINRA's rules, but rather by its protocols. Thus, FINRA is not proposing to amend any rules to effectuate the changes to the dissemination protocols discussed in this rule filing.

¹³ Section 31 of the Act requires FINRA to pay transaction fees and assessments to the SEC for sales transacted by or through its members otherwise than on a national securities exchange of securities subject to prompt last sale reporting (pursuant to the rules of the SEC or FINRA). This fee is designed to recover the costs related to the government's supervision and regulation of the securities markets and securities professionals. To recover the costs of FINRA's Section 31 obligation, FINRA assesses a regulatory transaction fee on its members under Section 3 of Schedule A to the FINRA By-Laws, the amount of which is set in accordance with Section 31. Because transactions in foreign securities (other than ADRs and Canadian issues) are not currently required to be reported "promptly," they are excluded from the regulatory transaction fee. The requirement to report transactions in foreign securities to FINRA within 90 seconds of execution would result in those transactions being subject to the regulatory transaction fee.

¹⁴ Quotations in unregistered ADRs and foreign securities, including some Canadian issues, already are published via the Electronic Pink Sheets.

FINRA by its members within 90 seconds of execution. FINRA believes that real-time dissemination is wholly consistent with the SEC's own views stated in its order approving the OTCBB on a permanent basis: "[FINRA] could increase transparency with less customer confusion by requiring transaction reporting for foreign securities traded over-the-counter in the U.S. Transaction reporting information has the potential to greatly enhance the amount of market information available to investors and better enable investors to monitor the executions they receive in foreign securities."¹⁵

FINRA does not believe that the proposed rule change gives rise to the concerns previously voiced by the SEC in the context of the OTCBB regarding the quotation of "unregistered securities on a visible U.S. market operated by a self-regulatory organization."¹⁶ Nor would it produce what the SEC has sought to avoid: "a regulated public marketplace for unregistered securities."¹⁷

As noted in Item 2 of this filing, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Regulatory Notice announcing 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,¹⁸ which requires, among other things, that FINRA rules

¹⁵ See Securities Exchange Act Release No. 38456 (March 31, 1997), 62 FR 16635 (April 7, 1997) (order approving SR-NASD-92-7).

¹⁶ See id.

¹⁷ See id.

¹⁸ 15 U.S.C. 78o-3(b)(6).

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. In addition, Section 11A(a)(1) of the Act¹⁹ articulates the Congressional findings and policy goals and objectives with respect to the development of a national market system.²⁰ Essentially, Congress found that new data processing and communication techniques should be applied to improve the efficiency of market operations, broaden the distribution of market information, enhance opportunities to achieve best execution and promote competition among market participants. FINRA believes that the proposed rule change will enhance transparency in foreign securities and promote pricing efficiency. Investors and other market participants will be afforded greater market information and be better able to monitor the executions they receive in these securities.

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. However, in connection with two other rule filings, SR-NASD-2005-089 and SR-NASD-2007-039, the SEC

¹⁹ 15 U.S.C. 78k-1(a)(1).

²⁰ Although Section 11A does not provide the Commission with authority to approve a self-regulatory organization's proposal, it is relevant in that it sets forth the Act's general policy goals for securities markets.

received eight written comment letters,²¹ in which the commenters urged the Commission to require real-time dissemination of OTC-traded ADRs. For example, several commenters noted that real-time trade information enables investors to evaluate the quality of executions they receive and deters “trading ahead” of orders and other improper trading practices.²² One commenter argued that the “assertion that the dissemination of this data will encourage trading in unregistered securities is unsustainable, given the fact that FINRA already releases real-time data on unregistered domestic issues. Especially as regards unregistered ADRs, more information, delivered in a more timely way, can only serve to benefit investors.”²³ Another commenter, in discussing the delisting of an ADR from the NYSE, stated that “[d]eprived of access to real time trading information, I, a market participant, just lost the ability to monitor the quality and firmness of quotation executions of the security, thus hampering my ability to have a full grasp of the pulse of its trading.”²⁴

²¹ See Letter dated August 26, 2005 from R. Cromwell Coulson, Pink Sheets LLC, to Jonathan Katz; Letter dated September 19, 2005 from William Vance and Kimberly Unger, The Security Traders Association of New York, Inc., to Jonathan Katz; Letter dated August 13, 2007 from R. Cromwell Coulson, Pink Sheets LLC, to Nancy Morris (“Coulson Letter”); Letter dated August 13, 2007 from Stephen Kay and Kimberly Unger, The Security Traders Association of New York, Inc., to Nancy Morris (“Kay/Unger Letter”); Letter dated August 13, 2007 from Lisa Utasi and John Giese, Security Traders Association, to Nancy Morris (“Utasi/Giese Letter”); Letter dated August 17, 2007 from Bryce Engel, TD Ameritrade, Inc., to Nancy Morris (“Engel Letter”); Letter dated August 23, 2007 from Xin Ye to Nancy Morris (“Ye Letter”); and Letter dated August 30, 2007 from Leonard Amoruso, Knight Capital Group Inc., to Nancy Morris.

²² See Coulson Letter; Kay/Unger Letter; Engel Letter.

²³ Utasi/Giese Letter. See also Coulson Letter.

²⁴ Ye Letter.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(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. Please include File Number SR-FINRA-2008-016 on the subject line.

Paper Comments:

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

All submissions should refer to File Number insert SR-FINRA-2008-016. This file number should be included on the subject line if e-mail is used. To help the

Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. 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 insert SR-FINRA-2008-016 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.²⁵

Nancy M. Morris

Secretary

²⁵ 17 CFR 200.30-3(a)(12).

EXHIBIT 2a

Alphabetical List of Written Comments

1. Leonard J. Amoruso, Knight Capital Group, Inc. (August 30, 2007)
2. R. Cromwell Coulson, Pink Sheets LLC (August 26, 2005)
3. R. Cromwell Coulson, Pink Sheets LLC (August 13, 2007)
4. Bryce Engel, TD Ameritrade, Inc. (August 17, 2007)
5. Stephen Kay and Kimberly Unger, The Security Traders Association of New York, Inc. (August 13, 2007)
6. Lisa Utasi and John Giese, Security Traders Association (August 13, 2007)
7. William A. Vance and Kimberly Unger, The Security Traders Association of New York, Inc. (September 19, 2005)
8. Xin Ye (August 23, 2007)

EXHIBIT 2b
Knight

Leonard J. Amoruso
Senior Managing Director
General Counsel

Knight Capital Group, Inc.
545 Washington Boulevard
Jersey City, New Jersey 07310
Tel 201.557.6892
Fax 201.795.5038
Email: lamoruso@knight.com
www.knight.com

August 30, 2007

Ms. Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, NW
Washington, D.C. 20549-2001

Re: Release No. 34-56103; File No. SR-NASD-2007-039
National Association of Securities Dealers, Inc.; Notice of Filing and Immediate
Effectiveness of Proposed Rule Change to Delay Implementation of Certain
Changes to the Manning Rule

Dear Ms. Morris:

Knight Capital Group, Inc. (Knight)¹ welcomes the opportunity to offer our comments to the Securities and Exchange Commission (Commission) on the above reference rule filing made by the NASD -- now known as, the Financial Industry Regulatory Authority, Inc. (FINRA). In this filing, FINRA seeks to delay the implementation of certain new rules relating to the expansion of NASD IM-2110-2 to apply to OTC equity securities.²

Knight supports the Commission's determination to approve this delay, which will provide additional time for market participants to make the necessary system changes to comply with these newly approved requirements. Additionally, the delay will provide the Commission with time to consider FINRA's recently proposed amendments to the applicable minimum price-improvement standards.³

¹ Knight is the parent company of Knight Equity Markets, L.P., Knight Capital Markets LLC, Direct Edge ECN LLC, Knight Equity Markets International Ltd., Direct Trading Institutional, L.P., ValuBond Securities, Inc., and Hotspot FXR, LLC all of whom are registered with SEC or CFTC. Knight through its affiliates make markets in equity securities listed on Nasdaq, OTC Bulletin Board, New York Stock Exchange, and American Stock Exchange, both in the United States and Europe. Knight also owns an asset management business for institutional investors and high net worth individuals through its Deephaven subsidiary. Knight is a major liquidity center for the Nasdaq and listed markets. We trade nearly all equity securities. On active days, Knight executes in excess of two million trades, with volume exceeding four billion shares. Knight's clients include more than 600 broker-dealers and 1000 institutional clients. Currently, Knight employs more than 800 people.

² See, SEC Release No. 34-55351 (February 26, 2007) (order approving SR-NASD-2005-146).

³ See, SEC Release No. 34-56297 (File No. SR-NASD 2007-041) (August 21, 2007) in which FINRA seeks to amend the Minimum Price-Improvement standards set forth in NASD IM 2110-2.

Knight

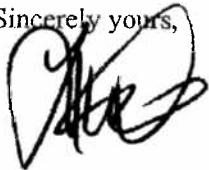
Ms. Nancy Morris
Release No. 34-56103
August 30, 2007
Page 2 of 2

Knight also supports the comments offered by the Securities Trading Association (STA), the Pink Sheets LLC, the Securities Trading Association of New York (STANY), and TD Ameritrade, Inc., in which each urge the Commission to require FINRA to disseminate publicly real-time trade reports in OTC-traded American Depositary Receipts (ADRs).⁴

There is no question that real-time trade information in ADRs would bring far more transparency to this segment of the market, allowing investors to better evaluate the quality of the executions they receive from their brokers. More transparency will undoubtedly lead to a more efficient, reliable and liquid market for ADRs. In short, there is simply no good reason for this information not to be disseminated on a real-time basis. Indeed, in today's capital markets where liquidity and transparency are at the very heart of nearly all regulatory initiatives, it is difficult to understand why there would be any hesitancy whatsoever in moving forward with this initiative.

Thank you for providing us with the opportunity to comment on this rule proposal. Knight would welcome the opportunity to discuss our comments with the Commission.

Sincerely yours,



Leonard J. Amoruso

cc: Chairman Christopher Cox
Commissioner Paul S. Atkins
Commissioner Roel C. Campos
Commissioner Kathleen L. Casey
Commissioner Annette L. Nazareth
Dr. Erik R. Sirri, Director, Division of Market Regulation
Robert L. D. Colby, Deputy Director, Division of Market Regulation
Stephen Luparello, Senior Executive Vice President, Regulatory Operations, FINRA
Thomas R. Gira, Executive Vice-President and Deputy, FINRA Market Regulation

⁴ See, Letter of R. Cromwell Coulson, CEO, Pink Sheets LLC, dated August 13, 2007; Letter of Lisa Utasi, Chairman and John C. Giesea, President and CEO, Securities Trader Association, dated August 13, 2007; Letter of Stephen Kay, President, Kimberly Unger, Executive Director of the Securities Traders Association of New York, dated August 13, 2007; and, Bryce Engel, Chief Brokerage Operations Officer of TD Ameritrade, Inc., August 17, 2007.



August 26, 2005

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-9303

Subject: File No. SR-NASD-2005-089

Dear Mr. Katz,

Pink Sheets LLC ("Pink Sheets") strongly supports increased regulatory oversight over the trading of OTC Equity Securities. We believe that the NASD's proposal to assume direct authority for the trading of OTC Equity Securities, including the OTC Bulletin Board, will focus regulatory attention on this important sector of the market. We applaud this development and offer our services, where useful, to facilitate a smooth transition.

Pink Sheets is the leading provider of pricing and financial information for the over-the-counter (OTC) securities markets and, among other things, operates an Internet-based, real-time quotation service for OTC equities and bonds for market makers and other registered broker-dealers.

We offer the following suggestions, which we believe will serve to strengthen the proposed rule and enable the NASD to better serve the interests of the investing public in OTC Equity Securities.

Rule Changes for Trading in OTC Equity Securities

We are pleased that responsibility for developing and adopting rule changes for the trading of OTC Securities has been delegated to NASD Regulation. We are especially gratified that these rules changes will encompass trading practices in all OTC Equity Securities, rather than be limited to the OTC Bulletin Board. It has been some time since the NASD focused regulatory attention on trading practices in the markets for over-the-counter securities that are not sponsored by it. As is true of all markets, technology has made great changes in the way OTC Equity Securities are traded. Rule changes are needed to reflect the current state of the markets.

We have three specific proposals for badly needed rules changes. Two of our proposals deal with the public dissemination of trade reporting information, while a third concerns the obligations of broker-dealers to avoid participation in the unlawful distribution of securities by their customers.



Mr. Jonathan G. Katz

Dissemination of Real-Time Trade and Volume Data. First, we believe that NASDAQ Quotation Dissemination Service (the "Service") should disseminate real-time trade and volume data for non-NASDAQ ADRs traded over-the-counter. At the present time, the Service disseminates real-time trade and volume data for domestic OTC Equity Securities, but does not disseminate real-time data for ADRs. Instead ADR data is disseminated at the end of the trading day.

There is no principled reason for the Service to discriminate between the dissemination of market data for domestic securities and ADRs. The Service receives the data from market makers for both groups of securities within the same time frame. Rule 6620 of the NASD's Rules of Fair Practice (the "NASD Rules") requires OTC Market Makers to transmit last sale reports of transactions in OTC Equity Securities, *including ADRs*, within 90 seconds after execution.

Second, we believe that the Service should disseminate real-time trade and volume data for odd-lot transactions in all OTC Equity Securities that are sold for a price greater than \$200 per share. The Service currently disseminates real-time trade and volume data for odd-lot transactions in OTC Equity Securities that are quoted on the OTC Bulletin Board that are sold for a price greater than \$200 per share, but does not disseminate such reports for other OTC Equity Securities, including securities that are quoted on the Pink Sheets.

There can be no justification for discriminating between the dissemination of market data for OTC Equity Securities quoted on the OTC Bulletin Board as compared to the Pink Sheets. The Service receives reports in all odd-lot transaction in OTC Equity Securities within 90 seconds after execution. We would think it would be most simple and straightforward to disseminate to private vendors all odd-lot transactions in OTC Equity Securities. We speculate that practical limits in data processing capacity may require some limitations in data dissemination. However, this economic choice should not result in a procedure that harms the investing public. Investors suffer substantial disadvantages under the current procedure, which discriminates against the dissemination of trades reports merely because an OTC Equity Security is quoted in a different venue.

The NASD has repeatedly acknowledged the benefits to the investing public from the dissemination of real-time trade and volume data during market hours. For example, in 1992, in its comments to the proposed penny stock rules, the NASD stated that the "dissemination of real-time trade and volume data during market hours will significantly benefit investors by providing the same high degree of market visibility and more efficient price discovery for all . . ."¹

1. ¹ SEC Release No. 34-30608, 1992.



Mr. Jonathan G. Katz

There is no good reason to deny the investing public transparency in ADR transactions and high-priced odd-lot transactions in OTC Equity Securities. We urge NASD Regulation to review this issue as soon as possible for the protection of investors.

A Broker-Dealer's Obligation Not to Participate in Unlawful Securities Distributions. The SEC has long held that a broker-dealer independently violates the registration requirements of Section 5 when the broker-dealer participates in an unlawful distribution of securities by other persons. The broker-dealer may be found in violation of Section 5 even though the broker dealer may not have any direct relationship with the issuer or any of its affiliates. See, *Distribution By Broker-Dealers Of Unregistered Securities*, Securities Act of 1933, Release No. 4445; Securities Exchange Act of 1934, Release No. 6721, (February 2, 1962). A broker-dealer is therefore obligated to make appropriate inquiries to make certain that its facilities are not being used by its customers to distribute unregistered securities to the public. A broker-dealer cannot merely rely on representations by a customer, the acceptance of the shares by a transfer agent, or an opinion of counsel that the shares are freely tradable.

Many fraudulent distributions are accomplished when a customer of a broker-dealer places an unsolicited order to sell a large block of a little known micro-cap security. The customer may be a control person, affiliate or may have obtained the securities from a promoter. In any event, we believe the broker-dealer is obligated to reject such orders, whether or not such orders are "solicited," unless it can determine that the customer can make the offer without violating the federal securities laws. We think part of "knowing the customer" is knowing how the customer obtained the securities that are being offered for sale and determining whether or not such offers comply with the federal securities laws. See, *Sales of Unregistered Securities By Broker-Dealers*, Securities Act of 1933, Release No. 5168; Securities Exchange Act of 1934, Release No. 9239 (July 7, 1971).

It has been some thirty years since the SEC and the NASD last provided guidance in this area. Our recent experience at Pink Sheets indicates that the broker-dealer community needs to be reminded of its obligations to avoid participation in the unlawful distribution of securities by their customers. We therefore believe that the need to avoid participation in unlawful distributions would be an appropriate topic for an NASD Notice to Members, a forum often used by the NASD to remind the securities industry of its obligations under the federal securities laws. In any event, NASD Regulation should review this issue as soon as possible with a view to proposing rules that would preclude the participation of broker-dealers in unlawful distributions of securities by their customers, which are all too often used for a fraudulent or manipulative purpose. In the same vein that broker dealers must monitor for signs of money laundering, proper industry-wide procedures and controls must be established in regards to preventing fraudulent distributions of securities by broker-dealer customers. NASD guidelines will protect investors from unregulated control persons, affiliates and promoters that abuse



Mr. Jonathan G. Katz

the facilities of legitimate broker-dealers to dump unregistered OTC Equity Securities into the market for which adequate current information is not publicly available.

Trade Halt Authority

NASD Rule 6545 currently provides Nasdaq with authority to impose trading and quotation halts in an OTCBB-eligible security when (i) a foreign regulatory authority or market halts trading in the same security for reasons of public interest, (ii) Nasdaq or a registered securities exchange halts trading in a listed security and the OTCBB-eligible security is a derivative of the listed security and (iii) when an issuer has violated the notification requirements of Rule 10b-17 under the Exchange Act. The proposed rule would transfer this authority to the NASD.

We believe that the NASD's authority to call trading halts should be extended to all OTC Equity Securities, rather than limited to OTCBB-eligible securities. There is no good reason to deny investors in OTC Equity Securities that are not OTCBB-eligible the salutary protections of Rule 6545.

We also believe that the NASD's authority to call trading halts in OTC Equity Securities should be extended to situations where the NASD's regulatory concerns indicate that a trading halt is necessary to protect the public interest, rather than relying on actions by other markets. Many OTC Securities are not traded in foreign markets and are not derivatives of listed securities. Recently the Commission has instituted trading halts in OTC Equity Securities where questions had arisen indicating the occurrence of an unlawful distribution of securities, there were doubts about the quality of information that had been distributed to the public, or concerns that invalidly issued securities were being traded on the public markets. Prompt regulatory action in such cases protects investors. We believe the NASD, by virtue of its regulatory power over broker-dealers who trade OTC Equity Securities, serves as a front-line defense for the public against fraudulent and manipulative activities in the market for OTC Equity Securities and is best positioned to take prompt action to protect the investing public. The authority we propose would conserve the Commission's enforcement resources and enable securities regulators to respond quickly to halt fraudulent activity at the earliest possible moment.

We believe that the halt authority should be limited to four days so "piggy back eligibility" under Rule 15c2-11 is not affected. Since NASD halts generally will not be subject to judicial review, it is imperative that NASD halts not result in the unintended destruction of the market in a security.

In summary, we believe the NASD should have the authority to call trading halts in all OTC Equity Securities, rather than be limited to trading halts in securities quoted on the OTC Bulletin Board, and that this authority should extend to situations where fraudulent or manipulative activities are strongly suspected.



Mr. Jonathan G. Katz

Clearly Erroneous Authority

We strongly support the portion of the proposal that effectively extends the NASD's authority to cancel clearly erroneous transactions to all OTC Equity Securities. The capacity to cancel erroneous transactions is necessary to avoid the confusion in the market for OTC Equity Securities that occurs when such transactions are not reversed promptly. However, we believe that thirty (30) minutes is too short a time period to identify and correct clearly erroneous transactions in the relatively slow-moving market for OTC Equity Securities. We therefore propose that the NASD should have the authority to cancel clearly erroneous transactions until the settlement date for such transactions.

Conclusion

On the whole, we believe the proposed rule will advance the interests of the investing public and strongly support its adoption with the modifications suggested in this letter.

Please call me if you have any questions.

Very truly yours,

R. Cromwell Coulson
Chief Executive Officer



August 13, 2007

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-2001

Re: **Comments to SEC Release 34-56103**
File No. SR-NASD-2007-039

Dear Ms. Morris:

Pink Sheets LLC ("Pink Sheets") respectfully submits the following comments on the aforementioned rule proposal [SR-NASD-2007-039] filed by the Financial Industry Regulatory Authority, Inc. ("FINRA"), formerly known as the National Association of Securities Dealers, Inc.¹ In Release 34-56103, the Securities and Exchange Commission (the SEC" or the "Commission") approves a FINRA request to delay the effective date to November 26, 2007, for its Manning interpretation to include all OTC Equity Securities.

Pink Sheets strongly supports the proposed expansion of the Manning interpretation because we believe that the Rule provides significant benefits to investors in OTC Equity Securities. Nonetheless, we agree that the implementation date should be delayed to allow for proper systems changes to avoid disruption to an orderly market.

In addition, Pink Sheets urges the Commission to require FINRA to disseminate publicly real-time trade reports it receives in OTC-traded ADRs. This dissemination should commence concurrently with the expansion of the Manning interpretation on November 26, 2007.

The expansion of Manning will encourage investors to submit limit orders, rather than market orders, because broker-dealers that accept such orders will be required to execute them at the same or better price as the broker-dealer's proprietary executions for its own account. However,

¹ Pink Sheets is the leading provider of pricing and financial information for the over-the-counter ("OTC") securities markets and, among other things, operates an Internet-based, electronic quotation and trade negotiation service for OTC equities and bonds used by over 200 market makers and other broker-dealers registered under the Securities Exchange Act of 1934 (the "Exchange Act").



FINRA's failure to disseminate real-time trade and volume information for ADRs prevents investors from determining whether their broker-dealers have complied with Manning. Some less scrupulous broker-dealers may exploit the inability of customers to monitor their behavior by trading around customer orders. The proposed rule therefore creates a trap for investors by encouraging them to engage in behavior – the submission of limit, rather than market orders -- that will cause them to become the Rule's unwitting victims. The Commission should not approve a Rule that is so plainly detrimental to the interests of public investors.

Real-time trade information enables investors to evaluate the quality of executions they receive, rather than relying solely on the word of their broker. The monitoring of real-time trade information by investors deters "trading ahead" of orders and other improper trading practices. The compliance departments of broker-dealers require this information to monitor compliance with the best execution obligations of their trading desks. Market participants need real-time transaction and volume information to monitor the quality and firmness of quotations. Mutual funds require real-time trade information to determine accurately the net asset value or fair value of fund assets. The dissemination of real-time trade information therefore benefits investors and strengthens markets.

FINRA collects real-time trade reports from broker dealers for all OTC Equity Securities, including ADRs.² For all OTC Equity Securities, except for ADRs, this information is immediately disseminated to the investing public on a real-time basis.³ FINRA withholds this information only for ADRs. Instead, a limited summary of ADR trading data is disseminated at the end of the day.⁴ There can be no valid reason for this failure to protect the investing public, particularly when the remedy is readily at hand, requiring little more than simply releasing this information to public securities information processors, as is done with all other trade reports for OTC Equity Securities.

ADRs are the largest share of the OTC market with over \$7 billion in dollar volume traded during the month of July 2007. This is twice the monthly dollar volume of the entire OTC Bulletin Board. Level 1 ADRs are a well-established investment product offering significant custody, clearing, tax and cost advantages that make them an efficient way for U.S. investors to own and hold international investment opportunities. They are held by some of the largest public

² SEC Release 34-55745 (May 11, 2007)(SR-NASD-2007-030) Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Trade Reporting Obligations for Transactions in Foreign Equity Securities.

³ For the most part, these securities are traded through the facilities of the OTC Bulletin Board (the "OTCBB") and Pink Sheets.

⁴ The end of day data is a summary report consisting of opening price, high price, low price, last price and volume for OTC trading of ADRs. Individual trade data is not disseminated to the public.



mutual and pension funds. The issuers of foreign securities held in ADR programs are required to remain in compliance with the Exchange Act Rule 12g3-2(b) Information Supplying Exemption from Exchange Act registration. Rule 12g3-2(b) was recently modernized by the Commission, and many Commissioners took that opportunity to express their support for the Information Supplying Exemption and the protections it offers to U.S. investors. It is shocking that U.S. investors are unable to monitor the quality of executions they receive from their broker-dealers in such an important part of the market for OTC Equity Securities.

It has been suggested that this wanton failure to protect public investors is based on some misguided notion that the release of trade reporting will encourage investments in unregistered securities. That fact is that FINRA distributes real-time trade information for all domestic OTC Equity Securities, whether or not registered. In contrast, FINRA does not disseminate real-time trade data for the ADRs of issuers that are listed on the world's leading exchanges and are compliant with the Information Supplying Exemption. There are over 20,000 unregistered domestic OTC Equity Securities trading in the grey markets, including almost all of the domestic securities previously suspended by the SEC in the last few years, for which FINRA publicly disseminates real-time trade reports. This means that investors are "discouraged" from investing in the ADRs of some of the largest and most financially powerful corporations in the world, internationally renowned corporations that publish abundant amounts of disclosure about their operations, while "encouraged" to invest in the securities of highly questionable issuers whose promoters fill the email inboxes of the investing public with every sort of fraudulent promotional spam campaign. It is unimaginable that the Commission would adopt such an inconsistent and ill-conceived regulatory policy.

In fact, the Commission and FINRA have repeatedly acknowledged the benefits to the investing public from the dissemination of real-time transaction and volume data. In 1992, FINRA stated that the "dissemination of real-time trade and volume data during market hours will significantly benefit investors by providing the same high degree of market visibility and more efficient price discovery for all . . ."⁵ In 1997, the Commission commented specifically on the issue of trade reporting for unregistered foreign securities (including ADRs), flatly stating that real-time transaction reporting has the potential "to better enable investors to monitor the executions they receive in foreign securities."⁶

It has been 10 years since the Commission urged FINRA to provide for public dissemination of trade reports for over-the-counter transactions in unregistered ADRs. The continued failure of FINRA to disseminate real-time transaction reports for unregistered ADRs serves no valid policy objective and deprives investors and the OTC markets of the important benefits of real-time transaction reporting in foreign securities. The proposed expansion of Manning without also

⁵ SEC Release No. 34-30608, 1992.

⁶ SEC Release No. 34-38456, (March 31, 1997), 62 Fed. Reg. 16635.



providing real-time trade reporting for ADRs -- the most substantial part of the market for OTC Equity Securities -- will needlessly victimize investors and is simply inexcusable.

We urge the Commission to require FINRA, concurrently with the implementation of Manning limit order protection, to commence real-time dissemination of transaction and volume reporting for ADRs.

Please call if you have any questions or require any additional information.

Very truly yours,

/s/ R. CROMWELL COULSON

R. Cromwell Coulson
Chief Executive Officer

CC: Chairman Christopher Cox
Commissioner Paul S. Atkins
Commissioner Roel C. Campos
Commissioner Annette L. Nazareth
Commissioner Kathleen L. Casey
Dr. Erik R. Sirri, Director, Division of Market Regulation
John W. White, Esq., Director, Division of Corporation Finance
Robert L. Colby, Deputy Director, Division of Market Regulation



August 17, 2007

VIA ELECTRONIC MAIL

Nancy M. Morris
Secretary
United States Securities and Exchange Commission
Station Place, 100 F Street, NE.
Washington, DC 20549-1090

Re: *Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay Implementation of Certain Changes to the Manning Rule (File No. SR-NASD-2007-39)*

Dear Ms Morris:

TD AMERITRADE, Inc.¹ ("TD AMERITRADE" or "the Firm") appreciates the opportunity to comment on SR-NASD-2007-039 filed by the National Association of Securities Dealers, Inc. ("NASD"), currently known, and hereinafter referred to, as the Financial Industry Regulatory Authority, Inc. ("FINRA"), to delay the implementation of certain changes to the Manning Rule. TD AMERITRADE supports the FINRA proposal as it will help lead to greater transparency for the benefit of investors and agrees with FINRA that the implementation date should be delayed in order to allow firms to make necessary systems changes to ensure the continuation of an orderly market.

TD AMERITRADE also supports the comments made by Pink Sheets LLC² and notes that the proposal "as-is" lacks a requirement to disseminate real time trade data in Over the Counter "OTC" American Depositary Receipts "ADRs" and therefore urges the Securities and Exchange Commission ("Commission") to require FINRA to commence real-time dissemination of transaction and volume reporting for ADRs in concert with the implementation of the changes to the Manning Rule. Real-time trade information in ADRs would bring about needed transparency in this segment of the market allowing investors to evaluate the quality of executions they receive, rather than relying solely on the word of their broker or stale and often post dated information. Further, real-time trade data would provide investors greater trade information on their use of limit orders, thus serving to increase the overall liquidity in the market-place.

¹ TD AMERITRADE is a wholly owned broker-dealer subsidiary of TD AMERITRADE Holding Corporation ("TD AMERITRADE Holding"). TD AMERITRADE Holding has a 30-year history of providing financial services to self-directed investors. TD AMERITRADE Holding's wholly owned broker-dealer subsidiary, TD AMERITRADE serves an investor base comprised of over 6.2 million client accounts with approximately \$293 billion in assets.

² Letter to Nancy M. Morris dated August 13, 2007 in response to SR-NASD-2007-39

Ms. Nancy M. Norris
August 17, 2007
Page 2

TD AMERITRADE believes that it is uniquely qualified to speak for such investors as its clients currently comprise approximately 35% of the trading volume in the OTCBB/Pink Sheet market and such dissemination would provide the investor a high degree of market visibility and increased market transparency.³

We urge the Commission to require FINRA, concurrently with the implementation of Manning limit order protection, to commence real-time dissemination of transaction and volume reporting for ADRs.

TD AMERITRADE appreciates the opportunity to comment. Please contact me at 402/970-7007 or Christopher Nagy at 402/970-5656 if you have any questions regarding our comments.

Respectfully Submitted,

/S/

Bryce Engel
Chief Brokerage Operations Officer

cc: Erik R. Sirri, Director, Division of Market Regulation, SEC
Robert L.D. Colby, Deputy Director, Division of Market Regulation, SEC
Thomas R. Gira, Executive Vice President and Deputy, FINRA
Stephanie Dumont, Vice President and Associate General Counsel, FINRA

³

TD AMERITRADE Letter to Nancy M. Morris dated June 1, 2007 relating to comments on SR-NASD-2007-29 TD AMERITRADE notes that TD AMERITRADE believes investors would reap enormous benefits of added transparency if market centers were required to display limit orders that were better than that market center's current best bid or offer.



The Security Traders Association of New York, Inc.

Members of the Security Traders Association
39 Broadway, Suite 1840 New York, NY 10006 • (212) 344-0410 • Fax (212) 943-8478
e-mail - stany@stany.org website - www.stany.org

August 13, 2007

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-2001

Re: **SEC Release No 34-56103, File No. SR-NASD-2007-039**

Dear Ms. Morris:

The Security Traders Association of New York ("STANY")¹ respectfully submits the following comments concerning rule proposal SR-NASD-2007-039 filed by the National Association of Securities Dealers, Inc. ("NASD"), currently known, and hereinafter referred to, as the Financial Industry Regulatory Authority, Inc. ("FINRA"). In Release 34-56103, FINRA is proposing to delay implementation of certain rule changes approved in SR-NASD-2005-146 until after November 26, 2007. Specifically, FINRA is proposing to delay the approved rule changes that relate solely to the expansion of the scope of NASD IM-2110-2 to OTC Equity Securities and the related deletion of NASD Rule 6541.

STANY supports the proposed expansion of the Manning interpretation to OTC Equity Securities, but agrees with FINRA that the implementation date should be delayed in order to allow firms to make necessary systems changes to ensure the continuation of an orderly market.

STANY wishes to take this opportunity to support the position taken by Pink Sheets in its letter to the Commission of this date and again urge the Commission to require FINRA to disseminate real-time trade reports in OTC-traded ADRs². The proposed expansion of Manning without also providing real-time trade reporting for ADRs -- the most substantial part of the market for OTC Equity Securities -- will needlessly victimize investors.

The expansion of Manning to the OTC will encourage investors to submit limit orders in OTC traded ADRs. Broker-dealers that accept such orders will be required to execute them at the same or better price as the broker-dealer's proprietary executions for its own account. However, FINRA's failure to disseminate real-time trade and volume information for ADRs will prevent investors from determining whether their broker-dealers have complied with Manning. Although in the main we believe that broker-dealers operate in the best interest of their customers, we fear that there may be some less scrupulous broker-dealers who would exploit the inability of customers to monitor their behavior by trading around customer orders.

Real-time trade information enables investors to evaluate the quality of executions they receive and deters "trading ahead" of orders and other improper trading practices. Market participants need real-time transaction and volume information to monitor the quality and firmness of quotations. Likewise, firms require this information to monitor compliance with the best execution obligations of their trading desks. The dissemination of real-time trade information therefore benefits investors and also strengthens markets.

¹ STANY is an affiliate of the Security Traders Association ("STA"), a worldwide professional trade organization for equities traders. With close to 1,500 members in the New York metropolitan area, STANY is the largest STA affiliate. STANY works to improve the ethics, business standards and working environment for members, who are engaged in the buying, selling and trading of securities.

² In a letter to Secretary Jonathan G. Katz dated September 19, 2005 in response to a request for comments on SEC Release No. 34-53508 (SR-NASD-2005-089), STANY made a plea to the Commission to require real-time trade reporting of OTC-traded ADRs.

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Bear, Stearns & Co., Inc.

Nancy M. Morris
August 13, 2007

File No. SR-NASD-2007-039
Page 2

Within the context of trading foreign securities, the Commission stressed the importance of real-time dissemination of market data. While approving the permanent status of the OTCBB service and the rule changes that removed unregistered foreign securities from the OTCBB service, the Commission noted that transaction reporting would "better enable investors to monitor the executions they receive in foreign securities."³ It should go without saying that investors can only gain the benefits afforded by transaction reporting, if the information reported is disseminated to the public.

Currently, a limited summary of ADR trading data is disseminated at the end of the day.⁴ This information is inadequate to protect the investing public. However, FINRA collects real-time trade reports from broker-dealers for all OTC Equity Securities, including ADRs.⁵ For all OTC Equity Securities, except for ADRs, this information is immediately disseminated to the investing public on a real-time basis. FINRA withholds this information only for ADRs. STANY can see no valid reason for withholding this real-time data, the dissemination of which would serve to protect the investing public.

We have heard that one possible reason for the hesitation to require the distribution of real-time trade information in ADRs is that doing so may encourage trading in unregistered securities. This argument is specious. FINRA distributes real-time trade information for all domestic OTC Equity Securities, including information on over 20,000 unregistered domestic OTC Equity Securities. Unfortunately this includes securities of some questionable issuers, in whom STANY can only assume FINRA does not wish to encourage investment. In contrast, FINRA does not disseminate real-time trade data for the ADRs of issuers that are listed on the world's leading exchanges and are compliant with the Information Supplying Exemption.

It has been 10 years since the Commission urged FINRA to provide for public dissemination of trade reports for OTC transactions in unregistered ADRs. The continued failure of FINRA to disseminate real-time transaction reports for unregistered ADRs serves no valid policy objective and deprives investors and the OTC markets of the important benefits of real-time transaction reporting in foreign securities. We urge the Commission to require FINRA to commence real-time dissemination of transaction and volume reporting for ADRs concurrently with the implementation of Manning limit order protection.

Members of the STANY Board of Directors, STANY's International Committee and STANY's Trading Issues Committee would be happy to discuss this matter with the Commission and with the NASD. Please do not hesitate to call on us with any questions.

Respectfully submitted,

Stephen Kay
President

Kimberly Unger
Executive Director

cc: Chairman Christopher Cox
Commissioner Paul S. Atkins
Commissioner Roel C. Campos
Commissioner Annette L. Nazareth
Commissioner Kathleen L. Casey
Dr. Erik R. Sirri, Director, Division of Market Regulation

³ SEC Release No. 34-36456, 1997. The SEC's comments were directed specifically to the trading of unregistered foreign securities. The Service currently disseminates real-time transaction reports for unregistered domestic securities. The failure to similarly disseminate real-time transaction reports for unregistered ADRs serves no valid purpose. Investors are being deprived of the significant benefits of real-time transaction information in foreign securities specifically addressed by the Commission.

⁴ The end of day data is a summary report consisting of opening price, high price, low price, last price and volume for OTC trading of ADRs. Individual trade data is not disseminated to the public.

⁵ SEC Release 34-55745 (May 11, 2007)(SR-NASD-2007-030) Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Trade Reporting Obligations for Transactions in Foreign Equity Securities.

STA
Since 1934

Security Traders Association

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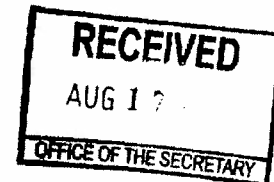
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August 13, 2007

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-2001

Re: **SEC Release No 34-56103**
File No. SR-NASD-2007-039



Dear Ms. Morris:

The Security Traders Association ("STA")¹ appreciates the opportunity to comment on rule proposal SR-NASD-2007-039 filed by the National Association of Securities Dealers, Inc. ("NASD"), currently known, and hereinafter referred to, as the Financial Industry Regulatory Authority, Inc. ("FINRA"). In Release 34-56103, FINRA proposes to delay implementation of certain rule changes approved in SR-NASD-2005-146 until after November 26, 2007. Specifically, FINRA is proposing to delay the approved rule changes that relate solely to the expansion of the scope of NASD IM-2110-2 to OTC Equity Securities and the related deletion of NASD Rule 6541.

The STA supports the proposed expansion of the Manning interpretation to OTC Equity Securities, and agrees with FINRA that the implementation date should be delayed in order to allow firms to make necessary systems changes to ensure the continuation of a fair, liquid, and orderly market.

That said, at the same time, STA urges the Commission to require FINRA to disseminate real-time trade reports in OTC-traded ADRs. The STA has consistently held that the same rules ought to apply to trading in like securities.² The proposed appropriate expansion of Manning without also providing real-time trade reporting for ADRs (the bulk of trading in OTC securities) is inconsistent with the principle which the STA believes ought to drive trading regimes. It is in the interest of investor protection that ADRs trading in the OTC should have the same data dissemination that applies to other securities traded in the OTC.

¹ The STA is a worldwide professional trade organization that works to improve the ethics, business standards and working environment for our members. There are approximately 5,200 members, all engaged in the buying, selling, and trading of securities. Members participate in STA through 28 national and international affiliate organizations and represent the interests of the trading community and institutional investors. The STA provides a forum for our traders, representing institutions, broker-dealers, ECNs, and floor brokers to share their unique perspectives on issues facing the securities markets. They work together to promote their shared interest in efficient, liquid markets as well as in investor protection.

² See STA Special Report: Fulfilling the Promise of the National Market System: August 2003

Alabama Security Dealers Association
Boston Security Traders Association
Canadian Security Traders Association
Carolina Security Traders Association
Security Traders Association of Chicago
Cleveland Security Traders Association
Security Traders Association of Connecticut
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Denver Security Traders Association
Security Traders Association of Florida
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Georgia Securities Association
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London Security Traders Association
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Mid-Atlantic Security Traders Association

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Vancouver Security Traders Association
Security Traders Association of Wisconsin

Ms. Nancy M. Morris
Page Two
August 13, 2007

The exclusion of the ADRs from the provision of real-time data disadvantages investors. Accurate and timely data is at the heart of the ability to construct and implement an investment strategy. The inconsistent application of the rule to exclude real-time trade reporting in ADRs places both retail investors and institutional investors at risk of making poor investment decisions based on inaccurate information.

In using inaccurate data, broker-dealers risk not meeting their fiduciary responsibility to secure best execution for clients. The expansion of Manning to the OTC will encourage investors to submit limit orders in OTC traded ADRs.

Simply put: absent real-time information, markets, investors, and their broker-dealer representatives are needlessly compromised. Confidence in markets is directly linked to market integrity. Markets with the greatest confidence and integrity are those in which all market participants have access to reliable, accurate and timely data at the same time. The dissemination of real-time ADR data in the OTC market will be a major step in that market's continued move towards the standards that apply in the markets subject to Reg NMS.

The dissemination of this data will not impose an undue burden on FINRA, but will in fact provide for a more robust market. FINRA collects real-time trade reports from broker-dealers for all OTC Equity Securities, including ADRs.³ Except for ADRs, this information is immediately disseminated to the investing public on a real-time basis. In the interest of protecting the investing public, FINRA should make the ADR data available in real-time.

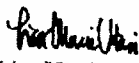
The assertion that the dissemination of this data will encourage trading in unregistered securities is unsustainable, given the fact that FINRA already releases real-time data on unregistered domestic issues. Especially as regards unregistered ADRs, more information, delivered in a more timely way, can only serve to benefit investors.

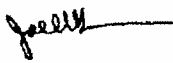
In addition, as the regulatory environment for securities becomes more global, the Commission may want to demonstrate that the rigorous standards that apply to data dissemination in U.S. securities also apply to foreign securities traded as ADRs.

The dissemination of this data should be implemented at the same time as the implementation of the Manning order protection.

We appreciate the opportunity to offer this perspective and look forward to a continuing dialogue with the Commission on this important issue.

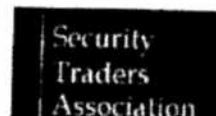
Respectfully submitted,


Lisa Utasi
Chairman


John Giesea
President and CEO

³ SEC Release 34-55745 (May 11, 2007)(SR-NASD-2007-030) Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Trade Reporting Obligations for Transactions in Foreign Equity Securities.

CC: Chairman Christopher Cox
Commissioner Paul S. Atkins
Commissioner Roel C. Campos
Commissioner Annette L. Nazareth
Commissioner Kathleen L. Casey
Dr. Erik R. Sirri, Director, Division of Market Regulation





The Security Traders Association of New York, Inc.

Members of the Security Traders Association
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September 19, 2005

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Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
100 F. Street, N.E.
Washington, DC 20549-9303

RE: File No. SR-NASD-2005-089

Dear Mr. Katz:

The Security Traders Association of New York ("STANY")¹ respectfully submits this letter in support of the letter dated August 26, 2005 from the Pink Sheets requesting that the NASDAQ Quotation Dissemination Service (the "Service") disseminate real-time trade and volume data for non-NASDAQ ADRs traded over-the-counter similar to that currently disseminated for domestic equity securities. The Service presently provides a limited summary of ADR trading data at the end of the day, while it disseminates real-time data for domestic OTC equity securities². We request comparable treatment for non-NASDAQ ADRs traded on NASDAQ.

We do not believe that any valid reason exists for the Service to discriminate in its dissemination of market data between domestic securities and ADRs. Data is sent to the Service by market makers for both groups of securities within the same time frame. OTC market makers are required under Rule 6620 of the NASD's Rules of Fair Practice to transmit last sale reports of transactions in OTC Equity Securities, including ADRs, within 90 seconds after execution.

STANY also agrees with the position taken by the Pink Sheets with respect to dissemination of real-time trade and volume data for odd-lot transactions in all OTC equity securities that are sold for a price greater than \$200 per share. Currently the Service disseminates this information for odd-lot transactions quoted on the OTC Bulletin Board, but not for other OTC Equity Securities, such as those that are quoted on the Pink Sheets.

Since the Service receives reports in all odd-lot transactions in OTC Equity Securities within 90 seconds of execution, we see no justifiable reason for a distinction being made between OTC Equity Securities quoted on the OTC Bulletin Board and those quoted on the Pink Sheets.

¹ STANY is an affiliate of the Security Traders Association ("STA"), a worldwide professional trade organization for equities traders. With close to 2,000 members in the New York metropolitan area, STANY is the largest STA affiliate. STANY works to improve the ethics, business standards and working environment for members, who are engaged in the buying, selling and trading of securities.

² Rule 6610(d) defines "OTC Equity Securities" as any equity security not classified as a "designated security" for the purposes of the Rule 4630 and 4640 Series, a "restricted security" as defined by SEC Rule 144(a)(3) under the Securities Act of 1933, or a security designated in the PORTAL Market. OTC Equity Securities include all equity securities traded over-the-counter other than National Market Systems securities or NASDAQ SmallCap Market Securities, which are traded through NASDAQ, restricted securities and unregistered foreign securities.

Real-time trade information disseminated during market hours benefits the investing public and strengthens markets. It enables investors to evaluate the quality of the executions they receive and deters "trading ahead" of orders and other improper trading practices. The NASD in its comments to the proposed penny stock rules, stated that the "dissemination of real-time trade and volume data during market hours will significantly benefit investors by providing the same high degree of market visibility and more efficient price discovery for all..."³

Within the context of trading foreign securities, the Securities and Exchange Commission (the "Commission") stressed the importance of real-time dissemination of market data. While approving the permanent status of the OTCBB service and the rule changes that removed unregistered foreign securities from the OTCBB service, the Commission noted that transaction reporting would "better enable investors to monitor the executions they receive in foreign securities."⁴ It should go without saying that investors can only gain the benefits afforded by transaction reporting, if the information reported is disseminated to the public.

It has been six years since the Commission urged the NASD to mandate transaction reporting and dissemination of trade prices and volume for OTC trading in ADRs. Broker-dealers report ADR transactions within 90 seconds after a trade, but where ADRs are concerned, the NASD continues to withhold the benefits of real-time transaction reports and only provides a limited summary of transaction data at the end of the day.

There is no legitimate reason for the disparate treatment of ADRs in terms of real-time trade and volume data dissemination. Likewise, there is no good reason to withhold real-time trade information from the investing public about high-priced odd-lot transactions in OTC Equity Securities traded on the Pink Sheets as opposed to the OTC Bulletin Board. No purpose is served by denying investors the benefit of real-time transaction reports. We respectfully urge the NASD to disseminate real-time transaction and volume data in ADRs and all high-priced odd-lot OTC transactions as soon as possible.

The STANY Board of Directors, and members of STANY's International Committee and Trading Issues Committee would be happy to discuss this matter with the Commission and with the NASD. Please do not hesitate to call on us with any questions.

Respectfully,

William A. Vance
President

Kimberly Unger
Executive Director

³ SEC Release No. 34-30608, 1992

⁴ SEC Release No. 34-36456, 1997. The SEC's comments were directed specifically to the trading of unregistered foreign securities. The Service currently disseminates real-time transaction reports for in unregistered domestic securities. The failure to similarly disseminate real-time transaction reports for unregistered ADRs serves no valid purpose. Investors are being deprived of the significant benefits of real-time transaction information in foreign securities specifically address by the Commission.

August 23, 2007

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-2001

Re: SEC Release No 34-56103, File No. SR-NASDA-2007-039

Dear Ms. Morris:

I am writing to urge the Securities and Exchange Commission (the "SEC" or the "Commission") to require Financial Industry Regulatory Authority, Inc. ("FINRA"), formerly known as the National Association of Securities Dealers, Inc ("NASD"), to disseminate publicly real-time trade reports it receives on OTC-traded ADRs.

Currently, FINRA withholds real-time trade reports it receives on OTC-traded ADRs, and does not offer a public statement or response on why it is withholding such information from the public.

I support the comments made by Pink Sheets LLC, The Security Traders Association of New York ("STANY"), The Security Traders Association ("STA"), and TD AMERITRADE in their respective letters to the Commission filed on the Commission's website at <http://www.sec.gov/comments/sr-nasd-2007-039/nasd2007039.shtml>.

Without repeating the comments made by Pink Sheets LLC, I wish to illustrate to you on a personal level how FINRA's withholding of real-time trade information on OTC-traded ADRs affects me, an individual U.S. investor.

I am an ADR shareholder of BG Group PLC, a U.K. natural gas exploration and production company. BG Group's ordinary shares are listed and traded on the London Stock Exchange under the symbol BG.L and its ADR shares listed and traded on the New York Stock Exchange under the symbol BRG.

On July 25th, 2007, BG Group announced that they are to voluntarily delist from the New York Stock Exchange in September 2007, and move to the OTC market, while maintaining their ADR program, citing cost savings and administrative relief reasons. BG Group's ordinary shares will remain listed and traded on LSE (http://www.bgggroup.com/media/archive_2007/072507-sx.htm)

This means that when BG Group moves its ADR trading to OTC next month, I will no longer have the ability to monitor BG Group's trading information – transaction, volume, high, low – in real time during market trading session, thanks to FINRA's practice of withholding real-time trading information on OTC-traded ADRs. Deprived of access to real time trading information, I, a market participant, just lost the ability to monitor the quality and firmness of quotation and executions of the security, thus hampering my ability to have a full grasp of the pulse of its trading.

BG Group's move to OTC offers only one example. A host of world-class companies have recently delisted or announced their intention to delist from NYSE and move their ADR tradings to the OTC market, in an effort to relieve themselves of the burden imposed by Sarbane Oxley. It is truly puzzling, and inexcusable, that investors in these world-class quality companies, who meet the requirements of and are listed on major foreign stock exchanges, are deprived access to these ADR's real-time trading information in the OTC, and are effectively traded as second-class citizens, compared to investors in OTC-traded domestic securities, for which FINRA publicly releases their real-time trade information.

I urge the Commission to require FINRA to commence real-time dissemination of transaction and volume reporting for OTC-traded ADRs.

Sincerely,

Xin Ye
13703 NE 10TH PL APT A2-312
Bellevue, WA 98005
yexin@hotmail.com

CC: Pink Sheets LLC info@pinksheets.com

EXHIBIT 5

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

* * * * *

6000. NASD SYSTEMS AND PROGRAMS

* * * * *

6600. OVER-THE-COUNTER EQUITY SECURITIES

* * * * *

6620. Transaction Reporting

(a) When and How Transactions are Reported

(1) through (2) No change.

(3) Transaction Reporting Outside Normal Market Hours

(A) through (B) No change.

(C) Last sale reports of transactions in OTC Equity Securities executed outside the hours of 8:00 a.m. and 8:00 p.m. Eastern Time shall be reported as follows:

(i) Last sale reports of transactions in [American Depositary Receipts (ADRs), Canadian issues, or domestic] OTC Equity Securities that are executed between midnight and 8:00 a.m. Eastern Time shall be transmitted to the OTC Reporting Facility between 8:00 a.m. and 9:30 a.m. Eastern Time on trade date and be designated as “.T” trades to denote their execution outside normal market hours. Transactions not reported before

9:30 a.m. shall be reported after 4:00 p.m. and before 8:00 p.m. as .T trades. The party responsible for reporting on trade date, the trade details to be reported, and the applicable procedures shall be governed, respectively, by paragraphs (b), (c), and (d) below; and

(ii) Last sale reports of transactions in [ADRs, Canadian issues, or domestic] OTC Equity Securities that are executed between 8:00 p.m. and midnight Eastern Time shall be transmitted to the OTC Reporting Facility on the next business day (T+1) between 8:00 a.m. and 8:00 p.m. Eastern Time, and be designated as “as of” trades to denote their execution on a prior day. The party responsible for reporting on T+1, the trade details to be reported, and the applicable procedures shall be governed, respectively, by paragraphs (b), (c), and (d) below. and

[(iii) Last sale reports of transactions in foreign securities (excluding ADRs and Canadian issues) shall be transmitted to the OTC Reporting Facility on T+1 regardless of time of execution.¹ Such reports shall be made between 8:00 a.m. and 1:30 p.m.

[¹ Member firms that have the operational capability to report transactions in foreign securities (excluding ADRs and Canadian issues) within 90 seconds of execution, between the hours of 8:00 a.m. and 5:15 p.m. Eastern Time, may do so at their option. If a firm chooses this option, it need not report the same transaction(s) on T+1 as prescribed by subsection (ii)(c).]

Eastern Time in the same manner as described in subparagraph

(3)(B)(ii) above.]

(4) through (9) No change.

(b) through (g) No change.