

OMB APPROVAL

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

File No. SR - 2008 - 048

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 Adopt FINRA Rule 6121 (Trading Halts Due to Extraordinary Market Volatility)

Contact Information

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

First Name Last Name
Title
E-mail
Telephone Fax

Signature

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

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

Date By
(Name)

(Title)

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Add

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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

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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

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Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add

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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 to adopt FINRA Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to permit FINRA to halt over-the-counter (“OTC”) trading in NMS stocks, as defined in Rule 600(b)(47) of SEC Regulation NMS, if other major U.S. securities markets initiate market-wide trading halts in response to extraordinary market conditions.

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.²

* * * * *

6000. QUOTATION AND TRANSACTION REPORTING FACILITIES

6100. QUOTING AND TRADING IN NMS STOCKS

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² On September 25, 2008, the SEC approved proposed rule change SR-FINRA-2008-021, in which FINRA proposed, among other things, to adopt the NASD Marketplace Rules (the NASD Rule 4000 through 7000 Series) as the FINRA Rule 6000 through 7000 Series in the Consolidated FINRA Rulebook. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (order approving SR-FINRA-2008-021; SR-FINRA-2008-022; SR-FINRA-2008-026; SR-FINRA-2008-028 and SR-FINRA-2008-029). As part of that proposed rule change, FINRA adopted new FINRA Rule 6120 (Trading Halts), which consolidates its trading halt rules relating to OTC trading in NMS stocks (i.e., NASD Rules 4120A, 4633, 4633C and 4633E).

6121. Trading Halts Due to Extraordinary Market Volatility

Pursuant to the procedures set forth in Rule 6120(b), FINRA shall halt all trading otherwise than on an exchange in any NMS stock, as defined in Rule 600(b)(47) of SEC Regulation NMS, if other major securities markets initiate market-wide trading halts in response to their rules or extraordinary market conditions or if otherwise directed by the Securities and Exchange Commission.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on December 3, 2007, the Board of Governors of FINRA authorized the filing of the rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change is the date of filing.

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

(a) Purpose

In 1988, the SEC approved several rule proposals by the national securities exchanges, along with a policy statement by FINRA (then known as NASD),³ which

³ FINRA's Policy Statement on Market Closings, which was adopted under FINRA's authority in Article VII, Section 3 of the By-Laws, provided, among other things, that, when other major securities markets initiate market-wide trading halts in response to extraordinary market conditions, FINRA will, upon SEC request, halt domestic trading in all securities in equity and equity-related securities in the OTC market. As part of the approval order, the SEC requested

provide trading halt authority in the event of severe market declines (referred to as “circuit breakers”). These provisions were adopted in response to the severe market decline that occurred in October 1987. The provisions were intended to enable the self-regulatory organizations (“SROs”) to provide coordinated means to address potentially destabilizing market volatility.

National securities exchanges generally have circuit breaker rules whereby the trading in all exchange-listed securities is halted based on a one-day decline of 10%, 20% and 30% of the Dow Jones Industrial Average (“DJIA”), with the percentage value based on the average closing value of the DJIA for the month prior to the beginning of the quarter, or have other general authority to halt trading in response to similar extraordinary market conditions.⁴ Unlike the exchanges, FINRA does not have an express circuit breaker rule; however, FINRA’s Board has authority to act in certain

that FINRA impose a trading halt as quickly as practicable whenever the NYSE and other equity markets have suspended trading. See Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988) (order approving SR-NASD-88-46). The Policy Statement, which was adopted on a pilot basis and extended numerous times, expired on December 31, 1997. See Securities Exchange Act Release No. 36563 (December 7, 1995), 60 FR 64084 (December 13, 1995) (order approving SR-NASD-95-57). FINRA has represented orally and in writing that it will continue to follow, upon SEC request, a trading halt during the triggering of intermarket circuit breakers. See Letter from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, dated January 23, 1998. The language in the Policy Statement was subsequently codified, on a pilot basis, in Interpretive Material (IM) 4120-3 (later renumbered IM-4120-4). See Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (order approving SR-NASD-98-27). The IM-4120-3 pilot, which also was extended numerous times, expired on April 30, 2002.

⁴ See, e.g., NYSE Rule 80B, NYSE Arca Equities Rule 7.12 and NASDAQ Exchange Rule 4121.

emergency or extraordinary market conditions pursuant to Article VII, Section 3 of FINRA's By-Laws.

FINRA is proposing to adopt new FINRA Rule 6121, which would authorize FINRA to halt OTC trading of NMS stocks if other major U.S. securities markets initiate market-wide trading halts in response to their rules or extraordinary market conditions or if otherwise directed by the SEC. FINRA believes that such generalized authority is appropriate and necessary to provide adequate flexibility to deal with extraordinary market conditions. FINRA also believes the proposed rule change will further the goal of coordinated SRO action to address potentially destabilizing market volatility, consistent with the circuit breaker trading halt authority of the exchanges.

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change is the date of filing.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁵ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with the circuit breaker rules of other SROs and will further the goal of investor protection by providing a coordinated means to address potentially destabilizing market volatility.

⁵ 15 U.S.C. 78o-3(b)(6).

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

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

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

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

Not applicable.

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁶ and paragraph (f)(3) of Rule 19b-4 thereunder,⁷ in that the proposed rule change is concerned solely with the administration of the self-regulatory organization.

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.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(3).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-048)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt FINRA Rule 6121 (Trading Halts Due to Extraordinary Market Volatility)

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. FINRA has designated the proposed rule change as “concerned solely with the administration of the self-regulatory organization” under Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(3) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to adopt FINRA Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to permit FINRA to halt over-the-counter (“OTC”)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(3).

trading in NMS stocks, as defined in Rule 600(b)(47) of SEC Regulation NMS, if other major U.S. securities markets initiate market-wide trading halts in response to extraordinary market conditions.

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.⁵

* * * * *

6000. QUOTATION AND TRANSACTION REPORTING FACILITIES

6100. QUOTING AND TRADING IN NMS STOCKS

* * * * *

6121. Trading Halts Due to Extraordinary Market Volatility

Pursuant to the procedures set forth in Rule 6120(b), FINRA shall halt all trading otherwise than on an exchange in any NMS stock, as defined in Rule 600(b)(47) of SEC Regulation NMS, if other major securities markets initiate market-wide trading halts in response to their rules or extraordinary market conditions or if otherwise directed by the Securities and Exchange Commission.

* * * * *

⁵ On September 25, 2008, the SEC approved proposed rule change SR-FINRA-2008-021, in which FINRA proposed, among other things, to adopt the NASD Marketplace Rules (the NASD Rule 4000 through 7000 Series) as the FINRA Rule 6000 through 7000 Series in the Consolidated FINRA Rulebook. See Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (order approving SR-FINRA-2008-021; SR-FINRA-2008-022; SR-FINRA-2008-026; SR-FINRA-2008-028 and SR-FINRA-2008-029). As part of that proposed rule change, FINRA adopted new FINRA Rule 6120 (Trading Halts), which consolidates its trading halt rules relating to OTC trading in NMS stocks (i.e., NASD Rules 4120A, 4633, 4633C and 4633E).

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

In 1988, the SEC approved several rule proposals by the national securities exchanges, along with a policy statement by FINRA (then known as NASD),⁶ which provide trading halt authority in the event of severe market declines (referred to as

⁶ FINRA's Policy Statement on Market Closings, which was adopted under FINRA's authority in Article VII, Section 3 of the By-Laws, provided, among other things, that, when other major securities markets initiate market-wide trading halts in response to extraordinary market conditions, FINRA will, upon SEC request, halt domestic trading in all securities in equity and equity-related securities in the OTC market. As part of the approval order, the SEC requested that FINRA impose a trading halt as quickly as practicable whenever the NYSE and other equity markets have suspended trading. See Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988) (order approving SR-NASD-88-46). The Policy Statement, which was adopted on a pilot basis and extended numerous times, expired on December 31, 1997. See Securities Exchange Act Release No. 36563 (December 7, 1995), 60 FR 64084 (December 13, 1995) (order approving SR-NASD-95-57). FINRA has represented orally and in writing that it will continue to follow, upon SEC request, a trading halt during the triggering of intermarket circuit breakers. See Letter from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, dated January 23, 1998. The language in the Policy Statement was subsequently codified, on a pilot basis, in Interpretive Material (IM) 4120-3 (later renumbered IM-4120-4). See Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (order approving SR-NASD-98-27). The IM-4120-3 pilot, which also was extended numerous times, expired on April 30, 2002.

“circuit breakers”). These provisions were adopted in response to the severe market decline that occurred in October 1987. The provisions were intended to enable the self-regulatory organizations (“SROs”) to provide coordinated means to address potentially destabilizing market volatility.

National securities exchanges generally have circuit breaker rules whereby the trading in all exchange-listed securities is halted based on a one-day decline of 10%, 20% and 30% of the Dow Jones Industrial Average (“DJIA”), with the percentage value based on the average closing value of the DJIA for the month prior to the beginning of the quarter, or have other general authority to halt trading in response to similar extraordinary market conditions.⁷ Unlike the exchanges, FINRA does not have an express circuit breaker rule; however, FINRA’s Board has authority to act in certain emergency or extraordinary market conditions pursuant to Article VII, Section 3 of FINRA’s By-Laws.

FINRA is proposing to adopt new FINRA Rule 6121, which would authorize FINRA to halt OTC trading of NMS stocks if other major U.S. securities markets initiate market-wide trading halts in response to their rules or extraordinary market conditions or if otherwise directed by the SEC. FINRA believes that such generalized authority is appropriate and necessary to provide adequate flexibility to deal with extraordinary market conditions. FINRA also believes the proposed rule change will further the goal of coordinated SRO action to address potentially destabilizing market volatility, consistent with the circuit breaker trading halt authority of the exchanges.

FINRA has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change is the date of filing.

⁷ See, e.g., NYSE Rule 80B, NYSE Arca Equities Rule 7.12 and NASDAQ Exchange Rule 4121.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁸ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with the circuit breaker rules of other SROs and will further the goal of investor protection by providing a coordinated means to address potentially destabilizing market volatility.

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

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

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

Written comments were neither solicited nor received.

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁹ and paragraph (f)(3) of Rule 19b-4 thereunder,¹⁰ in that the proposed rule change is concerned solely with the administration of the self-regulatory organization. At any time within 60 days of the filing of the proposed rule change, the Commission may

⁸ 15 U.S.C. 78o-3(b)(6).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(3).

summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2008-048 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2008-048. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2008-048 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.¹¹

Florence Harmon

Acting Secretary

¹¹ 17 CFR 200.30-3(a)(12).