

OMB APPROVAL

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

File No. SR - 2008 - 057

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		
Pilot ☐	Extension of Time Period for Commission Action ☐	Date Expires 	☐ 19b-4(f)(1)	☐ 19b-4(f)(4)	
			☐ 19b-4(f)(2)	☐ 19b-4(f)(5)	
			☐ 19b-4(f)(3)	☒ 19b-4(f)(6)	

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 update rule cross-references and make other various non-substantive technical changes to FINRA rules that have been adopted in the consolidated FINRA rulebook but not yet implemented.

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

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Exhibit Sent As Paper Document

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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 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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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 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 to update rule cross-references and make other various non-substantive technical changes to FINRA rules that have been adopted in the consolidated FINRA rulebook but not yet implemented.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change has been approved by the General Counsel of FINRA pursuant to delegated authority. No other action by FINRA is necessary for the filing of the proposed rule change.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change on December 15, 2008.

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

(a) Purpose

¹ 15 U.S.C. 78s(b)(1).

FINRA is in process of developing a new consolidated rulebook (“Consolidated FINRA Rulebook”).² That process involves FINRA submitting to the Commission for approval a series of proposed rule changes over time to adopt rules in the Consolidated FINRA Rulebook. The phased adoption and implementation of those rules necessitates periodic amendments to update rule cross-references and other non-substantive technical changes in the Consolidated FINRA Rulebook. The proposed rule change would effectuate those amendments in certain rules that have been approved by the Commission but not yet implemented in the Consolidated FINRA Rulebook.

During the months of August and September 2008, the Commission approved nine FINRA proposed rule changes (“Phase 1 Rules”).³ Those rules will be implemented

² The current FINRA rulebook includes, in addition to FINRA Rules, (1) NASD Rules and (2) rules incorporated from NYSE (“Incorporated NYSE Rules”) (together, the NASD Rules and Incorporated NYSE Rules are referred to as the “Transitional Rulebook”). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (“Dual Members”). For more information about the rulebook consolidation process, see FINRA Information Notice, March 12, 2008 (Rulebook Consolidation Process).

³ See Securities Exchange Act Release No. 58421 (August 25, 2008), 73 FR 51032 (August 29, 2008) (Order Approving File No. SR-FINRA-2008-025); Securities Exchange Act Release No. 58461 (September 4, 2008), 73 FR 52710 (September 10, 2008) (Order Approving File No. SR-FINRA-2008-033); Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (Order Approving File No. SR-FINRA-2008-039); Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (Order Approving File Nos. SR-FINRA-2008-021; SR-FINRA-2008-022; SR-FINRA-2008-026; SR-FINRA-2008-028 and SR-FINRA-2008-029); Securities Exchange Act Release No. 58660 (September 26, 2008), 73 FR 57393 (October 2, 2008) (Order Approving File No. SR-FINRA-2008-027); Securities Exchange Act Release No. 58661 (September 26, 2008), 73 FR 57395 (October 2, 2008) (Order Approving File No. SR-FINRA-2008-030).

on December 15, 2008.⁴ The proposed rule change generally would make several types of changes to those approved rules. First, it would update rule cross-references. For example, references to NASD rules would be changed to reference the new corresponding FINRA rules. In addition, the proposed rule change would update FINRA Rule 7410(g) to reference New York Stock Exchange Rule 132B, rather than Rule 80A, pursuant to a previously approved New York Stock Exchange rule filing.⁵

Second, the proposed rule change would adopt into the Consolidated FINRA Rulebook without material change new NASD rules that were approved after the Phase 1 Rules were submitted to the Commission: NASD Rules 12905 and 13905.⁶ It would also update the Consolidated FINRA Rulebook to account for amendments to NASD and Incorporated NYSE Rules that were approved after the Phase I Rules were submitted to the Commission. Those affected rules are FINRA Rules 6220, 6275, 6540, 6560 (since deleted), 6622, 6730 and 9217.⁷

⁴ See FINRA Regulatory Notice 08-57 (October 2008) (FINRA Announces SEC Approval and Effective Date for New Consolidated FINRA Rules).

⁵ See Securities Exchange Act Release No. 56726 (October 31, 2007), 72 FR 62719 (November 6, 2007) (Notice of Filing and Immediate Effectiveness of File No. SR-NYSE-2007-96).

⁶ See Securities Exchange Act Release No. 58739 (October 6, 2008), 73 FR 60738 (October 14, 2008) (Order Approving File No. SR-FINRA-2008-005).

⁷ See Securities Exchange Act Release No. 55351 (February 26, 2007), 72 FR 9810 (March 5, 2007) (Order Approving File No. SR-NASD-2005-146); Securities Exchange Act Release No. 58532 (September 12, 2008), 73 FR 54649 (September 22, 2008) (Order Approving File No. SR-NASD-2007-041); Securities Exchange Act Release No. 58331 (August 8, 2008), 73 FR 47990 (August 15, 2008) (Order Approving File No. SR-FINRA-2008-016); Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (Order Approving File No. SR-FINRA-2008-039); Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order

Third, the proposed rule change would delete a reference in FINRA Rule 5110 to “SEC Regulation B”, which previously was rescinded.⁸ In that same FINRA rule, the proposed rule change would add language that inadvertently was left out of the existing NASD rule when that NASD rule was adopted without material change into the Consolidated FINRA Rulebook.⁹ The proposed rule change also would delete in FINRA Rule 6440 references to certain subparagraphs of SEA Rule 15c2-11 that no longer exist.

Fourth, the proposed rule change would replace references to the SEC’s Electronic Data Gathering and Retrieval (“EDGAR”) System with its new name, the Interactive Data Electronic Applications (“IDEA”) System. Finally, the proposed rule change would update FINRA Rules 4560 and 5110 to reflect a change in FINRA style convention when referencing SEC rules and regulations.

As noted in Item 2 of this filing, FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change on December 15, 2008, the date on which the previously approved rule changes will also be implemented.

Approving File No. SR-FINRA-2008-036); Securities Exchange Act Release No. 58520 (September 11, 2008), 73 FR 54193 (September 18, 2008) (Order Approving File No. SR-FINRA-2008-040).

⁸ See Securities Exchange Act Release No. 37262 (May 31, 1996), 61 FR 30397 (June 14, 1996) (File No. S7-6-96).

⁹ See Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (Order Approving File No. SR-FINRA-2008-039, which failed to include language adopted in SR-NASD-2001-046).

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁰ 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 the proposed rule change will provide greater clarity to members and the public regarding FINRA's rules.

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) of the Act¹¹ and paragraph (f)(6) of Rule 19b-4 thereunder,¹² in that the proposed rule change does not significantly affect the protection of investors or the public interest; does

¹⁰ 15 U.S.C. 78o-3(b)(6).

¹¹ 15 U.S.C. 78s(b)(3).

¹² 17 CFR 240.19b-4(f)(6).

not impose any significant burden on competition; and does not become operative for 30 days after filing.

FINRA requests that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule 19b-4(f)(6)(iii),¹³ so that FINRA can implement the proposed rule change on December 15, 2008, the date on which the previously approved rule changes will be implemented. In accordance with Rule 19b-4,¹⁴ FINRA submitted written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing.

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 5. Text of the proposed rule change.

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ 17 CFR 240.19b-4.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-057)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Update Rule Cross-References and Make Other Various Non-Substantive Technical Changes to FINRA Rules

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 constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to update rule cross-references and make other various non-substantive technical changes to FINRA rules that have been adopted in the consolidated FINRA rulebook but not yet implemented.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is available on FINRA's Web site at www.finra.org, at the principal office of FINRA and at the Commission's Public Reference Room.

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

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

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

1. Purpose

FINRA is in process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook").⁴ That process involves FINRA submitting to the Commission for approval a series of proposed rule changes over time to adopt rules in the Consolidated FINRA Rulebook. The phased adoption and implementation of those rules necessitates periodic amendments to update rule cross-references and other non-substantive technical changes in the Consolidated FINRA Rulebook. The proposed rule change would

⁴ The current FINRA rulebook includes, in addition to FINRA Rules, (1) NASD Rules and (2) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). For more information about the rulebook consolidation process, see FINRA Information Notice, March 12, 2008 (Rulebook Consolidation Process).

effectuate those amendments in certain rules that have been approved by the Commission but not yet implemented in the Consolidated FINRA Rulebook.

During the months of August and September 2008, the Commission approved nine FINRA proposed rule changes (“Phase 1 Rules”).⁵ Those rules will be implemented on December 15, 2008.⁶ The proposed rule change generally would make several types of changes to those approved rules. First, it would update rule cross-references. For example, references to NASD rules would be changed to reference the new corresponding FINRA rules. In addition, the proposed rule change would update FINRA Rule 7410(g) to reference New York Stock Exchange Rule 132B, rather than Rule 80A, pursuant to a previously approved New York Stock Exchange rule filing.⁷

Second, the proposed rule change would adopt into the Consolidated FINRA Rulebook without material change new NASD rules that were approved after the Phase 1

⁵ See Securities Exchange Act Release No. 58421 (August 25, 2008), 73 FR 51032 (August 29, 2008) (Order Approving File No. SR-FINRA-2008-025); Securities Exchange Act Release No. 58461 (September 4, 2008), 73 FR 52710 (September 10, 2008) (Order Approving File No. SR-FINRA- 2008-033); Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (Order Approving File No. SR-FINRA-2008-039); Securities Exchange Act Release No. 58643 (September 25, 2008), 73 FR 57174 (October 1, 2008) (Order Approving File Nos. SR-FINRA-2008-021; SR-FINRA-2008-022; SR-FINRA-2008-026; SR-FINRA-2008-028 and SR-FINRA-2008-029); Securities Exchange Act Release No. 58660 (September 26, 2008), 73 FR 57393 (October 2, 2008) (Order Approving File No. SR-FINRA-2008-027); Securities Exchange Act Release No. 58661 (September 26, 2008), 73 FR 57395 (October 2, 2008) (Order Approving File No. SR-FINRA-2008-030).

⁶ See FINRA Regulatory Notice 08-57 (October 2008) (FINRA Announces SEC Approval and Effective Date for New Consolidated FINRA Rules).

⁷ See Securities Exchange Act Release No. 56726 (October 31, 2007), 72 FR 62719 (November 6, 2007) (Notice of Filing and Immediate Effectiveness of File No. SR-NYSE-2007-96).

Rules were submitted to the Commission: NASD Rules 12905 and 13905.⁸ It would also update the Consolidated FINRA Rulebook to account for amendments to NASD and Incorporated NYSE Rules that were approved after the Phase I Rules were submitted to the Commission. Those affected rules are FINRA Rules 6220, 6275, 6540, 6560 (since deleted), 6622, 6730 and 9217.⁹

Third, the proposed rule change would delete a reference in FINRA Rule 5110 to “SEC Regulation B”, which previously was rescinded.¹⁰ In that same FINRA rule, the proposed rule change would add language that inadvertently was left out of the existing NASD rule when that NASD rule was adopted without material change into the Consolidated FINRA Rulebook.¹¹ The proposed rule change also would delete in FINRA Rule 6440 references to certain subparagraphs of SEA Rule 15c2-11 that no longer exist.

⁸ See Securities Exchange Act Release No. 58739 (October 6, 2008), 73 FR 60738 (October 14, 2008) (Order Approving File No. SR-FINRA-2008-005).

⁹ See Securities Exchange Act Release No. 55351 (February 26, 2007), 72 FR 9810 (March 5, 2007) (Order Approving File No. SR-NASD-2005-146); Securities Exchange Act Release No. 58532 (September 12, 2008), 73 FR 54649 (September 22, 2008) (Order Approving File No. SR-NASD-2007-041); Securities Exchange Act Release No. 58331 (August 8, 2008), 73 FR 47990 (August 15, 2008) (Order Approving File No. SR-FINRA-2008-016); Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (Order Approving File No. SR-FINRA-2008-039); Securities Exchange Act Release No. 58533 (September 12, 2008), 73 FR 54652 (September 22, 2008) (Order Approving File No. SR-FINRA-2008-036); Securities Exchange Act Release No. 58520 (September 11, 2008), 73 FR 54193 (September 18, 2008) (Order Approving File No. SR-FINRA-2008-040).

¹⁰ See Securities Exchange Act Release No. 37262 (May 31, 1996), 61 FR 30397 (June 14, 1996) (File No. S7-6-96).

¹¹ See Securities Exchange Act Release No. 58514 (September 11, 2008), 73 FR 54190 (September 18, 2008) (Order Approving File No. SR-FINRA-2008-039, which failed to include language adopted in SR-NASD-2001-046).

Fourth, the proposed rule change would replace references to the SEC's Electronic Data Gathering and Retrieval ("EDGAR") System with its new name, the Interactive Data Electronic Applications ("IDEA") System. Finally, the proposed rule change would update FINRA Rules 4560 and 5110 to reflect a change in FINRA style convention when referencing SEC rules and regulations.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change on December 15, 2008, the date on which the previously approved rule changes will also be implemented.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹² 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 the proposed rule change will provide greater clarity to members and the public regarding FINRA's rules.

¹² 15 U.S.C. 78o-3(b)(6).

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission may 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:

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

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-2008-057 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-2008-057. 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-2008-057 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.¹⁵

Florence Harmon

Acting Secretary

¹⁵ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Exhibit 5 shows the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

0100. GENERAL STANDARDS

* * * * *

0150. Application of Rules to Exempted Securities Except Municipal Securities

(a) through (b) No Change.

(c) Unless otherwise indicated within a particular Rule, the following FINRA and NASD [R]rules are applicable to transactions in, and business activities relating to, exempted securities, except municipal securities, conducted by members and associated persons: FINRA Rules 2010, 2020, 3220, 8110, 8120, 8210, 8310, 8311, 8312, 8320, 8330 and 9552; NASD Rules [2110, 2120,] 2210, IM-2210-1, IM-2210-2, IM-2210-3, 2250, 2270, 2310, IM-2310-2, IM-2310-3, 2320, 2330, IM-2330, 2340, 2430, 2450, 2510, 2520, 2521, 2522, IM-2522, 2770, 2780, 2820(g), 2910, 3010, 3020, 3030, 3040, 3050, [3060,] 3070, 3110, IM-3110, 3120, 3130, IM-3130, 3131, 3140, 3230, 3310, IM-3310, 3320, IM-3320, 3330[, 8110, 8120, 8210, 8310, IM-8310-1, IM-8310-2, 8320, 8330 and 9552].

* * * * *

3000. SUPERVISION AND RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS

3100. SUPERVISORY RESPONSIBILITIES

* * * * *

3130. Annual Certification of Compliance and Supervisory Processes

(a) through (c) No Change.

• • • **Supplementary Material:** -----

.01 through .04 No Change.

.05 Role of the Chief Compliance Officer — The periodic and content requirements for meetings between the chief executive officer(s) (or equivalent officer(s)) and the chief compliance officer(s), as well as the pertinent requirements of paragraphs 3 and 4 of the certification, are intended to indicate the unique and integral role of a chief compliance officer both in the discharge of certain compliance processes and reporting requirements that are the subject matter of the certification and in providing a reliable basis upon which the chief executive officer(s) can execute the certification. A chief compliance officer is a primary advisor to the member on its overall compliance scheme and the particularized rules, policies and procedures that the member adopts. This is because a chief compliance officer should have an expertise in the process of (1) gaining an understanding of the products, services or line functions that need to be the subject of written compliance policies and written supervisory procedures; (2) identifying the relevant rules, regulations, laws and standards of conduct pertaining to such products, services or line functions based on experience and/or consultation with those persons who have a technical expertise in such areas of the member's business; (3) developing, or advising other business persons charged with the obligation to develop, policies and procedures that are reasonably designed to achieve compliance with those relevant rules, regulations, laws and standards of conduct; (4) evidencing the supervision by the line managers who

are responsible for the execution of compliance policies; and (5) developing programs to test compliance with the member's policies and procedures.

It is the expertise in the process of compliance that makes a chief compliance officer an indispensable party to enable the chief executive officer(s) to reach the conclusions stated in the certification. Consequently, any certification made by a chief executive officer (or equivalent officer) under circumstances where a chief compliance officer has concluded, after consultation, that there is an inadequate basis for making such certification would be, without limitation, conduct inconsistent with the observance of the high standards of commercial honor and the just and equitable principles of trade — a violation of Rule [2110] 2010. Beyond the certification requirement, it is the intention of this Rule to foster regular and significant interaction between senior management and the chief compliance officer(s) regarding the member's comprehensive compliance program.

.06 through .10 No Change.

* * * * *

4000. FINANCIAL AND OPERATIONAL RULES

* * * * *

4500. BOOKS, RECORDS AND REPORTS

* * * * *

4560. Short-Interest Reporting

(a) No Change.

(b) For purposes of this Rule:

(1) "short" positions to be reported are those resulting from "short sales" as that term is defined in [SEA] Rule 200(a) of SEC Regulation SHO, with the exception of positions that meet the following requirements:

(A) No Change.

(B) any sale of a security (except a sale to a stabilizing bid complying with [SEA] Rule 104 of SEC Regulation M) effected with the approval of an exchange which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security;

(C) through (E) No Change.

(2) through (3) No Change.

* * * * *

5000. SECURITIES OFFERING AND TRADING STANDARDS AND PRACTICES

5100. SECURITIES OFFERINGS, UNDERWRITING AND COMPENSATION

5110. Corporate Financing Rule — Underwriting Terms and Arrangements

(a) Definitions

For purposes of this Rule, the following terms shall have the meanings stated below. The definitions in NASD Rule 2720 are incorporated herein by reference.

(1) through (6) No Change.

(7) Listed Securities

Securities meeting the listing standards to trade on the national securities exchanges identified in Securities Act Rule 146, markets registered with the SEC under Section 6 of the Exchange Act, and any offshore market that is a "designated offshore securities market" under [Securities Act] Rule 902(b) of SEC Regulation S.

(8) No Change.

(9) Fair Price

A derivative instrument or non-convertible or non-exchangeable debt security has been acquired or entered into at a fair price for purposes of [sub]paragraphs (b)(6)(A)(iv), (c)(3)(B)(vi) and (vii), and (e)(5) if the underwriters and related persons have priced the debt security or derivative instrument in good faith; on an arm's length, commercially reasonable basis; and in accordance with pricing methods and models and procedures used in the ordinary course of their business for pricing similar transactions. A derivative instrument or other security received for acting as a private placement agent for the issuer, for providing or arranging a loan, credit facility, merger, acquisition or any other service, including underwriting services, is not included within this "fair price" definition.

(10) No Change.

(b) Filing Requirements

(1) through (4) No Change.

(5) Documents to be Filed

(A) No Change.

(B) All documents that are filed with the SEC through the SEC's [Electronic Data Gathering and Retrieval] Interactive Data Electronic Applications ("IDEA") System shall be treated as filed with FINRA.

(6) Information Required to be Filed

(A) Any person filing documents with FINRA pursuant to subparagraph (4) above shall provide the following information with respect to the offering through FINRA's electronic filing system:

(i) through (iii) No Change.

(iv) a detailed explanation of any other arrangement entered into during the 180-day period immediately preceding the required filing date of the public offering, which arrangement provides for the receipt of any item of value or the transfer of any warrants, options, or other securities from the issuer to the underwriter and related persons, provided however:

a. information regarding debt securities and derivative instruments not considered an item of value under [sub]paragraphs (c)(3)(B)(vi) and (vii) is not required to be filed; and

b. information initially filed in connection with debt securities and derivative instruments acquired or entered into for "fair price" as defined in paragraph (a)(9),

but not excluded from items of value under [sub]paragraph (c)(3)(B)(vi) or (vii), may be limited to a brief description of the transaction (additional information may be required in the review process) and a representation by the member that a registered principal or senior manager on behalf of the member has determined that the transaction was or (if the pricing terms have not been set) will be entered into at a fair price as defined in paragraph (a)(9).

(v) through (vii) No Change.

(B) No Change.

(7) Offerings Exempt from Filing

Notwithstanding the provisions of subparagraph (1) above, documents and information related to the following public offerings need not be filed with FINRA for review, unless subject to the provisions of NASD Rule 2720.

However, it shall be deemed a violation of this Rule or NASD Rule 2810, for a member to participate in any way in such public offerings if the underwriting or other arrangements in connection with the offering are not in compliance with this Rule or NASD Rule 2810, as applicable:

(A) through (B) No Change.

(C) offerings of securities:

(i) registered with the SEC on registration statement Forms S-3 or F-3 pursuant to the standards for those Forms prior to

October 21, 1992 and offered pursuant to [Securities Act] Rule 415
of SEC Regulation C; or

(ii) No Change.

(D) through (G) No Change.

(8) Exempt Offerings

Notwithstanding the provisions of subparagraph (1) above, the following offerings are exempt from this Rule, NASD Rule 2720, and NASD Rule 2810. Documents and information relating to the following offerings need not be filed for review:

(A) securities exempt from registration with the SEC pursuant to the provisions of Sections 4(1), 4(2) or 4(6) of the Securities Act or pursuant to [Securities Act] Rule 504 of SEC Regulation D if the securities are "restricted securities" under Securities Act Rule 144(a)(3), [Securities Act] Rule 505 of SEC Regulation D, or [Securities Act] Rule 506 of SEC Regulation D;

(B) No Change.

(C) securities of "open-end" investment companies as defined in Section 5(a)(1) of the Investment Company Act and securities of any "closed-end" investment company as defined in Section 5(a)(2) of the Investment Company Act that:

(i) No Change.

(ii) offers its shares on a continuous basis pursuant to [Securities Act] Rule 415(a)(1)(xi) of SEC Regulation C;

(D) through (G) No Change.

(H) securities issued pursuant to a competitively bid underwriting arrangement meeting the requirements of the Public Utility Holding Company Act [of 1935, as amended];

(I) through (J) No Change.

(9) Offerings Required to be Filed

Documents and information relating to all other public offerings including, but not limited to, the following must be filed with FINRA for review:

(A) through (D) No Change.

(E) securities exempt from registration with the SEC pursuant to [Securities Act] Rule 504 of SEC Regulation D, unless the securities are "restricted securities" under Securities Act Rule 144(a)(3);

(F) No Change.

(G) securities offered pursuant to SEC Regulation A [under the Securities Act or SEC Regulation B under the Securities Act];

(H) through (J) No Change.

(c) through (d) No Change.

(e) Valuation of Non-Cash Compensation

For purposes of determining the value to be assigned to securities received as underwriting compensation, the following criteria and procedures shall be applied.

(1) through (3) No Change.

(4) Valuation Discount For Securities With a Longer Resale

Restriction

A lower value equal to 10% of the calculated value shall be deducted for each 180-day period that the securities or underlying securities are restricted from sale or other disposition beyond the 180-day period of the lock-up restriction required by paragraph (g)(1) below. The transfers permitted during the lock-up restriction by [sub]paragraphs (g)(2)(A)(iii) through (iv) are not available for such securities.

(5) No Change.

(f) No Change.

(g) Lock-Up Restriction on Securities

(1) Lock-Up Restriction

In any public equity offering, other than a public equity offering by an issuer that can meet the requirements in [sub]paragraph (b)(7)(C)(i) or (ii) any common or preferred stock, options, warrants, and other equity securities of the issuer, including debt securities convertible to or exchangeable for equity securities of the issuer, that are unregistered and acquired by an underwriter and related person during 180 days prior to the required filing date, or acquired after the required filing date of the registration statement and deemed to be underwriting compensation by FINRA, and securities excluded from underwriting compensation pursuant to paragraph (d)(5) above, shall not be sold during the offering, or sold, transferred, assigned, pledged, or hypothecated, or be the subject of any hedging, short sale, derivative, put, or call transaction that would result in

the effective economic disposition of the securities by any person for a period of 180 days immediately following the date of effectiveness or commencement of sales of the public offering, except as provided in paragraph (g)(2) below.

(2) Exceptions to Lock-Up Restriction

Notwithstanding paragraph (g)(1) above, the following shall not be prohibited:

(A) the transfer of any security:

(i) through (iv) No Change.

(v) that is not an item of value under [sub]paragraphs

(c)(3)(B)(iii) through (vii) above;

(vi) through (viii) No Change.

(B) No Change.

(h) Proceeds Directed to a Member

(1) through (2) No Change.

(3) Exception From Compliance

The provisions of [sub]paragraphs (h)(1) and (2) shall not apply to:

(A) through (D) No Change.

(i) Non-Cash Compensation

(1) No Change.

(2) Restrictions on Non-Cash Compensation

In connection with the sale and distribution of a public offering of securities, no member or person associated with a member shall directly or indirectly accept or make payments or offers of payments of any non-cash

compensation, except as provided in this provision. Non-cash compensation arrangements are limited to the following:

(A) through (D) No Change.

(E) Contributions by a non-member company or other member to a non-cash compensation arrangement between a member and its associated persons, provided that the arrangement meets the criteria in paragraph (d)(2)(D).

A member shall maintain records of all non-cash compensation received by the member or its associated persons in arrangements permitted by [sub]paragraphs (d)(2)(C) through (E). The records shall include: the names of the offerors, non-members or other members making the non-cash compensation contributions; the names of the associated persons participating in the arrangements; the nature and value of non-cash compensation received; the location of training and education meetings; and any other information that proves compliance by the member and its associated persons with [sub]paragraphs (d)(2)(C) through (E).

(j) No Change.

* * * * *

5190. Notification Requirements for Offering Participants

(a) through (d) No Change.

**(e) Notice of Penalty Bids and Syndicate Covering Transactions in OTC
Equity Securities**

A member imposing a penalty bid or engaging in a syndicate covering transaction in connection with an offering of an OTC Equity Security, as defined in [NASD] Rule 6420 [6610], pursuant to Rule 104 of SEC Regulation M shall, unless another member has assumed responsibility in writing for compliance with this paragraph (e), provide written notice to FINRA, in such form as specified by FINRA, of the following:

(1) through (2) No Change.

* * * * *

6000. QUOTATION AND TRANSACTION REPORTING FACILITIES

* * * * *

6200. ALTERNATIVE DISPLAY FACILITY

* * * * *

6220. Definitions

(a) Unless the context requires otherwise, the terms used in the Rule 6200 and Rule 7100 Series shall have the meanings below. Terms not specifically defined below shall have the meaning in the FINRA By-Laws and rules and Rule 600 of SEC Regulation NMS.

(1) through (15) No Change.

[(16) "Rule 100," "Rule 101," "Rule 103," and "Rule 104" mean the rules adopted by the SEC under Regulation M.]

[(17) "Stabilizing bid" means the terms "stabilizing" or to "stabilize" as defined in Rule 100 of SEC Regulation M.]

(18) through (19) renumbered as (16) through (17)

[(20) "Underwriting Activity Report" is a report provided by the Market Regulation Department of FINRA in connection with a distribution of securities subject to Rule 101 of SEC Regulation M pursuant to NASD Rule 2710(b)(11).]

(b) For purposes of Rule[s] 6275 [and 6279], the following terms shall have the meanings as defined in Rule 100 of SEC Regulation M: "affiliated purchaser," "covered security," "distribution," "distribution participant," ["independent bid," "net purchases," "passive market maker," "penalty bid," "reference security,"] "restricted period," and "selling security holder," ["subject security," and "syndicate covering transaction."]

* * * * *

6270. Quoting and Trading in ADF-Eligible Securities

* * * * *

6275. Withdrawal of Quotations

(a) through (e) No Change.

(f) Excused withdrawal status may be granted by ADF Operations to a Registered Reporting ADF Market Maker that is a distribution participant, [or an] affiliated purchaser, selling security holder or issuer [in order to comply with] of a distribution of a security that is a covered security subject to a restricted period under Rule 101 or 102 of SEC Regulation M on the following conditions:

(1) [A member acting as a manager (or in a similar capacity) of a distribution of a security that is a subject security or reference security under Rule 101 of SEC Regulation M and any member that is a distribution participant or an affiliated purchaser in such a distribution that does not have a manager] Such

Registered Reporting ADF Market Maker shall, unless another member has assumed responsibility in writing for compliance with this Rule, provide a written [notice] request to FINRA, in such form as specified by FINRA, to withdraw the Registered Reporting ADF Market Maker's quotations, [ADF Operations and the Market Regulation Department of FINRA] no later than the business day prior to the first [entire] complete trading session of the one-day or five-day restricted period under Rule 101 or 102 of SEC Regulation M, unless later notification is necessary under the specific circumstances.

[(A) The notice required by paragraph (f)(1) of this Rule shall be provided by submitting a written request on behalf of each market maker that is a distribution participant or an affiliated purchaser to withdraw the market maker's quotations.]

[(B) The managing underwriter shall advise each Registered Reporting ADF Market Maker that it has been identified as a distribution participant or an affiliated purchaser to ADF Operations and that its quotations will be automatically withdrawn, unless a market maker that is a distribution participant (or an affiliated purchaser of a distribution participant) notifies ADF Operations as required by paragraph (f)(2), below.]

[(2) A Registered Reporting ADF Market Maker that has been identified to ADF Operations as a distribution participant (or an affiliated purchaser of a distribution participant) shall promptly notify ADF Operations and the manager of

its intention not to participate in the prospective distribution in order to avoid having its quotations withdrawn.]

[(3)] (2) [A member acting as a manager (or in a similar capacity) of a distribution subject to paragraph (f)(1) of this Rule] Such Registered Reporting ADF Market Maker shall submit a written request to [ADF Operations and the Market Regulation Department of] FINRA, in such form as specified by FINRA, to rescind the Registered Reporting ADF Market Maker's excused withdrawal status [of distribution participants and affiliated purchasers], which request shall include the date and time of the pricing of the offering[,] and the offering price, [and the time the offering terminated, and, if not in writing, shall be confirmed in writing] no later than the close of business the [day the offering terminates] next business day following the pricing of the distribution. [The request referenced in this subparagraph may be submitted on the Underwriting Activity Report or by other written means.]

(g) No Change.

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6280. Transaction Reporting

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6282. Transactions Reported by Members to TRACS

(a) When and How Transactions are Reported to TRACS

(1) Transaction Reporting to TRACS During Normal Market Hours

Members shall, within 90 seconds after execution, transmit to TRACS, or if TRACS is unavailable due to system or transmission failure, by telephone, facsimile or e-

mail to ADF Operations, last sale reports of transactions in ADF-eligible securities executed between 9:30 a.m. and 4:00 p.m. Eastern Time otherwise than on an exchange. Transactions not reported within 90 seconds after execution shall be designated as late. A pattern or practice of late reporting without exceptional circumstances shall be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade in violation of [NASD] Rule 2010 [2110].

(2) through (5) No Change.

(b) through (j) No Change.

6300. TRADE REPORTING FACILITIES

6300A. FINRA/NASDAQ TRADE REPORTING FACILITY

* * * * *

6380A. Transaction Reporting

(a) When and How Transactions are Reported

(1) through (3) No Change.

(4) Transactions not reported within 90 seconds after execution shall be designated as late. A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade in violation of [NASD] Rule 2010 [2110].

(5) through (8) No Change.

(b) through (h) No Change.

6300B. FINRA/NSX TRADE REPORTING FACILITY

* * * * *

6380B. Transaction Reporting

(a) When and How Transactions are Reported

(1) through (3) No Change.

(4) Transactions not reported within 90 seconds after execution shall be designated as late. A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade in violation of [NASD] Rule 2010 [2110].

(5) through (8) No Change.

(b) through (h) No Change.

6300C. FINRA/NYSE TRADE REPORTING FACILITY

* * * * *

6380C. Transaction Reporting

(a) When and How Transactions are Reported

(1) through (3) No Change.

(4) Transactions not reported within 90 seconds after execution shall be designated as late. A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade in violation of [NASD] Rule 2010 [2110].

(5) through (8) No Change.

(b) through (h) No Change.

6400. QUOTING AND TRADING IN OTC EQUITY SECURITIES

* * * * *

6440. Submission of SEA Rule 15c2-11 Information on Non-Exchange-Listed Securities

(a) No Change.

(b) The information to be filed shall contain one copy of all information required to be maintained under SEA Rule 15c2-11(a)(1), (2), (3)[(iii)], (4)[(ii)], or (5), including any information that may be required by future amendments thereto. Members are not required to file with FINRA copies of any information that is available through the SEC's [Electronic Data Gathering, Analysis, and Retrieval ("EDGAR")] Interactive Data Electronic Applications ("IDEA") system; provided, however, that the filing with FINRA shall contain identifying information for each issuer report or statement available through [EDGAR] IDEA that was relied upon in satisfying the member's obligations under this Rule and SEA Rule 15c2-11(a), including the type of report, report date and any other information as may be requested by FINRA. In addition, this filing shall identify the issuer, the issuer's predecessor in the event of a merger or reorganization within the previous 12 months, the type of non-exchange-listed security to be quoted (e.g., ADR, warrant, unit, or common stock), the quotation medium to be used, the member's initial or resumed quotation, and the particular subsection of SEA Rule 15c2-11 with which the member is demonstrating compliance. Additionally, if a member is initiating or resuming quotation of a non-exchange-listed security with a priced entry, the member's filing must specify the basis upon which that priced entry was determined and the factors considered in making that determination.

* * * * *

6460. Trading and Quotation Halt in OTC Equity Securities

(a) through (b) No Change.

(c) Violation of OTC Trading and Quotation Halt Rule

If a security is subject to a trading and quotation halt initiated pursuant to this Rule, it shall be deemed conduct inconsistent with just and equitable principles of trade and a violation of [NASD] Rule 2010 [2110] for a member:

(1) through (2) No Change.

* * * * *

6500. OTC BULLETIN BOARD® SERVICE

* * * * *

6540. Requirements Applicable to Market Makers

(a) through (c) No Change.

(d) OTCBB-eligible securities that meet the frequency-of-quotation requirement for the so called "piggyback" exception in SEA Rule 15c2-11(f)(3)(i) are identified in the Service as "active" securities. A member can commence market making in any active security by registering as a market maker through the service designated by FINRA that permits OTCBB quotations. In all other instances, a member must follow the procedure contained in this Rule to become qualified as a market maker in a particular OTCBB-eligible security.¹

(1) Permissible Quotation Entries

(A) though (C) No Change.

[(D) Any member that intends to be a distribution participant in a distribution of securities subject to Rule 101 of SEC Regulation M, or is an affiliated purchaser in such distribution, and is entering quotations in an OTCBB-eligible security that is the subject security or reference security of such distribution shall, unless another member has assumed responsibility for compliance with this paragraph:]

[(i) provide written notice to Operations Department prior to the pricing of the distribution that includes the intended date and time of the pricing of the offering;]

[(ii) withdraw all quotations in the OTCBB-eligible security to comply with the applicable restricted period under Rule 101 of SEC Regulation M and not enter a stabilizing bid pursuant to Rule 104 of SEC Regulation M in the OTCBB;]

[(iii) provide written notice to the Corporate Financing Department of FINRA of its intention to impose a penalty bid or to conduct syndicate covering transactions pursuant to Rule 104 of SEC Regulation M prior to imposing the penalty bid or engaging in the first syndicate covering transaction. Such notice shall include information as to the date the penalty bid or first syndicate covering transaction will occur; and]

[(iv) provide written notice to the Market Regulation Department by the close of business on the day the offering

terminates that includes the date and time of the pricing of the offering, the offering price, and the time the offering terminated.]

[(E) The written notice required by paragraphs (d)(1)(D)(i), (iii) and (iv) of this Rule may be submitted on the Underwriting Activity Report provided by the Market Regulation Department.]

[(F) For purposes of paragraph (d)(1)(D), Rules 100, 101, 103 and 104 are rules of the SEC adopted under Regulation M and the following terms shall have the meanings as defined in Rule 100 of SEC Regulation M: "affiliated purchaser," "distribution," "distribution participant," "penalty bid," "reference security," "restricted period," "stabilizing," "subject security," and "syndicate covering transaction."]

(2) Impermissible Quotation Entries

(A) No Change.

(B) No member or person associated with a member shall enter into the Service a priced bid and/or offer, an unpriced indication of interest (including "bid wanted" or "offer wanted" indications), or a bid or offer accompanied by a modifier to reflect unsolicited customer interest in any security of an issuer that does not make filings with the SEC through the [Electronic Data Gathering, Analysis, and Retrieval ("EDGAR")] Interactive Data Electronic Applications ("IDEA") system (or in paper format, if specifically permitted by SEC rules) unless the member:

(i) through (ii) No Change.

(3) through (5) No Change.

(e) Compliance with Market Maker Requirements

Failure of a member or a person associated with a member to comply with this Rule may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule 2010 [2110].

¹ No Change to footnote text.

* * * * *

[6560. Limit Order Protection]

[(a) Members shall be prohibited from "trading ahead" of customer limit orders that a member accepts in securities quoted on the OTCBB. Members handling customer limit orders, whether received from their own customers or from another member, are prohibited from trading at prices equal or superior to that of the customer limit order without executing the limit order. Members are under no obligation to accept limit orders from any customer.]

[(b) Members may avoid the obligation specified in paragraph (a) through the provision of price improvement. If a customer limit order is priced at or inside the current inside spread, however, the price improvement must be for a minimum of the lesser of \$0.01 or one-half (1/2) of the current inside spread. For purposes of this Rule, the inside spread shall be defined as the difference between the best reasonably available bid and offer in the subject security.]

[(c) Notwithstanding paragraph (a) of this Rule, a member may negotiate specific terms and conditions applicable to the acceptance of limit orders only with respect to such orders that are:]

[(1) for customer accounts that meet the definition of an "institutional account" as that term is defined in NASD Rule 3110(c)(4); or]

[(2) for 10,000 shares or more, and greater than \$20,000 in value.]

[(d) Contemporaneous trades]

[A member that trades through a held limit order must execute such limit order contemporaneously, or as soon as practicable, but in no case later than five minutes after the member has traded at a price more favorable than the customer's price.]

[(e) Application]

[(1) This Rule shall apply, regardless of whether the subject security is additionally quoted in a separate quotation medium.]

[(2) This Rule shall apply from 9:30 a.m. to 4:00 p.m. Eastern Time.]

6600. OTC REPORTING FACILITY

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6620. Reporting Transactions in OTC Equity Securities

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6622. 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/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.

Eastern Time in the same manner as described in subparagraph

(3)(C)(ii) above.]

(4) No Change.

(5) A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule 2010 [2110].

(6) through (9) No Change.

(b) through (g) No Change.

^[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 subparagraph (3)(C)(ii).]

6623. Timely Transaction Reporting

FINRA emphasizes the obligations of members to report securities transactions within 90 seconds after execution. All reportable transactions not reported within 90 seconds after execution shall be reported as late, and FINRA routinely monitors members' compliance with the 90-second requirement. If FINRA finds a pattern or practice of unexcused late reporting, that is, repeated reports of executions after 90 seconds without reasonable justification or exceptional circumstances, the member may

be found to be in violation of [NASD] Rule 2010 [2110]. Exceptional circumstances will be determined on a case-by-case basis and may include instances of system failure by a member or service bureau, or unusual market conditions, such as extreme volatility in a security, or in the market as a whole. Timely reporting of all transactions is necessary and appropriate for the fair and orderly operation of the marketplace, and FINRA will view noncompliance as a rule violation.

* * * * *

6630. Reporting Transactions in PORTAL® Securities

* * * * *

6635. FINRA Rules

(a) The following are specifically applicable to transactions and business activities relating to PORTAL securities:

(1) NASD Rules [0113, 0114, 0115, 2110, 2120,] 2230, 2240, 2250, 2260, 2270, 2310, 2440, 3370, and FINRA Rules 0130, 0140, 2010, 2020, 8210;

(2) through (3) No Change.

(b) No Change.

(c) The following are applicable to members and persons associated with members regardless of whether the member participates in transactions in PORTAL securities:

(1) NASD Rule[s 0111, 0112,] 0120, [and] 0121 and FINRA Rules 0110, 1020, 0160.

(2) NASD Rules 2210, 3020, 3030, 3040, 3050, [3060,] 3130, 3140, [and] 3340 and FINRA Rule 3220.

(d) The following are not applicable to transactions and business activities relating to PORTAL securities:

(1) NASD Rules [1130,] 2450, 2520, [2710,] 2730, 2740, 2750, [2790,] 2810, 2820, 2830, 2860, 3210, and [3360] FINRA Rules 4560, 5110, 5130.

6640. Reporting Transactions in Direct Participation Program Securities

* * * * *

6643. Transaction Reporting ***

(a) When and How Transactions are Reported

(1) through (2) No Change.

(3) A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule 2010 [2110].

(b) through (e) No Change.

6700. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)

* * * * *

6730. Transaction Reporting

(a) through (b) No Change.

(c) Transaction Information To Be Reported

Each TRACE trade report shall contain the following information:

(1) through (10) No Change.

(11) Stated commission; and

(12) Such trade modifiers as required by either the TRACE rules or the TRACE users guide, [; and]

[(13) The lower of yield to call or yield to maturity. A member is not required to report yield when the TRACE-eligible security is a security that is in default; a security for which the interest rate is floating; a security for which the interest rate will be or may be increased (e.g., certain "step-up bonds") or decreased (e.g., certain "step-down bonds") and the amount of increase or decrease is an unknown variable; a pay-in-kind security ("PIK"); any other security where the principal or interest to be paid is an unknown variable or is an amount that is not currently ascertainable, or any other security that FINRA designates if FINRA determines that reporting yield would provide inaccurate or misleading information concerning the price of, or trading in, the security.]

(d) through (e) No Change.

(f) Compliance With Reporting Obligations

A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule [2110]2010.

**7000. CLEARING, TRANSACTION AND ORDER DATA REQUIREMENTS,
AND FACILITY CHARGES**

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7200. TRADE REPORTING FACILITIES

7200A. FINRA/NASDAQ TRADE REPORTING FACILITY

* * * * *

7270A. Violation of Reporting Rules

Failure of a Participant or person associated with a Participant to comply with any of the rules or requirements of the System may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule 2010 [2110].

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7200B. FINRA/NSX TRADE REPORTING FACILITY

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7270B. Violation of Reporting Rules

Failure of a Participant or person associated with a Participant to comply with any of the rules or requirements of the System may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule 2010 [2110].

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7200C. FINRA/NYSE TRADE REPORTING FACILITY

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7270C. Violation of Reporting Rules

Failure of a Participant or person associated with a Participant to comply with any of the rules or requirements of the System may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule 2010 [2110].

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7300. OTC REPORTING FACILITY

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7370. Violation of Reporting Rules

Failure of a Participant or person associated with a Participant to comply with any of the rules or requirements of the System may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule 2010 [2110].

7400. ORDER AUDIT TRAIL SYSTEM

7410. Definitions

For purposes of the Rule 7400 Series:

(a) through (f) No Change.

(g) "Index Arbitrage Trade" shall mean an arbitrage trading strategy involving the purchase or sale of a "basket" or group of securities in conjunction with the purchase or sale, or intended purchase or sale, of one or more cash-settled options or futures contracts on index stock groups, or options on any such futures contracts in an attempt to profit by the price difference, as further defined in New York Stock Exchange Rule [80A]132B.

(h) through (o) No Change.

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7460. Violation of Order Audit Trail System

Failure of a member or person associated with a member to comply with any of the requirements of Rule 7410 through Rule 7460 may be considered conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of [NASD] Rule 2010 [2110].

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9000. CODE OF PROCEDURE

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9200. DISCIPLINARY PROCEEDINGS

9210. Complaint and Answer

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**9217. Violations Appropriate for Disposition Under Plan Pursuant to SEA Rule
19d-1(c)(2)**

Any member of FINRA that is also a member of the New York Stock Exchange LLC ("NYSE") ("Dual Member") (including any persons affiliated with such member) may be subject to a fine under Rule 9216(b) with respect to any rule or By-Law provision listed in this Rule that applies to such member or person. However, any Dual Member that was not also a member of NASD as of July 30, 2007 and that does not engage in any activities that otherwise would require it to be a FINRA member (and its affiliated persons that are not otherwise subject to NASD rules) shall only be subject to a fine under Rule 9216(b) with respect to the following rules or By-Law provisions listed in this Rule: any FINRA By-Law or Schedule to the By-Laws, FINRA rule, SEA rule, or NYSE rule.

Any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under Rule 9216(b) with respect to any rule or By-Laws provision listed in this Rule, with the exception of the NYSE rules.

- Article IV of the FINRA By-Laws — Failure to timely submit amendments to Form BD.
- Article V of the FINRA By-Laws — Failure to timely submit amendments to Form U4.
- Article V of the FINRA By-Laws — Failure to timely submit amendments to Form U5.
- Rule 4560 — Failure to timely file reports of short positions on Form NS-1.
- Rules 6282, 6380A, 6550, 6622, 6730, 7130, 7160, 7230A, and 7260A — Transaction reporting in equity and debt securities.
- Rules 7440 and 7450 — Failure to submit data in accordance with the Order Audit Trail System ("OATS").
- Rules 8211 and 8213 — Failure to submit trading data as requested.
- NASD Rule 1120 — Failure to comply with the Firm Element of the continuing education requirements.
- NASD Rules 2210, 2211, and 2220, and IM-2210-1, -2210-2, -2210-3, -2210-4, -2210-5, -2210-7, and -2210-8 — Communications with the public.
- NASD Rule 2860(b)(3) and (b)(4) — Failure to comply with options position and exercise limits.
- NASD Rule 2860(b)(23) — Failure to comply with contrary exercise advice procedures.
- NASD Rule 3010(b) — Failure to timely file reports pursuant to the Taping Rule.
- NASD Rule 3070 — Failure to timely file reports.

- NASD Rule 3110 — Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with NASD rules.
- [NASD Rule 3360 — Failure to timely file reports of short positions on Form NS-1]
- NASD Rule 11870 — Failure to abide by Customer Account Transfer Contracts.
- Failure to provide or update contact information as required by FINRA or NASD rules.
- SEA Rule 17a-5 — Failure to timely file FOCUS reports and annual audit reports.
- SEA Rule 17a-10 — Failure to timely file Schedule I.
- Rule 602(b)(5) of SEC Regulation NMS — Failure to properly update published quotations in certain Electronic Communication Networks ("ECNs").
- Rule 604 of SEC Regulation NMS — Failure to properly display limit orders.
- MSRB Rule A-14 — Failure to timely pay annual fee.
- MSRB Rule G-12 — Failure to abide by uniform practice rules.
- MSRB Rule G-14 — Failure to submit reports.
- MSRB Rule G-36 — Failure to timely submit reports.
- MSRB Rule G-37 — Failure to timely submit reports for political contributions.
- MSRB Rule G-38 — Failure to timely submit reports detailing consultant activities.
- NYSE Rule 134(c) and (e) — Failure to comply with specified QT procedures and time periods.

- NYSE Rules 312(a), (b) & (c), 313, 345.12, 345.17, 346(c), 351, 421, and 440F & G — Reporting rule violations.

- NYSE Rules 312(h) & (i), 342(c), 342.10, 346(e) and (f), 382(a), and 791(c) — Failure to obtain approval rule violations.

- NYSE Rules 342(b), (d) & 342.13, 311(b)(5), and 344 — Failure of a member organization to have individuals responsible and qualified for the positions of Financial Principal, Operations Principal, Compliance Official, Branch Office Manager and Supervisory Analyst.

- NYSE Rule 343 — Requirements relating to member organization office sharing arrangements.

- NYSE Rule 345(a) — Failure of a member organization to have individuals responsible and qualified for the positions of Securities Lending Supervisor and Securities Trader Supervisor.

- NYSE Rules 345.11, 410, 432(a), 440, 440I, and 472(c) — Record retention rule violations.

- NYSE Rule 346(b) — Failure to obtain employer's prior written consent for engaging in an outside activity.

- NYSE Rule 352(b) and (c) — Guaranteeing a customer's account against loss or sharing in profits or losses.

- NYSE Rule 387 — Requirements for customer COD/POD transactions.

- [• NYSE Rule 392 — Notification requirements.]

- NYSE Rule 401A — Failure to acknowledge customer complaint within 15 business days.

- NYSE Rule 407 — Requirements for transactions of employees of the Exchange, members or member organizations.

- NYSE Rule 407A — Reporting and notification requirements for members.

- NYSE Rule 408(a) — Requirement that written authorization be obtained for discretionary power in a customer's account.

- NYSE Rule 411(b) — Requirements to bundle multiple odd-lot orders in the same stock, which aggregate to 100 shares or more, to aggregate the orders into round-lot orders.

[• NYSE Rule 412 and the interpretations thereunder — Failure to transfer a customer securities account in accordance with requirements.]

- NYSE Rule 416A — Failure to promptly provide or promptly update required membership profile information through the Electronic Filing Platform ("EFP"), or failure to electronically certify that required membership profile information is complete and accurate.

- NYSE Rule 445(4) — Failure to designate and identify an Anti-Money Laundering contact person or persons.

- NYSE Rules 704 and 705 — Options position limits and exercise limits.

- NYSE Rules 720 and 722(b) — Failure of a member organization to have individuals responsible and qualified for the positions of Registered Options Principal, Senior Registered Options Principal and Compliance Registered Options Principal.

- NYSE Rule 726 — Options disclosure document and prospectus delivery requirement violations

- NYSE Rule 780(b)(i) — Requirement for members and member organizations to indicate final decisions of holders of equity options either to exercise or not to exercise expiring equity options by a specific time.

- NYSE Rule 780(f) — Requirement for members and member organizations to make, keep and file with the Exchange records concerning final exercise decisions made with respect to options in certain circumstances.

- NYSE Rule 780.10(b) — Requirement to deliver "exercise advice".

- NYSE Rule 781 — Allocation of exercise assignment notice violations.

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9600. PROCEDURES FOR EXEMPTIONS

9610. Application

(a) Where to File

A member seeking exemptive relief as permitted under NASD Rules 1021, 1050, 1070, 2210, 2315, 2320, 2340, 2520, [2710,] 2720, [2790,] 2810, 2850, 2851, 2860, Interpretive Material 2860-1, 3010(b)(2), 3020, 3150, 3210, 3230, 11870, 11900, or Rules 5110, 5130, 6183, 7470, 8211, or 8213, or Municipal Securities Rulemaking Board Rule G-37 shall file a written application with the appropriate department or staff of FINRA and provide a copy of the application to the Office of General Counsel of FINRA.

(b) through (c) No Change.

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9800. TEMPORARY CEASE AND DESIST ORDERS

9810. Initiation of Proceeding

(a) Department of Enforcement or Department of Market Regulation

With the prior written authorization of FINRA's Chief Executive Officer or such other senior officers as the Chief Executive Officer may designate, the Department of Enforcement or the Department of Market Regulation may initiate a temporary cease and desist proceeding with respect to alleged violations of Section 10(b) of the Exchange Act and SEA Rule 10b-5 thereunder; SEA Rules 15g-1 through 15g-9; [NASD] FINRA Rule 2020 [2110] (if the alleged violation is unauthorized trading, or misuse or conversion of customer assets, or based on violations of Section 17(a) of the Securities Act of 1933); [NASD] FINRA Rule 2020 [2120]; or NASD Rule 2330 (if the alleged violation is misuse or conversion of customer assets). The Department of Enforcement or the Department of Market Regulation shall initiate the proceeding by serving a notice on a member or associated person (hereinafter "Respondent") and filing a copy thereof with the Office of Hearing Officers. The Department of Enforcement or the Department of Market Regulation shall serve the notice by personal service, overnight commercial courier, or facsimile. If service is made by facsimile, the Department of Enforcement or the Department of Market Regulation shall send an additional copy of the notice by overnight commercial courier. The notice shall be effective upon service.

(b) through (c) No Change.

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10000. CODE OF ARBITRATION PROCEDURE

10100. ADMINISTRATIVE PROVISIONS

IM-10100. Failure to Act Under Provisions of Code of Arbitration Procedure

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of [NASD] Rule 2010 [2110] for a member or a person associated with a member to:

(a) through (e) No change.

All awards shall be honored by a cash payment to the prevailing party of the exact dollar amount stated in the award. Awards may not be honored by crediting the prevailing party's account with the dollar amount of the award, unless authorized by the express terms of the award or consented to in writing by the parties. Awards shall be honored upon receipt thereof, or within such other time period as may be prescribed by the award.

Action by members requiring associated persons to waive the arbitration of disputes contrary to the provisions of the Code of Arbitration Procedure shall constitute conduct that is inconsistent with just and equitable principles of trade and a violation of [NASD] Rule 2010 [2110].

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12000. CODE OF ARBITRATION PROCEDURE FOR CUSTOMER DISPUTES

IM-12000. Failure to Act Under Provisions of Code of Arbitration Procedure for Customer Disputes

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of [NASD] Rule 2010 [2110] for a member or a person associated with a member to:

(a) through (e) No Change.

All awards shall be honored by a cash payment to the prevailing party of the exact dollar amount stated in the award. Awards may not be honored by crediting the prevailing party's account with the dollar amount of the award, unless authorized by the express terms of the award or consented to in writing by the parties. Awards shall be honored upon receipt thereof, or within such other time period as may be prescribed by the award.

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2010 [2110] for a member to require associated persons to waive the arbitration of disputes contrary to the provisions of the Code of Arbitration Procedure.

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12905. Submissions After a Case Has Closed

(a) Parties may not submit documents to arbitrator(s) in cases that have been closed except under the following limited circumstances:

(1) as ordered by a court;

(2) at the request of any party within 10 days of service of an award or notice that a matter has been closed, for typographical or computational errors, or mistakes in the description of any person or property referred to in the award; or

(3) if all parties agree and submit documents within 10 days of (1) service of an award or (2) notice that a matter has been closed.

(b) Parties must make requests under this rule in writing to the Director and must include the basis relied on under this rule for the request. The Director will forward documents submitted pursuant to paragraph (a)(1), along with any responses from other parties, to the arbitrators. The Director will determine if submissions made pursuant to paragraphs (a)(2) and (a)(3) comply with the grounds enumerated in the rule. If the Director determines that the request complies with paragraphs (a)(2) and (a)(3), the Director will forward the documents, along with any responses from other parties, to the arbitrators. The arbitrators may decline to consider requests that the Director forwards to them under paragraphs (a)(2) and (a)(3).

(c) Unless the arbitrators rule within 10 days after the Director forwards the documents to the arbitrators pursuant to a request made under paragraphs (a)(2) and (a)(3), the request shall be deemed considered and denied.

(d) Requests under this rule do not extend the time period for payment of any award pursuant to Rule 12904.

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13000. CODE OF ARBITRATION PROCEDURE FOR INDUSTRY DISPUTES

IM-13000. Failure to Act Under Provisions of Code of Arbitration Procedure for Industry Disputes

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of [NASD] Rule 2010 [2110] for a member or a person associated with a member to:

(a) through (e) No Change.

All awards shall be honored by a cash payment to the prevailing party of the exact dollar amount stated in the award. Awards may not be honored by crediting the prevailing party's account with the dollar amount of the award, unless authorized by the express terms of the award or consented to in writing by the parties. Awards shall be honored upon receipt thereof, or within such other time period as may be prescribed by the award.

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2010 [2110] for a member to require associated persons to waive the arbitration of disputes contrary to the provisions of the Code of Arbitration Procedure.

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13905. Submissions After a Case Has Closed

(a) Parties may not submit documents to arbitrator(s) in cases that have been closed except under the following limited circumstances:

(1) as ordered by a court;

(2) at the request of any party within 10 days of service of an award or notice that a matter has been closed, for typographical or computational errors, or mistakes in the description of any person or property referred to in the award; or

(3) if all parties agree and submit documents within 10 days of (1) service of an award or (2) notice that a matter has been closed.

(b) Parties must make requests under this rule in writing to the Director and must include the basis relied on under this rule for the request. The Director will forward documents submitted pursuant to paragraph (a)(1), along with any responses from other parties, to the arbitrators. The Director will determine if submissions made pursuant to paragraphs (a)(2) and (a)(3) comply with the grounds enumerated in the rule. If the Director determines that the request complies with paragraphs (a)(2) and (a)(3), the Director will forward the documents, along with any responses from other parties, to the arbitrators. The arbitrators may decline to consider requests that the Director forwards to them under paragraphs (a)(2) and (a)(3).

(c) Unless the arbitrators rule within 10 days after the Director forwards the documents to the arbitrators pursuant to a request made under paragraphs (a)(2) and (a)(3), the request shall be deemed considered and denied.

(d) Requests under this rule do not extend the time period for payment of any award pursuant to Rule 13904.

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