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

File No. SR - 2010 - 021  
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)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pilot	Extension of Time Period for Commission Action	Date Expires <span style="border: 1px solid black; padding: 2px;"> </span>	Rule		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	<input type="checkbox"/>
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	<input type="checkbox"/>
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	<input type="checkbox"/>

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 Amend FINRA Rule 8210 to Require Encryption of Information Provided via Portable Media Device

**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	Stan	Last Name	Macel
Title	Assistant General Counsel		
E-mail	stan.macel@finra.org		
Telephone	(202) 728-8363	Fax	(202) 728-8264

**Signature**

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

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

Date	06/02/2010	Senior Vice President and Deputy General Counsel
By	Patrice Gliniecki (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.

Patrice Gliniecki,

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information**

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

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document



**Exhibit 3 - Form, Report, or Questionnaire**

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document



**Exhibit 4 - Marked Copies**

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

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of Proposed Rule Change**

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend FINRA Rule 8210 to require that information provided via portable media device pursuant to a request under the rule be encrypted, as described in more detail below.

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

\* \* \* \* \*

**8200. INVESTIGATIONS**

**8210. Provision of Information and Testimony and Inspection and Copying of Books**

(a) through (f) No Change.

**(g) Encryption of Information Provided in Electronic Form**

(1) Any member or person who, in response to a request pursuant to this Rule, provides the requested information on a portable media device must ensure that such information is encrypted.

(2) For purposes of this Rule, a “portable media device” is a storage device for electronic information, including but not limited to a flash drive, CD-ROM, DVD,

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

<sup>2</sup> FINRA has proposed changes to FINRA Rule 8210 in rule filing FINRA-SR-2009-060. See Securities Exchange Act Release No. 60836 (Oct. 16, 2009), 74 FR 54614 (Oct. 22, 2009). If approved, the amendments proposed in FINRA-SR-2009-060 will affect existing text in Rule 8210 paragraphs (a) through (f) and will have no effect on the rule text proposed herein.

portable hard drive, laptop computer, disc, diskette, or any other portable device for storing and transporting electronic information.

(3) For purposes of this Rule, “encrypted” means the transformation of data into a form in which meaning cannot be assigned without the use of a confidential process or key. To ensure that encrypted information is secure, a member or person providing encrypted information to FINRA staff pursuant to this Rule shall (a) use an encryption method that meets industry standards for strong encryption, and (b) provide the confidential process or key regarding the encryption to FINRA staff in a communication separate from the encrypted information itself.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

At its meeting on December 9, 2009, the FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

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

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

(a) Purpose

FINRA Rule 8210 (Provision of Information and Testimony and Inspection and Copying of Books) confers on FINRA staff the authority to compel a member, person associated with a member, or other person over whom FINRA has jurisdiction, to produce documents, provide testimony, or supply written responses or electronic data in connection with an investigation, complaint, examination or adjudicatory proceeding. The rule applies to all members, associated persons, and other persons over which FINRA has jurisdiction, including former associated persons subject to FINRA's jurisdiction as described in the FINRA By-Laws.<sup>3</sup> FINRA Rule 8210(c) provides that a member's or person's failure to provide information or testimony or to permit an inspection and copying of books, records, or accounts is a violation of the rule.

FINRA is proposing to amend FINRA Rule 8210 to require that information provided via a portable media device pursuant to a request under the rule be encrypted, as discussed further below. Requiring such information to be encrypted will help ensure that such information, which in many instances includes individuals' personal information, is protected from unauthorized or other improper use.<sup>4</sup>

Frequently, members and persons that respond to requests pursuant to FINRA Rule 8210 provide information in electronic format. Because of the size of the electronic

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<sup>3</sup> See FINRA By-Laws, Article V, Section 4(a) (Retention of Jurisdiction).

<sup>4</sup> FINRA has emphasized that its members have an obligation under existing laws to protect confidential customer records and information pursuant to the requirements of SEC Regulation S-P. See, e.g., Notice to Members 05-49 (Safeguarding Confidential Customer Information).

files, persons often provide information in electronic format using a portable media device such as a CD-ROM, DVD or portable hard drive.<sup>5</sup> In many instances, the response contains personal information that, if accessed by an unauthorized person, could be used inappropriately. For example, a response may include a person's first and last name, or first initial and last name, in combination with that person's: (1) social security number; (2) driver's license, passport or government-issued identification number; or (3) financial account number (including but not limited to number of a brokerage account, debit card, credit card, checking account, or savings account). If such personal information were to be intercepted by an unauthorized third party, it could be used improperly.

Data security issues regarding personal information have become increasingly important in recent years.<sup>6</sup> In this regard, FINRA believes that requiring persons to encrypt information on portable media devices provided to FINRA in response to FINRA Rule 8210 requests will help ensure that personal information is protected from improper use by unauthorized third parties.

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<sup>5</sup> The proposed rule change defines "portable media device" as a storage device for electronic information, including but not limited to a flash drive, CD-ROM, DVD, portable hard drive, laptop computer, disc, diskette, or any other portable device for storing and transporting electronic information.

<sup>6</sup> For example, some jurisdictions, including Massachusetts and Nevada, have recently enacted legislation that establishes minimum standards to safeguard personal information in electronic records. See, e.g., Commonwealth of Massachusetts, 201 CMR 17.00 (Standards for the Protection of Personal Information of Residents of the Commonwealth), effective March 1, 2010; State of Nevada, NRS 603A.215 (Security Measures for Data Collector that Accepts Payment Card; Use of Encryption; Liability for Damages; Applicability), effective January 1, 2010. These laws contain potential penalties against persons and entities for failures to adequately safeguard electronic information containing personal information.

The proposed rule change would require that responding information from a portable media device must be “encrypted”, i.e., the data must be encoded into a form in which meaning cannot be assigned without the use of a confidential process or key. To help ensure that encrypted information is secure, persons providing encrypted information to FINRA via a portable media device would be required: (1) to use an encryption method that meets industry standards for strong encryption; and (2) to provide FINRA staff with the confidential process or key regarding the encryption in a communication separate from the encrypted information itself (e.g., a separate e-mail, fax or letter).

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

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>7</sup> 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 will help ensure that personal information provided in response to a request under FINRA Rule 8210 via a portable media device is protected from improper use by unauthorized third parties. Thus, FINRA

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<sup>7</sup>

15 U.S.C. 78o-3(b)(6).

believes the proposed rule change will help protect investors consistent with the statutory provisions noted above.

**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**

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.<sup>8</sup>

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

Not applicable.

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

Not applicable.

**9. Exhibits**

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

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<sup>8</sup>

15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-FINRA-2010-021)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Amend FINRA Rule 8210 to Require Information Provided via Portable Media Device be Encrypted

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on , Financial Industry Regulatory Authority, Inc. (“FINRA”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to amend FINRA Rule 8210 to require that information provided via portable media device pursuant to a request under the rule be encrypted.

The text of the proposed rule change is available on FINRA’s Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

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

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it

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

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

received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

FINRA Rule 8210 (Provision of Information and Testimony and Inspection and Copying of Books) confers on FINRA staff the authority to compel a member, person associated with a member, or other person over whom FINRA has jurisdiction, to produce documents, provide testimony, or supply written responses or electronic data in connection with an investigation, complaint, examination or adjudicatory proceeding. The rule applies to all members, associated persons, and other persons over which FINRA has jurisdiction, including former associated persons subject to FINRA's jurisdiction as described in the FINRA By-Laws.<sup>3</sup> FINRA Rule 8210(c) provides that a member's or person's failure to provide information or testimony or to permit an inspection and copying of books, records, or accounts is a violation of the rule.

FINRA is proposing to amend FINRA Rule 8210 to require that information provided via a portable media device pursuant to a request under the rule be encrypted, as discussed further below. Requiring such information to be encrypted will help ensure

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<sup>3</sup> See FINRA By-Laws, Article V, Section 4(a) (Retention of Jurisdiction).

that such information, which in many instances includes individuals' personal information, is protected from unauthorized or other improper use.<sup>4</sup>

Frequently, members and persons that respond to requests pursuant to FINRA Rule 8210 provide information in electronic format. Because of the size of the electronic files, persons often provide information in electronic format using a portable media device such as a CD-ROM, DVD or portable hard drive.<sup>5</sup> In many instances, the response contains personal information that, if accessed by an unauthorized person, could be used inappropriately. For example, a response may include a person's first and last name, or first initial and last name, in combination with that person's: (1) social security number; (2) driver's license, passport or government-issued identification number; or (3) financial account number (including but not limited to number of a brokerage account, debit card, credit card, checking account, or savings account). If such personal information were to be intercepted by an unauthorized third party, it could be used improperly.

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<sup>4</sup> FINRA has emphasized that its members have an obligation under existing laws to protect confidential customer records and information pursuant to the requirements of SEC Regulation S-P. See, e.g., Notice to Members 05-49 (Safeguarding Confidential Customer Information).

<sup>5</sup> The proposed rule change defines "portable media device" as a storage device for electronic information, including but not limited to a flash drive, CD-ROM, DVD, portable hard drive, laptop computer, disc, diskette, or any other portable device for storing and transporting electronic information.

Data security issues regarding personal information have become increasingly important in recent years.<sup>6</sup> In this regard, FINRA believes that requiring persons to encrypt information on portable media devices provided to FINRA in response to FINRA Rule 8210 requests will help ensure that personal information is protected from improper use by unauthorized third parties.

The proposed rule change would require that responding information from a portable media device must be “encrypted”, i.e., the data must be encoded into a form in which meaning cannot be assigned without the use of a confidential process or key. To help ensure that encrypted information is secure, persons providing encrypted information to FINRA via a portable media device would be required: (1) to use an encryption method that meets industry standards for strong encryption; and (2) to provide FINRA staff with the confidential process or key regarding the encryption in a communication separate from the encrypted information itself (e.g., a separate e-mail, fax or letter).

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

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<sup>6</sup> For example, some jurisdictions, including Massachusetts and Nevada, have recently enacted legislation that establishes minimum standards to safeguard personal information in electronic records. See, e.g., Commonwealth of Massachusetts, 201 CMR 17.00 (Standards for the Protection of Personal Information of Residents of the Commonwealth), effective March 1, 2010; State of Nevada, NRS 603A.215 (Security Measures for Data Collector that Accepts Payment Card; Use of Encryption; Liability for Damages; Applicability), effective January 1, 2010. These laws contain potential penalties against persons and entities for failures to adequately safeguard electronic information containing personal information.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>7</sup> 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 will help ensure that personal information provided in response to a request under FINRA Rule 8210 via a portable media device is protected from improper use by unauthorized third parties. Thus, FINRA believes the proposed rule change will help protect investors consistent with the statutory provisions noted above.

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

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

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<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

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

**Electronic Comments:**

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2010-021 on the subject line.

**Paper Comments:**

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

All submissions should refer to File Number SR-FINRA-2010-021. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; 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-2010-021 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.<sup>8</sup>

Florence E. Harmon

Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).