

Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4File No.* SR - 2011 - * 054
Amendment No. (req. for Amendments *)Proposed Rule Change by Financial Industry Regulatory Authority
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934Initial * ☒ 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, required when Initial is checked *).

Proposed Rule Change to update Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) and amend Rule 6440 (Trading and Quotation Halt in OTC Equity Securities)

Contact Information

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

First Name * Racquel Last Name * Russell
Title * Assistant General Counsel
E-mail * racquel.russell@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 09/27/2011

By Stephanie M. Dumont
(Name *)Senior Vice President and Director of Capital Markets
Policy

(Title *)

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

Stephanie Dumont,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information (required)

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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 (required)

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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

☐

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

☐

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”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to: (i) update Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to reflect changes to market-wide circuit breaker triggers for NMS stocks, and (ii) amend Rule 6440 (Trading and Quotation Halt in OTC Equity Securities) to provide specifically for a halt in trading in all OTC Equity Securities when a market-wide circuit breaker is in effect for NMS stocks.

Below is the text of the proposed rule change. Proposed new language is underlined.

* * * * *

6000. QUOTATION AND TRANSACTION REPORTING FACILITIES

6100. QUOTING AND TRADING IN NMS STOCKS

* * * * *

6121. Trading Halts Due to Extraordinary Market Volatility

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

¹ 15 U.S.C. 78s(b)(1).

than on an exchange in any NMS stock as of the time the market-wide trading halt is publicly disseminated.

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

.01 Trading Pauses

(a) through (b) No Change.

.02 Market-wide Circuit Breakers in NMS Stocks

(a) In the event of a Level 1, Level 2 or Level 3 Market Decline, as determined by a primary listing market and publicly disseminated, FINRA shall halt trading otherwise than on an exchange in all NMS stocks and shall not permit the resumption of trading for the time periods specified by the primary listing market, except as otherwise provided below.

(b) For purposes of this Rule, a Market Decline means a decline in the value of the S&P 500® Index between 9:30 a.m. and 4:00 p.m. on a trading day as compared to the closing value of the S&P 500® Index for the immediately preceding trading day.

(c) (1) If trading is halted in all NMS stocks for a Level 1 or a Level 2 Market Decline, FINRA will halt trading otherwise than on an exchange in all NMS stocks until trading has resumed on the primary listing market. If, however, the primary listing market does not reopen a security within 15 minutes following the end of the 15-minute halt period, FINRA may permit the resumption of trading otherwise than on an exchange in that security if trading in the security has commenced on at least one other national securities exchange.

(2) If a Level 3 Market Decline occurs at any time during the trading day, FINRA shall halt trading otherwise than on an exchange in all NMS stocks until the primary listing market opens the next trading day.

* * * * *

6400. QUOTING AND TRADING IN OTC EQUITY SECURITIES

* * * * *

6440. Trading and Quotation Halt in OTC Equity Securities

(a) through (c) No Change.

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

.01 through .02 No Change.

.03 Market-wide Circuit Breaker in OTC Equity Securities. In the event FINRA has halted trading otherwise than on an exchange in all NMS stocks pursuant to Rule 6121, FINRA also shall halt trading in all OTC Equity Securities until such time that the market-wide circuit breaker no longer is in effect for NMS stocks. Members must halt quoting and trading in all OTC Equity Securities as of the time the market-wide trading halt in NMS stocks is publicly disseminated.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meetings on December 1, 2005 and December 3, 2007, the FINRA Board of Governors authorized the filing of proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

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

(a) Purpose

FINRA is proposing to amend Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to update the methodology for determining when to halt trading due to extraordinary market volatility and Rule 6440 (Trading and Quotation Halt in OTC Equity Securities) to provide specifically that FINRA will halt trading in all OTC Equity Securities pursuant to its authority under Rule 6440(a)(3)² until the market-wide circuit breaker no longer is in effect for NMS stocks.³ FINRA is proposing this rule change in consultation with the self-regulatory organizations ("SROs") and staffs of the Commission and the Commodity Futures Trading Commission ("CFTC").

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, *i.e.*, the "flash crash," FINRA and the national securities exchanges ("other SROs") have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. The

² Rule 6440(a)(3) provides that FINRA may halt quoting and trading in an OTC Equity Security if it determines that an "extraordinary event" has occurred or is ongoing that has had a material effect on the market for the OTC Equity Security or has caused or has the potential to cause major disruption to the marketplace and/or significant uncertainty in the settlement and clearance process.

³ On October 7, 2008, FINRA filed a Uniform Practice Code Advisory that provides notice that FINRA will halt trading in OTC Equity Securities under Rule 6440(a)(3) (formerly Rule 6460(a)(3)) if there is a market-wide halt in trading in NMS stocks. *See* Securities Exchange Act Release No. 58754 (October 8, 2008); 73 FR 61178 (October 15, 2008) (Notice of Filing and Immediate Effectiveness of SR-FINRA-2008-049) ("OTC Circuit Breaker Filing"). In the OTC Circuit Breaker Filing, FINRA stated that FINRA considers a market-wide halt in the trading of exchange-listed securities to be an "extraordinary event" under paragraph (a)(3) and, therefore, FINRA will halt quoting and trading in OTC Equity Securities under these circumstances. The instant proposed rule change codifies this interpretation in the text of FINRA Rule 6440.

measures adopted include pilot plans for stock-by-stock trading pauses⁴ and related changes to the clearly erroneous rules.⁵ In addition, on April 5, 2011, FINRA and the other SROs filed a plan pursuant to Rule 608 of SEC Regulation NMS to address extraordinary market volatility (the “Limit Up-Limit Down Plan”).⁶ As proposed, the Limit Up-Limit Down Plan is designed to prevent trades in individual NMS stocks from occurring outside specified price bands.

The Joint CFTC-SEC Advisory Committee on Emerging Regulatory Issues (“Committee”) has recommended that, in addition to the initiatives already adopted or proposed, the SROs consider reforming the existing market-wide circuit breakers. Among other things, the Committee noted that the interrelatedness of today’s highly electronic markets warrants a review of the present operation of the system-wide circuit breakers now in place. Specifically, the Committee recommended that the SROs consider replacing the Dow Jones Industrial Average (“DJIA”) with the S&P 500® Index

⁴ See FINRA Rule 6121.01 (Trading Pauses); See Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (Order Approving SR-FINRA-2010-025); See Securities Exchange Act Release No. 62883 (September 10, 2010); 75 FR 56608 (September 16, 2010) (Order Approving SR-FINRA-2010-033); See Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (Order Approving SR-FINRA-2011-023).

⁵ See FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities); See Securities Exchange Act Release No. 62885 (September 10, 2010); 75 FR 56641 (September 16, 2010) (Order Approving SR-FINRA-2010-032); See Securities Exchange Act Release No. 65101 (August 11, 2011), 76 FR 51097 (August 17, 2011) (Order Approving SR-FINRA-2011-039).

⁶ See Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011).

(“S&P 500”), revising the 10%, 20% and 30% decline percentages, reducing the length of trading halts, and allowing halts to be triggered up to 3:30 p.m.⁷

FINRA and the other SROs have taken into consideration the Committee’s recommendations and, with some modifications, are proposing changes to address market-wide circuit breakers. FINRA believes that this proposal will provide for a more meaningful measure in today’s faster, more electronic markets, of when to halt stocks on a market-wide basis as a result of rapid market declines.

Background

In 1988, the SEC approved several SRO rule proposals that provided for market-wide circuit breakers at specified levels to promote stability and investor confidence during a period of significant stress, along with a policy statement by FINRA (then known as NASD) that provided trading halt authority in the event of severe market declines.⁸ These measures were adopted as part of an effort by the securities and futures

⁷ See Summary Report of the Committee, Recommendations Regarding Regulatory Responses to the Market Events of May 6, 2010 (February 18, 2011).

⁸ See Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988) (Order Approving SR-NASD-88-46). FINRA’s Policy Statement on Market Closings (“Policy Statement”) provided, among other things, that when other major securities markets initiate market-wide trading halts in response to extraordinary market conditions, FINRA will, upon SEC request, halt domestic trading in all securities in equity and equity-related securities in the OTC market. As part of the approval order, the SEC requested that FINRA impose a trading halt as quickly as practicable whenever the NYSE and other equity markets have suspended trading. The language in the Policy Statement was subsequently codified, on a pilot basis, in Interpretive Material (IM) 4120-3 (later renumbered IM-4120-4). See Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (Order Approving SR-NASD-98-27). The IM-4120-3 pilot, which also was extended numerous times, expired on April 30, 2002.

markets to implement a coordinated means to address potentially destabilizing market volatility.⁹

On October 7, 2008, FINRA permanently adopted a new rule – Rule 6121 – that authorizes FINRA to halt over-the-counter trading in NMS stocks if other major U.S. securities markets initiate market-wide trading halts in response to their rules or extraordinary market conditions, or if otherwise directed by the SEC.¹⁰ Rule 6121 provides for a halt in trading otherwise than on an exchange in any NMS stock to promote stability and investor confidence during a period of significant stress.

As the Commission noted in the Order Approving SR-NASD-88-46, circuit breakers were intended to enable market participants to establish an equilibrium between buying and selling interest and to ensure that market participants have an opportunity to become aware of and respond to significant price movements. Importantly, the circuit breakers were not intended to prevent markets from adjusting to new price levels; rather, they provide a speed bump for extremely rapid market declines.¹¹

Proposed Amendments

As noted above, FINRA and the other SROs are proposing amendments to their respective rules to take into consideration the recommendations of the Committee, and to provide for more meaningful measures in today's markets in determining when to halt trading in stocks on a market-wide basis. Accordingly, FINRA is proposing, in coordination with the other SROs, to update the methodology for determining the trigger

⁹ See Order Approving SR-NASD-88-46.

¹⁰ See Securities Exchange Act Release No. 58753 (October 8, 2008), 73 FR 61177 (October 15, 2008) (Order Approving SR-FINRA-2008-048).

¹¹ See Order Approving SR-NASD-88-46.

for market-wide circuit breakers for trading otherwise than on an exchange in all NMS stocks and to provide specifically that FINRA will halt trading in all OTC Equity Securities until the market-wide circuit breaker no longer is in effect for NMS stocks. FINRA's proposed parameters and thresholds for market-wide circuit breakers for trading otherwise than on an exchange would track those being proposed by the other SROs.

First, FINRA and the other SROs propose to use the S&P 500 as the benchmark index for the market-wide circuit breakers.¹² FINRA believes that because the S&P 500 is based on the trading prices of 500 stocks, it represents a broader base of securities against which to measure whether extraordinary market-wide volatility is occurring.

Second, FINRA proposes to reference the triggers by the primary markets that establish a Level 1 Market Decline of 7%, a Level 2 Market Decline of 13% and a Level 3 Market Decline of 20%. As demonstrated by the May 6, 2010 flash crash, the SROs believe that the current Level 1 10% decline may be too high a threshold before determining whether to halt trading across all securities. Since adoption, the exchanges have halted only once, on October 27, 1997.¹³ Accordingly, to reflect the potential that a lower, yet still significant decline may warrant a market-wide trading halt, the SROs are proposing to lower the decline percentage thresholds.

FINRA and the other SROs would halt trading based on a Level 1 or a Level 2 Market Decline only once per day. For example, if a Level 1 Market Decline was to

¹² The current rules of the exchanges use the DJIA, not the S&P 500. The Committee noted that using an index that correlates closely with derivative products, such as the E-Mini and SPY, will allow for a better cross-market measure of market volatility.

¹³ At that time, the triggers were based on absolute declines in the DJIA (350 point decrease for a Level 1 halt and 550 point decrease for a Level 2 halt).

occur and trading otherwise than on an exchange in all NMS stocks and all OTC Equity Securities was halted, following the reopening of trading on the primary listing market or the commencement of trading by another national securities exchange, FINRA would not halt market-wide trading again unless a Level 2 Market Decline was to occur. Likewise, following the resumption of trading after a Level 2 Market Decline, FINRA would not halt trading otherwise than on an exchange in all NMS stocks and all OTC Equity Securities again unless a Level 3 Market Decline was to occur, at which point all trading otherwise than on an exchange in all NMS stocks and all OTC Equity Securities would be halted until the primary listing market opens the next trading day. As proposed, a Level 1 or a Level 2 Market Decline may trigger a market-wide circuit breaker after 9:30 a.m. Eastern and up to and including 3:25 p.m. Eastern, or in the case of an early scheduled close, 12:25 p.m. Eastern.¹⁴ The proposed rule would require that members halt quoting and trading otherwise than on an exchange in any NMS stock as of the time the market-wide trading halt is publicly disseminated.

Third, as proposed, a Level 1 or a Level 2 Market Decline would result in a market-wide circuit breaker in trading otherwise than on an exchange in all NMS stocks and all OTC Equity Securities for the duration of 15 minutes. When a primary listing market halts trading in all NMS stocks for a Level 1 or a Level 2 Market Decline,

¹⁴ As the markets experienced on May 6, 2010, even if the Level 1 decline had occurred that day, because the market decline occurred after 2:30 p.m., it would not have triggered a market-wide circuit breaker under the other SROs' existing rules. The Committee recommended that trading halts be triggered up to 3:30 p.m. and FINRA and the other SROs agree that the proposed amendments must strike the appropriate balance between permitting trading halts as late in the day as feasible, without interrupting the closing process. The SROs are proposing 3:25 p.m. as the cut-off time so that there is time following the 15-minute trading halt for the markets to reopen before the 3:45 cut-off for entry and cancellation of certain orders under other SROs' rules.

FINRA's halt on trading otherwise than on an exchange in all NMS stocks would continue until trading has resumed on the primary listing market. If, however, the primary listing market does not reopen trading within 15 minutes following the end of the 15-minute halt period, FINRA may permit the resumption of trading otherwise than on an exchange in that security if trading in the security has commenced on at least one other national securities exchange.

Following a market-wide circuit breaker due to a Level 1 or a Level 2 Market Decline, trading in OTC Equity Securities would remain halted until the market-wide circuit breaker no longer is in effect for NMS stocks, even if some individual NMS stocks have not yet resumed trading, for example, due to significant imbalances in those securities. The proposed rule would require that members halt quoting and trading in all OTC Equity Securities as of the time the market-wide trading halt in NMS stocks is publicly disseminated.

FINRA and the other SROs believe that the proposed percentage thresholds – coupled with the proposed duration of the market-wide circuit breakers for Level 1 and Level 2 Market Declines – allows for trading halts for serious market declines, while at the same time minimizing disruption to the markets by allowing for trading to continue after the halt. FINRA and the other SROs believe that in today's markets, where trading information may travel at a speed of micro-seconds, a 15-minute trading halt for a Level 1 and a Level 2 Market Decline strikes the appropriate balance between halting trading for market participants to assess the market and minimizing the time needed for an effective halt.

Upon the occurrence of a Level 3 Market Decline occurring at any time during the trading day, FINRA would halt trading otherwise than on an exchange in all NMS stocks until the primary listing market opens the next trading day. As is the case with a Level 1 or Level 2 Market Decline, upon the occurrence of a Level 3 Market Decline, the proposed rule would require members to halt quoting and trading in all OTC Equity Securities as of the time the market-wide trading halt in NMS stocks is publicly disseminated. FINRA would halt trading in all OTC Equity Securities until such time that the market-wide circuit breaker no longer is in effect for NMS stocks, even if some individual NMS stocks have not yet resumed trading, for example, due to significant imbalances in those securities.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁵ 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. Specifically, this proposal promotes uniformity concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. FINRA believes that the proposed rule change is consistent with the market-wide circuit breaker rules of other SROs and will promote the goal of investor protection by further providing for a coordinated means to address potentially destabilizing market volatility.

¹⁵ 15 U.S.C. 78o-3(b)(6).

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

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

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

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

Not applicable.

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

Not applicable.

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

The proposed rule change is based on similar proposed rule changes being filed by other SROs.

9. Exhibits

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

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2011-054)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to update Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) and amend Rule 6440 (Trading and Quotation Halt in OTC Equity Securities)

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

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

FINRA is proposing to update Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to reflect changes to market-wide circuit breaker triggers for NMS stocks, and (ii) amend Rule 6440 (Trading and Quotation Halt in OTC Equity Securities) to provide specifically for a halt in trading in all OTC Equity Securities when a market-wide circuit breaker is in effect for NMS stocks.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

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

1. Purpose

FINRA is proposing to amend Rule 6121 (Trading Halts Due to Extraordinary Market Volatility) to update the methodology for determining when to halt trading due to extraordinary market volatility and Rule 6440 (Trading and Quotation Halt in OTC Equity Securities) to provide specifically that FINRA will halt trading in all OTC Equity Securities pursuant to its authority under Rule 6440(a)(3)³ until the market-wide circuit breaker no longer is in effect for NMS stocks.⁴ FINRA is proposing this rule change in

³ Rule 6440(a)(3) provides that FINRA may halt quoting and trading in an OTC Equity Security if it determines that an "extraordinary event" has occurred or is ongoing that has had a material effect on the market for the OTC Equity Security or has caused or has the potential to cause major disruption to the marketplace and/or significant uncertainty in the settlement and clearance process.

⁴ On October 7, 2008, FINRA filed a Uniform Practice Code Advisory that provides notice that FINRA will halt trading in OTC Equity Securities under Rule 6440(a)(3) (formerly Rule 6460(a)(3)) if there is a market-wide halt in trading in NMS stocks. See Securities Exchange Act Release No. 58754 (October 8, 2008);

consultation with the self-regulatory organizations (“SROs”) and staffs of the Commission and the Commodity Futures Trading Commission (“CFTC”).

Since May 6, 2010, when the markets experienced excessive volatility in an abbreviated time period, i.e., the “flash crash,” FINRA and the national securities exchanges (“other SROs”) have implemented market-wide measures designed to restore investor confidence by reducing the potential for excessive market volatility. The measures adopted include pilot plans for stock-by-stock trading pauses⁵ and related changes to the clearly erroneous rules.⁶ In addition, on April 5, 2011, FINRA and the other SROs filed a plan pursuant to Rule 608 of SEC Regulation NMS to address extraordinary market volatility (the “Limit Up-Limit Down Plan”).⁷ As proposed, the

73 FR 61178 (October 15, 2008) (Notice of Filing and Immediate Effectiveness of SR-FINRA-2008-049) (“OTC Circuit Breaker Filing”). In the OTC Circuit Breaker Filing, FINRA stated that FINRA considers a market-wide halt in the trading of exchange-listed securities to be an “extraordinary event” under paragraph (a)(3) and, therefore, FINRA will halt quoting and trading in OTC Equity Securities under these circumstances. The instant proposed rule change codifies this interpretation in the text of FINRA Rule 6440.

⁵ See FINRA Rule 6121.01 (Trading Pauses); See Securities Exchange Act Release No. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (Order Approving SR-FINRA-2010-025); See Securities Exchange Act Release No. 62883 (September 10, 2010); 75 FR 56608 (September 16, 2010) (Order Approving SR-FINRA-2010-033); See Securities Exchange Act Release No. 64735 (June 23, 2011), 76 FR 38243 (June 29, 2011) (Order Approving SR-FINRA-2011-023).

⁶ See FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities); See Securities Exchange Act Release No. 62885 (September 10, 2010); 75 FR 56641 (September 16, 2010) (Order Approving SR-FINRA-2010-032); See Securities Exchange Act Release No. 65101 (August 11, 2011), 76 FR 51097 (August 17, 2011) (Order Approving SR-FINRA-2011-039).

⁷ See Securities Exchange Act Release No. 64547 (May 25, 2011), 76 FR 31647 (June 1, 2011).

Limit Up-Limit Down Plan is designed to prevent trades in individual NMS stocks from occurring outside specified price bands.

The Joint CFTC-SEC Advisory Committee on Emerging Regulatory Issues (“Committee”) has recommended that, in addition to the initiatives already adopted or proposed, the SROs consider reforming the existing market-wide circuit breakers. Among other things, the Committee noted that the interrelatedness of today’s highly electronic markets warrants a review of the present operation of the system-wide circuit breakers now in place. Specifically, the Committee recommended that the SROs consider replacing the Dow Jones Industrial Average (“DJIA”) with the S&P 500® Index (“S&P 500”), revising the 10%, 20% and 30% decline percentages, reducing the length of trading halts, and allowing halts to be triggered up to 3:30 p.m.⁸

FINRA and the other SROs have taken into consideration the Committee’s recommendations and, with some modifications, are proposing changes to address market-wide circuit breakers. FINRA believes that this proposal will provide for a more meaningful measure in today’s faster, more electronic markets, of when to halt stocks on a market-wide basis as a result of rapid market declines.

Background

In 1988, the SEC approved several SRO rule proposals that provided for market-wide circuit breakers at specified levels to promote stability and investor confidence during a period of significant stress, along with a policy statement by FINRA (then known as NASD) that provided trading halt authority in the event of severe market

⁸ See Summary Report of the Committee, Recommendations Regarding Regulatory Responses to the Market Events of May 6, 2010 (February 18, 2011).

declines.⁹ These measures were adopted as part of an effort by the securities and futures markets to implement a coordinated means to address potentially destabilizing market volatility.¹⁰

On October 7, 2008, FINRA permanently adopted a new rule – Rule 6121 – that authorizes FINRA to halt over-the-counter trading in NMS stocks if other major U.S. securities markets initiate market-wide trading halts in response to their rules or extraordinary market conditions, or if otherwise directed by the SEC.¹¹ Rule 6121 provides for a halt in trading otherwise than on an exchange in any NMS stock to promote stability and investor confidence during a period of significant stress.

As the Commission noted in the Order Approving SR-NASD-88-46, circuit breakers were intended to enable market participants to establish an equilibrium between buying and selling interest and to ensure that market participants have an opportunity to become aware of and respond to significant price movements. Importantly, the circuit

⁹ See Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41637 (October 24, 1988) (Order Approving SR-NASD-88-46). FINRA’s Policy Statement on Market Closings (“Policy Statement”) provided, among other things, that when other major securities markets initiate market-wide trading halts in response to extraordinary market conditions, FINRA will, upon SEC request, halt domestic trading in all securities in equity and equity-related securities in the OTC market. As part of the approval order, the SEC requested that FINRA impose a trading halt as quickly as practicable whenever the NYSE and other equity markets have suspended trading. The language in the Policy Statement was subsequently codified, on a pilot basis, in Interpretive Material (IM) 4120-3 (later renumbered IM-4120-4). See Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (Order Approving SR-NASD-98-27). The IM-4120-3 pilot, which also was extended numerous times, expired on April 30, 2002.

¹⁰ See Order Approving SR-NASD-88-46.

¹¹ See Securities Exchange Act Release No. 58753 (October 8, 2008), 73 FR 61177 (October 15, 2008) (Order Approving SR-FINRA-2008-048).

breakers were not intended to prevent markets from adjusting to new price levels; rather, they provide a speed bump for extremely rapid market declines.¹²

Proposed Amendments

As noted above, FINRA and the other SROs are proposing amendments to their respective rules to take into consideration the recommendations of the Committee, and to provide for more meaningful measures in today's markets in determining when to halt trading in stocks on a market-wide basis. Accordingly, FINRA is proposing, in coordination with the other SROs, to update the methodology for determining the trigger for market-wide circuit breakers for trading otherwise than on an exchange in all NMS stocks and to provide specifically that FINRA will halt trading in all OTC Equity Securities until the market-wide circuit breaker no longer is in effect for NMS stocks. FINRA's proposed parameters and thresholds for market-wide circuit breakers for trading otherwise than on an exchange would track those being proposed by the other SROs.

First, FINRA and the other SROs propose to use the S&P 500 as the benchmark index for the market-wide circuit breakers.¹³ FINRA believes that because the S&P 500 is based on the trading prices of 500 stocks, it represents a broader base of securities against which to measure whether extraordinary market-wide volatility is occurring.

Second, FINRA proposes to reference the triggers by the primary markets that establish a Level 1 Market Decline of 7%, a Level 2 Market Decline of 13% and a Level 3 Market Decline of 20%. As demonstrated by the May 6, 2010 flash crash, the SROs

¹² See Order Approving SR-NASD-88-46.

¹³ The current rules of the exchanges use the DJIA, not the S&P 500. The Committee noted that using an index that correlates closely with derivative products, such as the E-Mini and SPY, will allow for a better cross-market measure of market volatility.

believe that the current Level 1 10% decline may be too high a threshold before determining whether to halt trading across all securities. Since adoption, the exchanges have halted only once, on October 27, 1997.¹⁴ Accordingly, to reflect the potential that a lower, yet still significant decline may warrant a market-wide trading halt, the SROs are proposing to lower the decline percentage thresholds.

FINRA and the other SROs would halt trading based on a Level 1 or a Level 2 Market Decline only once per day. For example, if a Level 1 Market Decline was to occur and trading otherwise than on an exchange in all NMS stocks and all OTC Equity Securities was halted, following the reopening of trading on the primary listing market or the commencement of trading by another national securities exchange, FINRA would not halt market-wide trading again unless a Level 2 Market Decline was to occur. Likewise, following the resumption of trading after a Level 2 Market Decline, FINRA would not halt trading otherwise than on an exchange in all NMS stocks and all OTC Equity Securities again unless a Level 3 Market Decline was to occur, at which point all trading otherwise than on an exchange in all NMS stocks and all OTC Equity Securities would be halted until the primary listing market opens the next trading day. As proposed, a Level 1 or a Level 2 Market Decline may trigger a market-wide circuit breaker after 9:30 a.m. Eastern and up to and including 3:25 p.m. Eastern, or in the case of an early scheduled close, 12:25 p.m. Eastern.¹⁵ The proposed rule would require that members

¹⁴ At that time, the triggers were based on absolute declines in the DJIA (350 point decrease for a Level 1 halt and 550 point decrease for a Level 2 halt).

¹⁵ As the markets experienced on May 6, 2010, even if the Level 1 decline had occurred that day, because the market decline occurred after 2:30 p.m., it would not have triggered a market-wide circuit breaker under the other SROs' existing rules. The Committee recommended that trading halts be triggered up to 3:30 p.m. and FINRA and the other SROs agree that the proposed amendments must strike

halt quoting and trading otherwise than on an exchange in any NMS stock as of the time the market-wide trading halt is publicly disseminated.

Third, as proposed, a Level 1 or a Level 2 Market Decline would result in a market-wide circuit breaker in trading otherwise than on an exchange in all NMS stocks and all OTC Equity Securities for the duration of 15 minutes. When a primary listing market halts trading in all NMS stocks for a Level 1 or a Level 2 Market Decline, FINRA's halt on trading otherwise than on an exchange in all NMS stocks would continue until trading has resumed on the primary listing market. If, however, the primary listing market does not reopen trading within 15 minutes following the end of the 15-minute halt period, FINRA may permit the resumption of trading otherwise than on an exchange in that security if trading in the security has commenced on at least one other national securities exchange.

Following a market-wide circuit breaker due to a Level 1 or a Level 2 Market Decline, trading in OTC Equity Securities would remain halted until the market-wide circuit breaker no longer is in effect for NMS stocks, even if some individual NMS stocks have not yet resumed trading, for example, due to significant imbalances in those securities. The proposed rule would require that members halt quoting and trading in all OTC Equity Securities as of the time the market-wide trading halt in NMS stocks is publicly disseminated.

the appropriate balance between permitting trading halts as late in the day as feasible, without interrupting the closing process. The SROs are proposing 3:25 p.m. as the cut-off time so that there is time following the 15-minute trading halt for the markets to reopen before the 3:45 cut-off for entry and cancellation of certain orders under other SROs' rules.

FINRA and the other SROs believe that the proposed percentage thresholds – coupled with the proposed duration of the market-wide circuit breakers for Level 1 and Level 2 Market Declines – allows for trading halts for serious market declines, while at the same time minimizing disruption to the markets by allowing for trading to continue after the halt. FINRA and the other SROs believe that in today’s markets, where trading information may travel at a speed of micro-seconds, a 15-minute trading halt for a Level 1 and a Level 2 Market Decline strikes the appropriate balance between halting trading for market participants to assess the market and minimizing the time needed for an effective halt.

Upon the occurrence of a Level 3 Market Decline occurring at any time during the trading day, FINRA would halt trading otherwise than on an exchange in all NMS stocks until the primary listing market opens the next trading day. As is the case with a Level 1 or Level 2 Market Decline, upon the occurrence of a Level 3 Market Decline, the proposed rule would require members to halt quoting and trading in all OTC Equity Securities as of the time the market-wide trading halt in NMS stocks is publicly disseminated. FINRA would halt trading in all OTC Equity Securities until such time that the market-wide circuit breaker no longer is in effect for NMS stocks, even if some individual NMS stocks have not yet resumed trading, for example, due to significant imbalances in those securities.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁶ which requires, among other things, that FINRA rules

¹⁶ 15 U.S.C. 78o-3(b)(6).

must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest. Specifically, this proposal promotes uniformity concerning when and how to halt trading in all stocks as a result of extraordinary market volatility. FINRA believes that the proposed rule change is consistent with the market-wide circuit breaker rules of other SROs and will promote the goal of investor protection by further providing for a coordinated means to address potentially destabilizing market volatility.

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

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

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

Written comments were neither solicited nor received.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

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

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-FINRA-2011-054 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-2011-054. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street,

NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; 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-2011-054 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.¹⁷

Elizabeth M. Murphy

Secretary

¹⁷ 17 CFR 200.30-3(a)(12).