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

File No.* SR - 2011 - * 071

Amendment No. (req. for Amendments *)

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, required when Initial is checked *).

Proposed Rule Change Relating to FINRA's Trading Activity Fee Rate for Transactions in Covered Equity Securities.

Contact Information

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

First Name * Brant Last Name * Brown
Title * Associate General Counsel
E-mail * brant.brown@finra.org
Telephone * (202) 728-6927 Fax (202) 728-8264

Signature

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

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

Date 12/14/2011

By Stephanie 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” or “SEA”),¹ Financial Industry Regulatory Authority, Inc. (“FINRA”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend Section 1 of Schedule A to the FINRA By-Laws to adjust the rate of FINRA’s Trading Activity Fee (“TAF”) for transactions in covered equity securities.

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

* * * * *

SCHEDULE A TO THE BY-LAWS OF THE CORPORATION

* * * * *

Section 1 – Member Regulatory Fees

(a) No Change.

(b) Each member shall be assessed a Trading Activity Fee for the sale of covered securities.

(1) through (2) No Change.

(3) Fee Rates*

(A) through (E) No Change.

(4) No Change.

(c) through (d) No Change.

¹ 15 U.S.C. 78s(b)(1).

* Trading Activity Fee rates are as follows: Each member shall pay to FINRA \$0.000095[0] per share for each sale of a covered equity security, with a maximum charge of \$4.75[4.50] per trade; \$0.002 per contract for each sale of an option; \$0.04 per contract for each round turn transaction of a security future; \$0.00075 per bond for each sale of a covered TRACE-Eligible Security (other than an Asset-Backed Security) and/or municipal security, with a maximum charge of \$0.75 per trade; and \$0.00000075 times the value, as reported to TRACE, of a sale of an Asset-Backed Security, with a maximum charge of \$0.75 per trade. In addition, if the execution price for a covered security is less than the Trading Activity Fee rate (\$0.000095[0] for covered equity securities, \$0.002 for covered option contracts, or \$0.04 for a security future) on a per share, per contract, or round turn transaction basis then no fee will be assessed.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on December 8, 2011, 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.

The effective date of the proposed rule change will be February 1, 2012. FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.

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

(a) Purpose

FINRA's primary member regulatory pricing structure consists of the following fees: the Personnel Assessment (PA); the Gross Income Assessment (GIA); and the Trading Activity Fee (TAF). These fees are used to fund FINRA's regulatory activities, including examinations; financial monitoring; and FINRA's policymaking, rulemaking, and enforcement activities.² Because the proceeds from these fees are used to fund FINRA's regulatory mandate, Section 1 of Schedule A to FINRA's By-Laws notes that "FINRA shall periodically review these revenues in conjunction with costs to determine the applicable rate."³

FINRA initially adopted the TAF in 2002 as a replacement for an earlier regulatory fee based on trades reported to Nasdaq's Automated Confirmation Transaction system then in place.⁴ Currently, the TAF is generally assessed on the sale of all exchange registered securities wherever executed (except debt securities that are not TRACE-Eligible Securities), over-the-counter equity securities, security futures, TRACE-Eligible Securities (provided that the transaction is a Reportable TRACE Transaction), and all municipal securities subject to Municipal Securities Rulemaking

² See FINRA By-Laws, Schedule A, § 1(a).

³ Id.

⁴ See Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002).

Board (“MSRB”) reporting requirements. The rules governing the TAF also include a list of transactions exempt from the TAF.⁵

The current TAF rate for covered equity securities is \$0.000090 per share for each sale of a covered equity security, with a maximum charge of \$4.50 per trade. This rate has been in place for trades occurring on or after July 1, 2011, and was based on estimated trading volumes for the remainder of 2011.⁶ In addition, if the execution price for a covered equity security is less than the TAF rate on a per share basis, then no TAF is assessed.

Because the TAF is based on trading volumes, FINRA’s revenues derived from the TAF are subject to the volatility of trading in the securities markets and, in particular, the equity markets. Although the TAF is generally charged on transactions in equity securities, TRACE-reportable securities, options, and futures, over 95% of TAF revenue is generated by transactions in covered equity securities. Thus, FINRA’s revenue from the TAF is substantially affected by changes in trading volume in the equities markets.

Share volume in the equity markets during 2011 has been difficult to project given the volatility of the markets. Declining share volumes during the first half of 2011, which led to the prior increase to the TAF rate for equity securities, were followed by a spike in volume in August, which was then followed by declining volumes heading into the fourth quarter of 2011. Year-to-date volume, excluding an extraordinary spike during the month of August, has averaged just under an average daily share volume of 7.7 billion shares. Recognizing these volume conditions remain weaker than the 2010

⁵ See FINRA By-Laws, Schedule A, § 1(b)(2).

⁶ See Securities Exchange Act Release No. 64590 (June 2, 2011), 76 FR 33388 (June 8, 2011); Regulatory Notice 11-27 (June 2011).

average daily share volume of 8.5 billion shares, which FINRA used as the baseline for estimating TAF revenues, it is necessary for FINRA to adjust the rate for 2012.

To stabilize revenue flows necessary to support FINRA's regulatory mission in light of the decreased volume of trading in the equity markets, FINRA is proposing an increase to the TAF rate for covered equity securities from \$0.000090 per share to \$0.000095 per share, with a corresponding increase to the per-transaction cap for covered equity securities from \$4.50 to \$4.75.⁷ FINRA believes that increasing the TAF rate on these securities by \$0.000005 per share is the minimum increase necessary to bring the revenue from the TAF to its needed levels to adequately fund FINRA's member regulatory obligations. As with the prior rate change to the TAF, the proposed increase to the TAF rate on transactions in covered equity securities seeks to remain revenue neutral to FINRA (i.e., as adjusted, FINRA would aim to receive a substantially similar amount in revenue from the TAF as the TAF has generated in prior years).

As noted in Item 2 of this filing, the proposed effective date of the proposed rule change will be February 1, 2012. FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,⁸ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among

⁷ Because, as noted above, transactions in covered equity securities account for over 95% of TAF revenues, FINRA is not proposing adjustments to the TAF rates for other types of securities.

⁸ 15 U.S.C. 78o-3(b)(5).

members and issuers and other persons using any facility or system that FINRA operates or controls. Because of the recent decrease in trading volumes in the equity markets, FINRA believes that the proposed rate change to the TAF is now necessary to ensure that FINRA can continue to maintain a robust regulatory program and meet its regulatory obligations effectively while attempting to remain revenue neutral.

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.⁹

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.

⁹ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2011-071)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to FINRA's Trading Activity Fee Rate for Transactions in Covered 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 amend Section 1 of Schedule A to the FINRA By-Laws to adjust the rate of FINRA's Trading Activity Fee ("TAF") for transactions in covered equity securities.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

FINRA's primary member regulatory pricing structure consists of the following fees: the Personnel Assessment (PA); the Gross Income Assessment (GIA); and the Trading Activity Fee (TAF). These fees are used to fund FINRA's regulatory activities, including examinations; financial monitoring; and FINRA's policymaking, rulemaking, and enforcement activities.³ Because the proceeds from these fees are used to fund FINRA's regulatory mandate, Section 1 of Schedule A to FINRA's By-Laws notes that "FINRA shall periodically review these revenues in conjunction with costs to determine the applicable rate."⁴

FINRA initially adopted the TAF in 2002 as a replacement for an earlier regulatory fee based on trades reported to Nasdaq's Automated Confirmation Transaction system then in place.⁵ Currently, the TAF is generally assessed on the sale of all

³ See FINRA By-Laws, Schedule A, § 1(a).

⁴ Id.

⁵ See Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002).

exchange registered securities wherever executed (except debt securities that are not TRACE-Eligible Securities), over-the-counter equity securities, security futures, TRACE-Eligible Securities (provided that the transaction is a Reportable TRACE Transaction), and all municipal securities subject to Municipal Securities Rulemaking Board (“MSRB”) reporting requirements. The rules governing the TAF also include a list of transactions exempt from the TAF.⁶

The current TAF rate for covered equity securities is \$0.000090 per share for each sale of a covered equity security, with a maximum charge of \$4.50 per trade. This rate has been in place for trades occurring on or after July 1, 2011, and was based on estimated trading volumes for the remainder of 2011.⁷ In addition, if the execution price for a covered equity security is less than the TAF rate on a per share basis, then no TAF is assessed.

Because the TAF is based on trading volumes, FINRA’s revenues derived from the TAF are subject to the volatility of trading in the securities markets and, in particular, the equity markets. Although the TAF is generally charged on transactions in equity securities, TRACE-reportable securities, options, and futures, over 95% of TAF revenue is generated by transactions in covered equity securities. Thus, FINRA’s revenue from the TAF is substantially affected by changes in trading volume in the equities markets.

Share volume in the equity markets during 2011 has been difficult to project given the volatility of the markets. Declining share volumes during the first half of 2011, which led to the prior increase to the TAF rate for equity securities, were followed by a

⁶ See FINRA By-Laws, Schedule A, § 1(b)(2).

⁷ See Securities Exchange Act Release No. 64590 (June 2, 2011), 76 FR 33388 (June 8, 2011); Regulatory Notice 11-27 (June 2011).

spike in volume in August, which was then followed by declining volumes heading into the fourth quarter of 2011. Year-to-date volume, excluding an extraordinary spike during the month of August, has averaged just under an average daily share volume of 7.7 billion shares. Recognizing these volume conditions remain weaker than the 2010 average daily share volume of 8.5 billion shares, which FINRA used as the baseline for estimating TAF revenues, it is necessary for FINRA to adjust the rate for 2012.

To stabilize revenue flows necessary to support FINRA's regulatory mission in light of the decreased volume of trading in the equity markets, FINRA is proposing an increase to the TAF rate for covered equity securities from \$0.000090 per share to \$0.000095 per share, with a corresponding increase to the per-transaction cap for covered equity securities from \$4.50 to \$4.75.⁸ FINRA believes that increasing the TAF rate on these securities by \$0.000005 per share is the minimum increase necessary to bring the revenue from the TAF to its needed levels to adequately fund FINRA's member regulatory obligations. As with the prior rate change to the TAF, the proposed increase to the TAF rate on transactions in covered equity securities seeks to remain revenue neutral to FINRA (i.e., as adjusted, FINRA would aim to receive a substantially similar amount in revenue from the TAF as the TAF has generated in prior years).

The proposed effective date of the proposed rule change will be February 1, 2012. FINRA will announce the effective date of the proposed rule change in a Regulatory Notice.

⁸ Because, as noted above, transactions in covered equity securities account for over 95% of TAF revenues, FINRA is not proposing adjustments to the TAF rates for other types of securities.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,⁹ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Because of the recent decrease in trading volumes in the equity markets, FINRA believes that the proposed rate change to the TAF is now necessary to ensure that FINRA can continue to maintain a robust regulatory program and meet its regulatory obligations effectively while attempting to remain revenue neutral.

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

⁹ 15 U.S.C. 78o-3(b)(5).

(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-2011-071 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-2011-071. 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-2011-071 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.¹⁰

Elizabeth M. Murphy

Secretary

¹⁰ 17 CFR 200.30-3(a)(12).