

Required fields are shown with yellow backgrounds and asterisks.

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

File No.* SR - 2012 - * 015

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 to Amend FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

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 * Adam Last Name * Arkel

Title * Assistant General Counsel

E-mail * adam.arkel@finra.org

Telephone * (202) 728-6961 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 02/23/2012

By Patrice Gliniecki
(Name *)

Senior Vice President and Deputy General Counsel

(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 EFFF 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 FINRA Rule 4240 (Margin Requirements for Credit Default Swaps) to limit the application of the rule at this time to certain transactions in credit default swaps that are security-based swaps and to make other revisions to update the rule. FINRA Rule 4240 implements an interim pilot program with respect to margin requirements for certain transactions in credit default swaps.

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on February 16, 2012, 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 proposed rule change will become effective upon approval by the SEC. FINRA has requested the Commission to find good cause pursuant to Section 19(b)(2) of the Act² for approving the proposed rule change prior to the 30th day after its publication in the Federal Register.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(2).

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

(a) Purpose

On May 22, 2009, the Commission approved FINRA Rule 4240,³ which implements an interim pilot program (the "Interim Pilot Program") with respect to margin requirements for certain transactions in credit default swaps ("CDS"). FINRA has filed a proposed rule change to extend the implementation of Rule 4240 to July 17, 2012.⁴

As explained in the Approval Order,⁵ FINRA Rule 4240, coterminous with certain Commission actions,⁶ is intended to address concerns arising from counterparty

³ See Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Approval of Proposed Rule Change; File No. SR-FINRA-2009-012) ("Approval Order").

⁴ See SR-FINRA-2012-014.

⁵ See 74 FR 25588 through 25589.

⁶ In early 2009, the Commission enacted interim final temporary rules (the "interim final temporary rules") providing enumerated exemptions under the federal securities laws for certain CDS to facilitate the operation of one or more central clearing counterparties in such CDS. See Securities Act Release No. 8999 (January 14, 2009), 74 FR 3967 (January 22, 2009) (Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps); Securities Act Release No. 9063 (September 14, 2009), 74 FR 47719 (September 17, 2009) (Extension of Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps); Securities Act Release No. 9158 (November 19, 2010), 75 FR 72660 (November 26, 2010) (Extension of Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps). See also Securities Exchange Act Release No. 59578 (March 13, 2009), 74 FR 11781 (March 19, 2009) (Order Granting Temporary Exemptions in Connection with Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, L.L.C. Related to Central Clearing of Credit Default Swaps); Securities Exchange Act Release No. 59165 (December 24, 2008), 74 FR 133 (January 2, 2009) (Order Granting Temporary Exemptions for Broker-Dealers and Exchanges Effecting Transactions in Credit Default Swaps).

credit risk posed by CDS, including, among other things, risks to the financial system arising from credit risk resulting from bilateral CDS transactions and from a concentration of credit risk to a central counterparty that clears and settles CDS. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”),⁷ Title VII of which established a comprehensive new regulatory framework for swaps and security-based swaps,⁸ including certain CDS. The new legislation was intended among other things to enhance the authority of regulators to implement new rules designed to reduce risk, increase transparency, and promote market integrity with respect to such products.

As noted earlier, FINRA has filed a proposed rule change to extend the implementation of FINRA Rule 4240 to July 17, 2012.⁹ In this filing, FINRA is proposing to make certain revisions to FINRA Rule 4240 in light of the continuing development of the CDS business within the framework of the Dodd-Frank Act.

Specifically, FINRA is limiting the application of FINRA Rule 4240 at this time to CDS that are security-based swaps under Section 3(a)(68) of the Act,¹⁰ pending further development of federal regulations governing margin for swaps and security-based swaps

⁷ Pub. L. No. 111-203, 124 Stat. 1376 (2010).

⁸ The terms “swap” and “security-based swap” are defined in Sections 721 and 761 of the Dodd-Frank Act. The Commission and the CFTC jointly have proposed to further define these terms. See Securities Exchange Act Release No. 64372 (Apr. 29, 2011), 76 FR 29818 (May 23, 2011) (Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping); Securities Exchange Act Release No. 63452 (Dec. 7, 2010), 75 FR 80174 (Dec. 21, 2010) (Further Definition of “Swap Dealer,” “Security-Based Swap Dealer,” “Major Swap Participant,” “Major Security-Based Swap Participant” and “Eligible Contract Participant”).

⁹ See note 4.

¹⁰ 15 U.S.C. 78c(a)(68).

and further consideration of potential portfolio margin methodologies for cleared CDS that include both swaps and security-based swaps. Based on these factors, FINRA may propose to extend FINRA Rule 4240 to encompass CDS that are swaps under Section 1a(47) of the Commodity Exchange Act¹¹ at a later date.

Accordingly, FINRA is revising the definition of “CDS” set forth in paragraph (a) of FINRA Rule 4240 to provide that, for purposes of the rule, the term CDS includes any product that is commonly known to the trade as a credit default swap and is a security-based swap as defined pursuant to Section 3(a)(68) of the Act or the rules and guidance of the SEC and its staff.¹² Consistent with this change, FINRA is eliminating the grid set forth under paragraph (a) of FINRA Rule 4240.01 as to CDS contracts where the underlying obligation is a debt index rather than a single name bond, because such grid is for broad-based indexes. As revised, the rule provides that with respect to CDS contracts where the underlying obligation is a narrow-based debt index, rather than a single name bond, the margin requirement shall be based upon a margin methodology using the member’s internal models the use of which has been approved by FINRA. In addition, FINRA is revising paragraphs (a), (b) and (c)(1) of the rule to remove references to derivatives clearing organizations.

Further, in the interest of regulatory clarity and efficiency, and based upon FINRA’s experience in the administration of the rule, FINRA has revised the grid set forth under FINRA Rule 4240.01(a) as to CDS contracts where the underlying obligation is a single name debt security. Specifically, the revised grid sets forth more calibrated

¹¹ 7 U.S.C. 1a(47).

¹² See Exhibit 5.

ranges with respect to the length of time to maturity of the relevant CDS contract and percentages with respect to the required margin.

FINRA has made minor edits to paragraph (e) of the rule to align the terms “current exposure” and “maximum potential exposure” with the definitions set forth in SEA Rule 15c3-1e(c)(4) and to make other minor clarifications. In addition, in the interest of clarification, FINRA has replaced references to use of an “approved margin methodology” in paragraphs (a), (c)(1) and (c)(2) of the rule with “using” or “use” a “margin methodology the use of which has been approved by FINRA as announced in a Regulatory Notice.”

Lastly, FINRA has made clarifying edits to paragraph (c) of Supplementary Material .01 to provide that in instances where the customer or broker-dealer maintains both long and short CDS, the member may elect to collect 50% of the relevant margin requirements on the lesser of the long or short position within the same Bloomberg CDS sector (or, if the long and short positions are equal, the long position), provided those long and short positions are in the same spread and maturity bucket, plus the relevant margin requirements on the excess long or short position, if any.

As noted in Item 2 of this filing, the proposed rule change will become effective upon approval by the SEC. FINRA has requested the Commission to find good cause pursuant to Section 19(b)(2) of the Act¹³ for approving the proposed rule change prior to the 30th day after its publication in the Federal Register.

¹³ 15 U.S.C. 78s(b)(2).

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁴ 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 further the purposes of the Act because, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act, the margin requirements set forth by the proposed rule change will help to stabilize the financial markets.

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)

FINRA requests the Commission to find good cause pursuant to Section 19(b)(2)

¹⁴ 15 U.S.C. 78o-3(b)(6).

of the Act¹⁵ for approving the proposed rule change prior to the 30th day after its publication in the Federal Register.

Because FINRA believes that, consistent with the goals announced by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act, the margin requirements set forth by the proposed rule change will help to stabilize the financial markets, and given the limited time period of the Interim Pilot Program, FINRA requests the Commission to accelerate the effectiveness of the proposed rule change prior to the 30th day after its publication in the Federal Register.

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

Not applicable.

9. Exhibits

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

Exhibit 5. Text of proposed rule change.

¹⁵ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2012-015)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change to Amend FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “SEA”)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. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

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

FINRA is proposing to amend FINRA Rule 4240 (Margin Requirements for Credit Default Swaps) to limit the application of the rule at this time to certain transactions in credit default swaps that are security-based swaps and to make other revisions to update the rule. FINRA Rule 4240 implements an interim pilot program with respect to margin requirements for certain transactions in credit default swaps.

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

On May 22, 2009, the Commission approved FINRA Rule 4240,³ which implements an interim pilot program (the "Interim Pilot Program") with respect to margin requirements for certain transactions in credit default swaps ("CDS"). FINRA has filed a proposed rule change to extend the implementation of Rule 4240 to July 17, 2012.⁴

³ See Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Approval of Proposed Rule Change; File No. SR-FINRA-2009-012) ("Approval Order").

⁴ See SR-FINRA-2012-014.

As explained in the Approval Order,⁵ FINRA Rule 4240, coterminous with certain Commission actions,⁶ is intended to address concerns arising from counterparty credit risk posed by CDS, including, among other things, risks to the financial system arising from credit risk resulting from bilateral CDS transactions and from a concentration of credit risk to a central counterparty that clears and settles CDS. On July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”),⁷ Title VII of which established a comprehensive new regulatory framework for swaps and security-based swaps,⁸

⁵ See 74 FR 25588 through 25589.

⁶ In early 2009, the Commission enacted interim final temporary rules (the “interim final temporary rules”) providing enumerated exemptions under the federal securities laws for certain CDS to facilitate the operation of one or more central clearing counterparties in such CDS. See Securities Act Release No. 8999 (January 14, 2009), 74 FR 3967 (January 22, 2009) (Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps); Securities Act Release No. 9063 (September 14, 2009), 74 FR 47719 (September 17, 2009) (Extension of Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps); Securities Act Release No. 9158 (November 19, 2010), 75 FR 72660 (November 26, 2010) (Extension of Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps). See also Securities Exchange Act Release No. 59578 (March 13, 2009), 74 FR 11781 (March 19, 2009) (Order Granting Temporary Exemptions in Connection with Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, L.L.C. Related to Central Clearing of Credit Default Swaps); Securities Exchange Act Release No. 59165 (December 24, 2008), 74 FR 133 (January 2, 2009) (Order Granting Temporary Exemptions for Broker-Dealers and Exchanges Effecting Transactions in Credit Default Swaps).

⁷ Pub. L. No. 111-203, 124 Stat. 1376 (2010).

⁸ The terms “swap” and “security-based swap” are defined in Sections 721 and 761 of the Dodd-Frank Act. The Commission and the CFTC jointly have proposed to further define these terms. See Securities Exchange Act Release No. 64372 (Apr. 29, 2011), 76 FR 29818 (May 23, 2011) (Further Definition of “Swap,” “Security-

including certain CDS. The new legislation was intended among other things to enhance the authority of regulators to implement new rules designed to reduce risk, increase transparency, and promote market integrity with respect to such products.

As noted earlier, FINRA has filed a proposed rule change to extend the implementation of FINRA Rule 4240 to July 17, 2012.⁹ In this filing, FINRA is proposing to make certain revisions to FINRA Rule 4240 in light of the continuing development of the CDS business within the framework of the Dodd-Frank Act.

Specifically, FINRA is limiting the application of FINRA Rule 4240 at this time to CDS that are security-based swaps under Section 3(a)(68) of the Act,¹⁰ pending further development of federal regulations governing margin for swaps and security-based swaps and further consideration of potential portfolio margin methodologies for cleared CDS that include both swaps and security-based swaps. Based on these factors, FINRA may propose to extend FINRA Rule 4240 to encompass CDS that are swaps under Section 1a(47) of the Commodity Exchange Act¹¹ at a later date.

Accordingly, FINRA is revising the definition of “CDS” set forth in paragraph (a) of FINRA Rule 4240 to provide that, for purposes of the rule, the term CDS includes any product that is commonly known to the trade as a credit default swap and is a security-

Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping); Securities Exchange Act Release No. 63452 (Dec. 7, 2010), 75 FR 80174 (Dec. 21, 2010) (Further Definition of “Swap Dealer,” “Security-Based Swap Dealer,” “Major Swap Participant,” “Major Security-Based Swap Participant” and “Eligible Contract Participant”).

⁹ See note 4.

¹⁰ 15 U.S.C. 78c(a)(68).

¹¹ 7 U.S.C. 1a(47).

based swap as defined pursuant to Section 3(a)(68) of the Act or the rules and guidance of the SEC and its staff.¹² Consistent with this change, FINRA is eliminating the grid set forth under paragraph (a) of FINRA Rule 4240.01 as to CDS contracts where the underlying obligation is a debt index rather than a single name bond, because such grid is for broad-based indexes. As revised, the rule provides that with respect to CDS contracts where the underlying obligation is a narrow-based debt index, rather than a single name bond, the margin requirement shall be based upon a margin methodology using the member's internal models the use of which has been approved by FINRA. In addition, FINRA is revising paragraphs (a), (b) and (c)(1) of the rule to remove references to derivatives clearing organizations.

Further, in the interest of regulatory clarity and efficiency, and based upon FINRA's experience in the administration of the rule, FINRA has revised the grid set forth under FINRA Rule 4240.01(a) as to CDS contracts where the underlying obligation is a single name debt security. Specifically, the revised grid sets forth more calibrated ranges with respect to the length of time to maturity of the relevant CDS contract and percentages with respect to the required margin.

FINRA has made minor edits to paragraph (e) of the rule to align the terms "current exposure" and "maximum potential exposure" with the definitions set forth in SEA Rule 15c3-1e(c)(4) and to make other minor clarifications. In addition, in the interest of clarification, FINRA has replaced references to use of an "approved margin methodology" in paragraphs (a), (c)(1) and (c)(2) of the rule with "using" or "use" a

¹² See Exhibit 5.

“margin methodology the use of which has been approved by FINRA as announced in a Regulatory Notice.”

Lastly, FINRA has made clarifying edits to paragraph (c) of Supplementary Material .01 to provide that in instances where the customer or broker-dealer maintains both long and short CDS, the member may elect to collect 50% of the relevant margin requirements on the lesser of the long or short position within the same Bloomberg CDS sector (or, if the long and short positions are equal, the long position), provided those long and short positions are in the same spread and maturity bucket, plus the relevant margin requirements on the excess long or short position, if any.

The proposed rule change will become effective upon approval by the SEC. FINRA has requested the Commission to find good cause pursuant to Section 19(b)(2) of the Act¹³ for approving the proposed rule change prior to the 30th day after its publication in the Federal Register.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁴ 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 further the purposes of the Act because, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 15 U.S.C. 78o-3(b)(6).

clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act, the margin requirements set forth by the proposed rule change will help to stabilize the financial markets.

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

FINRA has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act¹⁵ for approving the proposed rule change prior to the 30th day after publication in the Federal Register. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FINRA and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in that accelerated approval will, consistent with the goals announced by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, and pending the final implementation of new CFTC and SEC rules pursuant to Title VII of the Dodd-Frank Act,

¹⁵ 15 U.S.C. 78s(b)(2).

help to stabilize the financial markets by setting forth margin requirements for certain transactions in CDS.

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-2012-015 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-2012-015. 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-2012-015 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.¹⁶

Elizabeth M. Murphy

Secretary

¹⁶ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

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

* * * * *

4000. FINANCIAL AND OPERATIONAL RULES

* * * * *

4200. MARGIN

* * * * *

4240. Margin Requirements for Credit Default Swaps

(a) Effective Period of Interim Pilot Program

This Rule establishes an interim pilot program (“Interim Pilot Program”) with respect to margin requirements for any transactions in credit default swaps executed by a member (regardless of the type of account in which the transaction is booked), including those in which the offsetting matching hedging transactions (“matching transactions”) are effected by the member in contracts that are cleared through a clearing agency [or derivatives clearing organization] that provides central counterparty clearing services using a margin methodology the use of which has been approved by FINRA as announced in a Regulatory Notice [(“approved margin methodology”)]. The Interim Pilot Program shall automatically expire on July 17, 2012. For purposes of this Rule, the term “credit default swap” (“CDS”) shall include any product that is commonly known to the trade as a credit default swap and is a [swap or] security-based swap as defined pursuant to [Section 1a(47) of the Commodity Exchange Act and] Section 3(a)(68) of the Exchange Act[, respectively,] or the [joint] rules and guidance of [the CFTC and] the SEC and [their] its staff. The term “transaction” shall include any ongoing CDS position.

(b) Central Counterparty Clearing Arrangements

Any member, prior to establishing any clearing arrangement with respect to CDS transactions that makes use of any central counterparty clearing services provided by any clearing agency [or derivatives clearing organization] must notify FINRA in advance in writing, in such manner as may be specified by FINRA in a Regulatory Notice.

(c) Margin Requirements

(1) CDS Cleared Through a Clearing Agency [or Derivatives Clearing Organization] Using a[n Approved] Margin Methodology the Use of Which Has Been Approved By FINRA

Members shall require as a minimum for computing customer or broker-dealer margin, with respect to any customer or broker-dealer transaction in CDS with a member in which the member executes a matching transaction that makes use of the central counterparty clearing facilities of a clearing agency [or derivatives clearing organization] using a[n approved] margin methodology [pursuant to this Rule] the use of which has been approved by FINRA as announced in a Regulatory Notice, the applicable margin pursuant to the rules of such clearing agency [or derivatives clearing organization] regardless of the type of account in which the transaction in CDS is booked. Members shall, based on the risk monitoring procedures and guidelines set forth in paragraph (d) of this Rule, determine whether the applicable clearing agency [or derivatives clearing organization] requirements are adequate with respect to their customer and broker-dealer accounts and the positions in those accounts and, where appropriate, increase such margin in excess of such minimum margin. For this purpose,

members are permitted to use the margin requirements set forth in Supplementary Material .01 of this Rule.

The aggregate amount of margin the member collects from customers and broker-dealers for transactions in CDS must equal or exceed the aggregate amount of margin the member is required to post at the clearing agency [or derivatives clearing organization] with respect to those customer and broker-dealer transactions.

Transactions that are cleared through a clearing agency [or derivatives clearing organization] using a[n approved] margin methodology [pursuant to this Rule] the use of which has been approved by FINRA as announced in a Regulatory Notice are not subject to the provisions of paragraph (c)(2) of this Rule.

(2) CDS That Are Cleared on Central Counterparty Clearing Facilities That Do Not Use a[n Approved] Margin Methodology the Use of Which Has Been Approved By FINRA or That Settle Over-the-Counter (“OTC”)

Members shall require, with respect to any transaction in CDS that makes use of central counterparty clearing facilities that do not use a[n approved] margin methodology [pursuant to this Rule] the use of which has been approved by FINRA as announced in a Regulatory Notice or that settle OTC, the applicable minimum margin as set forth in Supplementary Material .01 of this Rule regardless of the type of account in which the transaction in CDS is booked. However, members shall, based on the risk monitoring procedures and guidelines set forth in paragraph (d) of this Rule, determine whether such margin is adequate

with respect to their customer and broker-dealer accounts and, where appropriate, increase such requirements.

(d) No Change.

(e) Concentrations

Where the [maximum] current and maximum potential exposure, as defined in SEA Rule 15c3-1e(c)(4), with respect to the largest single name CDS across all accounts exceeds the member's tentative net capital, the member must take a capital charge equal to the aggregate margin requirement for such accounts on the positions in such single name CDS in accordance with the tables set forth in Supplementary Material .01 of this Rule. This capital charge may be reduced by the amount of excess margin held in [all customer and broker-dealer accounts] each such counterparty account holding such exposure, on an account by account basis.

• • • Supplementary Material: -----

.01 Margin Requirements for CDS. The following customer and broker-dealer margin requirements shall apply, as appropriate, pursuant to paragraph (c) of this Rule.

(a) Customer and Broker-Dealer Accounts That Are Short a CDS

The following table shall be used to determine the margin that a member must collect from a customer or broker-dealer that is short a single name debt security CDS contract (sold protection). The margin to be collected based upon the basis point spread over LIBOR of the CDS contract as well as the maturity of that contract as a percentage of the notional amount shall be as follows:

[Basis Point [Spread	Length of Time to Maturity of CDS Contract]			
	1 year	3 years	5 years	7 years & longer]
[0-100	1%	2%	4%	7%]

[100-300	2%	5%	7%	10%]
[300-500	5%	10%	15%	20%]
[500-700	10%	15%	20%	25%]
[700 and above	15%	20%	25%	30%]

<u>Length of Time to Maturity of CDS Contract</u>	<u>Basis Point Spread</u>					
	<u>100 or below</u>	<u>101-300</u>	<u>301-400</u>	<u>401-500</u>	<u>501-699</u>	<u>700 and above</u>
<u>12 months & shorter</u>	<u>1.00%</u>	<u>2.00%</u>	<u>5.00%</u>	<u>7.50%</u>	<u>10.00%</u>	<u>15.00%</u>
<u>13-24 months</u>	<u>1.50%</u>	<u>3.50%</u>	<u>7.50%</u>	<u>10.00%</u>	<u>12.50%</u>	<u>17.50%</u>
<u>25-36 months</u>	<u>2.00%</u>	<u>5.00%</u>	<u>10.00%</u>	<u>12.50%</u>	<u>15.00%</u>	<u>20.00%</u>
<u>37-48 months</u>	<u>3.00%</u>	<u>6.00%</u>	<u>12.50%</u>	<u>15.00%</u>	<u>17.5%</u>	<u>22.50%</u>
<u>49-60 months</u>	<u>4.00%</u>	<u>7.00%</u>	<u>15.00%</u>	<u>17.50%</u>	<u>20.00%</u>	<u>25.00%</u>
<u>61-72 months</u>	<u>5.50%</u>	<u>8.50%</u>	<u>16.00%</u>	<u>20.00%</u>	<u>22.50%</u>	<u>27.50%</u>
<u>73-84 months</u>	<u>7.00%</u>	<u>10.00%</u>	<u>20.00%</u>	<u>22.50%</u>	<u>27.50%</u>	<u>30.00%</u>
<u>85-120 months</u>	<u>8.50%</u>	<u>15.00%</u>	<u>22.50%</u>	<u>25.00%</u>	<u>30.00%</u>	<u>40.00%</u>
<u>121 months & longer</u>	<u>10.00%</u>	<u>20.00%</u>	<u>25.00%</u>	<u>27.50%</u>	<u>35.00%</u>	<u>50.00%</u>

For those CDS contracts where the underlying obligation is a narrow-based debt index, rather than a single name bond, the margin requirement [as a percentage of the notional amount shall be as follows:] shall be based upon a margin methodology using the member's internal models the use of which has been approved by FINRA.

[Index	[Length of Time to Maturity of CDS Contract]				
	1 year	3 years	5 years	7 years	10 years]
[CDX.IG	1%	1%	2%	4%	5%]
[CDX.HY	3%	5%	10%	12%	15%]
[CDX.HVOL	2%	3%	4%	5%	7%]

(b) No Change.

(c) Accounts That Maintain Both Long and Short CDS

In instances where the customer or broker-dealer maintains both long and short CDS, the member may elect to collect 50% of the above margin requirements on the [greater] lesser of the long or short position within the same Bloomberg CDS sector (or, if the long and short positions are equal, the long position), provided those long and short positions are in the same spread and maturity bucket, plus the above margin requirements on the excess long or short position, if any.

If a customer or broker-dealer is long the bond and long a CDS contract on the same underlying obligor, margin needs to be collected only on the long bond position, provided that bond can be delivered against the long CDS contract, as prescribed pursuant to applicable FINRA margin rules.

In instances where the customer or broker-dealer is short the bond and short the CDS on the same underlying obligor, margin need only be collected on the short bond, as prescribed pursuant to applicable FINRA margin rules.

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