

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 5

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

File No.* SR - 2009 - * 060

Amendment No. (req. for Amendments *) 2

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)(2)

☐

19b-4(f)(3)

☐

19b-4(f)(4)

☐

19b-4(f)(5)

☐

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 *).

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 * Alan

Last Name * Lawhead

Title *

Vice President and Director - Appellate Group

E-mail *

alan.lawhead@finra.org

Telephone *

(202) 728-8853

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 12/05/2012

By Alan Lawhead

(Name *)

Vice President and Director - Appellate Group

(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.

Alan Lawhead, alan.lawhead@finra.org

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS 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

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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

Partial Amendment

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

On September 10, 2009, FINRA filed with the Securities and Exchange Commission (“SEC” or “Commission”) SR-FINRA-2009-060, a proposed rule change to amend FINRA Rule 8210 (Provision of Information and Testimony and Inspection and Copying of Books) to clarify the scope of the rule and to clarify certain issues with regard to service of requests made pursuant to the rule. The SEC published the proposed rule change for notice and comment on October 22, 2009¹ and received seven comment letters.² FINRA filed a letter responding to comments on December 22, 2009.³

On December 21, 2011, FINRA filed Partial Amendment No. 1 to the proposed rule change to add Supplementary Material that would provide additional interpretation regarding documents within the “possession, custody or control” of a FINRA member, associated person or person subject to FINRA’s jurisdiction. Partial Amendment No. 1 also proposed a technical change to the text of Rule 8210.

FINRA is filing this Partial Amendment No. 2 to modify a phrase in the proposed Supplementary Material. FINRA proposes that the fourth sentence in the Supplementary Material will read as follows: “It does not include books and records that are in the possession, custody or control of a member or associated person, but whose bona fide ownership is held by an independent third party and the records are unrelated to the business of the member.”

The amendments to the proposed Supplementary Material are set forth below. FINRA is including with this Partial Amendment No. 2 an Exhibit 4 that shows the modifications to the Supplementary Material as if the changes from Partial Amendment No. 1 had been adopted.

¹ See Securities Exchange Act Release No. 60836 (October 16, 2009), 74 FR 54614 (October 22, 2009) (Notice of Filing of File No. SR-FINRA-2009-060).

² See letters from Dale E. Brown, President & CEO, Financial Services Institute, Inc., to Elizabeth Murphy, Secretary, SEC, dated November 4, 2009 (“FSI”); BTUD, to Elizabeth Murphy, Secretary, SEC, dated October 29, 2009 (“BTUD”); Frederick T. Greene, CIMA, Senior V.P., Portfolio Manager, Woodforest Financial Services, Inc., to Elizabeth Murphy, Secretary, SEC, dated October 29, 2009 (“Woodforest”); Ira D. Hammerman, Senior Managing Director and General Counsel, Securities Industry and Financial Markets Association, to Elizabeth Murphy, Secretary, SEC, dated December 16, 2009 (“SIFMA”); Bari Havlik, Chief Compliance Officer, Senior Vice President, Charles Schwab & Co., Inc., to Elizabeth Murphy, Secretary, SEC, dated November 12, 2009 (“Schwab”); Ronald C. Long, Director, Regulatory Affairs, Wells Fargo Advisors, to Elizabeth Murphy, Secretary, SEC, dated November 12, 2009 (“Wells Fargo”); and Neal E. Nakagiri, President, CEO, CCO, NPB Financial Group, LLC, to Elizabeth Murphy, Secretary, SEC, dated October 29, 2009 (“NPB”).

³ See letter from Stan Macel, Assistant General Counsel, FINRA, to Elizabeth Murphy, Secretary, SEC, dated December 22, 2009.

EXHIBIT 4

Exhibit 4 shows the changes proposed in this Partial Amendment No. 2, with the proposed changes to the Supplementary Material in Partial Amendment No. 1 shown as if adopted. Proposed additions in this Partial Amendment No. 2 appear underlined; proposed deletions are in brackets.

* * * * *

8200. INVESTIGATIONS

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

(e) through (g) No Change.

• • • Supplementary Material: -----

.01 Books and Records Relating to Investigations. This rule requires FINRA members, associated persons and persons subject to FINRA's jurisdiction to provide FINRA staff and adjudicators with requested books, records and accounts. In specifying the books, records and accounts "of such member or person," paragraph (a) of the rule refers to books, records and accounts that the broker-dealer or its associated persons make or keep relating to its operation as a broker-dealer or relating to the person's association with the member. This includes but is not limited to records relating to a FINRA investigation of outside business activities, private securities transactions or possible violations of just and equitable principles of trade, as well as other FINRA rules, MSRB rules, and the federal securities laws. It does not ordinarily include books and records that are in the possession, custody or control of a member or associated person, but whose bona fide ownership is held by an independent third party [that is otherwise]and the records are unrelated to the business of the member. The rule requires, however, that a FINRA member, associated person, or person subject to FINRA's

jurisdiction must make available its books, records or accounts when these books, records or accounts are in the possession of another person or entity, such as a professional service provider, but the FINRA member, associated person or person subject to FINRA's jurisdiction controls or has a right to demand them.

* * * * *