

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 29	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2012 - * 010 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 ☐ 19b-4(f)(1) ☐ 19b-4(f)(2) ☐ 19b-4(f)(3) ☐ 19b-4(f)(4) ☐ 19b-4(f)(5) ☐ 19b-4(f)(6)	
Pilot ☐ Extension of Time Period for Commission Action * ☐ Date Expires *		
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 Amendments to FINRA 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 * Kosha Last Name * Dalal Title * Associate Vice President and Associate General Counsel E-mail * kosha.dalal@finra.org Telephone * (202) 728-6903 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 12/20/2012 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

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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.

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 “Exchange Act”),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 6440 (Trading and Quotation Halt in OTC Equity Securities) to clarify that FINRA may (1) initiate a trading and quotation halt in an OTC Equity Security upon notice of a foreign regulatory halt for news pending, including notice from a reliable third-party source; (2) continue to halt trading and quoting in such OTC Equity Security until notice from the appropriate foreign regulatory authority is received that it has or intends to resume trading in the security, even if such halt is longer than 10 business days; and (3) extend a halt initiated under Rule 6440(a)(3) for an extraordinary event beyond 10 business days if it determines that the basis for the halt still exists.

The text of the proposed rule change is attached as Exhibit 5².

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change has been approved by the Chief Legal Officer of FINRA (or his officer designee) pursuant to delegated authority. No other action by FINRA is necessary for the filing of the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² The proposed rule text set forth in Exhibit 5 includes the amendments to FINRA Rule 6440 proposed in SR-FINRA-2011-054 which were approved by the SEC and will become effective on February 4, 2013. See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (Order Approving File No. SR-FINRA-2011-054).

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

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

(a) Purpose

FINRA Rule 6440 (Trading and Quotation Halt in OTC Equity Securities) provides FINRA with the authority to initiate a trading and quotation halt for OTC Equity Securities.³ Generally, Rule 6440(a) provides that, in circumstances where it is necessary to protect investors and the public interest, FINRA may direct members to halt trading and quotations of an OTC Equity Security when: (1) a foreign securities exchange or market halts trading in its market, for regulatory reasons, in an OTC Equity Security or the security underlying an American Depositary Receipt ("ADR") that is an OTC Equity Security ("OTC ADR") that is listed on or registered with such foreign securities exchange or market, except that FINRA will not impose halts if the foreign halt was imposed solely for material news, a regulatory filing deficiency or operational reasons ("Foreign Regulatory Halt"); (2) a national securities exchange or foreign securities exchange halts trading in a listed security of which the OTC Equity Security or the security underlying the OTC ADR is a derivative or component ("Derivative Halt"); or (3) FINRA determines an extraordinary event has occurred or is ongoing that has a

³ "OTC Equity Security" means any equity security that is not an "NMS stock" as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term "OTC Equity Security" shall not include any Restricted Equity Security. See FINRA Rule 6420(f).

material effect on the market for the OTC Equity Security, or has the potential to cause major disruption to the marketplace or significant uncertainty in the settlement and clearing process (“Extraordinary Event Halt”). Pursuant to Rule 6440(b)(3), FINRA has authority to halt trading and quotations in the OTC market pursuant to an Extraordinary Event Halt for up to 10 business days.

FINRA is proposing to amend Rule 6440 to: (1) eliminate the restriction in Rule 6440(a)(1) on FINRA’s ability to initiate a Foreign Regulatory Halt when the foreign halt is imposed for material news; (2) modify the halt procedures outlined in paragraph (b) of the Rule to clarify that FINRA may initiate a trading and quotation halt in an OTC Equity Security as a result of a Foreign Regulatory Halt or Derivative Halt upon notice from a reliable third-party source; (3) modify the halt procedures outlined in paragraph (b) of the Rule to clarify that in instances where FINRA initiates a trading and quotation halt upon notice of a foreign halt pursuant to a Foreign Regulatory Halt or Derivative Halt, trading and quotation in the OTC Equity Security or the OTC ADR, FINRA may continue the halt until such time as FINRA receives notice that trading has been resumed in the security on the appropriate securities exchange on which it is listed or registered or by the other applicable regulatory authority, even if such halt is longer than 10 business days; and (4) amend Rule 6440 Supplementary Material .01 to clarify that FINRA may extend and continue in effect an Extraordinary Event Halt for subsequent periods of up to 10 business days each if, at the time of any such extension, FINRA finds that the basis for the halt still exists and determines that the continuation of the halt beyond the prior 10 business day period is necessary in the public interest and for the protection of investors.

Background

FINRA performs several critical functions with respect to the OTC market in furtherance of its obligations under Exchange Act Section 15A to have rules that are designed “to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.”⁴ In particular, FINRA believes its authority to halt trading and quotations in OTC Equity Securities pursuant to Rule 6440 is a valuable tool for maintaining fair and orderly markets, as provided in Exchange Act Section 15A. However, FINRA does not operate a “listed” market and thus has no ability to compel issuers to disclose information. While FINRA may obtain halt information provided by issuers to national securities markets or foreign securities exchanges or markets on which their securities are listed or registered, such markets are under no obligation to provide halt information to FINRA. For this reason, FINRA’s current authority to halt trading and quotations in an OTC Equity Security as a result of a Foreign Regulatory Halt provides that FINRA will not halt for material news, regulatory deficiencies or operational reasons. However, FINRA believes that with the globalization of securities markets, cross-border coordination of trading and quotation halts is important to ensure fairness in trading.

Proposal

FINRA is proposing several amendments to Rule 6440. The first amendment that FINRA is proposing would eliminate the restriction in Rule 6440(a)(1) on FINRA’s ability to initiate a halt as a result of a Foreign Regulatory Halt when the foreign halt is

⁴ See 15 U.S.C. 78o-3(b)(6).

imposed for material news. FINRA has historically not halted in these instances because, as noted above, FINRA lacks privity with OTC issuers and cannot compel such issuers to disclose information to FINRA. However, with the growth of foreign securities markets and the ease at which trading can occur across jurisdictions and markets (especially exchanges in Canada where many issuers of OTC Equity Securities are listed), FINRA believes increased coordination of trading halts across markets will protect investors by reducing instances of potentially material disparities in information regarding the security or even fraudulent or manipulative trading in the security and act to protect U.S. investors. Moreover, such coordination is consistent with how FINRA currently imposes news pending trading halts on OTC Equity Securities that are derivatives or components of securities listed on national or foreign securities exchanges pursuant to Rule 6440(a)(2).

As noted above, FINRA would be relying on the ability of the foreign market on which the security is listed or registered to oversee the issuer and evaluate news pending or other information regarding the issuer and the securities to determine if a trading halt is warranted. For example, a foreign exchange may halt trading and quoting in the security of an issuer on its market when the issuer is the subject of a significant corporate event, such as a change in ownership or corporate structuring as a result of a merger or acquisition, borrows a significant amount of funds or triggers events of default, enters into or terminates a significant contract, or is subject to major litigation.

The limitations in Rule 6440(a)(1) relating to FINRA's halt authority where the Foreign Regulatory Halt is imposed solely for a regulatory filing deficiency would remain because FINRA believes that the regulatory filing deficiency may be a listing

jurisdiction requirement that is not consistent across market centers and may be of less concern to market participants outside that jurisdiction. For example, in some instances, a foreign regulatory jurisdiction may impose a regulatory filing deficiency halt for failure to file timely financials or information related to significant corporate events. The limitation with regard to the operational halt would also remain because these halts may reflect local market trading conditions only. Rules relating to regulatory filing deficiency halts and operational halts are not consistent across market centers.

It is important to note that with respect to “domestic” OTC Equity Securities (e.g., securities that are not ADRs or are listed or registered with a foreign securities exchange or market), FINRA will have the authority to halt trading and quotation solely for news pending, *only if* such OTC Equity Security is a derivative or component of a security listed on or registered with a national securities exchange. Where the domestic OTC Equity Security is not a derivative or component of a security listed or registered with an exchange, FINRA will not have the authority to halt trading or quotation of the security in the OTC market. FINRA believes this distinction is consistent with the authority it is proposing with respect to foreign stocks given that in both cases, FINRA would be relying on the market on which the stock is listed or registered or the regulator with direct authority over the issuer, to compel timely notification of news pending events and determine whether trading should be halted.

The second amendment that FINRA is proposing would modify the halt procedures outlined in paragraph (b)(1) of the Rule to clarify that FINRA may initiate a trading and quotation halt in an OTC Equity Security as a result of a Foreign Regulatory Halt or Derivative Halt upon notice from another reliable third-party source where

FINRA can validate the information provided. Rule 6440(b)(1) currently provides that, upon receipt of information from a securities exchange or market, or regulatory authority overseeing the issuer, exchange or market, FINRA will promptly evaluate the information and determine if a trading and quotation halt in the OTC Equity Security is appropriate. Proposed Rule 6440(b)(1) would clarify that upon notice, not simply receipt of information, of a Foreign Regulatory Halt or Derivative Halt from: (i) the national or foreign securities exchange or market on which the OTC Equity Security or the security underlying the OTC ADR is listed or registered; (ii) a regulatory authority overseeing such issuer, exchange or market; or (iii) another reliable third-party source where FINRA can validate the information provided, FINRA will promptly initiate a trading and quotation halt in the OTC Equity Security. FINRA generally receives notice of foreign trading and quotation halts from official sources, such as the relevant foreign exchange or regulator (i.e., the Canadian Securities Commission, the Toronto Stock Exchange, the London Stock Exchange, etc.). However, in some cases, notice of a trading and quotation halt may be received from reliable third-party sources, such as The Depository Trust & Clearing Corporation, broker-dealers or financial news data vendors. FINRA verifies all third-party information relating to trading and quotation halts in foreign markets before it acts upon such information.

FINRA believes having the authority to halt trading and quotation in an OTC Equity Security upon notice from a reliable third-party source that can be validated provides a valuable tool that will allow FINRA to act more promptly to initiate trading and quotation halts in such securities.

The third amendment that FINRA is proposing would modify the halt procedures outlined in paragraph (b)(2) of the Rule to clarify the circumstances under which FINRA will resume trading after initiating a Foreign Regulatory Halt or Derivative Halt. Proposed Rule 6440(b)(2) clarifies that FINRA may continue the halt in trading and quoting in the OTC market for the OTC Equity Security until such time as FINRA receives notice that trading has resumed in the security on the national or foreign securities exchange on which it is listed or registered, even if such halt is longer than 10 business days. FINRA adopted the 10-business day halt standard largely to be consistent with trading suspensions ordered by the SEC pursuant to Exchange Act Section 12(k).⁵ However, with respect to halts in OTC securities as a result of a Foreign Regulatory Halt or a Derivative Halt for a security listed on or registered with a national or foreign securities exchange, FINRA believes that such halt should run concurrently with, and for as long as, the halt imposed on the security in the market on which it is listed or registered. FINRA will disseminate an appropriate public notice that a trading and quotation halt under the Rule is no longer in effect.

The fourth amendment that FINRA is proposing would modify Rule 6440 Supplementary Material .01 to clarify that FINRA may extend and continue in effect a trading and quotation halt under the Extraordinary Event Halt authority for subsequent periods of up to 10 business days each, if at the time of any such extension, FINRA finds that the basis for the halt still exists and determines that the continuation of the halt beyond the prior 10 business day period is necessary in the public interest and for the protection of investors. FINRA believes the authority to halt beyond the initial 10

⁵ 15 U.S.C. 78l(k).

business day period is vital in the OTC marketplace where concerns regarding settlement and clearance, pricing, or other extraordinary events can take time to be resolved.

FINRA is also proposing to add headings to Rule 6440 Supplementary Material .01 and .02 for clarity.

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

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁶ 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 amendments to Rule 6440 will act to increase coordination of trading halts across markets and help reduce the potential for investors' trading based on materially disparate levels of information, and even fraudulent or manipulative activities in an OTC security, while it is halted by another regulatory authority. In addition, FINRA believes the authority to extend Extraordinary Event Halts for the additional 10 business day periods is vital in the OTC marketplace where concerns regarding settlement and clearance, pricing, or other extraordinary events can take time to be resolved.

⁶ 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. FINRA will exercise judgment in each trading halt situation to assure that the halt is necessary to protect investors and not unnecessarily burden competition.

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.⁷

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.

Exhibit 5. Text of proposed rule change.

⁷ 15 U.S.C. 78s(b)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2012-010)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Amend FINRA 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.

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

FINRA is proposing to amend FINRA Rule 6440 (Trading and Quotation Halt in OTC Equity Securities) to clarify that FINRA may (1) initiate a trading and quotation halt in an OTC Equity Security upon notice of a foreign regulatory halt for news pending, including notice from a reliable third-party source; (2) continue to halt trading and quoting in such OTC Equity Security until notice from the appropriate foreign regulatory authority is received that it has or intends to resume trading in the security, even if such halt is longer than 10 business days; and (3) extend a halt initiated under Rule 6440(a)(3) for an extraordinary event beyond 10 business days if it determines that the basis for the halt still exists.

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 Rule 6440 (Trading and Quotation Halt in OTC Equity Securities) provides FINRA with the authority to initiate a trading and quotation halt for OTC Equity Securities.³ Generally, Rule 6440(a) provides that, in circumstances where it is necessary to protect investors and the public interest, FINRA may direct members to halt trading and quotations of an OTC Equity Security when: (1) a foreign securities exchange or market halts trading in its market, for regulatory reasons, in an OTC Equity Security or the security underlying an American Depositary Receipt ("ADR") that is an OTC Equity Security ("OTC ADR") that is listed on or registered with such foreign securities exchange or market, except that FINRA will not impose halts if the foreign halt was

³ "OTC Equity Security" means any equity security that is not an "NMS stock" as that term is defined in Rule 600(b)(47) of SEC Regulation NMS; provided, however, that the term "OTC Equity Security" shall not include any Restricted Equity Security. See FINRA Rule 6420(f).

imposed solely for material news, a regulatory filing deficiency or operational reasons (“Foreign Regulatory Halt”); (2) a national securities exchange or foreign securities exchange halts trading in a listed security of which the OTC Equity Security or the security underlying the OTC ADR is a derivative or component (“Derivative Halt”); or (3) FINRA determines an extraordinary event has occurred or is ongoing that has a material effect on the market for the OTC Equity Security, or has the potential to cause major disruption to the marketplace or significant uncertainty in the settlement and clearing process (“Extraordinary Event Halt”). Pursuant to Rule 6440(b)(3), FINRA has authority to halt trading and quotations in the OTC market pursuant to an Extraordinary Event Halt for up to 10 business days.

FINRA is proposing to amend Rule 6440 to: (1) eliminate the restriction in Rule 6440(a)(1) on FINRA’s ability to initiate a Foreign Regulatory Halt when the foreign halt is imposed for material news; (2) modify the halt procedures outlined in paragraph (b) of the Rule to clarify that FINRA may initiate a trading and quotation halt in an OTC Equity Security as a result of a Foreign Regulatory Halt or Derivative Halt upon notice from a reliable third-party source; (3) modify the halt procedures outlined in paragraph (b) of the Rule to clarify that in instances where FINRA initiates a trading and quotation halt upon notice of a foreign halt pursuant to a Foreign Regulatory Halt or Derivative Halt, trading and quotation in the OTC Equity Security or the OTC ADR, FINRA may continue the halt until such time as FINRA receives notice that trading has been resumed in the security on the appropriate securities exchange on which it is listed or registered or by the other applicable regulatory authority, even if such halt is longer than 10 business days; and (4) amend Rule 6440 Supplementary Material .01 to clarify that FINRA may extend

and continue in effect an Extraordinary Event Halt for subsequent periods of up to 10 business days each if, at the time of any such extension, FINRA finds that the basis for the halt still exists and determines that the continuation of the halt beyond the prior 10 business day period is necessary in the public interest and for the protection of investors.

Background

FINRA performs several critical functions with respect to the OTC market in furtherance of its obligations under Exchange Act Section 15A to have rules that are designed “to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.”⁴ In particular, FINRA believes its authority to halt trading and quotations in OTC Equity Securities pursuant to Rule 6440 is a valuable tool for maintaining fair and orderly markets, as provided in Exchange Act Section 15A. However, FINRA does not operate a “listed” market and thus has no ability to compel issuers to disclose information. While FINRA may obtain halt information provided by issuers to national securities markets or foreign securities exchanges or markets on which their securities are listed or registered, such markets are under no obligation to provide halt information to FINRA. For this reason, FINRA’s current authority to halt trading and quotations in an OTC Equity Security as a result of a Foreign Regulatory Halt provides that FINRA will not halt for material news, regulatory deficiencies or operational reasons. However,

⁴ See 15 U.S.C. 78o-3(b)(6).

FINRA believes that with the globalization of securities markets, cross-border coordination of trading and quotation halts is important to ensure fairness in trading.

Proposal

FINRA is proposing several amendments to Rule 6440. The first amendment that FINRA is proposing would eliminate the restriction in Rule 6440(a)(1) on FINRA's ability to initiate a halt as a result of a Foreign Regulatory Halt when the foreign halt is imposed for material news. FINRA has historically not halted in these instances because, as noted above, FINRA lacks privity with OTC issuers and cannot compel such issuers to disclose information to FINRA. However, with the growth of foreign securities markets and the ease at which trading can occur across jurisdictions and markets (especially exchanges in Canada where many issuers of OTC Equity Securities are listed), FINRA believes increased coordination of trading halts across markets will protect investors by reducing instances of potentially material disparities in information regarding the security or even fraudulent or manipulative trading in the security and act to protect U.S. investors. Moreover, such coordination is consistent with how FINRA currently imposes news pending trading halts on OTC Equity Securities that are derivatives or components of securities listed on national or foreign securities exchanges pursuant to Rule 6440(a)(2).

As noted above, FINRA would be relying on the ability of the foreign market on which the security is listed or registered to oversee the issuer and evaluate news pending or other information regarding the issuer and the securities to determine if a trading halt is warranted. For example, a foreign exchange may halt trading and quoting in the security of an issuer on its market when the issuer is the subject of a significant corporate

event, such as a change in ownership or corporate structuring as a result of a merger or acquisition, borrows a significant amount of funds or triggers events of default, enters into or terminates a significant contract, or is subject to major litigation.

The limitations in Rule 6440(a)(1) relating to FINRA's halt authority where the Foreign Regulatory Halt is imposed solely for a regulatory filing deficiency would remain because FINRA believes that the regulatory filing deficiency may be a listing jurisdiction requirement that is not consistent across market centers and may be of less concern to market participants outside that jurisdiction. For example, in some instances, a foreign regulatory jurisdiction may impose a regulatory filing deficiency halt for failure to file timely financials or information related to significant corporate events. The limitation with regard to the operational halt would also remain because these halts may reflect local market trading conditions only. Rules relating to regulatory filing deficiency halts and operational halts are not consistent across market centers.

It is important to note that with respect to "domestic" OTC Equity Securities (e.g., securities that are not ADRs or are listed or registered with a foreign securities exchange or market), FINRA will have the authority to halt trading and quotation solely for news pending, only if such OTC Equity Security is a derivative or component of a security listed on or registered with a national securities exchange. Where the domestic OTC Equity Security is not a derivative or component of a security listed or registered with an exchange, FINRA will not have the authority to halt trading or quotation of the security in the OTC market. FINRA believes this distinction is consistent with the authority it is proposing with respect to foreign stocks given that in both cases, FINRA would be relying on the market on which the stock is listed or registered or the regulator with direct

authority over the issuer, to compel timely notification of news pending events and determine whether trading should be halted.

The second amendment that FINRA is proposing would modify the halt procedures outlined in paragraph (b)(1) of the Rule to clarify that FINRA may initiate a trading and quotation halt in an OTC Equity Security as a result of a Foreign Regulatory Halt or Derivative Halt upon notice from another reliable third-party source where FINRA can validate the information provided. Rule 6440(b)(1) currently provides that, upon receipt of information from a securities exchange or market, or regulatory authority overseeing the issuer, exchange or market, FINRA will promptly evaluate the information and determine if a trading and quotation halt in the OTC Equity Security is appropriate. Proposed Rule 6440(b)(1) would clarify that upon notice, not simply receipt of information, of a Foreign Regulatory Halt or Derivative Halt from: (i) the national or foreign securities exchange or market on which the OTC Equity Security or the security underlying the OTC ADR is listed or registered; (ii) a regulatory authority overseeing such issuer, exchange or market; or (iii) another reliable third-party source where FINRA can validate the information provided, FINRA will promptly initiate a trading and quotation halt in the OTC Equity Security. FINRA generally receives notice of foreign trading and quotation halts from official sources, such as the relevant foreign exchange or regulator (i.e., the Canadian Securities Commission, the Toronto Stock Exchange, the London Stock Exchange, etc.). However, in some cases, notice of a trading and quotation halt may be received from reliable third-party sources, such as The Depository Trust & Clearing Corporation, broker-dealers or financial news data vendors. FINRA

verifies all third-party information relating to trading and quotation halts in foreign markets before it acts upon such information.

FINRA believes having the authority to halt trading and quotation in an OTC Equity Security upon notice from a reliable third-party source that can be validated provides a valuable tool that will allow FINRA to act more promptly to initiate trading and quotation halts in such securities.

The third amendment that FINRA is proposing would modify the halt procedures outlined in paragraph (b)(2) of the Rule to clarify the circumstances under which FINRA will resume trading after initiating a Foreign Regulatory Halt or Derivative Halt. Proposed Rule 6440(b)(2) clarifies that FINRA may continue the halt in trading and quoting in the OTC market for the OTC Equity Security until such time as FINRA receives notice that trading has resumed in the security on the national or foreign securities exchange on which it is listed or registered, even if such halt is longer than 10 business days. FINRA adopted the 10-business day halt standard largely to be consistent with trading suspensions ordered by the SEC pursuant to Exchange Act Section 12(k).⁵ However, with respect to halts in OTC securities as a result of a Foreign Regulatory Halt or a Derivative Halt for a security listed on or registered with a national or foreign securities exchange, FINRA believes that such halt should run concurrently with, and for as long as, the halt imposed on the security in the market on which it is listed or registered. FINRA will disseminate an appropriate public notice that a trading and quotation halt under the Rule is no longer in effect.

⁵ 15 U.S.C. 78l(k).

The fourth amendment that FINRA is proposing would modify Rule 6440 Supplementary Material .01 to clarify that FINRA may extend and continue in effect a trading and quotation halt under the Extraordinary Event Halt authority for subsequent periods of up to 10 business days each, if at the time of any such extension, FINRA finds that the basis for the halt still exists and determines that the continuation of the halt beyond the prior 10 business day period is necessary in the public interest and for the protection of investors. FINRA believes the authority to halt beyond the initial 10 business day period is vital in the OTC marketplace where concerns regarding settlement and clearance, pricing, or other extraordinary events can take time to be resolved. FINRA is also proposing to add headings to Rule 6440 Supplementary Material .01 and .02 for clarity.

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

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁶ 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 amendments to Rule 6440 will act to increase coordination of trading halts across markets and help reduce the potential for investors'

⁶ 15 U.S.C. 78o-3(b)(6).

trading based on materially disparate levels of information, and even fraudulent or manipulative activities in an OTC security, while it is halted by another regulatory authority. In addition, FINRA believes the authority to extend Extraordinary Event Halts for the additional 10 business day periods is vital in the OTC marketplace where concerns regarding settlement and clearance, pricing, or other extraordinary events can take time to be resolved.

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. FINRA will exercise judgment in each trading halt situation to assure that the halt is necessary to protect investors and not unnecessarily burden competition.

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-2012-010 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-2012-010. 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-2012-010 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.⁷

Elizabeth M. Murphy

Secretary

⁷ 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. Amendments to FINRA Rule 6440 proposed in SR-FINRA-2011-054 that were approved by the SEC on May 31, 2012 and become effective on February 4, 2013 are incorporated herein.¹

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6000. QUOTATION AND TRANSACTION REPORTING FACILITIES

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6400. QUOTING AND TRADING IN OTC EQUITY SECURITIES

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6440. Trading and Quotation Halt in OTC Equity Securities

(a) Authority for Initiating a Trading and Quotation Halt

In circumstances in which it is necessary to protect investors and the public interest, FINRA may direct members, pursuant to the procedures set forth in paragraph (b), to halt trading and quotations in OTC Equity Securities (as such term is defined in Rule 6420) if:

(1) the OTC Equity Security or the security underlying an American Depositary Receipt ("ADR") that is an OTC Equity Security ("OTC ADR") is listed on or registered with a foreign securities exchange or market, and the foreign securities exchange, market, or regulatory authority overseeing such issuer, exchange, or market, halts trading in such security for regulatory reasons because of public interest concerns or for news pending ["Foreign Regulatory Halt"]; provided, however, that FINRA will not impose a trading and quotation

¹ See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (Order Approving File No. SR-FINRA-2011-054).

halt if the Foreign Regulatory Halt was imposed solely for [material news,]a regulatory filing deficiency, or operational reasons ("Foreign Regulatory Halt");

(2) the OTC Equity Security or the security underlying an OTC ADR is a derivative or component of a security listed on or registered with a national securities exchange or foreign securities exchange or market ("listed security") and the national securities exchange, or foreign securities exchange or market imposes a trading halt in the listed security ("Derivative Halt"); or

(3) FINRA 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 the security underlying an OTC ADR or has caused or has the potential to cause major disruption to the marketplace [and/]or significant uncertainty in the settlement and clearance process ("Extraordinary Event Halt").

(b) Procedure for Initiating a Trading and Quotation Halt

(1) [When a halt is initiated under paragraph (a)(1) of this Rule, upon] Upon notice [receipt of information] of a Foreign Regulatory Halt or Derivative Halt from: (A) the national or [a] foreign securities exchange or market on which the OTC Equity Security or the security underlying the OTC ADR is listed or registered, [or](B) [from] a regulatory authority overseeing such issuer, exchange, or market, or (C) another reliable third-party source where FINRA can validate the information provided, FINRA will promptly [evaluate the information and determine whether a trading and quotation halt in the OTC Equity Security is appropriate.]

[(2) Should FINRA determine that a basis exists under this Rule for] initiate[ing] a trading and quotation halt in the OTC Equity Security.[,] T[t]he commencement of the trading and quotation halt for the OTC Equity Security will be effective simultaneous with the issuance of appropriate public notice by FINRA.

(2) After FINRA initiates a halt in an OTC Equity Security as a result of a Foreign Regulatory Halt or a Derivative Halt, FINRA may continue the halt in trading and quoting in the OTC market for the OTC Equity Security until such time as FINRA receives notice that the applicable regulatory authority has or intends to resume trading in the security.

(3) After FINRA initiates a halt in an OTC Equity Security as a result of an Extraordinary Event Halt, trading [Trading] and quotations in the OTC market for the OTC Equity Security may resume when FINRA determines that the basis for the halt no longer exists, or when ten business days have elapsed from the date FINRA initiated the trading and quotation halt in the security, whichever occurs first.

(4) FINRA shall disseminate appropriate public notice that a[the] trading and quotation halt initiated under this Rule is no longer in effect.

(c) No Change.

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

.01 Discretion for Extraordinary Event Halts. FINRA may impose a trading and quotation halt in an OTC Equity Security pursuant to Rule 6440(a)(3) where FINRA determines, in its discretion, based on the facts and circumstances of the particular event, that halting trading in the

security is the appropriate mechanism to protect investors and ensure a fair and orderly marketplace. As a general matter, FINRA does not favor imposing a trading and quotation halt in an OTC Equity Security and will exercise this authority in very limited circumstances.

FINRA may also determine to extend an Extraordinary Event Halt that has been initiated pursuant to Rule 6440 (a)(3) to continue in effect for subsequent periods of up to 10 business days each if, at the time of any such extension, FINRA finds that the extraordinary event is ongoing and determines that the continuation of the halt beyond the prior 10 business day period is necessary in the public interest and for the protection of investors.

.02 Factors Considered. In determining whether to impose an Extraordinary Event Halt [a trading halt] under Rule 6440(a)(3), FINRA will consider several factors in making its determination, including but not limited to: (1) the material nature of the event; (2) the material facts surrounding the event are undisputed and not in conflict; (3) the event has caused widespread confusion in the trading of the security; (4) there has been a material negative effect on the market for the subject security; (5) the potential exists for a major disruption to the marketplace; (6) there is significant uncertainty in the settlement and clearance process for the security; and/or (7) such other factors as FINRA deems relevant in making its determination. FINRA may review all or some of these factors as it determines appropriate.

.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.

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