

Accounts' assets, because his or her interest in the Payment Enhancement amount has not vested. With respect to a Payment Enhancement recaptured upon the exercise of the free look privilege of the Contracts, Applicants submit it would be unfair to allow an owner exercising that privilege to retain the Payment Enhancement under Contracts that have been returned for a refund after a period of only a few days. If the Applicants could not deduct the Payment Enhancement from the amount returned to an individual during the free look period, Applicants would bear the loss on the value of the Payment Enhancement if the contract value dropped during the free look period. If the Contracts are returned during the free look period, Applicants also note that a Contract owner is entitled to retain any investment gain attributable to the Payment Enhancement, even if the Payment Enhancement is deducted. Furthermore, the recapture of the Payment Enhancement if the owner's death occurs within 12 months after receipt of a Payment Enhancement, is designed to provide the Insurance Companies with a measure of protection against "anti-selection." The risk is that an owner, with full knowledge of impending death or serious illness, will make very large payments to the Contracts which, according to the Applicants, could result in significant financial exposure to the Applicants.

5. The recapture of a Payment Enhancement could be viewed as involving the redemption of redeemable securities for a price other than one based on the current net asset value of a Separate Account. The recapture of the Payment Enhancement does not involve either of the harms that Rule 22c-1 was intended to address, namely: (i) the dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or redemption or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices.

6. Applicants assert that the proposed recapture of the Payment Enhancement does not pose a threat of dilution. To effect a recapture of a Payment Enhancement, interests in an owner's contract will be redeemed at a price determined on the basis of the current net asset value. The amount recaptured will equal the amount of the Payment Enhancement that the Insurance Company paid out of its general account assets. Although the owner will be entitled to retain any investment gain attributable to a Payment Enhancement, the amount of that gain will be

determined on the basis of current net asset value. Similarly, the owner will bear any loss if investment performance declines since the amount that is recaptured will equal the amount of the Payment Enhancement. Therefore, no dilution will occur upon the recapture of a Payment Enhancement.

7. Applicants also submit that the second harm that Rule 22c-1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of a Payment Enhancement because the pricing of the bonus recapture will occur on the basis of the net asset value calculated in accordance with Rule 22c-1 on the date of the recapture.

8. Applicants submit that their request for an order that applies to any Separate Account or any Future Separate Account established by American General and US Life in connection with the issuance of Contracts and Future Contracts, and underwritten or distributed by the Distributor or other broker-dealers, is appropriate in the public interest. Applicants request that the order sought herein extend to any future insurance company that will be the successor in interest to American General or US Life. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this application. Having Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise.

9. Applicants undertake that Future Contracts funded by Separate Accounts or by Future Separate Accounts that seek to rely on the order issue pursuant to the application will be substantially similar to the Contracts in all material respects.

#### Conclusion

For the reasons set forth in the application, the Applicants assert that the requested order meets the standards set out in Section 6(c) of the Act and that an order should, therefore, be granted.

For the Commission, by the Division of Investment Management under delegated authority.

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2013-21562 Filed 9-4-13; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70288; File No. SR-FINRA-2013-038]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend a TRACE Pilot Program in FINRA Rule 6730(e)(4)

August 29, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 26, 2013, the 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 and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to extend the pilot program in FINRA Rule 6730(e)(4) to October 23, 2015. The pilot program exempts from reporting to the Trade Reporting and Compliance Engine ("TRACE") transactions in TRACE-Eligible Securities that are executed on a facility of the New York Stock Exchange ("NYSE") in accordance with NYSE Rules 1400, 1401 and 86 and reported to NYSE in accordance with NYSE's applicable trade reporting rules and disseminated publicly by NYSE.

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

\* \* \* \* \*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

**6700. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)**

\* \* \* \* \*

**6730. Transaction Reporting**

(a) through (d) No Change.

(e) Reporting Requirements for Certain Transactions and Transfers of Securities

The following shall not be reported:

(1) through (3) No Change.

(4) Provided that a data sharing agreement between FINRA and NYSE related to transactions covered by this Rule remains in effect, for a pilot program expiring on [October 25, 2013] *October 23, 2015*, transactions in TRACE-Eligible Securities that are executed on a facility of NYSE in accordance with NYSE Rules 1400, 1401 and 86 and reported to NYSE in accordance with NYSE's applicable trade reporting rules and disseminated publicly by NYSE.

(5) through (6) No Change.

(f) No Change.

**• • • Supplementary Material:**

.01 No Change.

\* \* \* \* \*

**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**

The pilot program set forth in FINRA Rule 6730(e)(4) exempts from reporting to TRACE those transactions in TRACE-Eligible Securities that are executed on a facility of NYSE in accordance with NYSE Rules 1400, 1401 and 86 and reported to NYSE in accordance with NYSE's applicable trade reporting rules and disseminated publicly by NYSE, provided that a data sharing agreement between FINRA and NYSE related to transactions covered by the Rule remains in effect.<sup>4</sup> The pilot program is

currently scheduled to expire on October 25, 2013.

FINRA is proposing to extend the pilot program until October 23, 2015 to continue to exempt transactions in TRACE-Eligible Securities on an NYSE facility (and as to which all the other conditions of the exemption are met) from the TRACE reporting requirements. The extension will provide additional time to analyze the impact of the exemption. Without the extension, members would be subject to both FINRA's and NYSE's trade reporting requirements with respect to these securities. The proposed change thus serves to eliminate duplicative reporting requirements for these securities and the resulting compliance costs and burdens.

The proposed rule change would not expand or otherwise change the pilot. FINRA notes that the success of the pilot program remains dependent on FINRA's ability to continue to effectively conduct surveillance on corporate debt trading in the over-the-counter market. In this regard, the parties continue to share data related to the transactions covered by FINRA Rule 6730(e)(4) as required by the Rule. However, FINRA supports a regulatory construct that, in the future, consolidates all last sale transaction information to provide better price transparency and a more efficient means to engage in market surveillance of TRACE-Eligible Securities transactions. The proposed extension would allow the pilot program to continue to operate without interruption while FINRA and NYSE continue to assess the effect of the exemption and issues regarding the consolidation of market data, market surveillance and price transparency.

2006) (Order Approving Proposed Rule Change; File No. SR-NASD-2006-110) (pilot program in FINRA Rule 6730(e)(4), subject to the execution of a data sharing agreement addressing relevant transactions, became effective on January 9, 2007); Securities Exchange Act Release No. 59216 (January 8, 2009), 74 FR 2147 (January 14, 2009) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2008-065) (pilot program extended to January 7, 2011); Securities Exchange Act Release No. 63673 (January 7, 2011), 76 FR 2739 (January 14, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2011-002) (pilot program extended to July 8, 2011); Securities Exchange Act Release No. 64665 (June 14, 2011), 76 FR 35933 (June 20, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2011-025) (pilot program extended to January 27, 2012); Securities Exchange Act Release No. 66018 (December 21, 2011), 76 FR 81549 (December 28, 2011) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2011-072) (pilot program extended to October 26, 2012); and Securities Exchange Act Release No. 68076 (October 22, 2012), 77 FR 65431 (October 26, 2012) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change; File No. SR-FINRA-2012-047) (pilot program extended to October 25, 2013).

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be October 25, 2013.

**2. Statutory Basis**

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>5</sup> 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 extension of the exemptive provision protects investors and the public because transactions will be reported, transparency will be maintained for these transactions, and NYSE's agreement to share data with FINRA allows FINRA to continue to conduct surveillance in the corporate debt securities market. In addition, extending the exemptive provision permits members that are subject to both FINRA's and NYSE's trade reporting requirements to avoid a duplicative regulatory structure and the increased costs that may be incurred as a result of duplicative requirements.

**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 believes that the extension of the exemptive provision does not result in any burden on competition since it allows members that are subject to both FINRA's and NYSE's trade reporting requirements to avoid a duplicative regulatory structure and the increased costs that may be incurred as a result of duplicative requirements.

**C. Self-Regulatory Organization's Statement on Comments 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**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time

<sup>4</sup> See Securities Exchange Act Release No. 54768 (November 16, 2006), 71 FR 67673 (November 22,

<sup>5</sup> 15 U.S.C. 78o-3(b)(6).

as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(6) thereunder.<sup>7</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2013-038 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-2013-038. This file number should be included on the subject line if email 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 Web site (<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 Web site 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 10:00 a.m. and 3:00 p.m. Copies of the 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-2013-038 and should be submitted on or before September 26, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2013-21536 Filed 9-4-13; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70291; File No. SR-DTC-2013-10]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change in Order To Terminate the Sealed Envelope Service, Which Is Part of The Depository Trust Company's Custody Service

August 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 22, 2013, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

As more fully discussed below, the proposed rule change is to terminate the

Sealed Envelope Service, which is part of DTC's Custody Service.

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC 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

###### Purpose

In 2002, DTC launched the Sealed Envelope Service (the "Service") as a service extension to DTC's Custody Service.<sup>3</sup> The Service was designed to provide physical custody to Participants for documents or instruments that are not securities, such as loan agreements, wills, deeds, mortgages, contracts and option agreements. The Service strictly prohibits the deposit of securities certificates as well as tangible assets such as currency, gold coins or jewelry. DTC initially launched the Service in response to a request from Participants to assist in fully outsourcing their vaults to DTC. Subsequently, there has not been much use of the Service by Participants, and it is, accordingly, not economically efficient to maintain the Service.

Currently, DTC allows for these non-security items to be held in custody in a sealed envelope in one of DTC's vaults. The envelopes are such that the contents cannot be viewed when sealed. DTC does not open any sealed envelopes, but x-rays all packages and envelopes received to assure [sic] no dangerous contents. DTC also assigns a user-CUSIP number for tracking and record keeping purposes. The depositing Participant is required to list the contents of the envelope on the outside of the envelope. Participants balance their sealed envelopes daily with DTC in the same manner as they presently do for securities held in the Custody Service. DTC does not verify the contents of the envelope and this has presented a concern since DTC has no way of knowing whether the contents qualify for the Service.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 46018 (Jun. 3, 2002), 67 FR 39454 (Jun. 7, 2002) (SR-DTC-2002-03).