

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 - 2014 - * 021

Amendment No. (req. for Amendments *)

Filing 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)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) *



Section 806(e)(2) *

Security-Based Swap Submission pursuant
to the Securities Exchange Act of 1934

Section 3C(b)(2) *



Exhibit 2 Sent As Paper Document



Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed Rule Change to Amend FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed 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 action.

First Name * Racquel

Last Name * Russell

Title * Associate General Counsel

E-mail * Racquel.Russell@finra.org

Telephone * (202) 728-8363

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.

(Title *)

Date 04/17/2014

Senior Vice President and Deputy General Counsel

By Patrice M. Gliniecki

(Name *)

Patrice Gliniecki,

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.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFT website.

Form 19b-4 Information *

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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 *

Add Remove View

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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

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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, security-based swap submission, or advance notice 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

Add Remove View

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

Add Remove View

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 the 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 Rule 11892 to add new provisions to address multi-day clearly erroneous events, transactions occurring during trading halts, and to make non-substantive clarifications to the rule.

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

The proposed rule change has been approved by senior management of FINRA pursuant to delegated authority. No other action by FINRA is necessary for the filing of the proposed rule change.

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

(a) Purpose

FINRA is proposing amendments to Rule 11892 (the “Rule”) to add new paragraphs (c) and (d) to provide FINRA authority to: (1) declare as null and void transactions effected on one or more trading days that were based on the same fundamentally incorrect or grossly misinterpreted issuance information, and (2) in the event of a disruption or malfunction in the operation of the electronic communication and

¹ 15 U.S.C. 78s(b)(1).

trading facilities of a self-regulatory organization or responsible single plan processor in connection with transmittal or receipt of a regulatory halt, suspension or pause (i.e., a “trading halt”), declare as null and void any transactions that occur after the primary listing market for a security declares a trading halt with respect to such security.² FINRA also is proposing to make non-substantive clarifications to the text of the Rule.

FINRA also proposes a change to certain cross-references in the Rule, due to the addition of paragraphs (c) and (d). Specifically, FINRA proposes to update cross-references in existing Rule 11892.03 in order to make clear that the provisions of Supplementary Material .03 do not alter the application of other provisions of Rule 11892, including new paragraphs (c) and (d).

Background

On September 10, 2010, the Commission approved, on a pilot basis, changes to FINRA Rule 11892 to provide for uniform treatment of clearly erroneous reviews: (1) in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect.³ FINRA also adopted additional changes to Rule 11892 that reduced FINRA’s ability to deviate from the objective standards set forth in the Rule⁴ and, in 2013, adopted

² In the event a trading halt is declared, prematurely lifted in error, and then re-instituted, under proposed paragraph (d), any transactions that occurred before the official, final end of the trading halt according to the primary listing market also would be declared as null and void.

³ See Securities Exchange Act Release No. 62885 (September 10, 2010), 75 FR 56641 (September 16, 2010) (Order Approving File No. SR-FINRA-2010-032).

⁴ Supra note 3.

a provision designed to address the operation of the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the “Limit Up-Limit Down Plan” or the “Plan”).⁵ Most recently, FINRA removed the specific provisions related to individual stock trading pauses and extended until April 8, 2014 the pilot program applicable to certain provisions of Rule 11892.⁶

As proposed, new paragraphs Rule 11892(c) and (d) would be subject to the existing clearly erroneous pilot period, which recently was amended to coincide with the pilot period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan.⁷

Multi-Day Clearly Erroneous Executions Based on Fundamentally Incorrect or Grossly Misinterpreted Issuance Information

FINRA proposes to adopt a new paragraph (c) to Rule 11892 (Multi-day Events), which would provide that a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information (e.g., with respect to a stock split or corporate dividend) resulting in a severe valuation error for all such transactions (the “Event”).

⁵ See Securities Exchange Act Release No. 68808 (February 1, 2013), 78 FR 9083 (February 7, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2013-012); See also Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

⁶ See Securities Exchange Act Release No. 70516 (September 26, 2013), 78 FR 60952 (October 2, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2013-041).

⁷ See Securities Exchange Act Release No. 71781 (March 24, 2014), 79 FR 17615 (March 28, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2014-013).

As proposed, a FINRA officer, acting on his or her own motion, would be required to take action to declare all transactions in a security that occurred during the Event null and void not later than the start of trading on the day following the last transaction in the Event. If trading in the security is halted before the valuation error is corrected, the FINRA officer would be required to take action to declare all transactions in that security that occurred during the Event null and void prior to the resumption of trading. FINRA proposes to make clear that no action can be taken pursuant to proposed paragraph (c) with respect to any transactions that have reached the settlement date for the security or that result from an initial public offering (“IPO”) of a security. FINRA believes that declaring a trade null and void after the settlement date would be complex to administer and unfair to the affected parties. FINRA also believes that excluding IPOs from the proposed rule will ensure that transactions in a new security for which there is no benchmark information are not called into question as it is the IPO process itself including the extensive public disclosure associated with IPOs, that is intended to drive price formation.

Further, FINRA proposes that, to the extent transactions related to an Event involve one or more other self-regulatory organizations, FINRA promptly will coordinate with such other self-regulatory organizations to ensure consistent treatment of the transactions related to the Event, if practicable. FINRA also proposes to state in the Rule that any action taken in connection with paragraph (c) will be taken without regard to the numerical guidelines set forth in paragraph (b)(1) of Rule 11892. In particular, FINRA believes that there could be scenarios where there are erroneous transactions related to an Event that would not meet the applicable numerical guidelines but that are, upon review,

clearly erroneous. An example of a scenario that proposed new paragraph (c) is intended to address is a corporate action, such as a stock split, that results in the dissemination of fundamentally incorrect or grossly misinterpreted issuance information and leads to transactions at a price that is close to the price at which the security was previously trading. Even if such trading is consistent with prior trading activity for the security, and thus would not meet the applicable numerical guidelines, the proposal would provide FINRA with the authority to declare as null and void such transactions if they were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information and there was a severe valuation error as a result (i.e., although the security should be trading at a price further away from its previous price range, due to fundamentally incorrect or grossly misinterpreted issuance information with respect to the corporate action, the security continues to trade at a price that does not meet the applicable numerical guidelines).

FINRA also proposes to provide that each member involved in a transaction subject to proposed paragraph (c) shall be notified as soon as practicable of a determination to declare such transaction null and void, and the party aggrieved by such action may appeal in accordance with Rule 11894.

In particular, FINRA believes it is necessary to have authority to declare as null and void transactions that occur in an event similar to an event involving an exchange offer (“Exchange Offer”) made by U.S. Bancorp on the New York Stock Exchange (“NYSE”) in 2010 in which there were a series of executions based on incorrect or grossly misinterpreted issuance information and, as a result, the securities traded at severely dislocated prices (the “U.S. Bancorp Event”). At the time, the NYSE filed an

emergency rule filing in order to respond to that event.⁸ With the filing, the NYSE interpreted its clearly erroneous rule as permitting the NYSE to nullify all trades occurring after the Exchange Offer at severely dislocated prices.⁹ FINRA believes it is important to have in place a provision to declare trades null and void if an event like the U.S. Bancorp Event occurs again in the future. The U.S. Bancorp Event is described in further detail below and is intended to be illustrative of the manner in which FINRA proposes to utilize proposed paragraph (c), if necessary.

In May 2010, U.S. Bancorp commenced an offer to exchange up to 1,250,000 Depositary Shares, each representing a 1/100 interest in a share of Series A Non-Cumulative Perpetual Preferred Stock, \$100,000 liquidation preference per share (the “Depositary Shares”) for any and all of the 1,250,000 outstanding 6.189% Fixed-to-Floating Rate Normal ITS issued by U.S. Bancorp Capital IX, each with a liquidation amount of \$1,000 (the “Normal ITS”). The Depositary Shares were approved for listing on the NYSE under the symbol USB PRA. On June 11, 2010, the NYSE opened the shares on a quote, but trading did not commence until June 16, 2010 at prices in the range of \$79.00 per share. There were additional executions on the NYSE in that price range on June 17, 2010 and June 18, 2010. On June 18th, the NYSE learned that the prices at which trades had executed were not consistent with the value of the security, which was closer to \$800 per share. Upon learning of the pricing disparity, the NYSE immediately

⁸ See Securities Exchange Act Release No. 62609 (July 30, 2010), 75 FR 47327 (August 5, 2010) (Notice of Filing and Immediate Effectiveness of File No. SR-NYSE-2010-55).

⁹ Supra note 8.

halted trading in the Depositary Shares on all markets and alerted U.S. Bancorp and other exchanges that traded the Depositary Shares of the pricing discrepancy.

To address the situation, the NYSE filed a proposal to interpret its existing clearly erroneous rule such that trading in the Depositary Shares from June 16th to June 18th constituted a single event because that trading was based on incorrect or grossly misinterpreted issuance information that resulted in severe price dislocation.¹⁰ Because the Depositary Shares were halted before the price of the Depositary Shares ceased to be dislocated, and remained halted, the NYSE was able to review trading in the Depositary Shares and declare as null and void all trading related to the U.S. Bancorp Event before the security resumed trading. FINRA believes it is appropriate to include in Rule 11892 the authority to address such an event should a similar situation arise in the future.

Transactions Occurring After a Trading Halt Has Been Declared

FINRA proposes to add new paragraph (d) to Rule 11892 (Transactions Occurring During Trading Halts) to make clear that, in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of a self-regulatory organization or responsible single plan processor in connection with the transmittal or receipt of a trading halt, a FINRA officer, acting on his or her own motion, shall declare as null and void any transaction that occurs after the primary listing market for a security declares a trading halt and before such trading halt with respect to such security has officially ended according to the primary listing market.

In addition, proposed paragraph (d) will make clear that, in the event a trading halt is declared, then prematurely lifted in error and then re-instituted, FINRA will

¹⁰ Supra note 8.

declare as null and void all transactions that occur before the official, final end of the trading halt according to the primary listing market. Any action taken in connection with paragraph (d) must be taken in a timely fashion, generally within thirty minutes of the detection of the erroneous transaction and in no circumstances later than the start of normal market hours¹¹ on the trading day following the date of the execution(s) under review. FINRA also proposes to specify that any action taken in connection with proposed paragraph (d) will be taken without regard to the numerical guidelines set forth in paragraph (b)(1) of Rule 11892. FINRA believes it is appropriate to declare transactions pursuant to proposed paragraph (d) as null and void without regard to the numerical guidelines because, in the situations covered by paragraph (d), the subject transactions were prohibited from occurring during a trading halt and, thus, declaring them null and void does not put the parties in any different position than they should have been. FINRA also believes that the certainty provided by this provision is critical in situations involving trading halts. FINRA proposes that each member involved in a transaction subject to proposed paragraph (d) shall be notified by FINRA as soon as practicable of a determination to declare a transaction(s) as null and void, and the party aggrieved by such action may appeal the action in accordance with Rule 11894.

FINRA rules provide authority to halt over-the-counter trading in an exchange-listed security in certain cases, including when the primary listing market issues a trading halt in the security.¹² However, in certain circumstances, due to a technical issue related to the transmission or receipt of the electronic message instituting such trading halt or due

¹¹ Normal market hours are from 9:30 a.m. E.T. to 4:00 p.m. E.T.

¹² See FINRA Rules 6120 and 6121.

to other extraordinary circumstances, members may execute transactions over the counter following the declaration of such a trading halt. Similarly, although rare, there have been extraordinary circumstances in which a trading halt is declared, then prematurely lifted in error, and then re-instituted. FINRA believes it is appropriate to provide for certainty that, in such extraordinary circumstances, any transactions occurring after a trading halt has been declared will be deemed null and void. In the event that a trading halt is declared as of a future time (i.e., if the primary listing exchange declares a trading halt as of a specific, future time in order to ensure coordination amongst market participants), FINRA would nullify only those transactions occurring after the time the trading halt was supposed to be in place until the official end of the trading halt according to the primary listing market. FINRA believes that such authority is appropriate because, when relied upon, FINRA will be nullifying trades that should not have occurred in the first instance and because a trading halt declared by the primary listing market is indicative of an issue with respect to the applicable security or a larger set of securities. Finally, FINRA is making non-substantive amendments to the rule to simplify and clarify the text.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹³ 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, 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.

¹³ 15 U.S.C. 78o-3(b)(6).

FINRA believes that it is appropriate to adopt a provision granting FINRA authority to declare as null and void trades that occur if an event similar to the U.S. Bancorp Event occurs again. FINRA believes that this provision will allow FINRA to act in the event of such a severe valuation error, that such action would promote just and equitable principles of trade; and that the proposal is, therefore, consistent with the Act. Similarly, FINRA believes that adding a provision: (1) allowing FINRA to nullify transactions that occur when a trading halt is declared, then prematurely lifted in error and then reinstituted, and (2) providing that, in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of a self-regulatory organization or responsible single plan processor in connection with the transmittal or receipt of a trading halt, FINRA will nullify trades occurring after a trading halt has been declared by the primary listing market for the security – will help to avoid confusion amongst market participants, which is consistent with the protection of investors and the public interest and therefore is consistent with the Act.

FINRA further believes that the proposal is appropriate and consistent with the Act because, when relied upon, FINRA will be nullifying trades that should not have occurred in the first instance. FINRA also believes that the proposal is appropriate because a trading halt declared by the primary listing market is indicative of an issue with respect to the applicable security or a larger set of securities.

FINRA believes that the proposal to update cross-references in existing Supplementary Material .03 of Rule 11892 to include new paragraphs (c) and (d) is consistent with the Act because, as is the case with respect to the current Rule, this change makes clear that the provisions of Supplementary Material .03 do not alter the

application of other provisions of Rule 11892. Finally, FINRA believes that the proposed non-substantive clarifications are consistent with the Act in that they provide the market with clarity as to the intended operation of the Rule.

FINRA believes that other self-regulatory organizations also are filing similar proposals to add provisions similar to the provisions being proposed by FINRA in this filing. Therefore, the proposal promotes just and equitable principles of trade in that it promotes transparency and uniformity across the self-regulatory organizations concerning treatment of transactions as clearly erroneous. The proposed rule change also helps ensure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest.

4. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change implicates any competitive issues. To the contrary, as noted above, FINRA believes that other self-regulatory organizations also are filing similar proposals and, thus, that the proposal will help to ensure consistency across markets.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

FINRA has not solicited, and does not intend to solicit, comments on this proposed rule change. FINRA has not received any written comments from members or other interested parties.

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) or Section 19(b)(7)(D)

Not applicable.

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

The provisions of the proposed rule change related to transactions in exchange-listed securities are part of a market-wide effort designed to provide transparency and finality with respect to clearly erroneous transactions. FINRA believes that other self-regulatory organizations intend to file rule changes incorporating provisions that are similar to the other aspects of FINRA's instant proposal.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

11. Exhibits

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

Exhibit 5: Text of proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2014-021)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Amend FINRA Rule 11892 (Clearly Erroneous Transactions in Exchange-Listed Securities)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on , Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to amend Rule 11892 to add new provisions to address multi-day clearly erroneous events, transactions occurring during trading halts, and to make non-substantive clarifications to the rule.

The text of the proposed rule change is available on FINRA’s website at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

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

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

1. Purpose

FINRA is proposing amendments to Rule 11892 (the "Rule") to add new paragraphs (c) and (d) to provide FINRA authority to: (1) declare as null and void transactions effected on one or more trading days that were based on the same fundamentally incorrect or grossly misinterpreted issuance information, and (2) in the event of a disruption or malfunction in the operation of the electronic communication and trading facilities of a self-regulatory organization or responsible single plan processor in connection with transmittal or receipt of a regulatory halt, suspension or pause (i.e., a "trading halt"), declare as null and void any transactions that occur after the primary listing market for a security declares a trading halt with respect to such security.³ FINRA also is proposing to make non-substantive clarifications to the text of the Rule.

FINRA also proposes a change to certain cross-references in the Rule, due to the addition of paragraphs (c) and (d). Specifically, FINRA proposes to update cross-

³ In the event a trading halt is declared, prematurely lifted in error, and then re-instituted, under proposed paragraph (d), any transactions that occurred before the official, final end of the trading halt according to the primary listing market also would be declared as null and void.

references in existing Rule 11892.03 in order to make clear that the provisions of Supplementary Material .03 do not alter the application of other provisions of Rule 11892, including new paragraphs (c) and (d).

Background

On September 10, 2010, the Commission approved, on a pilot basis, changes to FINRA Rule 11892 to provide for uniform treatment of clearly erroneous reviews: (1) in multi-stock events involving twenty or more securities; and (2) in the event transactions occur that result in the issuance of an individual stock trading pause by the primary listing market and subsequent transactions that occur before the trading pause is in effect.⁴ FINRA also adopted additional changes to Rule 11892 that reduced FINRA's ability to deviate from the objective standards set forth in the Rule⁵ and, in 2013, adopted a provision designed to address the operation of the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the "Limit Up-Limit Down Plan" or the "Plan").⁶ Most recently, FINRA removed the specific provisions related to individual stock trading pauses and extended until April 8, 2014 the pilot program applicable to certain provisions of Rule 11892.⁷

⁴ See Securities Exchange Act Release No. 62885 (September 10, 2010), 75 FR 56641 (September 16, 2010) (Order Approving File No. SR-FINRA-2010-032).

⁵ Supra note 4.

⁶ See Securities Exchange Act Release No. 68808 (February 1, 2013), 78 FR 9083 (February 7, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2013-012); See also Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

⁷ See Securities Exchange Act Release No. 70516 (September 26, 2013), 78 FR 60952 (October 2, 2013) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2013-041).

As proposed, new paragraphs Rule 11892(c) and (d) would be subject to the existing clearly erroneous pilot period, which recently was amended to coincide with the pilot period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan.⁸

Multi-Day Clearly Erroneous Executions Based on Fundamentally Incorrect or Grossly Misinterpreted Issuance Information

FINRA proposes to adopt a new paragraph (c) to Rule 11892 (Multi-day Events), which would provide that a series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information (e.g., with respect to a stock split or corporate dividend) resulting in a severe valuation error for all such transactions (the “Event”).

As proposed, a FINRA officer, acting on his or her own motion, would be required to take action to declare all transactions in a security that occurred during the Event null and void not later than the start of trading on the day following the last transaction in the Event. If trading in the security is halted before the valuation error is corrected, the FINRA officer would be required to take action to declare all transactions in that security that occurred during the Event null and void prior to the resumption of trading. FINRA proposes to make clear that no action can be taken pursuant to proposed paragraph (c) with respect to any transactions that have reached the settlement date for the security or that result from an initial public offering (“IPO”) of a security. FINRA believes that declaring a trade null and void after the settlement date would be complex to

⁸ See Securities Exchange Act Release No. 71781 (March 24, 2014), 79 FR 17615 (March 28, 2014) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2014-013).

administer and unfair to the affected parties. FINRA also believes that excluding IPOs from the proposed rule will ensure that transactions in a new security for which there is no benchmark information are not called into question as it is the IPO process itself including the extensive public disclosure associated with IPOs, that is intended to drive price formation.

Further, FINRA proposes that, to the extent transactions related to an Event involve one or more other self-regulatory organizations, FINRA promptly will coordinate with such other self-regulatory organizations to ensure consistent treatment of the transactions related to the Event, if practicable. FINRA also proposes to state in the Rule that any action taken in connection with paragraph (c) will be taken without regard to the numerical guidelines set forth in paragraph (b)(1) of Rule 11892. In particular, FINRA believes that there could be scenarios where there are erroneous transactions related to an Event that would not meet the applicable numerical guidelines but that are, upon review, clearly erroneous. An example of a scenario that proposed new paragraph (c) is intended to address is a corporate action, such as a stock split, that results in the dissemination of fundamentally incorrect or grossly misinterpreted issuance information and leads to transactions at a price that is close to the price at which the security was previously trading. Even if such trading is consistent with prior trading activity for the security, and thus would not meet the applicable numerical guidelines, the proposal would provide FINRA with the authority to declare as null and void such transactions if they were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information and there was a severe valuation error as a result (i.e., although the security should be trading at a price further away from its previous price range, due to

fundamentally incorrect or grossly misinterpreted issuance information with respect to the corporate action, the security continues to trade at a price that does not meet the applicable numerical guidelines).

FINRA also proposes to provide that each member involved in a transaction subject to proposed paragraph (c) shall be notified as soon as practicable of a determination to declare such transaction null and void, and the party aggrieved by such action may appeal in accordance with Rule 11894.

In particular, FINRA believes it is necessary to have authority to declare as null and void transactions that occur in an event similar to an event involving an exchange offer (“Exchange Offer”) made by U.S. Bancorp on the New York Stock Exchange (“NYSE”) in 2010 in which there were a series of executions based on incorrect or grossly misinterpreted issuance information and, as a result, the securities traded at severely dislocated prices (the “U.S. Bancorp Event”). At the time, the NYSE filed an emergency rule filing in order to respond to that event.⁹ With the filing, the NYSE interpreted its clearly erroneous rule as permitting the NYSE to nullify all trades occurring after the Exchange Offer at severely dislocated prices.¹⁰ FINRA believes it is important to have in place a provision to declare trades null and void if an event like the U.S. Bancorp Event occurs again in the future. The U.S. Bancorp Event is described in further detail below and is intended to be illustrative of the manner in which FINRA proposes to utilize proposed paragraph (c), if necessary.

⁹ See Securities Exchange Act Release No. 62609 (July 30, 2010), 75 FR 47327 (August 5, 2010) (Notice of Filing and Immediate Effectiveness of File No. SR-NYSE-2010-55).

¹⁰ Supra note 9.

In May 2010, U.S. Bancorp commenced an offer to exchange up to 1,250,000 Depositary Shares, each representing a 1/100 interest in a share of Series A Non-Cumulative Perpetual Preferred Stock, \$100,000 liquidation preference per share (the “Depositary Shares”) for any and all of the 1,250,000 outstanding 6.189% Fixed-to-Floating Rate Normal ITS issued by U.S. Bancorp Capital IX, each with a liquidation amount of \$1,000 (the “Normal ITS”). The Depositary Shares were approved for listing on the NYSE under the symbol USB PRA. On June 11, 2010, the NYSE opened the shares on a quote, but trading did not commence until June 16, 2010 at prices in the range of \$79.00 per share. There were additional executions on the NYSE in that price range on June 17, 2010 and June 18, 2010. On June 18th, the NYSE learned that the prices at which trades had executed were not consistent with the value of the security, which was closer to \$800 per share. Upon learning of the pricing disparity, the NYSE immediately halted trading in the Depositary Shares on all markets and alerted U.S. Bancorp and other exchanges that traded the Depositary Shares of the pricing discrepancy.

To address the situation, the NYSE filed a proposal to interpret its existing clearly erroneous rule such that trading in the Depositary Shares from June 16th to June 18th constituted a single event because that trading was based on incorrect or grossly misinterpreted issuance information that resulted in severe price dislocation.¹¹ Because the Depositary Shares were halted before the price of the Depositary Shares ceased to be dislocated, and remained halted, the NYSE was able to review trading in the Depositary Shares and declare as null and void all trading related to the U.S. Bancorp Event before

¹¹ Supra note 9.

the security resumed trading. FINRA believes it is appropriate to include in Rule 11892 the authority to address such an event should a similar situation arise in the future.

Transactions Occurring After a Trading Halt Has Been Declared

FINRA proposes to add new paragraph (d) to Rule 11892 (Transactions Occurring During Trading Halts) to make clear that, in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of a self-regulatory organization or responsible single plan processor in connection with the transmittal or receipt of a trading halt, a FINRA officer, acting on his or her own motion, shall declare as null and void any transaction that occurs after the primary listing market for a security declares a trading halt and before such trading halt with respect to such security has officially ended according to the primary listing market.

In addition, proposed paragraph (d) will make clear that, in the event a trading halt is declared, then prematurely lifted in error and then re-instituted, FINRA will declare as null and void all transactions that occur before the official, final end of the trading halt according to the primary listing market. Any action taken in connection with paragraph (d) must be taken in a timely fashion, generally within thirty minutes of the detection of the erroneous transaction and in no circumstances later than the start of normal market hours¹² on the trading day following the date of the execution(s) under review. FINRA also proposes to specify that any action taken in connection with proposed paragraph (d) will be taken without regard to the numerical guidelines set forth in paragraph (b)(1) of Rule 11892. FINRA believes it is appropriate to declare transactions pursuant to proposed paragraph (d) as null and void without regard to the

¹² Normal market hours are from 9:30 a.m. E.T. to 4:00 p.m. E.T.

numerical guidelines because, in the situations covered by paragraph (d), the subject transactions were prohibited from occurring during a trading halt and, thus, declaring them null and void does not put the parties in any different position than they should have been. FINRA also believes that the certainty provided by this provision is critical in situations involving trading halts. FINRA proposes that each member involved in a transaction subject to proposed paragraph (d) shall be notified by FINRA as soon as practicable of a determination to declare a transaction(s) as null and void, and the party aggrieved by such action may appeal the action in accordance with Rule 11894.

FINRA rules provide authority to halt over-the-counter trading in an exchange-listed security in certain cases, including when the primary listing market issues a trading halt in the security.¹³ However, in certain circumstances, due to a technical issue related to the transmission or receipt of the electronic message instituting such trading halt or due to other extraordinary circumstances, members may execute transactions over the counter following the declaration of such a trading halt. Similarly, although rare, there have been extraordinary circumstances in which a trading halt is declared, then prematurely lifted in error, and then re-instituted. FINRA believes it is appropriate to provide for certainty that, in such extraordinary circumstances, any transactions occurring after a trading halt has been declared will be deemed null and void. In the event that a trading halt is declared as of a future time (i.e., if the primary listing exchange declares a trading halt as of a specific, future time in order to ensure coordination amongst market participants), FINRA would nullify only those transactions occurring after the time the trading halt was supposed to be in place until the official end of the trading halt according to the primary

¹³ See FINRA Rules 6120 and 6121.

listing market. FINRA believes that such authority is appropriate because, when relied upon, FINRA will be nullifying trades that should not have occurred in the first instance and because a trading halt declared by the primary listing market is indicative of an issue with respect to the applicable security or a larger set of securities. Finally, FINRA is making non-substantive amendments to the rule to simplify and clarify the text.

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, 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.

FINRA believes that it is appropriate to adopt a provision granting FINRA authority to declare as null and void trades that occur if an event similar to the U.S. Bancorp Event occurs again. FINRA believes that this provision will allow FINRA to act in the event of such a severe valuation error, that such action would promote just and equitable principles of trade; and that the proposal is, therefore, consistent with the Act. Similarly, FINRA believes that adding a provision: (1) allowing FINRA to nullify transactions that occur when a trading halt is declared, then prematurely lifted in error and then reinstituted, and (2) providing that, in the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of a self-regulatory organization or responsible single plan processor in connection with the

¹⁴ 15 U.S.C. 78o-3(b)(6).

transmittal or receipt of a trading halt, FINRA will nullify trades occurring after a trading halt has been declared by the primary listing market for the security – will help to avoid confusion amongst market participants, which is consistent with the protection of investors and the public interest and therefore is consistent with the Act.

FINRA further believes that the proposal is appropriate and consistent with the Act because, when relied upon, FINRA will be nullifying trades that should not have occurred in the first instance. FINRA also believes that the proposal is appropriate because a trading halt declared by the primary listing market is indicative of an issue with respect to the applicable security or a larger set of securities.

FINRA believes that the proposal to update cross-references in existing Supplementary Material .03 of Rule 11892 to include new paragraphs (c) and (d) is consistent with the Act because, as is the case with respect to the current Rule, this change makes clear that the provisions of Supplementary Material .03 do not alter the application of other provisions of Rule 11892. Finally, FINRA believes that the proposed non-substantive clarifications are consistent with the Act in that they provide the market with clarity as to the intended operation of the Rule.

FINRA believes that other self-regulatory organizations also are filing similar proposals to add provisions similar to the provisions being proposed by FINRA in this filing. Therefore, the proposal promotes just and equitable principles of trade in that it promotes transparency and uniformity across the self-regulatory organizations concerning treatment of transactions as clearly erroneous. The proposed rule change also helps ensure consistent results in handling erroneous trades across the U.S. markets, thus furthering fair and orderly markets, the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change implicates any competitive issues. To the contrary, as noted above, FINRA believes that other self-regulatory organizations also are filing similar proposals and, thus, that the proposal will help to ensure consistency across markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

FINRA has not solicited, and does not intend to solicit, comments on this proposed rule change. FINRA has not received any written comments from members or other interested parties.

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-2014-021 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2014-021. 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-2014-021 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.¹⁵

Secretary

¹⁵ 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.

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11000. UNIFORM PRACTICE CODE

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11800. CLOSE-OUT PROCEDURES

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11890. Clearly Erroneous Transactions

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11892. Clearly Erroneous Transactions in Exchange-Listed Securities

(a) Procedures for Reviewing Transactions

(1) An Executive Vice President of FINRA's Market Regulation Department or Transparency Services Department, or any officer designated by such Executive Vice President (FINRA officer), may, on his or her own motion, review any over-the-counter transaction involving an exchange-listed security arising out of or reported through a trade reporting system owned or operated by FINRA or its subsidiaries and authorized by the Commission, provided that the transaction meets the thresholds set forth in paragraph (b), except as provided for in paragraphs (c) and (d) below. A FINRA officer acting pursuant to this subparagraph may declare any such transaction null and void if the officer determines that (A) the transaction is clearly erroneous, or (B) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, consistent with the thresholds set forth in

paragraph (b), except as provided for in paragraphs (c) and (d) below. Absent extraordinary circumstances, the officer shall take action pursuant to this paragraph generally within 30 minutes after becoming aware of the transaction. When extraordinary circumstances exist, any such action of the officer must be taken no later than the start of trading on the day following the date of execution(s) under review.

(2) If a FINRA officer acting pursuant to this [paragraph] Rule declares any transaction null and void, each party involved in the transaction shall be notified as soon as practicable by FINRA, and the party aggrieved by the action may appeal such action in accordance with Rule 11894, unless the officer making the determination also determines that the number of the affected transactions is such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public interest, and further provided that rulings made by FINRA in conjunction with one or more [market centers] other self-regulatory organizations are not appealable.

(b) Thresholds

Determinations of a clearly erroneous execution pursuant to paragraph (a)(1) will be made as follows:

(1) No Change.

(2) Multi-Stock Events Involving Twenty or More Securities

During Multi-Stock Events involving twenty or more securities, the number of affected transactions may be such that immediate finality is necessary to maintain a fair and orderly market and to protect investors and the public

interest. In such circumstances, FINRA may use a Reference Price other than the consolidated last sale. To ensure consistent application across the markets when this paragraph is invoked, FINRA will promptly coordinate with [the market centers] other self-regulatory organizations to determine the appropriate review period, which may be greater than the period of five minutes or less that triggered application of this paragraph, as well as select one or more specific points in time prior to the transactions in question and use transaction prices at or immediately prior to the one or more specific points in time selected as the Reference Price. FINRA will nullify as clearly erroneous all transactions that are at prices equal to or greater than 30% away from the Reference Price in each affected security during the review period selected by FINRA and the [markets] other self-regulatory organizations consistent with this paragraph.

(3) Additional Factors

Except in the context of a Multi-Stock Event involving five or more securities, a FINRA [O]fficer may also consider additional factors to determine whether a transaction is clearly erroneous, including but not limited to, system malfunctions or disruptions; volume and volatility for the security; derivative securities products that correspond to greater than 100% in the direction of a tracking index; news released for the security; whether trading in the security was recently halted/resumed; whether the security is an IPO; whether the security was subject to a stock-split, reorganization, or other corporate action; overall market conditions; Opening and Late Session executions; validity of the consolidated tapes' trades and quotes; consideration of primary market indications; and

executions inconsistent with the trading pattern in the stock. Each additional factor shall be considered with a view toward maintaining a fair and orderly market and the protection of investors and the public interest.

(c) Multi-day Events

A series of transactions in a particular security on one or more trading days may be viewed as one event if all such transactions were effected based on the same fundamentally incorrect or grossly misinterpreted issuance information resulting in a severe valuation error for all such transactions (the “Event”). A FINRA officer, acting on his or her own motion, shall take action to declare all transactions that occurred during the Event null and void not later than the start of trading on the day following the last transaction in the Event. If trading in the security is halted before the valuation error is corrected, a FINRA officer shall take action to declare all transactions that occurred during the Event null and void prior to the resumption of trading. Notwithstanding the foregoing, no action can be taken pursuant to this paragraph with respect to any transactions that have reached settlement date or that result from an initial public offering of a security. To the extent transactions related to an Event occur on one or more other self-regulatory organization, FINRA will promptly coordinate with such other self-regulatory organization(s) to ensure consistent treatment of the transactions related to the Event, if practicable. Any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. FINRA will notify each member involved in a transaction subject to this paragraph as soon as practicable of a determination to declare such

transaction null and void, and the party aggrieved by the action may appeal such action in accordance with Rule 11894.

(d) Transactions Occurring During Trading Halts

In the event of any disruption or malfunction in the operation of the electronic communications and trading facilities of a self-regulatory organization or responsible single plan processor in connection with the transmittal or receipt of a regulatory trading halt, suspension or pause, a FINRA officer, acting on his or her own motion, shall declare as null and void any transaction in a security that occurs after the primary listing market for such security declares a regulatory trading halt, suspension or pause with respect to such security and before such regulatory trading halt, suspension or pause with respect to such security has officially ended according to the primary listing market. In addition, in the event a regulatory trading halt, suspension or pause is declared, then prematurely lifted in error and is then re-instituted, a FINRA officer also shall declare as null and void transactions that occur before the official, final end of the regulatory halt, suspension or pause according to the primary listing market. Any action taken in connection with this paragraph shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction and in no circumstances later than the start of normal market hours on the trading day following the date of the execution(s) under review. Any action taken in connection with this paragraph will be taken without regard to the Numerical Guidelines set forth in this Rule. FINRA will notify each member involved in a transaction subject to this paragraph as soon as practicable of a determination to

declare such transaction(s) null and void, and the party aggrieved by the action may appeal such action in accordance with Rule 11894.

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

.01 No Change.

.02 The amendments set forth in File Nos. SR-FINRA-2010-032 and SR-FINRA-2014-021, and the provisions of Supplementary Material .03 of this Rule shall be in effect during a pilot period to coincide with the pilot period for the Limit Up-Limit Down Plan, including any extensions to the pilot period for the Plan. If the Plan is not extended or approved as permanent, the version of this Rule prior to SR-FINRA-2010-032 shall be in effect, and the amendments set forth in File No. SR-FINRA-2014-021 and the provisions of Supplementary Material .03 of this Rule shall be null and void.

.03 Securities Subject to Limit Up-Limit Down Plan. For purposes of this Supplementary Material .03, the phrase “Limit Up-Limit Down Plan” or “Plan” shall mean the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of SEC Regulation NMS.

(a) The provisions of Rule 11892 paragraphs (a) [and (b)]through (d) and Supplementary Material .01 above shall govern all over-the-counter transactions in exchange-listed securities reported to a FINRA system, such as a FINRA TRF or ADF, including transactions in securities subject to the Plan, other than as set forth below.

(b) If as a result of a member's technology or systems issue any transaction reported to a FINRA system, such as a FINRA TRF or ADF, occurs outside of the applicable price bands disseminated pursuant to the Plan, a FINRA officer, acting on his or her own motion or at the request of a member, shall review and deem such transaction

clearly erroneous, subject to the certification requirement of paragraph (c) below. Absent extraordinary circumstances, any such action of the FINRA officer shall be taken in a timely fashion, generally within thirty (30) minutes of the detection of the erroneous transaction. When extraordinary circumstances exist, any such action of the FINRA officer must be taken by no later than the start of normal market hours on the trading day following the date on which the execution(s) under review occurred. Each member involved in the transaction shall be notified as soon as practicable by FINRA, and a member aggrieved by the action may appeal such action in accordance with Rule 11894. In the event that a single plan processor experiences a technology or systems issue that prevents the dissemination of price bands, FINRA will make the determination of whether to deem transactions clearly erroneous based on Rule 11892 paragraphs (a) [and (b)] through (d) and Supplementary Material .01 above.

(c) A member requesting review of a transaction pursuant to the above paragraph must certify, in the manner and form prescribed by FINRA, that the subject transaction(s) occurring outside of the applicable price bands disseminated pursuant to the Plan is the result of the member's bona fide technological or systems issue.

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