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

File No.* SR - 2016 - * 047
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) *
☑	☐	☐	☑	☐	☐

Pilot	Extension of Time Period for Commission Action *	Date Expires *
☐	☐	

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 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 Rules to conform to the Commission's Proposed Amendment to SEA Rule 15c6-1(a) and the Industry-led Initiative to Shorten the Standard Settlement Cycle for Most Broker-dealer Transactions from T+3 to T+2

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 * Sarah Last Name * Kwak
Title * Counsel
E-mail * sarah.kwak@finra.org
Telephone * (202) 728-8471 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.

Date 12/14/2016

By Patrice Gliniecki

(Name *)

(Title *)

Senior Vice President and Deputy General Counsel

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.

Required fields are shown with yellow backgrounds and asterisks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information * Add Remove View	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 * 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, 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 Add Remove View Exhibit Sent As Paper Document ☐	Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.
Exhibit 3 - Form, Report, or Questionnaire Add Remove View Exhibit Sent As Paper Document ☐	Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.
Exhibit 4 - Marked Copies Add Remove View	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," "SEA" or "Exchange Act"),[1] the Financial Industry Regulatory Authority, Inc. ("FINRA") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to amend FINRA Rules 2341 (Investment Company Securities), 11140 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants"), 11150 (Transactions "Ex-Interest" in Bonds Which Are Dealt in "Flat"), 11210 (Sent by Each Party), 11320 (Dates of Delivery), 11620 (Computation of Interest), 11810 (Buy-In Procedures and Requirements), and 11860 (COD Orders) to conform to the Commission's proposed amendment to SEA Rule 15c6-1(a) to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date ("T+3") to two business days after the trade date ("T+2") and the industry-led initiative to shorten the settlement cycle from T+3 to T+2.[2]

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

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on December 15, 2015, the FINRA Board of Governors authorized the filing of the proposed rule change with the Commission. No other action by FINRA is necessary for the filing of the proposed rule change.

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1 15 U.S.C. 78s(b)(1).

2 See Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (Amendment to Securities Transaction Settlement Cycle) (File No. S7-22-16) ("SEC Proposing Release").

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice, which date would correspond with the industry-led transition to a T+2 standard settlement cycle, and the effective date of the Commission's proposed amendment to SEA Rule 15c6-1(a) to require standard settlement no later than T+2.[3]

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

(a) Purpose

SEC Proposing Release

On September 28, 2016, the Commission proposed amending SEA Rule 15c6-1(a) to shorten the standard settlement cycle for most broker-dealer transactions from T+3 to T+2 on the basis that the shorter settlement cycle would reduce the risks that arise from the value and number of unsettled securities transactions prior to the completion of settlement, including credit, market, and liquidity risk directly faced by U.S. market participants. The proposed rule amendment was published for comment in the Federal Register on October 5, 2016.[4]

Background

In 1995, the standard U.S. trade settlement cycle for equities, municipal and corporate bonds, and unit investment trusts, and financial instruments composed of these products was shortened from five business days after the trade date ("T+5") to T+3.[5]

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3 See supra note 2.

4 See supra note 2.

5 In 1993, the Commission adopted SEA Rule 15c6-1 which became effective in 1995. See Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (October 13, 1993) and 34952 (November 9, 1994), 59 FR 59137 (November 16, 1994). SEA Rule 15c6-1(a) provides, in relevant part, that "a

Accordingly, FINRA and other self-regulatory organizations ("SROs") amended their respective rules to conform to the T+3 settlement cycle.[6] Since that time, the SEC and the financial services industry have continued to explore the idea of shortening the settlement cycle even further.[7]

In April 2014, the Depository Trust & Clearing Corporation ("DTCC") published its formal recommendation to shorten the standard U.S. trade settlement cycle to T+2 and announced that it would partner with market participants and industry organizations to devise the necessary approach and timelines to achieve T+2.[8]

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broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction." 17 CFR 240.15c6-1(a). Although not covered by SEA Rule 15c6-1, in 1995, the Commission approved the Municipal Securities Rulemaking Board's rule change requiring transactions in municipal securities to settle by T+3. See Securities Exchange Act Release No. 35427 (February 28, 1995), 60 FR 12798 (March 8, 1995) (Order Approving File No. SR-MSRB-94-10).

6 See, e.g., Securities Exchange Act Release No. 35507 (March 17, 1995), 60 FR 15616 (March 24, 1995) (Order Approving File No. SR-NASD-94-56); Securities Exchange Act Release No. 35506 (March 17, 1995), 60 FR 15618 (March 24, 1995) (Order Approving File No. SR-NYSE-94-40); and Securities Exchange Act Release No. 35553 (March 31, 1995), 60 FR 18161 (April 10, 1995) (Order Approving File No. SR-Amex-94-57).

7 See, e.g., Securities Industry Association ("SIA"), "SIA T+1 Business Case Final Report" (July 2000); Concept Release: Securities Transactions Settlement, Securities Exchange Act Release No. 49405 (March 11, 2004), 69 FR 12922 (March 18, 2004); and Depository Trust & Clearing Corporation, "Proposal to Launch a New Cost-Benefit Analysis on Shortening the Settlement Cycle" (December 2011).

8 See DTCC, "DTCC Recommends Shortening the U.S. Trade Settlement Cycle" (April 2014).

In an effort to improve the overall efficiency of the U.S. settlement system by reducing the attendant risks in T+3 settlement of securities transactions, and to align U.S. markets with other major global markets that have already moved to T+2, DTCC, in collaboration with the financial services industry, formed an Industry Steering Committee ("ISC") and an industry working group and sub-working groups to facilitate the move to T+2.[9] In June 2015, the ISC published a White Paper outlining the activities and proposed time frames that would be required to move to T+2 in the U.S.[10] Concurrently, the Securities Industry and Financial Markets Association ("SIFMA") and the Investment Company Institute ("ICI") jointly submitted a letter to SEC Chair White, expressing support of the financial services industry's efforts to shorten the settlement cycle and identifying SEA Rule 15c6-1(a) and several SRO rules that they believed would require amendments for an effective transition to T+2.[11] In March 2016, the ISC announced the industry target date of September 5, 2017 for the transition to a T+2 settlement cycle to occur.[12]

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[9] The ISC includes, among other participants, DTCC, the Securities Industry and Financial Markets Association and the Investment Company Institute.

[10] See "Shortening the Settlement Cycle: The Move to T+2" (June 18, 2015).

[11] See Letter from ICI and SIFMA to Mary Jo White, Chair, SEC, dated June 18, 2015. See also Letter from Mary Jo White, Chair, SEC, to Kenneth E. Bentsen, Jr., President and CEO, SIFMA, and Paul Schott Stevens, President and CEO, ICI, dated September 16, 2015 (expressing her strong support for industry efforts to shorten the trade settlement cycle to T+2 and commitment to developing a proposal to amend SEA Rule 15c6-1(a) to require standard settlement no later than T+2).

[12] See ISC Media Alert: "US T+2 ISC Recommends Move to Shorter Settlement Cycle On September 5, 2017" (March 7, 2016).

Proposed Rule Change

In light of the SEC Proposing Release that would amend SEA Rule 15c6-1(a) to require standard settlement no later than T+2 and similar proposals from other SROs,[13] FINRA is proposing changes to its rules pertaining to securities settlement by, among other things, amending the definition of "regular way" settlement as occurring on T+2. SEA Rule 15c6-1(a) currently establishes standard settlement as occurring no later than T+3 for all securities, other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills.[14] FINRA is proposing changes to rules pertaining to securities settlement to support the industry-led initiative to shorten the standard settlement cycle to two business days. Most of the rules that FINRA has identified for these changes are successors to provisions under the legacy NASD Rules of Fair Practice and NASD Uniform Practice Code ("UPC") that were amended when the Commission adopted SEA Rule 15c6-1(a), which established T+3 as the standard settlement cycle.[15] As such, FINRA is proposing to amend FINRA Rules 2341 (Investment Company Securities), 11140 (Transactions in Securities "Ex-

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[13] See, e.g., Securities Exchange Act Release No. 77744 (April 29, 2016), 81 FR 26851 (May 4, 2016) (Order Approving File No. SR-MSRB-2016-04).

[14] See supra note 5.

[15] The legacy NASD rules that were changed to conform to the move from T+5 to T+3 included Section 26 (Investment Companies) of the Rules of Fair Practice, and Section 5 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants"), Section 6 (Transactions "Ex-Interest" in Bonds Which Are Dealt in "Flat"), Section 12 (Dates of Delivery), Section 46 (Computation of Interest) and Section 64 (Acceptance and Settlement of COD Orders) of the UPC. See Securities Exchange Act Release No. 35507 (March 17, 1995), 60 FR 15616 (March 24, 1995) (Order Approving File No. SR-NASD-94-56). See also Notice to Members 95-36 (May 1995) (enumerating the various sections under the NASD Rules of Fair Practice and UPC that were amended to implement T+3 settlement for securities transactions).

Dividend," "Ex-Rights" or "Ex-Warrants"), 11150 (Transactions "Ex-Interest" in Bonds Which Are Dealt in "Flat"), 11320 (Dates of Delivery), 11620 (Computation of Interest), and 11860 (COD Orders). In addition, FINRA is proposing to amend FINRA Rules 11210 (Sent by Each Party) and 11810 (Buy-In Procedures and Requirements) to conform provisions, where appropriate, to the T+2 settlement cycle.[16]

The details of the proposed rule change are described below.

(1) FINRA Rule 2341 (Investment Company Securities)[17]

Rule 2341(m) requires members, including underwriters, that engage in direct retail transactions for investment company shares to transmit payments received from customers for the purchase of investment company shares to the payee by the end of the third business day after receipt of a customer's order to purchase the shares, or by the end of one business day after receipt of a customer's payment for the shares, whichever is later. FINRA is proposing to amend Rule 2341(m) to change the three-business day transmittal requirement to two business days, while retaining the one-business day alternative.

(2) FINRA Rule 11140 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants")

Rule 11140(b)(1) provides that for dividends or distributions, and the issuance or distribution of warrants, that are less than 25 percent of the value of the subject security,

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16 FINRA Rules 11210 and 11810 are successors to legacy NASD UPC Sections 9 (Sent by Each Party) and 59 ("Buying-in"), respectively, which remained unchanged during the transition from T+5 to T+3. See supra note 15.

17 In June 2016, legacy NASD Rule 2830 (Investment Company Securities) was adopted as FINRA Rule 2341 in the consolidated FINRA rulebook without any substantive changes. See Securities Exchange Act Release No. 78130 (June 22, 2016), 81 FR 42016 (June 28, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2016-019).

if definitive information is received sufficiently in advance of the record date, the date designated as the "ex-dividend date" shall be the second business day preceding the record date if the record date falls on a business day, or the third business day preceding the record date if the record date falls on a day designated by FINRA's UPC Committee as a non-delivery date. FINRA is proposing to shorten the time frames in Rule 11140(b)(1) by one business day.

(3) FINRA Rule 11150 ("Ex-Interest" in Bonds Which Are Dealt in "Flat")

Rule 11150(a) prescribes the manner for establishing "ex-interest dates" for transactions in bonds or other similar evidences of indebtedness which are traded "flat." Such transactions are "ex-interest" on the second business day preceding the record date if the record date falls on a business day, on the third business day preceding the record date if the record date falls on a day other than a business day, or on the third business day preceding the date on which an interest payment is to be made if no record date has been fixed. FINRA is proposing to shorten the time frames in Rule 11150(a) by one business day.

(4) FINRA Rule 11210 (Sent by Each Party)

Paragraphs (c) and (d) of Rule 11210 set forth the "Don't Know" ("DK") voluntary procedures for using "DK Notices" (FINRA Form No. 101) or other forms of notices, respectively. Depending upon the notice used, a confirming member may follow the "DK" procedures when it sends a comparison or confirmation of a trade (other than one that clears through the National Securities Clearing Corporation ("NSCC") or other registered clearing agency), but does not receive a comparison or confirmation or a signed "DK" from the contra-member by the close of four business days following the trade date of the transaction ("T+4"). The procedures generally provide that after T+4, the confirming member shall send a “DK Notice” (or similar notice) to the contra-member. The contra-member then has four business days after receipt of the confirming member’s notice to either confirm or “DK” the transaction.

FINRA is proposing to amend paragraphs (c) and (d) of Rule 11210 to provide that the “DK” procedures may be used by the confirming member if it does not receive a comparison or confirmation or signed “DK” from the contra-member by the close of one business day following the trade date of the transaction, rather than the current T+4.[18] In addition, FINRA is proposing amendments to paragraphs (c)(2)(A), (c)(3), and (d)(5) of Rule 11210 to adjust the time in which a contra-member has to respond to a “DK Notice” (or similar notice) from four business days after the contra-member’s receipt of the notice to two business days. The proposed rule change would also make non-substantive technical changes to paragraph (c)(2)(A) to reflect FINRA Manual style convention.

(5) FINRA Rule 11320 (Dates of Delivery)

Rule 11320 prescribes delivery dates for various transactions. Paragraph (b) states that for a “regular way” transaction, delivery must be made on, but not before, the third business day after the date of the transaction. FINRA is proposing to amend Rule 11320(b) to change the reference to third business day to second business day. Paragraph (c) provides that in a “seller’s option” transaction, delivery may be made by the seller on any business day after the third business day following the date of the transaction.

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[18] As stated above, the time frames in Rule 11210 remained unchanged during the transition from T+5 to T+3. In light of the industry-led initiative to shorten the standard settlement cycle and the SEC Proposing Release to amend SEA Rule 15c6-1(a) to establish T+2 as the standard settlement for most broker-dealer transactions, FINRA believes that the current time frames in Rule 11210 are more protracted than necessary even in a T+3 environment and as such, FINRA is proposing to amend these time frames to reflect more current industry practices.

FINRA is proposing to amend Rule 11320(c) to change the reference to third business day to second business day.

(6) FINRA Rule 11620 (Computation of Interest)

In the settlement of contracts in interest-paying securities other than for cash, Rule 11620(a) requires the calculation of interest at the rate specified in the security up to, but not including, the third business day after the date of the transaction. The proposed amendment would shorten the time frame to the second business day. In addition, the proposed amendment would make non-substantive technical changes to the title of paragraph (a).

(7) FINRA Rule 11810 (Buy-in Procedures and Requirements)

Rule 11810(j)(1)(A) sets forth the fail-to-deliver and liability notice procedures where a securities contract is for warrants, rights, convertible securities or other securities which have been called for redemption; are due to expire by their terms; are the subject of a tender or exchange offer; or are subject to other expiring events such as a record date for the underlying security and the last day on which the securities must be delivered or surrendered is the settlement date of the contract or later.[19]

Under Rule 11810(j)(1)(A), the receiving member delivers a liability notice to the owing counterparty. The liability notice sets a cutoff date for the delivery of the

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[19] Rule 11810(j) is the successor to legacy NASD UPC Section 59(i) (Failure to Deliver and Liability Notice Procedures). When this provision was added to NASD's existing close-out procedures in 1984, it was drafted to be similar to the liability notice provisions adopted by the NSCC so that members that were also participants in NSCC could use the same procedures for both ex-clearing and NSCC cleared transactions, thereby simplifying members' back office procedures. See Securities Exchange Act Release No. 21262 (August 22, 1984), 49 FR 34321 (August 29, 1984) (Notice of Filing of File No. SR-NASD-84-20). See also Securities Exchange Act Release No. 21406 (October 19, 1984), 49 FR 43006 (October 25, 1984) (Order Approving File No. SR-NASD-84-20).

securities by the counterparty and provides notice to the counterparty of the liability attendant to its failure to deliver the securities in time. If the owing counterparty, or delivering member, delivers the securities in response to the liability notice, it has met its delivery obligation. If the delivering member fails to deliver the securities on the expiration date, it will be liable for any damages that may accrue thereby.

Rule 11810(j)(1)(A) further provides that when both parties to a contract are participants in a registered clearing agency that has an automated liability notification service, transmission of the liability notice must be accomplished through such system.[20] When the parties to a contract are not both participants in a registered clearing agency that has an automated liability notification service, such notice must be issued using written or comparable electronic media having immediate receipt capabilities not later than one business day prior to the latest time and the date of the offer or other event in order to obtain the protection provided by the Rule.[21]

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20 In 2007, NYSE Rule 180 was amended to require that when the parties to a failed contract were both participants in a registered clearing agency that had an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver and the contract was to be settled through the facilities of that registered clearing agency, the transmission of the liability notification must be accomplished through the use of the registered clearing agency's automated liability notification system. See Securities Exchange Act Release No. 55132 (January 19, 2007), 72 FR 3896 (January 26, 2007) (Order Approving File No. SR-NYSE-2006-57). FINRA followed suit and effective in 2008, Rule 11810(j) mandated the use of an automated liability notification system when the parties to a contract are participants in a registered clearing agency that has an automated service for notifying a failing party of the liability that would be attendant to failure to deliver. See Securities Exchange Act Release No. 56972 (December 14, 2007), 72 FR 73927 (December 28, 2007) (Order Approving File No. SR-NASD-2007-035). See also Regulatory Notice 08-06 (February 2008).

21 While Rule 11810 has undergone amendments over the years, the one-day time frame in paragraph (j) has remained unchanged. The one-day time frame also appears in comparable provisions of other SROs. See, e.g., NSCC Rules & Procedures, Procedure X (Execution of Buy-Ins) (Effective August 10, 2016);

Given the proposed shortened settlement cycle, FINRA is proposing to amend Rule 11810(j)(1)(A) in situations where both parties to a contract are not participants of a registered clearing agency with an automated notification service, by extending the time frame for delivery of the liability notice. Rule 11810(j)(1)(A) would be amended to provide that in such cases, the receiving member must send the liability notice to the delivering member as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event to obtain the protection provided by the Rule. FINRA believes that extending the time given to the receiving member to transmit liability notifications will maintain the efficiency of the notification process while mitigating the possible overuse of such notifications.

Currently, FINRA understands that the identity of the counterparty, or delivering member, becomes known to the receiving member by mid-day on the business day after trade date ("T+1"), and by that time, the receiving member will generally also know which transactions are subject to an event identified in Rule 11810(j)(1)(A) that would prompt the receiving member to issue a liability notice to the delivering member. FINRA believes that the receiving member regularly issues liability notices to the seller or other parties from which the securities involved are due when the security is subject to an event identified in Rule 11810(j)(1)(A) during the settlement cycle as a way to mitigate the risk of a potential fail-to-deliver. In the current T+3 settlement environment, the one business day time frame gives the receiving member the requisite time needed to identify the parties involved and undertake the liability notification process.

However, FINRA believes that the move to a T+2 settlement environment will create inefficiencies in the liability notification process under Rule 11810(j)(1)(A) when

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NYSE Rule 282.65 (Fail to Deliver and Liability Notice Procedures); and Nasdaq Rule IM–11810 (Buying-in). <u>See also</u> <u>infra</u> note 29 and accompanying text.

both parties to a contract are not participants in a registered clearing agency with an automated notification service. The shorter settlement cycle, with the loss of one-business day, would not afford the receiving member sufficient time to: (1) ascertain that the securities are subject to an event listed in Rule 11810(j)(1)(A) during the settlement cycle; (2) identify the delivering member and other parties from which the securities involved are due; and (3) determine the likelihood that such parties may fail to deliver. Where the receiving member has sufficient time (e.g., one business day after), it can transmit liability notices as needed to the right parties. However, as a consequence of the shortened settlement cycle, the receiving member would be compelled to issue liability notices proactively to all potentially failing parties as a matter of course to preserve its rights against such parties without the benefit of knowing which transactions would actually necessitate the delivery of such notice. This would create a significant increase in the volume of liability notices members send and receive, many of which may be unnecessary. Members would then have to manage this overabundance of liability notices, increasing the possibility of errors, which would adversely impact the efficiency of the process. Therefore, FINRA believes its proposal to extend the time for the receiving member to deliver a liability notice when the parties to a contract are not both participants in a registered clearing agency with an automated notification service would help alleviate the potential burden on the liability notification process in a T+2 settlement environment.

(8) FINRA Rule 11860 (COD Orders)

Rule 11860(a) directs members to follow various procedures before accepting collect on delivery ("COD") or payment on delivery ("POD") orders. Rule 11860(a)(4)(A) states that the member must obtain an agreement from the customer that the customer will furnish instructions to the agent no later than the close of business on the second business day after the date of execution of the trade to which the confirmation relates in the case of a purchase by the customer where the agent is to receive the securities against payment, or COD. In light of the proposed shortened settlement cycle, FINRA is proposing to amend Rule 11860(a)(4)(A) to provide that the time period for a customer buying COD to furnish instructions to the agent will be no later than the close of business on the first business day after the date of execution of the trade, rather than the close of business on the second business day.

As noted in Item 2 of this filing, if the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice, which date would correspond with the industry-led transition to a T+2 standard settlement, and the effective date of the Commission's proposed amendment to SEA Rule 15c6-1(a) to require standard settlement no later than T+2.

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[22] 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, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change supports the industry-led initiative to shorten the settlement cycle to two business days. Moreover, the proposed rule change is consistent with the SEC's proposed amendment to SEA Rule 15c6-1(a) to

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[22] 15 U.S.C. 78o-3(b)(6).

require standard settlement no later than T+2. FINRA believes that the proposed rule change will provide the regulatory certainty to facilitate the industry-led move to a T+2 settlement cycle.

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. The proposed rule change makes changes to rules pertaining to securities settlement and is intended to facilitate the implementation of the industry-led transition to a T+2 settlement cycle. Moreover, the proposed rule changes are consistent with the SEC's proposed amendment to SEA Rule 15c6-1(a) to require standard settlement no later than T+2. Accordingly, FINRA believes that the proposed changes do not impose any burdens on the industry in addition to those necessary to implement amendments to SEA Rule 15c6-1(a) as described and enumerated in the SEC Proposing Release.[23]

These conforming changes include changes to rules that specifically establish the settlement cycle as well as rules that establish time frames based on settlement dates, including for certain post-settlement rights and obligations. FINRA believes that the proposed changes set forth in the filing are necessary to support a standard settlement cycle across the U.S. for secondary market transactions in equities, corporate and municipal bonds, unit investment trusts, and financial instruments composed of these products, among others.[24] A standard U.S. settlement cycle for such products is critical for the operation of fair and orderly markets.

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[23] See supra note 2.

[24] See supra note 2.

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

The proposed rule change was published for comment in Regulatory Notice 16-09 (March 2016). Eight comments were received in response to the Regulatory Notice.[25] A copy of the Regulatory Notice is attached as Exhibit 2a. A list of commenters is attached as Exhibit 2b and copies of the comment letters received in response to the Regulatory Notice are attached as Exhibit 2c.

Of the eight comment letters received, seven expressed support for the industry-led move to T+2 stating, among other benefits, that the move will align U.S. markets with international markets that already work in the T+2 environment, improve the overall efficiency and liquidity of the securities markets, and the stability of the financial system by reducing counterparty risk and pro-cyclical and liquidity demands, and decreasing

[25] See Letter from Michael Nicholas, Chief Executive Officer, Bond Dealers of America, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("BDA"); letter from Stephen E. Roth, Sutherland Asbill & Brennan LLP on behalf of the Committee of Annuity Insurers, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("CAI"); letter from Norman L. Ashkenas, Chief Compliance Officer, Fidelity Brokerage Services, LLC, and Richard J. O'Brien, Chief Compliance Officer, National Financial Services, LLC, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("Fidelity"); letter from David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("FSI"); letter from Martin A. Burns, Chief Industry Operations Officer, Investment Company Institute, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("ICI"); letter from Thomas F. Price, Managing Director, Operations, Technology & BCP, Securities Industry and Financial Markets Association, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("SIFMA") (April 4, 2016); letter from Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("Thomson Reuters"); and letter from Robert J. McCarthy, Director of Regulatory Policy, Wells Fargo Advisors, LLC, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("WFA").

clearing capital requirements.[26] Several commenters encouraged FINRA to coordinate with other regulators to make the necessary regulatory changes to help facilitate the move to a T+2 standard settlement cycle[27] with two commenters[28] providing their views on the proposed amendments to two rules under the FINRA Rule 11800 Series (Close-Out Procedures).

FINRA Rule 11810(j) – Failure to Deliver and Liability Notice Procedures

In its comment letter, SIFMA raised a concern with the one-day time frame in Rule 11810(j)(1)(A), asserting that the requirement for the delivering member to deliver a liability notice to the receiving member no later than one business day prior to the latest time and the date of the offer or other event in order to obtain the protection provided by the Rule may no longer be appropriate in a T+2 environment in some situations such as where the delivery obligation is transferred to another party as a result of continuous net settlement, settlements outside of the NSCC, and settlements involving a third party that is not a FINRA member firm. SIFMA noted that NYSE Rule 180 (Failure to Deliver) includes a similar requirement for NYSE member firms that are participants in a registered clearing agency to transmit liability notification through an automated

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26 BDA, Fidelity, FSI, ICI, SIFMA, Thomson Reuters and WFA. CAI did not comment on the proposed rule amendments and instead requested FINRA's "acknowledgment and confirmation that insurance securities products, which are currently exempt from the T+3 settlement cycle requirements, will continue to be exempt from the settlement cycle requirements after the timetable is shortened to T+2." The Commission has granted an exemption for transactions involving certain insurance contracts from the scope of SEA Rule 15c6-1. See Securities Exchange Act Release No. 35815 (June 6, 1995), 60 FR 30906 (June 12, 1995). FINRA notes that any modification or revocation of the current exemptions to SEA Rule 15c6-1 rests with the Commission.

27 Fidelity, FSI, ICI, and Thomson Reuters.

28 BDA and SIFMA.

notification service and proposed amending Rule 11810(j)(1)(A) to omit the reference to a notification time frame, which would align with NYSE Rule 180.[29] In the alternative, SIFMA proposed amending Rule 11810(j)(1)(A) to require that the liability notice be delivered in a "reasonable amount of time" ahead of the settlement obligation in light of facts and circumstances. SIFMA maintained that under either proposed amendment to paragraph (j), the delivering member would be liable for any damages caused by its failure to deliver in a timely fashion.

While FINRA did not initially propose amendments to Rule 11810 for the T+2 initiative,[30] in light of SIFMA's concern regarding Rule 11810(j)(1)(A), FINRA is proposing to amend the Rule to provide that, where both parties to a contract are not participants of a registered clearing agency with an automated notification service, the receiving member must send the liability notice to the delivering member as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event to obtain the protection provided by the Rule.[31]

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29 See NYSE Rule 180 (Failure to Deliver) providing in part that "[w]hen the parties to a contract are both participants in a registered clearing agency which has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver and that contract was to be settled through the facilities of said registered clearing agency, the transmission of the liability notification must be accomplished through use of said automated notification service." FINRA notes that NYSE Rule 180 does not address the transmission of the liability notification for parties to a contract that are not both participants in a registered clearing agency (or non-participants). The transmission of the liability notification for non-participants is addressed under NYSE Rule 282.65 (Failure to Deliver and Liability Notice Procedures). See supra note 21.

30 See Regulatory Notice 16-09 (March 2016).

31 FINRA expects similar amendments to other comparable SRO provisions in NYSE Rule 282.65 (Fail to Deliver and Liability Notice Procedures) and Nasdaq Rule IM–11810 (Buying-in), and NSCC Rules & Procedures, Procedure X (Execution of Buy-Ins) to address SIFMA's concern about the one-day notification time frame.

FINRA Rule 11860 (COD Orders)

Rule 11860(a)(3) requires a member that accepts a COD or POD order from a customer to deliver to the customer a confirmation not later than the close of business on T+1. In Regulatory Notice 16-09, FINRA proposed shortening the confirmation delivery time frame to the close of business on the date of the trade ("T+0"). In its comment letter, BDA urged FINRA to consider leaving the requirement for delivering customer confirmations under Rule 11860(a)(3) unchanged and allow customer confirmations to continue to be sent T+1 to minimize the regulatory and compliance costs of the proposed amendment without limiting the risk-reducing benefits of the shortened settlement cycle. BDA asserted that shortening confirmation delivery to T+0 would be a tremendous undertaking for small firms that would need to commit large amounts of internal resources to change the systems and processes that are used to deliver confirmations in order to process confirmations on a T+0 basis.

FINRA has considered the comment and agrees that the proposed change to T+0 may present significant difficulties for member firms, particularly small firms. Moreover, FINRA believes that the existing requirement to deliver customer confirmations on T+1 would still assure the efficient clearance and settlement of transactions in a T+2 settlement environment. Therefore, in order to remain aligned with the provisions of other SROs and current industry practices, FINRA has determined to retain the current T+1 confirmation delivery requirement under Rule 11860(a)(3).[32]

[32] In Regulatory Notice 16-09, FINRA preliminarily identified Rule 11210(a) (Comparisons or Confirmations) to undergo an amendment to reflect the T+2 settlement cycle. Rule 11210(a)(1) requires each party to a transaction, other than a cash transaction, to send a Uniform Comparison or Confirmation on or before T+1. FINRA proposed changing the delivery time frame to T+0. While not specifically referenced by BDA, Rule 11210(a) would raise similar concerns.

<u>Other Comments</u>

Several commenters conveyed the importance of testing systems and educating market participants and retail investors on the impacts of a shorter settlement cycle.[33] BDA explained that currently, a customer has five business days to submit payment for purchases of securities in a cash account or in a margin account before a broker-dealer would cancel or liquidate the transaction in whole or in part.[34] BDA further explained that "[s]hortening the settlement cycle to T+2 would automatically reduce the timeframe before a dealer would have to liquidate an unpaid for transaction to T+4." BDA noted that shortening the settlement cycle by one day may negatively impact retail clients that still use checks, which may not be sent, received, processed, and cleared, within the shortened four-day window. BDA expressed that firms that do a large amount of retail business would need ample time to communicate the practical impacts on a shortened settlement cycle.

FINRA recognizes that market participants will have to undergo systemic and procedural changes to implement the shorter payment period for a securities purchase as part of the ongoing transition to the T+2 framework. As BDA acknowledged, the 2017 timeline should allow firms to make all the necessary changes to systems that the proposed rule will require. FINRA further recognizes the importance of educating retail

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Thus, the time frame under Rule 11210(a)(1) for sending a Uniform Comparison or Confirmation would also remain unchanged at T+1.

33 BDA, FSI and WFA.

34 Federal Reserve Board Regulation T governs, among other things, the extension of credit by broker-dealers to customers to pay for the purchase of securities. Regulation T provides that a customer has one payment period (currently five business days) to submit payment for purchases of securities in a cash account or in a margin account. 12 CFR 220.2 (Definitions), 220.4 (Margin Account) and 220.8 (Cash Account).

investors regarding the impact of a shortened settlement cycle and is committed to working with market participants to provide the information necessary to educate retail investors.

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.[35]

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 Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based on the SEC Proposing Release and would facilitate amendments to SEA Rule 15c6-1.[36]

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 proposed rule change for publication in the Federal Register.

Exhibit 2a. Regulatory Notice 16-09 (March 2016)

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[35] 15 U.S.C. 78s(b)(2).

[36] See supra note 2.

Exhibit 2b. List of comment letters received in response to Regulatory Notice 16-09 (March 2016).

Exhibit 2c. Copies of the comment letters received in response to Regulatory Notice 16-09 (March 2016).

Exhibit 5. Text of the proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-FINRA-2016-047)

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Amend FINRA Rules to conform to the Commission's Proposed Amendment to SEA Rule 15c6-1(a) and the Industry-led Initiative to Shorten the Standard Settlement Cycle for Most Broker-dealer Transactions from T+3 to T+2

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 FINRA Rules 2341 (Investment Company Securities), 11140 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants"), 11150 (Transactions "Ex-Interest" in Bonds Which Are Dealt in "Flat"), 11210 (Sent by Each Party), 11320 (Dates of Delivery), 11620 (Computation of Interest), 11810 (Buy-In Procedures and Requirements), and 11860 (COD Orders) to conform to the Commission's proposed amendment to SEA Rule 15c6-1(a) to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

trade date ("T+3") to two business days after the trade date ("T+2") and the industry-led initiative to shorten the settlement cycle from T+3 to T+2.[3]

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

SEC Proposing Release

On September 28, 2016, the Commission proposed amending SEA Rule 15c6-1(a) to shorten the standard settlement cycle for most broker-dealer transactions from T+3 to T+2 on the basis that the shorter settlement cycle would reduce the risks that arise from the value and number of unsettled securities transactions prior to the completion of settlement, including credit, market, and liquidity risk directly faced by U.S. market

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3 See Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (Amendment to Securities Transaction Settlement Cycle) (File No. S7-22-16) ("SEC Proposing Release").

participants. The proposed rule amendment was published for comment in the Federal Register on October 5, 2016.[4]

Background

In 1995, the standard U.S. trade settlement cycle for equities, municipal and corporate bonds, and unit investment trusts, and financial instruments composed of these products was shortened from five business days after the trade date ("T+5") to T+3.[5] Accordingly, FINRA and other self-regulatory organizations ("SROs") amended their respective rules to conform to the T+3 settlement cycle.[6] Since that time, the SEC and the financial services industry have continued to explore the idea of shortening the settlement cycle even further.[7]

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4 See supra note 3.

5 In 1993, the Commission adopted SEA Rule 15c6-1 which became effective in 1995. See Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (October 13, 1993) and 34952 (November 9, 1994), 59 FR 59137 (November 16, 1994). SEA Rule 15c6-1(a) provides, in relevant part, that "a broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction." 17 CFR 240.15c6-1(a). Although not covered by SEA Rule 15c6-1, in 1995, the Commission approved the Municipal Securities Rulemaking Board's rule change requiring transactions in municipal securities to settle by T+3. See Securities Exchange Act Release No. 35427 (February 28, 1995), 60 FR 12798 (March 8, 1995) (Order Approving File No. SR-MSRB-94-10).

6 See, e.g., Securities Exchange Act Release No. 35507 (March 17, 1995), 60 FR 15616 (March 24, 1995) (Order Approving File No. SR-NASD-94-56); Securities Exchange Act Release No. 35506 (March 17, 1995), 60 FR 15618 (March 24, 1995) (Order Approving File No. SR-NYSE-94-40); and Securities Exchange Act Release No. 35553 (March 31, 1995), 60 FR 18161 (April 10, 1995) (Order Approving File No. SR-Amex-94-57).

7 See, e.g., Securities Industry Association ("SIA"), "SIA T+1 Business Case Final Report" (July 2000); Concept Release: Securities Transactions Settlement,

In April 2014, the Depository Trust & Clearing Corporation ("DTCC") published its formal recommendation to shorten the standard U.S. trade settlement cycle to T+2 and announced that it would partner with market participants and industry organizations to devise the necessary approach and timelines to achieve T+2.[8]

In an effort to improve the overall efficiency of the U.S. settlement system by reducing the attendant risks in T+3 settlement of securities transactions, and to align U.S. markets with other major global markets that have already moved to T+2, DTCC, in collaboration with the financial services industry, formed an Industry Steering Committee ("ISC") and an industry working group and sub-working groups to facilitate the move to T+2.[9] In June 2015, the ISC published a White Paper outlining the activities and proposed time frames that would be required to move to T+2 in the U.S.[10] Concurrently, the Securities Industry and Financial Markets Association ("SIFMA") and the Investment Company Institute ("ICI") jointly submitted a letter to SEC Chair White, expressing support of the financial services industry's efforts to shorten the settlement cycle and identifying SEA Rule 15c6-1(a) and several SRO rules that they believed would require amendments for an effective transition to T+2.[11] In March 2016, the ISC announced the

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Securities Exchange Act Release No. 49405 (March 11, 2004), 69 FR 12922 (March 18, 2004); and Depository Trust & Clearing Corporation, "Proposal to Launch a New Cost-Benefit Analysis on Shortening the Settlement Cycle" (December 2011).

8 See DTCC, "DTCC Recommends Shortening the U.S. Trade Settlement Cycle" (April 2014).

9 The ISC includes, among other participants, DTCC, the Securities Industry and Financial Markets Association and the Investment Company Institute.

10 See "Shortening the Settlement Cycle: The Move to T+2" (June 18, 2015).

11 See Letter from ICI and SIFMA to Mary Jo White, Chair, SEC, dated June 18, 2015. See also Letter from Mary Jo White, Chair, SEC, to Kenneth E. Bentsen,

industry target date of September 5, 2017 for the transition to a T+2 settlement cycle to occur.[12]

Proposed Rule Change

In light of the SEC Proposing Release that would amend SEA Rule 15c6-1(a) to require standard settlement no later than T+2 and similar proposals from other SROs,[13] FINRA is proposing changes to its rules pertaining to securities settlement by, among other things, amending the definition of "regular way" settlement as occurring on T+2. SEA Rule 15c6-1(a) currently establishes standard settlement as occurring no later than T+3 for all securities, other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills.[14] FINRA is proposing changes to rules pertaining to securities settlement to support the industry-led initiative to shorten the standard settlement cycle to two business days. Most of the rules that FINRA has identified for these changes are successors to provisions under the legacy NASD Rules of Fair Practice and NASD Uniform Practice Code ("UPC") that were amended when the Commission adopted SEA Rule 15c6-1(a), which established T+3 as

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Jr., President and CEO, SIFMA, and Paul Schott Stevens, President and CEO, ICI, dated September 16, 2015 (expressing her strong support for industry efforts to shorten the trade settlement cycle to T+2 and commitment to developing a proposal to amend SEA Rule 15c6-1(a) to require standard settlement no later than T+2).

12 See ISC Media Alert: "US T+2 ISC Recommends Move to Shorter Settlement Cycle On September 5, 2017" (March 7, 2016).

13 See, e.g., Securities Exchange Act Release No. 77744 (April 29, 2016), 81 FR 26851 (May 4, 2016) (Order Approving File No. SR-MSRB-2016-04).

14 See supra note 5.

the standard settlement cycle.[15] As such, FINRA is proposing to amend FINRA Rules 2341 (Investment Company Securities), 11140 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants"), 11150 (Transactions "Ex-Interest" in Bonds Which Are Dealt in "Flat"), 11320 (Dates of Delivery), 11620 (Computation of Interest), and 11860 (COD Orders). In addition, FINRA is proposing to amend FINRA Rules 11210 (Sent by Each Party) and 11810 (Buy-In Procedures and Requirements) to conform provisions, where appropriate, to the T+2 settlement cycle.[16]

The details of the proposed rule change are described below.

(A) FINRA Rule 2341 (Investment Company Securities)[17]

Rule 2341(m) requires members, including underwriters, that engage in direct retail transactions for investment company shares to transmit payments received from customers for the purchase of investment company shares to the payee by the end of the third business day after receipt of a customer's order to purchase the shares, or by the end

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[15] The legacy NASD rules that were changed to conform to the move from T+5 to T+3 included Section 26 (Investment Companies) of the Rules of Fair Practice, and Section 5 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants"), Section 6 (Transactions "Ex-Interest" in Bonds Which Are Dealt in "Flat"), Section 12 (Dates of Delivery), Section 46 (Computation of Interest) and Section 64 (Acceptance and Settlement of COD Orders) of the UPC. See Securities Exchange Act Release No. 35507 (March 17, 1995), 60 FR 15616 (March 24, 1995) (Order Approving File No. SR-NASD-94-56). See also Notice to Members 95-36 (May 1995) (enumerating the various sections under the NASD Rules of Fair Practice and UPC that were amended to implement T+3 settlement for securities transactions).

[16] FINRA Rules 11210 and 11810 are successors to legacy NASD UPC Sections 9 (Sent by Each Party) and 59 ("Buying-in"), respectively, which remained unchanged during the transition from T+5 to T+3. See supra note 15.

[17] In June 2016, legacy NASD Rule 2830 (Investment Company Securities) was adopted as FINRA Rule 2341 in the consolidated FINRA rulebook without any substantive changes. See Securities Exchange Act Release No. 78130 (June 22, 2016), 81 FR 42016 (June 28, 2016) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2016-019).

of one business day after receipt of a customer's payment for the shares, whichever is later. FINRA is proposing to amend Rule 2341(m) to change the three-business day transmittal requirement to two business days, while retaining the one-business day alternative.

(B) FINRA Rule 11140 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants")

Rule 11140(b)(1) provides that for dividends or distributions, and the issuance or distribution of warrants, that are less than 25 percent of the value of the subject security, if definitive information is received sufficiently in advance of the record date, the date designated as the "ex-dividend date" shall be the second business day preceding the record date if the record date falls on a business day, or the third business day preceding the record date if the record date falls on a day designated by FINRA's UPC Committee as a non-delivery date. FINRA is proposing to shorten the time frames in Rule 11140(b)(1) by one business day.

(C) FINRA Rule 11150 ("Ex-Interest" in Bonds Which Are Dealt in "Flat")

Rule 11150(a) prescribes the manner for establishing "ex-interest dates" for transactions in bonds or other similar evidences of indebtedness which are traded "flat." Such transactions are "ex-interest" on the second business day preceding the record date if the record date falls on a business day, on the third business day preceding the record date if the record date falls on a day other than a business day, or on the third business day preceding the date on which an interest payment is to be made if no record date has been fixed. FINRA is proposing to shorten the time frames in Rule 11150(a) by one business day.

(D) FINRA Rule 11210 (Sent by Each Party)

Paragraphs (c) and (d) of Rule 11210 set forth the "Don't Know" ("DK") voluntary procedures for using "DK Notices" (FINRA Form No. 101) or other forms of notices, respectively. Depending upon the notice used, a confirming member may follow the "DK" procedures when it sends a comparison or confirmation of a trade (other than one that clears through the National Securities Clearing Corporation ("NSCC") or other registered clearing agency), but does not receive a comparison or confirmation or a signed "DK" from the contra-member by the close of four business days following the trade date of the transaction ("T+4"). The procedures generally provide that after T+4, the confirming member shall send a "DK Notice" (or similar notice) to the contra-member. The contra-member then has four business days after receipt of the confirming member's notice to either confirm or "DK" the transaction.

FINRA is proposing to amend paragraphs (c) and (d) of Rule 11210 to provide that the "DK" procedures may be used by the confirming member if it does not receive a comparison or confirmation or signed "DK" from the contra-member by the close of one business day following the trade date of the transaction, rather than the current T+4.[18] In addition, FINRA is proposing amendments to paragraphs (c)(2)(A), (c)(3), and (d)(5) of Rule 11210 to adjust the time in which a contra-member has to respond to a "DK Notice" (or similar notice) from four business days after the contra-member's receipt of the notice

[18] As stated above, the time frames in Rule 11210 remained unchanged during the transition from T+5 to T+3. In light of the industry-led initiative to shorten the standard settlement cycle and the SEC Proposing Release to amend SEA Rule 15c6-1(a) to establish T+2 as the standard settlement for most broker-dealer transactions, FINRA believes that the current time frames in Rule 11210 are more protracted than necessary even in a T+3 environment and as such, FINRA is proposing to amend these time frames to reflect more current industry practices.

to two business days. The proposed rule change would also make non-substantive technical changes to paragraph (c)(2)(A) to reflect FINRA Manual style convention.

(E) FINRA Rule 11320 (Dates of Delivery)

Rule 11320 prescribes delivery dates for various transactions. Paragraph (b) states that for a "regular way" transaction, delivery must be made on, but not before, the third business day after the date of the transaction. FINRA is proposing to amend Rule 11320(b) to change the reference to third business day to second business day. Paragraph (c) provides that in a "seller's option" transaction, delivery may be made by the seller on any business day after the third business day following the date of the transaction. FINRA is proposing to amend Rule 11320(c) to change the reference to third business day to second business day.

(F) FINRA Rule 11620 (Computation of Interest)

In the settlement of contracts in interest-paying securities other than for cash, Rule 11620(a) requires the calculation of interest at the rate specified in the security up to, but not including, the third business day after the date of the transaction. The proposed amendment would shorten the time frame to the second business day. In addition, the proposed amendment would make non-substantive technical changes to the title of paragraph (a).

(G) FINRA Rule 11810 (Buy-in Procedures and Requirements)

Rule 11810(j)(1)(A) sets forth the fail-to-deliver and liability notice procedures where a securities contract is for warrants, rights, convertible securities or other securities which have been called for redemption; are due to expire by their terms; are the subject of a tender or exchange offer; or are subject to other expiring events such as a record date for the underlying security and the last day on which the securities must be delivered or surrendered is the settlement date of the contract or later.[19]

Under Rule 11810(j)(1)(A), the receiving member delivers a liability notice to the owing counterparty. The liability notice sets a cutoff date for the delivery of the securities by the counterparty and provides notice to the counterparty of the liability attendant to its failure to deliver the securities in time. If the owing counterparty, or delivering member, delivers the securities in response to the liability notice, it has met its delivery obligation. If the delivering member fails to deliver the securities on the expiration date, it will be liable for any damages that may accrue thereby.

Rule 11810(j)(1)(A) further provides that when both parties to a contract are participants in a registered clearing agency that has an automated liability notification service, transmission of the liability notice must be accomplished through such system.[20]

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19 Rule 11810(j) is the successor to legacy NASD UPC Section 59(i) (Failure to Deliver and Liability Notice Procedures). When this provision was added to NASD's existing close-out procedures in 1984, it was drafted to be similar to the liability notice provisions adopted by the NSCC so that members that were also participants in NSCC could use the same procedures for both ex-clearing and NSCC cleared transactions, thereby simplifying members' back office procedures. See Securities Exchange Act Release No. 21262 (August 22, 1984), 49 FR 34321 (August 29, 1984) (Notice of Filing of File No. SR-NASD-84-20). See also Securities Exchange Act Release No. 21406 (October 19, 1984), 49 FR 43006 (October 25, 1984) (Order Approving File No. SR-NASD-84-20).

20 In 2007, NYSE Rule 180 was amended to require that when the parties to a failed contract were both participants in a registered clearing agency that had an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver and the contract was to be settled through the facilities of that registered clearing agency, the transmission of the liability notification must be accomplished through the use of the registered clearing agency's automated liability notification system. See Securities Exchange Act Release No. 55132 (January 19, 2007), 72 FR 3896 (January 26, 2007) (Order Approving File No. SR-NYSE-2006-57). FINRA followed suit and effective in 2008, Rule 11810(j) mandated the use of an automated liability notification system when the parties to a contract are participants in a registered clearing agency that has an automated service for notifying a failing party of the liability

When the parties to a contract are not both participants in a registered clearing agency that has an automated liability notification service, such notice must be issued using written or comparable electronic media having immediate receipt capabilities not later than one business day prior to the latest time and the date of the offer or other event in order to obtain the protection provided by the Rule.[21]

Given the proposed shortened settlement cycle, FINRA is proposing to amend Rule 11810(j)(1)(A) in situations where both parties to a contract are not participants of a registered clearing agency with an automated notification service, by extending the time frame for delivery of the liability notice. Rule 11810(j)(1)(A) would be amended to provide that in such cases, the receiving member must send the liability notice to the delivering member as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event to obtain the protection provided by the Rule. FINRA believes that extending the time given to the receiving member to transmit liability notifications will maintain the efficiency of the notification process while mitigating the possible overuse of such notifications.

Currently, FINRA understands that the identity of the counterparty, or delivering member, becomes known to the receiving member by mid-day on the business day after trade date ("T+1"), and by that time, the receiving member will generally also know

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that would be attendant to failure to deliver. See Securities Exchange Act Release No. 56972 (December 14, 2007), 72 FR 73927 (December 28, 2007) (Order Approving File No. SR-NASD-2007-035). See also Regulatory Notice 08-06 (February 2008).

21 While Rule 11810 has undergone amendments over the years, the one-day time frame in paragraph (j) has remained unchanged. The one-day time frame also appears in comparable provisions of other SROs. See, e.g., NSCC Rules & Procedures, Procedure X (Execution of Buy-Ins) (Effective August 10, 2016); NYSE Rule 282.65 (Fail to Deliver and Liability Notice Procedures); and Nasdaq Rule IM–11810 (Buying-in). See also infra note 29 and accompanying text.

which transactions are subject to an event identified in Rule 11810(j)(1)(A) that would prompt the receiving member to issue a liability notice to the delivering member. FINRA believes that the receiving member regularly issues liability notices to the seller or other parties from which the securities involved are due when the security is subject to an event identified in Rule 11810(j)(1)(A) during the settlement cycle as a way to mitigate the risk of a potential fail-to-deliver. In the current T+3 settlement environment, the one business day time frame gives the receiving member the requisite time needed to identify the parties involved and undertake the liability notification process.

However, FINRA believes that the move to a T+2 settlement environment will create inefficiencies in the liability notification process under Rule 11810(j)(1)(A) when both parties to a contract are not participants in a registered clearing agency with an automated notification service. The shorter settlement cycle, with the loss of one-business day, would not afford the receiving member sufficient time to: (1) ascertain that the securities are subject to an event listed in Rule 11810(j)(1)(A) during the settlement cycle; (2) identify the delivering member and other parties from which the securities involved are due; and (3) determine the likelihood that such parties may fail to deliver. Where the receiving member has sufficient time (e.g., one business day after), it can transmit liability notices as needed to the right parties. However, as a consequence of the shortened settlement cycle, the receiving member would be compelled to issue liability notices proactively to all potentially failing parties as a matter of course to preserve its rights against such parties without the benefit of knowing which transactions would actually necessitate the delivery of such notice. This would create a significant increase in the volume of liability notices members send and receive, many of which may be unnecessary. Members would then have to manage this overabundance of liability notices, increasing the possibility of errors, which would adversely impact the efficiency of the process. Therefore, FINRA believes its proposal to extend the time for the receiving member to deliver a liability notice when the parties to a contract are not both participants in a registered clearing agency with an automated notification service would help alleviate the potential burden on the liability notification process in a T+2 settlement environment.

(H) FINRA Rule 11860 (COD Orders)

Rule 11860(a) directs members to follow various procedures before accepting collect on delivery ("COD") or payment on delivery ("POD") orders. Rule 11860(a)(4)(A) states that the member must obtain an agreement from the customer that the customer will furnish instructions to the agent no later than the close of business on the second business day after the date of execution of the trade to which the confirmation relates in the case of a purchase by the customer where the agent is to receive the securities against payment, or COD. In light of the proposed shortened settlement cycle, FINRA is proposing to amend Rule 11860(a)(4)(A) to provide that the time period for a customer buying COD to furnish instructions to the agent will be no later than the close of business on the first business day after the date of execution of the trade, rather than the close of business on the second business day.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a Regulatory Notice, which date would correspond with the industry-led transition to a T+2 standard settlement, and the effective date of the Commission's proposed amendment to SEA Rule 15c6-1(a) to require standard settlement no later than T+2.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[22] 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, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change supports the industry-led initiative to shorten the settlement cycle to two business days. Moreover, the proposed rule change is consistent with the SEC's proposed amendment to SEA Rule 15c6-1(a) to require standard settlement no later than T+2. FINRA believes that the proposed rule change will provide the regulatory certainty to facilitate the industry-led move to a T+2 settlement cycle.

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. The proposed rule change makes changes to rules pertaining to securities settlement and is intended to facilitate the implementation of the industry-led transition to a T+2 settlement cycle. Moreover, the proposed rule changes are consistent with the SEC's proposed amendment to SEA Rule 15c6-1(a) to require standard settlement no later than T+2. Accordingly, FINRA believes that the proposed changes do not impose any

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[22] 15 U.S.C. 78o-3(b)(6).

burdens on the industry in addition to those necessary to implement amendments to SEA Rule 15c6-1(a) as described and enumerated in the SEC Proposing Release.[23]

These conforming changes include changes to rules that specifically establish the settlement cycle as well as rules that establish time frames based on settlement dates, including for certain post-settlement rights and obligations. FINRA believes that the proposed changes set forth in the filing are necessary to support a standard settlement cycle across the U.S. for secondary market transactions in equities, corporate and municipal bonds, unit investment trusts, and financial instruments composed of these products, among others.[24] A standard U.S. settlement cycle for such products is critical for the operation of fair and orderly markets.

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

The proposed rule change was published for comment in Regulatory Notice 16-09 (March 2016). Eight comments were received in response to the Regulatory Notice.[25] A

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23 See supra note 3.

24 See supra note 3.

25 See Letter from Michael Nicholas, Chief Executive Officer, Bond Dealers of America, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("BDA"); letter from Stephen E. Roth, Sutherland Asbill & Brennan LLP on behalf of the Committee of Annuity Insurers, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("CAI"); letter from Norman L. Ashkenas, Chief Compliance Officer, Fidelity Brokerage Services, LLC, and Richard J. O'Brien, Chief Compliance Officer, National Financial Services, LLC, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("Fidelity"); letter from David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("FSI"); letter from Martin A. Burns, Chief Industry Operations Officer, Investment Company Institute, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("ICI"); letter from Thomas F. Price, Managing Director, Operations, Technology & BCP, Securities Industry and Financial Markets Association, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("SIFMA") (April 4, 2016); letter from Manisha Kimmel, Chief

copy of the Regulatory Notice is attached as Exhibit 2a. A list of commenters is attached as Exhibit 2b and copies of the comment letters received in response to the Regulatory Notice are attached as Exhibit 2c.

Of the eight comment letters received, seven expressed support for the industry-led move to T+2 stating, among other benefits, that the move will align U.S. markets with international markets that already work in the T+2 environment, improve the overall efficiency and liquidity of the securities markets, and the stability of the financial system by reducing counterparty risk and pro-cyclical and liquidity demands, and decreasing clearing capital requirements.[26] Several commenters encouraged FINRA to coordinate with other regulators to make the necessary regulatory changes to help facilitate the move to a T+2 standard settlement cycle[27] with two commenters[28] providing their views on the proposed amendments to two rules under the FINRA Rule 11800 Series (Close-Out Procedures).

Regulatory Officer, Wealth Management, Thomson Reuters, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("Thomson Reuters"); and letter from Robert J. McCarthy, Director of Regulatory Policy, Wells Fargo Advisors, LLC, to Marcia E. Asquith, Corporate Secretary, FINRA, dated April 4, 2016 ("WFA").

26 BDA, Fidelity, FSI, ICI, SIFMA, Thomson Reuters and WFA. CAI did not comment on the proposed rule amendments and instead requested FINRA's "acknowledgment and confirmation that insurance securities products, which are currently exempt from the T+3 settlement cycle requirements, will continue to be exempt from the settlement cycle requirements after the timetable is shortened to T+2." The Commission has granted an exemption for transactions involving certain insurance contracts from the scope of SEA Rule 15c6-1. See Securities Exchange Act Release No. 35815 (June 6, 1995), 60 FR 30906 (June 12, 1995). FINRA notes that any modification or revocation of the current exemptions to SEA Rule 15c6-1 rests with the Commission.

27 Fidelity, FSI, ICI, and Thomson Reuters.

28 BDA and SIFMA.

FINRA Rule 11810(j) – Failure to Deliver and Liability Notice Procedures

In its comment letter, SIFMA raised a concern with the one-day time frame in Rule 11810(j)(1)(A), asserting that the requirement for the delivering member to deliver a liability notice to the receiving member no later than one business day prior to the latest time and the date of the offer or other event in order to obtain the protection provided by the Rule may no longer be appropriate in a T+2 environment in some situations such as where the delivery obligation is transferred to another party as a result of continuous net settlement, settlements outside of the NSCC, and settlements involving a third party that is not a FINRA member firm. SIFMA noted that NYSE Rule 180 (Failure to Deliver) includes a similar requirement for NYSE member firms that are participants in a registered clearing agency to transmit liability notification through an automated notification service and proposed amending Rule 11810(j)(1)(A) to omit the reference to a notification time frame, which would align with NYSE Rule 180.[29] In the alternative, SIFMA proposed amending Rule 11810(j)(1)(A) to require that the liability notice be delivered in a "reasonable amount of time" ahead of the settlement obligation in light of facts and circumstances. SIFMA maintained that under either proposed amendment to paragraph (j), the delivering member would be liable for any damages caused by its failure to deliver in a timely fashion.

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29 See NYSE Rule 180 (Failure to Deliver) providing in part that "[w]hen the parties to a contract are both participants in a registered clearing agency which has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver and that contract was to be settled through the facilities of said registered clearing agency, the transmission of the liability notification must be accomplished through use of said automated notification service." FINRA notes that NYSE Rule 180 does not address the transmission of the liability notification for parties to a contract that are not both participants in a registered clearing agency (or non-participants). The transmission of the liability notification for non-participants is addressed under NYSE Rule 282.65 (Failure to Deliver and Liability Notice Procedures). See supra note 21.

While FINRA did not initially propose amendments to Rule 11810 for the T+2 initiative,[30] in light of SIFMA's concern regarding Rule 11810(j)(1)(A), FINRA is proposing to amend the Rule to provide that, where both parties to a contract are not participants of a registered clearing agency with an automated notification service, the receiving member must send the liability notice to the delivering member as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event to obtain the protection provided by the Rule.[31]

FINRA Rule 11860 (COD Orders)

Rule 11860(a)(3) requires a member that accepts a COD or POD order from a customer to deliver to the customer a confirmation not later than the close of business on T+1. In Regulatory Notice 16-09, FINRA proposed shortening the confirmation delivery time frame to the close of business on the date of the trade ("T+0"). In its comment letter, BDA urged FINRA to consider leaving the requirement for delivering customer confirmations under Rule 11860(a)(3) unchanged and allow customer confirmations to continue to be sent T+1 to minimize the regulatory and compliance costs of the proposed amendment without limiting the risk-reducing benefits of the shortened settlement cycle. BDA asserted that shortening confirmation delivery to T+0 would be a tremendous undertaking for small firms that would need to commit large amounts of internal resources to change the systems and processes that are used to deliver confirmations in order to process confirmations on a T+0 basis.

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30 See Regulatory Notice 16-09 (March 2016).

31 FINRA expects similar amendments to other comparable SRO provisions in NYSE Rule 282.65 (Fail to Deliver and Liability Notice Procedures) and Nasdaq Rule IM–11810 (Buying-in), and NSCC Rules & Procedures, Procedure X (Execution of Buy-Ins) to address SIFMA's concern about the one-day notification time frame.

FINRA has considered the comment and agrees that the proposed change to T+0 may present significant difficulties for member firms, particularly small firms. Moreover, FINRA believes that the existing requirement to deliver customer confirmations on T+1 would still assure the efficient clearance and settlement of transactions in a T+2 settlement environment. Therefore, in order to remain aligned with the provisions of other SROs and current industry practices, FINRA has determined to retain the current T+1 confirmation delivery requirement under Rule 11860(a)(3).[32]

Other Comments

Several commenters conveyed the importance of testing systems and educating market participants and retail investors on the impacts of a shorter settlement cycle.[33] BDA explained that currently, a customer has five business days to submit payment for purchases of securities in a cash account or in a margin account before a broker-dealer would cancel or liquidate the transaction in whole or in part.[34] BDA further explained that "[s]hortening the settlement cycle to T+2 would automatically reduce the timeframe before a dealer would have to liquidate an unpaid for transaction to T+4." BDA noted

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32 In Regulatory Notice 16-09, FINRA preliminarily identified Rule 11210(a) (Comparisons or Confirmations) to undergo an amendment to reflect the T+2 settlement cycle. Rule 11210(a)(1) requires each party to a transaction, other than a cash transaction, to send a Uniform Comparison or Confirmation on or before T+1. FINRA proposed changing the delivery time frame to T+0. While not specifically referenced by BDA, Rule 11210(a) would raise similar concerns. Thus, the time frame under Rule 11210(a)(1) for sending a Uniform Comparison or Confirmation would also remain unchanged at T+1.

33 BDA, FSI and WFA.

34 Federal Reserve Board Regulation T governs, among other things, the extension of credit by broker-dealers to customers to pay for the purchase of securities. Regulation T provides that a customer has one payment period (currently five business days) to submit payment for purchases of securities in a cash account or in a margin account. 12 CFR 220.2 (Definitions), 220.4 (Margin Account) and 220.8 (Cash Account).

that shortening the settlement cycle by one day may negatively impact retail clients that still use checks, which may not be sent, received, processed, and cleared, within the shortened four-day window. BDA expressed that firms that do a large amount of retail business would need ample time to communicate the practical impacts on a shortened settlement cycle.

FINRA recognizes that market participants will have to undergo systemic and procedural changes to implement the shorter payment period for a securities purchase as part of the ongoing transition to the T+2 framework. As BDA acknowledged, the 2017 timeline should allow firms to make all the necessary changes to systems that the proposed rule will require. FINRA further recognizes the importance of educating retail investors regarding the impact of a shortened settlement cycle and is committed to working with market participants to provide the information necessary to educate retail investors.

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-2016-047 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2016-047. 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-2016-047 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.[35]

Robert W. Errett
Deputy Secretary

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[35] 17 CFR 200.30-3(a)(12).

Regulatory Notice 16-09

Shortening the Settlement Cycle for Securities to T + 2

FINRA Requests Comment on Proposed Amendments to FINRA Rules to Support the Industry Initiative to Shorten the Settlement Cycle for Securities in the U.S. Secondary Market From T+3 to T+2

Comment Period Expires: April 4, 2016

Summary

Shortening the settlement cycle from trade date plus three business days (T+3) to trade date plus two business days (T+2) for U.S. secondary market transactions in equities, corporate and municipal bonds, unit investment trusts, and financial instruments composed of these products is an industry-led initiative. To support this industry-led initiative, FINRA seeks comment on proposed amendments to FINRA rules relating to the settlement cycle. FINRA proposes to adopt necessary rule changes in a manner and timeline that is consistent with the Securities and Exchange Commission (SEC) and other self-regulatory organizations (SROs) in an effort to provide the regulatory certainty necessary for an efficient transition.

The proposed rule text of the impacted rules is in Attachment A.

Questions concerning this *Notice* should be directed to:

- Kosha Dalal, Associate Vice President and Associate General Counsel, Office of General Counsel (OGC), at (202) 728-6903; or
- Sarah Kwak, Counsel, OGC, at (202) 728-8471.

Financial Industry Regulatory Authority

March 2016

Notice Type
- Request for Comment

Suggested Routing
- Compliance
- Government Securities
- Institutional
- Legal
- Municipal
- Mutual Fund
- Operations
- Senior Management
- Systems
- Trading

Key Topics
- Special Products
- Uniform Practice Code

Referenced Rules & Notices
- NASD Rule 2830
- FINRA Rule 11120
- FINRA Rule 11140
- FINRA Rule 11150
- FINRA Rule 11210
- FINRA Rule 11320
- FINRA Rule 11620
- FINRA Rule 11860
- SEA Rule 15c6-1

Action Requested

FINRA encourages all interested parties to comment. Comments must be received by April 4, 2016.

Comments must be submitted through one of the following methods:

- Emailing comments to *pubcom@finra.org*; or
- Mailing comments in hard copy to:

  Marcia E. Asquith
  Office of the Corporate Secretary
  FINRA
  1735 K Street, NW
  Washington, DC 20006-1506

To help FINRA process comments more efficiently, persons should use only one method to comment.

Important Notes: All comments received in response to this *Notice* will be made available to the public on the FINRA website. In general, FINRA will post comments as they are received.[1]

Before becoming effective, a proposed rule change must be authorized for filing with the Securities and Exchange Commission (SEC) by the FINRA Board of Governors, and then must be filed with the SEC pursuant to Section 19(b) of the Securities Exchange Act of 1934 (SEA).[2]

Background & Discussion

In 1995, the standard U.S. trade settlement cycle for equities, municipal and corporate bonds, and unit investment trusts, and financial instruments composed of these products[3] was shortened from five business days after the trade date to T+3.[4] Since then, the SEC and the financial services industry have continued exploring the idea of shortening the settlement cycle even further.[5]

In April 2014, The Depository Trust & Clearing Corporation (DTCC) published its formal recommendation to shorten the standard U.S. trade settlement cycle to T+2 and announced that it would partner with market participants and industry organizations to devise the necessary approach and timelines to achieve T+2.[6] In February 2015, the SEC's Investor Advisory Committee strongly endorsed DTCC's recommendation.[7] Market participants believe a shorter settlement cycle will yield important benefits to the industry by promoting financial stability and significantly mitigating risks to the financial system.

In collaboration with the financial services industry, DTCC formed an Industry Steering Committee (ISC) and an Industry Working Group and sub-working groups to facilitate the move to T+2.[8] In June 2015, the ISC published a white paper titled "Shortening the Settlement Cycle: The Move to T+2," which outlined the activities and proposed timeframes that would be required to move to T+2 in the U.S.[9] The proposed timeframes included regulators and SROs finalizing their rule amendments by the second quarter of 2016, and developing and testing market infrastructure in 2017 with final implementation of T+2 by the third quarter of 2017.

Concurrently, in June 2015, the Securities Industry and Financial Markets Association (SIFMA) and the Investment Company Institute (ICI) jointly submitted a letter to SEC Chair Mary Jo White, expressing support of the efforts by the financial services industry to shorten the settlement cycle and identifying several SEC and SRO rule changes that they believed would require amendment for an effective transition to T+2.[10] The ICI/SIFMA letter categorized the rule changes as follows: (1) rules that specifically establish or reference a T+3 settlement cycle (*e.g.*, SEA Rule 15c6-1)[11]; (2) rules that do not specifically reference T+3 as the standard settlement cycle, but establish timeframes based on the settlement date of a trade and require one or more parties to act prior to settlement taking place; and (3) rules that establish timeframes based on settlement date, but require action after settlement occurs (*e.g.*, Regulation T, Regulation SHO, SEA Rule 15c3-3(m)).

In September 2015, SEC Chair White responded to the ICI/SIFMA letter expressing her strong support for industry efforts to shorten the trade settlement cycle to T+2 and urging the industry to continue to pursue the necessary steps towards achieving T+2 by the third quarter of 2017. SEC Chair White also indicated that she instructed SEC staff to develop a proposal to amend SEA Rule 15c6-1(a) to require settlement no later than T+2.[12]

Proposed Amendments

SEA Rule 15c6-1 currently establishes "regular way" settlement as occurring no later than T+3 for all securities, except for government securities and municipal securities, commercial paper, bankers' acceptances, or commercial bills.[13] In anticipation of the SEC's changes to SEA Rule 15c6-1 to facilitate settlement no later than T+2 and to ensure that FINRA acts in concert and conformity with the impending rule changes by other SROs,[14] FINRA is proposing definitional changes to its rules pertaining to securities settlement by, among other things, amending the definition of "regular way" settlement as occurring on T+2. The proposed technical changes would implement the anticipated rule changes of the SEC and the other SROs. Accordingly, FINRA believes that the proposed rule changes will not impose any burdens on the industry in addition to those necessary to implement the industry-wide initiative.

FINRA has preliminarily identified the following rules that establish or reference a T+3 settlement cycle that would need to be amended to reflect a T+2 settlement cycle:

- NASD Rule 2830 (Investment Company Securities);
- FINRA Rule 11140 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants");
- FINRA Rule 11150 (Transactions in "Ex-Interest" in Bonds Which are Dealt in "Flat");
- FINRA Rule 11210 (Sent by Each Party);
- FINRA Rule 11320 (Date of Delivery);
- FINRA Rule 11620 (Computation of Interest); and
- FINRA Rule 11860 (COD Orders)

The attachment to this *Notice* sets forth a list of the rules and the affected rule text that would be amended to comport with the industry-led initiative to move to T+2. As part of the ongoing initiative, FINRA will continue to review its rules to verify that impacted rules for securities settlement are identified and considered for amendment as appropriate.

Economic Impact Assessment

The industry-led effort to shorten settlement cycle to T+2 was based, in part, on an in-depth cost-benefit study commissioned by DTCC.[15] The study identified several anticipated benefits. It concluded that a shorter settlement cycle would benefit market participants by mitigating operational and systemic risks by, among other things:[16]

- aligning U.S. markets with other major global markets such as the European Union and markets in the Asia Pacific region (*e.g.*, Hong Kong and South Korea) that have already moved to T+2 and other global markets that are examining a move to T+2 (*e.g.*, Canada and Japan);
- lessening member firm capital and margin requirements at the clearing agency by reducing risk exposure;
- reducing the additional margin and liquidity needs that can happen during times of economic volatility; and
- decreasing counterparty risk by moving trades more quickly to settlement, enabling capital to be freed up faster for reinvestment and reducing credit and counterparty exposure.

As part of the ongoing initiative to move to T+2, FINRA is assessing the changes that will be required to those FINRA systems and applications that base calculations on T+3. In addition, moving to a shortened settlement cycle would impose costs across various other segments of the industry. These costs would include technological and infrastructure investments, as well as costs associated with implementing various operational changes required to achieve a shorter settlement cycle.

Some of these costs and benefits of the shortened settlement cycle may, directly or indirectly, impact the investing public. For example, public investors would likely benefit from reduced counter-party risk and reduced delays in settlement. Alternatively, costs associated with meeting the shortened settlement cycle may be passed on, in part or in whole, to investors. FINRA specifically seeks comment on any direct or indirect impacts that may accrue to investors.

FINRA notes that the potential economic impacts to the industry and investors discussed here are associated with the industry-wide move to T+2 and the SEC's anticipated amendments to SEA Rule 15c6-1(a), and FINRA believes that its proposed technical rule changes would not impose any additional burdens on the market participants.

Request for Comment

In addition to generally requesting comments, FINRA specifically requests comment on the questions below.

1. Would the proposed rule amendments have an effect on conduct that is required for compliance with any other FINRA rule?
2. Are there any other FINRA rules that should be amended to support the move to T+2?
3. Are there any economic impacts, including costs and benefits, to the industry that are associated specifically with FINRA's proposed rule changes and are they in addition to those arising from the industry-wide move to T+2 and the SEC's anticipated amendments to SEA Rule 15c6-1? If so,
   a. What are these economic impacts and what are their primary sources?
   b. To what extent would these economic impacts differ by business attributes, such as size of the firm or differences in business models?
   c. What would be the magnitude of these impacts, including costs and benefits?

FINRA requests data and quantified comments where possible.

4. What economic impacts, including costs and benefits, would accrue to investors as a result of FINRA's proposed rule changes? What would be the magnitude and primary sources of these costs and benefits to investors? What factors or attributes would contribute to the costs borne by different segments of the public?

Endnotes

1. FINRA will not edit personal identifying information, such as names or email addresses, from submissions. Persons should submit only information that they wish to make publicly available. *See Notice to Members 03-73* (November 2003) (Online Availability of Comments) for more information.

2. *See* SEA Section 19 and rules thereunder. After a proposed rule change is filed with the SEC, the proposed rule change generally is published for public comment in the *Federal Register*. Certain limited types of proposed rule changes take effect upon filing with the SEC. *See* SEA Section 19(b)(3) and SEA Rule 19b-4.

3. Examples of such financial instruments include mutual funds, exchange-traded funds, exchange-traded products, American depositary receipts, options (exercise and assignment), rights, and warrants.

4. Effective in 1995, SEA Rule 15c6-1(a) provides, in relevant part, that "a broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction." Although not covered by SEA Rule 15c6-1, in 1995, the SEC approved the Municipal Securities Rulemaking Board's rule change requiring transactions in municipal securities to settle by T+3. *See* Securities Exchange Act Release No. 35427 (Feb. 28, 1995), 60 FR 12798 (Mar. 8, 1995) (File No. SR-MSRB-94-10).

5. *See e.g.*, Securities Industry Association (SIA), "SIA T+1 Business Case Final Report" (Jul. 2000); Concept Release: Securities Transactions Settlement, Securities Exchange Act Release No. 49405 (Mar. 11, 2004); and Depository Trust & Clearing Corporation, "Proposal to Launch a New Cost-Benefit Analysis on Shortening the Settlement Cycle" (Dec. 2011).

6. *See* Depository Trust & Clearing Corporation, "DTCC Recommends Shortening the U.S. Trade Settlement Cycle" (Apr. 2014).

7. *See* "Recommendation of the Investor Advisory Committee: Shortening the Trade Settlement Cycle in U.S. Financial Markets" (Feb. 12, 2015).

8. The ISC includes, among other participants, DTCC, the Securities Industry and Financial Markets Association and the Investment Company Institute.

9. *See* "Shortening the Settlement Cycle: The Move to T+2" (Jun. 18, 2015) (White Paper).

10. *See* letter from ICI and SIFMA to Mary Jo White, Chair, SEC (Jun. 18, 2015) (ICI/SIFMA letter) at 5–8.

11. *See supra* note 4.

12. *See* letter from Mary Jo White, Chair, SEC, to Kenneth E. Bentsen, Jr., President and CEO, SIFMA, and Paul Schott Stevens, President and CEO, ICI (Sep. 16, 2015) at 2.

13. *See also* FINRA Rule 11320(b) which provides, in relevant part, that "[i]n connection with a transaction 'regular way,' delivery shall be made at the office of the purchaser on, but not before, the third business day following the date of the transaction."

14. On November 10, 2015, the MSRB issued MSRB Regulatory Notice 2015-22 seeking comment on draft amendments to MSRB Rule G-12 (Uniform Practice) and MSRB G-15 (Confirmation, Clearance, Settlement and Other Uniform Practice Requirements with Respect to Transactions with Customers) to facilitate shortening the settlement cycle for transactions in municipal securities. The comment period expired on December 10, 2015.

15. *See supra* note 6. *See also* The Boston Consulting Group, "Cost benefit analysis of shortening the settlement cycle," (Oct. 2012) (examining and evaluating the necessary investments and resulting benefits associated with a shortened settlement cycle).

16. *Id.*

ATTACHMENT A

Below is the text of the proposed rule changes.[1] Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

2000. BUSINESS CONDUCT

* * * * *

2800. SPECIAL PRODUCTS

2830. Investment Company Securities

(a) through (l) No Change.

(m) Prompt Payment for Investment Company Shares

(1) Members (including underwriters) that engage in direct retail transactions for investment company shares shall transmit payments received from customers for such shares, which such members have sold to customers, to payees (*i.e.*, underwriters, investment companies or their designated agents) by (A) the end of the [third]<u>second</u> business day following a receipt of a customer's order to purchase such shares or by (B) the end of one business day following receipt of a customer's payment for such shares, whichever is the later date.

(2) No Change.

(n) No Change.

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11000. UNIFORM PRACTICE CODE

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11100. SCOPE OF UNIFORM PRACTICE CODE

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1. In anticipation of the SEC's changes to SEA Rule 15c6-1 to facilitate settlement no later than T+2, and to act in concert and conformity therewith, FINRA may change the rule text of its impacted rules to reference SEA Rule 15c6-1.

11140. Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants"

(a) No Change.

(b) Normal Ex-Dividend, Ex-Warrants Dates

(1) In respect to cash dividends or distributions, or stock dividends, and the issuance or distribution of warrants, which are less than 25% of the value of the subject security, if the definitive information is received sufficiently in advance of the record date, the date designated as the "ex-dividend date" shall be the [second]<u>first</u> business day preceding the record date if the record date falls on a business day, or the [third]<u>second</u> business day preceding the record date if the record date falls on a day designated by the Committee as a non-delivery date.

(2) and (3) No Change.

* * * * *

11150. Transactions "Ex-Interest" in Bonds Which Are Dealt in "Flat"

(a) Normal Ex-Interest Dates

All transactions, except "cash" transactions, in bonds or similar evidences of indebtedness which are traded "flat" shall be "ex-interest" as prescribed by the following provisions:

(1) On the [second]<u>first</u> business day preceding the record date if the record date falls on a business day.

(2) On the [third]<u>second</u> business day preceding the record date if the record date falls on a day other than a business day.

(3) On the [third]<u>second</u> business day preceding the date on which an interest payment is to be made if no record date has been fixed.

(b) No Change.

* * * * *

11200. COMPARISONS OR CONFIRMATIONS AND "DON'T KNOW NOTICES"

11210. Sent by Each Party

(a) Comparisons or Confirmations

(1) Each party to a transaction, other than a cash transaction, shall send a Uniform Comparison or Confirmation of same on [or before the first business day following the date of]<u>the day of</u> the [transaction]<u>trade</u>.

(2) through (4) No Change.

(b) No Change.

(c) "DK" Procedures Using "Don't Know Notices" (FINRA Form No. 101)

When a party to a transaction sends a comparison or confirmation of a trade, but does not receive a comparison or confirmation or a signed DK, from the contra-member by the close of [four]<u>one</u> business day[s] following the trade date of the transaction, the following procedure may be utilized.

(1) The confirming member shall send by certified mail, return receipt requested, or messenger, a "Don't Know Notice" on the form prescribed by FINRA to the contra-member in accordance with the directions contained thereon. If the notice is sent by certified mail the returned, signed receipt therefor must be retained by the confirming member and attached to the fourth copy of the "Don't Know Notice." If delivered by messenger, the fourth copy must immediately be dated and manually receipted by, and imprinted with the firm stamp of, the contra-member pursuant to the provisions of paragraph (c)(4) of this Rule, returned to the messenger and thereafter be retained by the confirming member.

(2)(A) After receipt of the "Don't Know Notice" as specified in paragraph (c)(1) of this Rule, the contra-member shall have [four]<u>two</u> business days after the notice is received to either confirm or DK the transaction in accordance with the provisions of subparagraphs (B) or (C) of this Rule.

(B) and (C) No Change.

(3) If the confirming member does not receive a response from the contra-member by the close of [four]<u>two</u> business days after receipt by the confirming member of the fourth copy of the "Don't Know Notice" if delivered by messenger, or the post office receipt if delivered by mail, as specified in paragraph (c)(1) of this Rule, such shall constitute a DK and the confirming member shall have no further liability for the trade.

(4) and (5) No Change.

(d) "DK" Procedure Using Other Forms of Notice

When a party to a transaction sends comparison or confirmation of a trade, but does not receive a comparison or confirmation or a signed DK, from the contra-member by the close of one business day[s] following the date of the transaction, the following procedure may be utilized in place of that provided in the preceding paragraph (c) of this Rule.

(1) through (4) No Change.

(5) If the confirming member does not receive a response in the form of a notice from the contra-member by the close of [four]<u>two</u> business days after receipt of the confirming member's notice, such shall constitute a DK and the confirming member shall have no further liability.

(6) through (8) No Change.

* * * * *

11300. DELIVERY OF SECURITIES

11320. Dates of Delivery

(a) No Change.

(b) "Regular Way"

In connection with a transaction "regular way," delivery shall be made at the office of the purchaser on, but not before, the [third]<u>second</u> business day following the date of the transaction.

(c) "Seller's Option"

In connection with a transaction "seller's option," delivery shall be made at the office of the purchaser on the date on which the option expires; except that delivery may be made by the seller on any business day after the [third]<u>second</u> business day following the date of <u>the</u> transaction and prior to the expiration of the option, provided the seller delivers at the office of purchaser, on a business day preceding the day of delivery, written notice of intention to deliver.

(d) through (h) No Change.

* * * * *

11600. DELIVERY OF BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

11620. Computation of Interest

(a) Interest [T]to [B]be Added to the Dollar Price

In the settlement of contracts in interest-paying securities other than for "cash," there shall be added to the dollar price interest at the rate specified in the security, which shall be computed up to but not including the [third]<u>second</u> business day following the date of the transaction. In transactions for "cash," interest shall be added to the dollar price at the rate specified in the security up to but not including the date of transaction.

(b) through (f) No Change.

* * * * *

11800. CLOSE-OUT PROCEDURES

11860. COD Orders

(a) No member shall accept an order from a customer, including foreign customers and/or broker-dealers trading with or through the member, for eligible transactions of such customers that settle in the United States, pursuant to an arrangement whereby payment for securities purchased or delivery of securities sold is to be made to or by an agent of the customer unless all of the following procedures are followed:

(1) and (2) No Change.

(3) The member shall deliver to the customer a confirmation, or all relevant data customarily contained in a confirmation with respect to the execution of the order, in whole or in part, not later than the close of business on the [next business day after] <u>date of</u> any such execution <u>of the transaction</u>.

(4) The member shall have obtained an agreement from the customer that the customer will furnish its agent instructions with respect to the receipt or delivery of the securities involved in the transaction promptly upon receipt by the customer of each confirmation, or the relevant data as to each execution, relating to such order (even though such execution represents the purchase or sale of only a part of the order), and that in any event the customer will assure that such instructions are delivered to its agent no later than:

(A) in the case of a purchase by the customer where the agent is to receive the securities against payment (COD), the close of business on the [second]first business day after the date of execution of the trade as to which the particular confirmation relates; or

(B) No Change.

(5) No Change.

(b) No Change.

Exhibit 2b

Alphabetical List of Written Comments
Regulatory Notice 16-09

1. Norman L. Ashkenas, Fidelity Brokerage Services, LLC, and Richard J. O'Brien, National Financial Services, LLC (April 4, 2016)

2. David T. Bellaire, Financial Services Institute (April 4, 2016)

3. Martin A. Burns, Investment Company Institute (April 4, 2016)

4. Manisha Kimmel, Thomson Reuters (April 4, 2016)

5. Robert J. McCarthy, Wells Fargo Advisors, LLC (April 4, 2016)

6. Michael Nicholas, Bond Dealers of America (April 4, 2016)

7. Thomas F. Price, Securities Industry and Financial Markets Association (April 4, 2016)

8. Stephen E. Roth, Sutherland Asbill & Brennan LLP on behalf of the Committee of Annuity Insurers (CAI) (April 4, 2016)

April 4, 2016

Via email to pubcom@finra.org

Marcia E. Asquith
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street, N.W.
Washington, D.C. 20006-1506

Re: FINRA Regulatory Notice 16-09: Shortening the Settlement Cycle for Securities to T+2

Dear Ms. Asquith:

Fidelity Investments[1] ("Fidelity") appreciates the opportunity to comment on the Financial Industry Regulatory Authority's ("FINRA") Regulatory Notice 16-09 (the "Proposed Amendments").[2] The Proposed Amendments seek comment on changes to FINRA rules relating to the industry-led initiative to transition from a three-day to a two-day settlement period for secondary market transactions in equities, corporate and municipal bonds, unit investment trusts, and financial instruments comprised of these products ("T+2 Initiative" or "T+2").

Fidelity supports the T+2 Initiative. We are an active industry participant in the T+2 Initiative across our broker-dealer and asset management business channels because we agree that a shortened settlement cycle will yield important benefits to retail investors, financial services firms, and the U.S. financial system as a whole. Among other items, the move to T+2 will reduce counter-party risk and pro-cyclical and liquidity demands; decrease clearing capital requirements; and harmonize the global settlement process as many world economies already operate on a T+2 settlement cycle. Retail investors, among others, will benefit from a shorter settlement cycle through reduced risk in the settlement process.

Fidelity supports the Proposed Amendments. We observe that the Proposed Amendments take into consideration changes proposed by the financial services industry in a

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[1]Fidelity Investments is a leading provider of investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing and many other financial products and services. Fidelity submits this letter on behalf of National Financial Services LLC, a Securities and Exchange Commission ("SEC") registered clearing firm and FINRA member, and its affiliate, Fidelity Brokerage Services LLC, a SEC registered introducing retail broker-dealer and FINRA member. Fidelity's comments reflect the views of both a clearing broker-dealer and an introducing broker-dealer that will be affected by the Proposed Amendments.
[2]*See* FINRA Regulatory Notice 16-09 (March 2016) *available at*: http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-16-09.pdf

letter to SEC Chair White in support of the T+2 Initiative.[3] We encourage FINRA to adopt the Proposed Amendments in a manner and timeline that is consistent with the SEC and other self-regulatory organizations in an effort to provide the regulatory certainty necessary for an efficient transition to T+2 by the industry target date of September 5, 2017.[4] Fidelity intends to work with industry trade groups to provide information to regulatory agencies that addresses the economic impact of a shortened settlement cycle.

* * * * *

Fidelity thanks FINRA for considering our comments. We would be pleased to provide any further information and respond to any questions that you may have.

Sincerely,

Norman L. Ashkenas	Richard J. O'Brien
Chief Compliance Officer	Chief Compliance Officer
Fidelity Brokerage Services, LLC	National Financial Services, LLC

cc:

Mr. Richard Ketchum, Chairman and Chief Executive Officer, FINRA
Mr. Robert Colby, General Counsel, FINRA

Mr. Stephen Luparello, Director, Division of Trading and Markets, SEC
Mr. Gary Goldsholle, Associate Director, Division of Trading and Markets, SEC

[3] *See* Letter from the Securities Industry and Financial Markets Association and the Investment Company Institute to Mary Jo White, Chair, SEC (June 18, 2015) *available at:* http://www.ust2.com/pdfs/SSCregfinal.pdf
[4] *See* US T+2 ISC Recommends Move to Shorter Settlement Cycle on September 5, 2017 *available at*: http://www.ust2.com/pdfs/T2-ISC-recommends-shorter-settlement-030716.pdf

FINANCIAL SERVICES INSTITUTE

VOICE OF INDEPENDENT FINANCIAL SERVICES FIRMS AND INDEPENDENT FINANCIAL ADVISORS

VIA ELECTRONIC MAIL

April 4, 2016

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: **Regulatory Notice 16-09: Shortening the Settlement Cycle for Securities to T+2**

Dear Ms. Asquith:

On March 4, 2016, the Financial Industry Regulatory Authority (FINRA) published its request for public comment on proposed amendments to facilitate shortening the settlement cycle for secondary market transactions in securities (Proposed Amendments).[1] The Proposed Amendments are in response to an industry-led initiative to shorten the regular-way settlement cycle for equities, corporate bonds, municipal bonds, and unit investment trusts from the current T+3 (trade date plus three days) to T+2 (trade date plus two days).

The Financial Services Institute[2] (FSI) appreciates the opportunity to comment on this important proposal. A shorter settlement cycle has the potential to improve the efficiency of the securities markets through operational cost savings, reduced counterparty risk, and a reduction in capital required to be maintained by clearing firms to mitigate such risk. However, the move to T+2 will necessitate significant operational and behavioral changes for both firms and investors. Therefore, we request that FINRA work with fellow regulatory bodies, industry stakeholders, and the Depository Trust and Clearing Corporation (DTCC) to ensure consistent implementation and robust education for market participants.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the U.S., there are approximately 167,000 independent financial advisors, which account for approximately 64.5% percent of all producing registered representatives. These financial advisors are self-employed independent contractors, rather than employees of Independent Broker-Dealers (IBD).

[1] Regulatory Notice 16-09, Shortening the Settlement Cycle for Securities to T+2 (Mar. 4, 2016).

[2] The Financial Services Institute (FSI) is an advocacy association comprised of members from the independent financial services industry, and is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has been working to create a healthier regulatory environment for these members so they can provide affordable, objective financial advice to hard-working Main Street Americans.

FSI member firms provide business support to financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners who typically have strong ties to their communities and know their clients personally. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations and retirement plans with financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their investment goals.

Discussion

SEC Rule 15c6-1 defines regular-way settlement as occurring no later than T+3 for equities and corporate bonds. In anticipation of the SEC amending Rule 15c6-1 to shorten the settlement cycle to T+2 FINRA is proposing changes to rules impacting securities settlement. The Proposed Amendments would also correspond to rule amendments undertaken by other self-regulatory organizations to account for the shift to T+2. The Proposed Amendments include changes to a variety of rules in the FINRA Rulebook that specifically address the settlement cycle.[3]

Earlier this year, in a letter responding to a request from the Industry Steering Committee, SEC Chair Mary Jo White stated that she strongly supports shortening the settlement cycle to T+2.[4] She indicated that she was committed to ensuring the necessary regulatory changes, including amending SEC Rule 15c6-1, and requested that the self-regulatory organizations (SROs) finalize schedules of necessary rule changes by October 31, 2015.[5] FINRA issued the Proposed Amendments in response to that request.

We support the efforts of the Industry Steering Committee and regulators to enhance the efficiency and stability of the financial system by shortening the securities settlement cycle. We believe close coordination between all government agencies, SROs, industry stakeholders, and DTCC is critical to ensuring effective implementation of this important initiative. We request that FINRA continue to coordinate with all agencies closely and ensure that regulatory changes are finalized expeditiously in accordance with the proposed goal of implementation by third quarter of 2017.

Additionally, we request that FINRA, in coordination with other regulatory agencies and the Industry Steering Committee develop a comprehensive educational plan to ensure market participants and retail investors are well informed about the impacts of shortening the settlement cycle. In order to minimize any detrimental impacts to investors, it is critical for broker-dealers to educate their personnel as well as their retail clients on the behavioral changes required by shortening the payment period for a securities purchase. Failure to pay for a securities purchase within the payment period may result in increased trading costs due to an extension request or a

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[3] The amended rules include: NASD Rule 2830 (Investment Company Securities) and FINRA Rules 11140 (Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants"), 11150 (Transactions in "Ex-Interest" in Bonds Which are Dealt in "Flat"), 11210 (Sent by Each Party), 11320 (Date of Delivery), 11620 (Computation of Interest), and 11860 (COD Orders).

[4] *See* Letter from May Jo White, Chair, SEC, to Kenneth E. Bentsen, Jr., President & CEO, SIFMA and Paul Schott Stevens, President & CEO, ICI (Sept. 16, 2015).

[5] *Id.*

"close out" of the investor's purchase.[6] Comprehensive education and training undertaken in advance of the T+2 implementation date is critical to minimizing the potential for such impacts. We stand ready to work with any interested parties to assist in such education and training efforts.

Conclusion

We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with FINRA on this and other important regulatory efforts.

Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 803-6061.

Respectfully submitted,

David T. Bellaire, Esq.
Executive Vice President & General Counsel

[6] Federal Reserve Board Regulation T, 12 C.F.R. § 220.8(b)(i) & (d).

INVESTMENT
COMPANY
INSTITUTE

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April 4, 2016

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 16-09: Request for Comment on Proposed Amendments to FINRA Rules to Shorten Settlement Cycle for Securities in the U.S. Secondary Market from T+3 to T+2

Dear Ms. Asquith:

The Investment Company Institute[1] is pleased to provide its strong support for FINRA's proposed amendments to facilitate shortening the settlement cycle for securities in the U.S. secondary market.[2] The proposed amendments are in response to a financial services industry-led initiative to shorten the regular-way settlement for equities, corporate bonds, municipal bonds, and unit investments trusts from T+3 (trade date plus three days) to T+2 (trade date plus two days).[3] We

[1] The Investment Company Institute (ICI) is a leading, global association of regulated funds, including mutual funds, exchange-traded funds (ETFs), closed-end funds, and unit investment trusts (UITs) in the United States, and similar funds offered to investors in jurisdictions worldwide. ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. ICI's U.S. fund members manage total assets of $16.9 trillion and serve more than 90 million U.S. shareholders.

[2] FINRA Regulatory Notice 16-09 (March 2016), available at http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-16-09.pdf.

[3] The industry formed an Industry Steering Committee, an Industry Working Group, and five sub-working groups to facilitate the move to a shorter settlement cycle. For background on the T+2 industry-led initiative and its benefits, *see* http://www.ust2.com/. *See also* Letter from Paul Schott Stevens, President and CEO, Investment Company Institute, and Kenneth E. Bentsen, Jr., President and CEO, Securities Industry and Financial Markets Association (SIFMA), to Mary Jo White, Chair, Securities and Exchange Commission (SEC) (June 18, 2015) (identifying the SEC and self-regulatory organization (SRO) rule changes that the industry believes would be necessary to support a T+2 settlement cycle). In September 2015, SEC Chair Mary Jo White sent a letter to ICI and SIFMA noting her strong support for the industry's efforts to shorten the settlement cycle. *See* Letter from Mary Jo White, Chair, Securities and Exchange Commission, to Kenneth E. Bentsen, Jr., President and CEO, Securities Industry and Financial Markets Association, and Paul Schott Stevens, President and CEO, Investment Company Institute (September 16, 2015) ("Chair White Letter").

believe a shorter settlement cycle will help improve the overall efficiency of securities markets, align the United States with other global markets, and promote financial stability.

To support this industry-led initiative, FINRA has proposed amendments to various of its rules that currently establish or reference a T+3 settlement cycle to reflect instead settlement as occurring on T+2. The proposed amendments also would conform to anticipated rule changes of the SEC and other SROs relating to regular-way settlement.

The industry has proposed a migration timeline outlining the necessary activities required to complete a move to T+2 by the third quarter of 2017. Regulatory action is a critical prerequisite to achieving a shortened settlement cycle. Indeed, SEC Chair White recognized that amendments to the various rules of the SROs that specifically mandate T+3 (or that are keyed to the settlement date and require pre-settlement actions) are the most significant regulatory changes necessary to support the industry's move to T+2.[4] As such, we strongly support FINRA's proposed amendments to facilitate shortening the settlement cycle for securities in the U.S. secondary market. Also, as co-chair of the Industry Steering Committee, ICI stands ready to assist FINRA, the other SROs, and the SEC to implement T+2. In this regard, we are working with SIFMA and industry stakeholders to assess the economic impact of the shortened settlement cycle in anticipation of responding to the eventual SEC rule amendment proposal. We will share any such assessment with FINRA.

* * * *

We look forward to working with the SEC and the SROs as they continue their efforts to support a T+2 regular way settlement for the U.S. securities markets. In the meantime, if you have any questions, please feel free to contact me directly at (202) 326-5980 or Jane Heinrichs, Associate General Counsel, at (202) 371-5410.

Sincerely,

/s/ Martin A. Burns

Chief Industry Operations Officer

cc: Richard G. Ketchum, Chairman and CEO
FINRA

[4] *See* Chair White Letter.

THOMSON REUTERS

Via Electronic Delivery

April 4, 2016

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: FINRA Regulatory Notice 16-09: Proposed Amendments to FINRA Rules to Support the Industry Initiative to Shorten the Settlement Cycle for Securities in the U.S. Secondary Market from T+3 to T+2

Dear Ms. Asquith:

Thomson Reuters appreciates the opportunity to comment on FINRA Regulatory Notice 16-09 (the "FINRA notice"). Thomson Reuters[1] through our Financial & Risk business unit provides buy-side, sell-side and corporate customers with information, analytics, workflow, transaction and technology solutions and services that enable effective price discovery and support efficiency, liquidity and compliance. In particular, our wealth management offerings[2] include a complete suite of products that enable retail and institutional brokers to manage the daily tasks of their front, middle and back office operations. As a service provider that assists firms with various back office processing functions, Thomson Reuters is directly impacted by the move to a shortened settlement cycle.

We would like to applaud FINRA for furthering the discussion on FINRA-based regulatory changes required for shortening the settlement cycle. We believe the FINRA notice highlights the need for regulatory certainty in that the notice identifies additional rules beyond those mentioned in the industry letter to SEC Chair White.[3] While the additional rules discussed[4] will not impair our ability to meet the industry-established timeline, the fulsome discussion in the FINRA notice demonstrates that publications from the SROs and SEC are the most comprehensive source for an analysis of impacted rules.

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[1] Thomson Reuters is the world's leading source of intelligent information for businesses and professionals. Combining industry expertise with innovative technology, it delivers critical information to leading decision makers in the financial and risk, legal, tax and accounting, intellectual property and science and media markets powered by the world's most trusted news organization. For more information about Thomson Reuters, please go to www.thomsonreuters.com.

[2] For more information on Thomson Reuters Wealth Management offerings, see here.

[3] See letter from ICI and SIFMA to Mary Jo White, Chair, SEC (Jun. 18, 2015) (ICI/SIFMA letter)

[4] NASD Rule 2830 (Investment Company Securities);FINRA Rule 11210 (Sent by Each Party); FINRA Rule 11620 (Computation of Interest)

Additionally, since FINRA also interprets SEC rules regarding financial and operational matters that may change as a result of a shortened settlement cycle, we believe there is also a need for regulatory certainty with respect to SEC rule-making. We encourage SRO and SEC rule-making as soon as possible in order to maintain the industry timeline for regulatory certainty by 2Q2016.

Regards,

Manisha Kimmel

Manisha Kimmel
Chief Regulatory Officer, Wealth Management
Thomson Reuters

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Member FINRA/SIPC

April 4, 2016

Via E-mail: pubcom@finra.org

Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: Regulatory Notice 16-09: Shortening the Settlement Cycle for Securities to T+2

Dear Ms. Asquith:

Wells Fargo Advisors, LLC ("WFA") appreciates the opportunity to comment on the Financial Industry Regulatory Authority's ("FINRA") Requests for Comment on Proposed Amendments to FINRA Rules to Support the Industry Initiative to Shorten the Settlement Cycle for Securities in the U.S. Secondary Market from T+3 to T+2, set forth in Regulatory Notice 16-09: Shortening the Settlement Cycle for Securities to T+2 (the "Proposal").[1]

WFA is a dually registered broker-dealer and investment adviser that administers approximately $1.4 trillion in client assets. WFA employs approximately 14,988 full-service financial advisors in branch offices in all 50 states and 3,838 licensed financial specialists in retail bank branches across the United States.[2] WFA and its affiliates help millions of customers

[1] FINRA, Regulatory Notice 16-09: Shortening the Settlement Cycle for Securities to T+2 (Mar. 4, 2016), available at: http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-16-09.pdf.

[2] WFA is a non-bank affiliate of Wells Fargo & Company ("Wells Fargo"), a diversified financial services company providing banking, insurance, investments, mortgage, and consumer and commercial finance across the United States of America and internationally. Wells Fargo's retail brokerage affiliates also include Wells Fargo Advisors Financial Network LLC ("WFAFN") and First Clearing LLC, which provides clearing services to 73 correspondent clients, WFA and WFAFN. For the ease of discussion, this letter will use WFA to refer to all of those brokerage operations.

of varying means and investment needs to obtain the advice and guidance they need to achieve their financial goals.

WFA Supports FINRA's Efforts to Help the Industry Move to T+2

WFA is writing this letter to express its support for FINRA's Proposal to amend its rules relating to the settlement cycle. These changes would support the industry-led initiative to shorten the settlement cycle from trade plus three business days ("T+3") to trade date plus two business days ("T+2") for U.S. secondary market transactions in equities, corporate and municipal bonds, unit investment trusts and financial instruments composed of these products.

WFA has been an active supporter of T+2 since the Depository Trust & Clearing Corporation ("DTCC") began the effort to shorten the settlement cycle in 2012. WFA believes that T+2 will reduce systemic risks, free up capital, align the U.S. with international securities markets and better meet our customers' needs, and agrees with FINRA that the proposed amendments to its rules are necessary to support the T+2 initiative.[3]

Shortening the Settlement Cycle Removes Systemic Risk

The principal benefit of eliminating one day from the settlement process is the reduction of overall operational and systemic risk. When a security is sold, there is a risk that the seller will fail to deliver the security or that the purchaser will fail to deliver payment. The exposure to such risks is prolonged by each day of the settlement cycle and is especially great during times of market-wide stress. WFA seeks to insulate our clients from these risks, but the credit exposure for parties acting to effectuate a trade on their behalf, such as clearinghouses, can be substantial. By limiting risk to two days instead of three, the move to T+2 will provide the industry with increased security.

A Shorter Settlement Cycle Will Free Up Capital

Shortening the trade settlement will help to optimize the use of capital. Specifically, T+2 should assist financial institutions to better manage their liquidity needs and margin requirements at central counterparties. Market liquidity should also improve if financial institutions believe that the market is functioning more efficiently as a result of the shortened settlement cycle or that T+2 is providing a cost savings.

T+2 Offers a Standardized Global Settlement

T+3 is now out of step with most of the rest of the world. The U.S. is one of the few significant markets that has not moved to a shorter settlement cycle. The migration to T+2 will align the U.S. more closely with most major European and Asian markets. We believe this

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[3] WFA is also supportive of the Municipal Securities Rulemaking Board's ("MSRB") effort to make similar changes its rules. *See* MSRB, Proposed Rule Change to Amend Rules G-12 and G-15 to Define Regular-Way Settlement for Municipal Securities Transactions as Occurring on a Two-Day Settlement Cycle, SR-MSRB-2016-04 (Mar. 1, 2016), *available at*: http://www.msrb.org/~/media/Files/SEC-Filings/2016/MSRB-2016-04.ashx.

harmonization across markets will help market participants better manage their cash flows by reducing and streamlining their financing needs.

T+2 Is More in Line with Our Customers' Needs

Many retail investors do not understand why it takes three days to obtain funds after selling some securities but only one day for others. Some of the most common retail investor asset classes, such as most mutual funds and Treasuries, settle in T+1, while others, such as equities and exchange traded funds ("ETFs"), take an additional two days to settle. This difference in settlement cycles causes confusion, and even failed trades, for an investor who, for example, attempts to buy a mutual fund upon selling an ETF. This can be especially true when an investor attempts to rebalance a portfolio of securities consisting of these various securities. A shortened settlement cycle, while not eliminating these issues entirely, will improve the ability of retail investors to obtain funds after selling a security or to navigate the complications arising from differing settlement cycles.

Sufficient Time Is Needed to Make T+2 Modifications and Test Changes

As with any major change to existing market practices, it is imperative that the industry have appropriate time to modify and test systems. WFA believes the implementation of T+2 is no exception, and it must be done with great care to avoid any operational disruptions that could negatively impact our customers or the functioning of the U.S. securities markets. Currently, the industry goal is to move to T+2 in the third quarter of 2017. As such, WFA requests that FINRA take into account T+2, as well as the substantial technology changes imposed on the industry by other new regulations, as it formulates its agenda for the coming year.

WFA appreciates the opportunity to express its support for FINRA's Proposal and commends FINRA for its efforts to promote the move to T+2. Should you have any questions, please feel free to contact me at 314-242-3193 or robert.j.mccarthy@wellsfargoadvisors.com.

Sincerely,

Robert J. McCarthy
Director of Regulatory Policy

BDA Bond Dealers of America

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April 4, 2016

VIA ELECTRONIC MAIL

Marcia E. Asquith
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FINRA
1735 K Street, NW
Washington, DC 20006-1506

RE: FINRA Regulatory Notice 16-09 (November 10, 2015): Request for Comment on Proposed Amendments to FINRA Rules to Support the Industry Initiative to Shorten the Settlement Cycle for Securities in the U.S. Secondary Market From T+3 to T+2

Dear Ms. Asquith:

On behalf of the Bond Dealers of America ("BDA"), I am pleased to submit this letter in response to the Financial Industry Regulatory Authority ("FINRA") Notice 16-09, on its proposed amendments ("Proposed Amendments") to FINRA rules related to shortening the settlement cycle. BDA is the only DC-based group representing middle-market securities dealers and banks focused on the U.S. fixed income markets. Accordingly, we believe that we offer insight into how the Proposed Amendments would impact middle-market securities dealers.

Rule Changes

BDA understands these regulatory changes are part of a broader, industry-wide initiative supported by the Securities and Exchange Commission's ("SEC") and other self-regulatory organizations ("SROs") to shorten the settlement cycle by the third quarter of 2017. BDA believes this timeframe should allow FINRA, the SEC, and the MSRB to make all the required conforming regulatory changes, while also allowing ample time to assess the comments BDA is requesting FINRA to consider in this letter. Additionally, the late 2017 timeline should allow dealers to make all the necessary changes to systems that the proposed rule will require.

We urge FINRA to consider the impact that the Proposed Amendments will have on the fixed-income markets and broker-dealer customers, which we expand upon below.

Impact on Customers and Overall Regulatory Concerns

BDA members have concerns regarding the impact that a shorter settlement cycle would have on investors. For example, SEC's Rule 15c6-1 requires a broker-dealer to cancel or liquidate a cash account transaction if it has not been paid for within five business days (T+5) of the securities transaction. Shortening the settlement cycle to T+2 would automatically reduce the timeframe before a dealer would have to liquidate an unpaid for transaction to T+4. Shortening the settlement cycle by one day may negatively impact retail clients that still rely on sending checks, which may not be sent, received, processed, and cleared, within the shortened four-day window.

Brokers who do a large amount of retail business will undoubtedly require ample time to communicate the practical consequences that a shortened settlement cycle will have on retail customers. While BDA does believe, as stated above, the 2017 timeline does provide enough time to make the transition, this is a particularly sensitive area that broker-dealers and regulators should be cognizant of as the transition to a shorter settlement cycle continues.

The information from industry-wide testing will be beneficial and will inform the process going forward for the Proposed Amendments—especially as it relates to the anticipated conversations our firms will have with their retail clients. Time to educate retail investors will be required to get this particular client informed about the shift to T+2. However, in order to avoid a market disruption, we would request that FINRA and other regulators work to preserve the five-day payment timeframe as required under current Rule 15c6-1.

Consider the Impact of Altering Timing of Other Regulations

BDA believes the proposed rule will make clearing and settling transactions more efficient, which will reduce risk in the marketplace. However, the impact of shortening the settlement cycle will filter through to other regulations explicitly tied to the settlement dates of fixed-income transactions. In some instances, this will create new regulatory burdens for dealers.

For example, the proposed FINRA Rule 11860(a)(3) would require members to deliver confirmations to a customer 'not later than the close of business on the date of any such execution of the transaction'. This is a tremendous undertaking for broker-dealers, especially smaller dealers who are currently implementing a rather large amount of new regulatory requirements. Broker-dealers will need to commit large amounts of internal resources to change the systems and processes that are used to deliver confirmations in order to process confirmations on a T+0 basis. BDA urges FINRA to consider leaving other regulatory requirements that are tied to the settlement date, like the requirements for delivering customer confirmations under 11860, unchanged and allow customer confirms to be sent T+1. This will minimize the regulatory and compliance cost impact of the proposed rules without limiting the risk-reducing benefits of the shortened settlement cycle.

Additional Items to Consider

We anticipate the impact of the Proposed Amendments will become more understandable for the industry as more detailed analyses of the impact of the Amendments on systems and technology continue. While the Depository Trust and Clearing Corporation ("DTCC") conducted a cost study of transitioning to a shorter settlement cycle, we believe that the true costs for firms that only participate in the fixed-income markets are unknown and will require additional time to gather beyond the one-month timeline given for this request for comment. The BDA and its members will continue to participate in industry-wide discussions and gather any information needed to assess the impact of the Proposed Amendments.

BDA member firms are the dealers who will be most affected by the transition to a T+2 settlement cycle and the costs and potential compliance burdens of the Amendments. We believe that our input is valuable and that it provides FINRA with additional insight for middle-market broker dealers and BDA is willing to provide additional comments and information regarding this issue if needed. Thank you again for the opportunity to submit these comments.

Sincerely,

Michael Nicholas
Chief Executive Officer

sifma

Invested in America

April 4, 2016

Marcia E. Asquith
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street NW
Washington, DC 20006-1506

Re: Regulatory Notice 16-09 Request for Comments Concerning Proposed Rule Changes to Shorten the Settlement Cycle for Certain Securities to T+2

Dear Ms. Asquith:

The Securities Industry and Financial Markets Association ("SIFMA") respectfully submits this letter in support of efforts by the financial services industry and its regulators to shorten the settlement cycle for secondary market transactions in equities, corporate and municipal bonds, unit investment trusts, and financial instruments comprised of these products.[1]

As you know, SIFMA has been one of the leaders of the industry initiative to shorten the settlement cycle from trade date plus three business days (commonly known as T+3) to trade date plus two business days, or T+2. Last year, SIFMA and the Investment Company Institute (the "ICI") submitted a joint comment letter to the Securities and Exchange Commission (the "SEC") declaring our support for a T+2 settlement cycle.[2] SIFMA, ICI and other industry participants also drafted a white paper and a more detailed "playbook" which discusses a T+2 implementation schedule, interim milestones and dependencies.[3]

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1 SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly one million employees provide access to the capital markets. Serving clients with over $20 trillion in assets and managing more than $67 trillion in assets for individual and institutional clients including mutual funds and retirement plans, our members have raised over $2.5 trillion for businesses and municipalities in the U.S. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association. For more information, visit http://www.sifma.org.

2 *See* Letter from SIFMA & ICI to Mary Jo White, Chair, SEC (June 18, 2015), *available at* http://www.ust2.com/pdfs/SSCregfinal.pdf.

3 *See* PRICEWATERHOUSECOOPERS, SHORTENING THE SETTLEMENT CYCLE: THE MOVE TO T+2 (June 18, 2015), *available at* http://www.ust2.com/pdfs/ssc.pdf; DELOITTE & TOUCHE, T+2 INDUSTRY IMPLEMENTATION PLAYBOOK (Dec. 18, 2015), *available at* http://www.ust2.com/pdfs/T2-Playbook-12-21-15.pdf.

As part of our ongoing support for the move to T+2, we are pleased to add our support to the proposed amendments to FINRA rules set forth in Regulatory Notice 16-09 and to respond to FINRA's request for comments. For ease of reference, we have reproduced the request in bold typeface, followed by our response in plain text.

1. **Would the proposed rule amendments have an effect on conduct that is required for compliance with any other FINRA rule?**

   No, we do not believe that the proposed rule amendments will have an effect on conduct that is required for compliance with any other FINRA rule.

2. **Are there any other FINRA rules that should be amended to support the move to T+2?**

   We note that a T+2 settlement cycle may impact the "cover/protect" process which permits the purchaser of a security that will shortly be subject to a corporate action to acquire the results of that corporate action, such as a dividend or tender or exchange offer, in addition to the security. In these circumstances, the purchaser has paid the seller an additional amount in order to purchase both the securities and the cash or securities that the issuer will pay upon completion of the corporate action.

   FINRA Rule 11810(j) generally sets forth procedures for this process. Under the rule, the purchaser, through its broker-dealer, must deliver a liability notice to the party who must deliver the outcome of the corporate action on behalf of the seller, ordinarily the seller's broker-dealer (the "delivering party"). The notice informs the delivering party of the obligation and that it will be liable for any damages caused by its failure to deliver.[4] Under the rule, the delivering party must receive the notice at least one day prior to the date on which it must make delivery.

   The industry has identified a number of situations where one-day notice may no longer be appropriate in a T+2 environment, including (1) where the delivery obligation is transferred to another party as a result of continuous net settlement, (2) settlements outside of National Securities Clearing Corporation (the "NSCC") and (3) settlements where the third party is not a FINRA member.

[4] *See* Order Granting Approval of a Proposed Rule Change Related to Mandated Use of an Automated Liability Notification System, 72 Fed. Reg. 73,927 (Dec. 28, 2007).

New York Stock Exchange ("NYSE") Rule 180 includes similar requirements for NYSE member firms, but it does not include a one-day notification requirement.[5] To ensure that purchasers receive the benefit of their bargain, we propose that Rule 11810(j) be amended to omit reference to a timeframe for notification, which would be in line with NYSE Rule 180. Alternatively, we propose that Rule 11810(j) be amended to require the liability notice be delivered a reasonable amount of time ahead of the settlement obligation, in light of facts and circumstances. In either instance, if the delivering party fails to deliver in a timely fashion, then it is liable for any damages caused by its failure to deliver.

3. **Are there any economic impacts, including costs and benefits, to the industry that are associated specifically with FINRA's proposed rule changes and are they in addition to those arising from the industry-wide move to T+2 and the SEC's anticipated amendments to SEA Rule 15c6-1?**

SIFMA and the industry plan to submit a detailed economic impact analysis to the SEC in response to the SEC's planned rule change proposal to change SEC Rule 15c6-1, the keystone rule for the move to a shorter settlement cycle. This analysis will address the economic impact of the shortened settlement cycle, and will discuss all rule changes that we expect to occur for the effective implementation of a T+2 settlement cycle. We expect that analysis to conclude that the economic impacts will be net positive for the industry, broker-dealers and investors.[6] The industry is happy to perform this robust economic impact study once other regulators provide guidance so as to ensure that we effectively answer specific questions and optimize the resources of member participants. Once that analysis is complete, we intend to provide a copy to FINRA.

From a qualitative standpoint, SIFMA strongly believes that a shorter settlement cycle will have a beneficial economic impact because it will promote financial stability and significantly mitigate risks to the financial system.

Specifically, among other benefits, a shorter settlement cycle will reduce the capital impact of the NSCC's clearing fund, which insures the NSCC, as a central counterparty, against potential losses due to unlikely event of the failure of a counterparty for whom it is guaranteeing the delivery of money or securities. While somewhat dated, a 2012 report by The Boston Consulting Group found that

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5 *See* NYSE, NYSE Rule 180, Failure to Deliver (2007), http://nyserules.nyse.com/nyse/rules/nyse-rules/chp_1_3/chp_1_3_13/default.asp.

6 *See, e.g.*, THE BOSTON CONSULTING GROUP, COST BENEFIT ANALYSIS OF SHORTENING THE SETTLEMENT CYCLE (Oct. 2012), *available at* http://www.dtcc.com/~/media/Files/Downloads/WhitePapers/CBA_BCG_Shortening_the_Settlement_Cycle_October2012.pdf.

a move from T+3 to T+2 implied a 15% and 24% reduction in the average clearing fund amount during a "typical" 10-month period and a 1-month "high volatility" period, respectively.[7] This reduction in the clearing fund has a positive impact on liquidity, since such a reduction is effectively a release of capital.[8] The Depository Trust & Clearing Corporation plans to update this analysis as part of the economic impact analysis discussed above.

Furthermore, a T+2 settlement cycle will help to improve operational processes and procedures and to mitigate the operational risks that may be present between trade date and settlement date. A shortened settlement cycle also will increase the overall efficiency of the securities markets by, for example, reducing the market and counterparty risk each market participant faces during the settlement period. In particular, retail investors will benefit from T+2 when requesting money from their accounts. Finally, a move to T+2 will align U.S. settlement cycles with major international markets, as most European Union member states and major markets in the Asia-Pacific region have adopted at most a two-day securities settlement cycle.

Primary Market Settlement

For a host of reasons, including operational and legal documentation obstacles, significant portions of the primary markets continue to rely on permitted exemptions and opt-out provisions to the standard settlement cycle as provided in SEC Rule 15c6-1(b), (c) and (d). It is essential that these permitted SEC exemptions and opt-out provisions remain in place to support a robust and well-functioning primary market. This is especially true for debt markets where it is common to settle T+4 and beyond. Consistent with market practice, any initial secondary market trades will continue to have to settle in sync with the first settlement date of the new issue regardless of the time delay to settlement. In order for equity issues to move more substantially to a T+2 settlement cycle, relief will be needed for the current 48-hour physical prospectus delivery requirements for securities that do not qualify for access equals delivery. In the absence of changes to expand access equals delivery, SIFMA will urge the SEC to provide relief that permits for a 72-hour physical delivery of a prospectus with respect to the first settlement date (for both primary and secondary trades) to accommodate a T+2 settlement.

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7 *See id.* at 33.
8 *See id.* at 34.

While we are not presently aware of FINRA rules that will act as fundamental impediments to the move to T+2 for primary markets, there is the risk of creating friction if related rules are not structured so as to ensure the intended flexibility for settlement periods. We urge FINRA to continue to review related rules for any such friction. In that regard, where references to "trade date" exist to establish a time threshold, we suggest FINRA consider whether references to a period relative to "settlement date" may more consistently and more accurately incorporate the necessary flexibility.

* * *

SIFMA appreciates the opportunity to voice its support for the FINRA rule changes necessary to facilitate a move to a shorter settlement cycle. We would be pleased to discuss these matters further. Please feel free to contact the undersigned at (212)-313-1260 or tprice@sifma.org.

Sincerely,

Thomas F. Price

Thomas F. Price
Managing Director
Operations, Technology & BCP

cc: Patricia Gliniecki, Senior Vice President and Deputy General Counsel, Financial Industry Regulatory Authority Office of General Counsel
Kosha Dalal, Associate Vice President and Associate General Counsel, Financial Industry Regulatory Authority Office of General Counsel
Sarah Kwak, Counsel, Financial Industry Regulatory Authority Office of General Counsel
Steve Luparello, Director, Division of Trading and Markets, US Securities and Exchange Commission
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April 4, 2016

VIA ELECTRONIC MAIL

Ms. Marcia E. Asquith
Office of the Corporate Secretary
Financial Industry Regulatory Authority, Inc.
1735 K Street NW
Washington, DC 20006

Re: FINRA Regulatory Notice 16-09: Shortening the Settlement Cycle for Securities to T + 2

Dear Ms. Asquith:

We are submitting this letter on behalf of our client, the Committee of Annuity Insurers (the "Committee"),[1] in response to Financial Industry Regulatory Authority, Inc. ("FINRA") Regulatory Notice 16-09. An industry-led initiative proposes to shorten the settlement cycle from the current trade date plus three business days (T+3) to trade date plus two business days (T+2) for U.S. secondary market transactions in equities, corporate and municipal bonds, unit investment trusts, and financial instruments composed of these products. In the Notice, FINRA seeks comment on proposed amendments to certain FINRA rules relating to the settlement cycle. The Committee appreciates the opportunity to submit these comments.

The Committee is not commenting on the specific rule amendments proposed by FINRA. Rather, as explained below, the Committee merely requests FINRA's acknowledgment and confirmation that insurance securities products, which are currently exempt from the T+3 settlement cycle requirements, will continue to be exempt from the settlement cycle requirements after the timetable is shortened to T+2.

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[1] The Committee was formed in 1982 to address legislative and regulatory issues relevant to the annuity industry and to participate in the development of securities, banking, and tax policies regarding annuities. For three decades, the Committee has played a prominent role in shaping government and regulatory policies with respect to annuities, working with and advocating before the Securities and Exchange Commission, FINRA, CFTC, IRS, Treasury, Department of Labor, as well as the National Association of Insurance Commissioners (NAIC) and relevant Congressional committees. Today the Committee is a coalition of many of the largest and most prominent issuers of annuity contracts. The Committee's member companies represent more than 80% of the annuity business in the United States. A list of the Committee's member companies is attached as Appendix A.

Discussion

Variable annuity contracts and variable life insurance policies generally are 'securities,' as defined in the Securities Act of 1933 (the "1933 Act"). Certain other non-variable insurance policies (including, but not limited to, certain fixed dollar annuity contracts that include an unlimited market value adjustment feature) may also be securities under the 1933 Act (collectively, these variable and non-variable annuity and life insurance policies that are registered under the 1933 Act are referred to as "insurance securities products").[2] As such, these insurance securities products may generally be subject to the Securities Exchange Act of 1934 (the "1934 Act").[3]

FINRA Notice 16-09 does not make any reference to variable annuities or to insurance securities products at all, presumably because insurance securities products are exempt from the current T+3 settlement requirement.[4] The general T+3 standard is included in Rule 15c6-1 under the 1934 Act, which became effective June 7, 1995. Paragraph (b)(2) of Rule 15c6-1 provides that the settlement date requirement shall not apply to contracts that the Securities and Exchange Commission may exempt by order from that requirement; on June 6, 1995, the SEC issued an order (Release No. 33-7177, 34-35815, IC-21117, June 6, 1995) providing that variable annuity contracts, variable life insurance policies, and "any other insurance contract registered as a security under the Securities Act of 1933," shall be exempt from the requirements of Rule 15c6-1. The new T+2 requirement presumably would be embodied in an amendment to Rule 15c6-1 (revising the T+3 standard), so absent some other regulatory revisions, insurance securities products should remain exempt from Rule 15c6-1 and the T+2 regulatory requirements. (The SEC has not yet proposed amendments to Rule 15c6-1, or any other rule proposals, to implement T+2.)

In issuing the order granting the exemption from the T+3 requirement, the SEC recognized that "the mechanics of purchases and redemptions of insurance securities products are distinct from those of other securities and that, because of the time required to complete necessary preparations, such transactions typically require more protracted settlements."[5] The SEC also noted its belief that "compliance with the unique requirements of state and federal law,

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[2] Even though these products are securities subject to the federal securities laws, they also are insurance products that are subject to detailed and comprehensive regulation under applicable state insurance laws.

[3] Certain exceptions may be applicable. *See, e.g.*, Rule 12h-7 under the Securities Exchange Act of 1934.

[4] The financial services industry and the Depository Trust & Clearing Corporation (DTCC) formed an Industry Steering Committee (ISC) that published a white paper (titled "Shortening the Settlement Cycle: The Move to T+2") in June 2015, and a "T+2 Playbook" in December 2015. These documents propose timeframes that include regulators and SROs (*e.g.*, FINRA) finalizing their rule amendments by the second quarter of 2016, and developing and testing market infrastructure in 2017 with final implementation of T+2 by the third quarter of 2017. Like FINRA Regulatory Notice 16-09, these documents do not address insurance securities products.

[5] SEC Release No. 33-7177 (June 6, 1995).

as well as of the particular administrative procedures, applicable to insurance securities products demands additional time beyond the standard settlement process."[6] Clearly, these considerations apply even more so to T+2 than to T+3. In any event, the SEC order is an exemption "from the requirements of Rule 15c6-1." The SEC exemption is not dependent on whether Rule 15c6-1 mandates a two day or a three day settlement.

The Committee's Request

Accordingly, the Committee respectfully requests and recommends that when FINRA next proposes or adopts rule amendments related to T+2 settlement requirements, or otherwise issues a public statement regarding settlement procedure requirements, that it clarify or acknowledge that the adoption of the FINRA rule amendments proposed in Notice 16-09 (and any other amendments implementing T+2 settlement requirements) is not intended to and will not affect the SEC order issued in SEC Release 33-7177, and that FINRA recognizes that such order, unless acted upon by the SEC, will continue to apply to insurance securities products after the adoption of T+2 settlement requirements for other securities. A statement to that effect by FINRA would not change existing law, but would preclude any possible uncertainty and confusion on the part of member firms, and it would avoid any inconsistency between the SEC order granting the exemption from Rule 15c6-1 for insurance securities products and FINRA rules relating to the settlement cycle.[7] Eliminating any questions in this regard would facilitate FINRA members' focus on the changes necessary to achieve compliance with the T+2 goal with respect to securities that are currently subject to the T+3 settlement cycle.

Conclusion

The Committee appreciates the opportunity to provide these comments to FINRA. We stand ready to provide whatever additional analysis or information we can and to answer any questions at your convenience. Please do not hesitate to contact Steve Roth (202.383.0158 or steve.roth@sutherland.com), Fred Bellamy (202.383.0126 or fred.bellamy@sutherland.com), or Holly Smith (202.383.0245 or holly.smith@sutherland.com) if you have any questions regarding these comments.

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[6] *Id.*

[7] The exemption in Release 33-7177 for insurance securities products (transactions by contract owners), on its face, does not apply to a separate account's purchase or redemption of shares of an underlying mutual fund. However, those purchases and redemptions typically are governed by individually negotiated participation agreements between the insurance company and the fund (and/or the fund's underwriter), and those agreements generally require that policy owner transactions be processed (and netted) on an overnight basis, with settlement (between the insurance company and the underlying fund) due the next business day. These participation agreements have already put in place what amounts to a T+1 procedure for transactions in fund shares between the insurance company and the underlying fund. Accordingly, the move to T+2 should not impact these transactions between separate accounts and underlying funds.

Respectfully submitted,

SUTHERLAND ASBILL & BRENNAN LLP

BY: Stephen E. Roth
Stephen E. Roth

FOR THE COMMITTEE OF ANNUITY INSURERS

CC: Kosha Dalal
Associate Vice President and Associate General Counsel
Office of General Counsel (FINRA)

Sarah Kwak
Counsel
Office of General Counsel (FINRA)

Appendix A

THE COMMITTEE OF ANNUITY INSURERS

AIG Life & Retirement
Allianz Life
Allstate Financial
Ameriprise Financial
Athene USA
AXA Equitable Life Insurance Company
Fidelity Investments Life Insurance Company
Genworth Financial
Global Atlantic Life and Annuity Companies
Great American Life Insurance Co.
Guardian Insurance & Annuity Co., Inc.
Jackson National Life Insurance Company
John Hancock Life Insurance Company
Life Insurance Company of the Southwest
Lincoln Financial Group
MassMutual Financial Group
Metropolitan Life Insurance Company
Nationwide Life Insurance Companies
New York Life Insurance Company
Northwestern Mutual Life Insurance Company
Ohio National Financial Services
Pacific Life Insurance Company
Protective Life Insurance Company
Prudential Insurance Company of America
Symetra Financial Corporation
The Transamerica companies
TIAA
USAA Life Insurance Company
Voya Financial, Inc.

EXHIBIT 5

Below is the text of the propose rule change.[1] Proposed new language is underlined; proposed deletions are in brackets.

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2300. SPECIAL PRODUCTS

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2341. Investment Company Securities

(a) through (l) No Change.

(m) Prompt Payment for Investment Company Shares

(1) Members (including underwriters) that engage in direct retail transactions for investment company shares shall transmit payments received from customers for such shares, which such members have sold to customers, to payees (i.e., underwriters, investment companies or their designated agents) by (A) the end of the [third]<u>second</u> business day following a receipt of a customer's order to purchase such shares or by (B) the end of one business day following receipt of a customer's payment for such shares, whichever is the later date.

(2) No Change.

(n) No Change.

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11000. UNIFORM PRACTICE CODE

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1 In anticipation of the SEC's changes to SEA Rule 15c6-1 to facilitate settlement no later than T+2, and to act in concert and conformity therewith, FINRA may change the rule text of its impacted rules to reference SEA Rule 15c6-1.

11100. SCOPE OF UNIFORM PRACTICE CODE

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11140. Transactions in Securities "Ex-Dividend," "Ex-Rights" or "Ex-Warrants"

(a) No Change.

(b) Normal Ex-Dividend, Ex-Warrants Dates

(1) In respect to cash dividends or distributions, or stock dividends, and the issuance or distribution of warrants, which are less than 25% of the value of the subject security, if the definitive information is received sufficiently in advance of the record date, the date designated as the "ex-dividend date" shall be the [second]<u>first</u> business day preceding the record date if the record date falls on a business day, or the [third]<u>second</u> business day preceding the record date if the record date falls on a day designated by the Committee as a non-delivery date.

(2) through (3) No Change.

(c) through (e) No Change.

11150. Transactions "Ex-Interest" in Bonds Which Are Dealt in "Flat"

(a) Normal Ex-Interest Dates

All transactions, except "cash" transactions, in bonds or similar evidences of indebtedness which are traded "flat" shall be "ex-interest" as prescribed by the following provisions:

(1) On the [second]<u>first</u> business day preceding the record date if the record date falls on a business day.

(2) On the [third]<u>second</u> business day preceding the record date if the record date falls on a day other than a business day.

(3) On the [third]second business day preceding the date on which an interest payment is to be made if no record date has been fixed.

(b) No Change.

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11200. COMPARISONS OR CONFIRMATIONS AND "DON'T KNOW NOTICES"

11210. Sent by Each Party

(a) through (b) No Change.

(c) "DK" Procedures Using "Don't Know Notices" (FINRA Form No. 101)

When a party to a transaction sends a comparison or confirmation of a trade, but does not receive a comparison or confirmation or a signed DK, from the contra-member by the close of [four]one business day[s] following the trade date of the transaction, the following procedure may be utilized.

(1) No Change.

(2)(A) After receipt of the "Don't Know Notice" as specified in paragraph (c)(1) of this Rule, the contra-member shall have [four]two business days after the notice is received to either confirm or DK the transaction in accordance with the provisions of [sub]paragraph[s] (c)(2)(B) or (c)(2)(C) of this Rule.

(B) through (C) No Change.

(3) If the confirming member does not receive a response from the contra-member by the close of [four]two business days after receipt by the confirming member of the fourth copy of the "Don't Know Notice" if delivered by messenger, or the post office receipt if delivered by mail, as specified in

paragraph (c)(1) of this Rule, such shall constitute a DK and the confirming member shall have no further liability for the trade.

(4) through (5) No Change.

(d) "DK" Procedure Using Other Forms of Notice

When a party to a transaction sends comparison or confirmation of a trade, but does not receive a comparison or confirmation or a signed DK, from the contra-member by the close of [four]one business day[s] following the date of the transaction, the following procedure may be utilized in place of that provided in the preceding paragraph (c) of this Rule.

(1) through (4) No Change.

(5) If the confirming member does not receive a response in the form of a notice from the contra-member by the close of [four]two business days after receipt of the confirming member's notice, such shall constitute a DK and the confirming member shall have no further liability.

(6) through (8) No Change.

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

.01 No Change.

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11300. DELIVERY OF SECURITIES

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11320. Dates of Delivery

(a) No Change.

(b) "Regular Way"

In connection with a transaction "regular way," delivery shall be made at the office of the purchaser on, but not before, the [third]<u>second</u> business day following the date of the transaction.

(c) "Seller's Option"

In connection with a transaction "seller's option," delivery shall be made at the office of the purchaser on the date on which the option expires; except that delivery may be made by the seller on any business day after the [third]<u>second</u> business day following the date of the transaction and prior to the expiration of the option, provided the seller delivers at the office of purchaser, on a business day preceding the day of delivery, written notice of intention to deliver.

(d) through (h) No Change.

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11600. DELIVERY OF BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

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11620. Computation of Interest

(a) Interest [T]<u>t</u>o [B]<u>b</u>e Added to the Dollar Price

In the settlement of contracts in interest-paying securities other than for "cash," there shall be added to the dollar price interest at the rate specified in the security, which shall be computed up to but not including the [third]<u>second</u> business day following the date of the transaction. In transactions for "cash," interest shall be added to the dollar price at the rate specified in the security up to but not including the date of transaction.

(b) through (f) No Change.

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11800. CLOSE-OUT PROCEDURES

11810. Buy-In Procedures and Requirements

(a) through (i) No Change.

(j) Failure to Deliver and Liability Notice Procedures

(1)(A) If a contract is for warrants, rights, convertible securities or other securities which (i) have been called for redemption; (ii) are due to expire by their terms; (iii) are the subject of a tender or exchange offer; or (iv) are subject to other expiring events such as a record date for the underlying security and the last day on which the securities must be delivered or surrendered (the expiration date) is the settlement date of the contract or later, the receiving member may deliver a Liability Notice to the delivering member as an alternative to the close-out procedures set forth in paragraphs (b) through (h). When the parties to a contract are both participants in a registered clearing agency that has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver, the transmission of the liability notice must be accomplished through the use of said automated notification service. When the parties to a contract are not both participants in a registered clearing agency that has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver, such notice must be issued using written or comparable electronic media having immediate receipt capabilities [no later than one business day prior to the latest time and the date of the], and must be sent as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event in order to obtain the protection provided by this Rule.

(B) through (C) No Change.

(2) through (4) No Change.

(k) through (m) No Change.

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

.01 through **.03** No Change.

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11860. COD Orders

(a) No member shall accept an order from a customer, including foreign customers and/or broker-dealers trading with or through the member, for eligible transactions of such customers that settle in the United States, pursuant to an arrangement whereby payment for securities purchased or delivery of securities sold is to be made to or by an agent of the customer unless all of the following procedures are followed:

(1) through (3) No Change.

(4) The member shall have obtained an agreement from the customer that the customer will furnish its agent instructions with respect to the receipt or delivery of the securities involved in the transaction promptly upon receipt by the customer of each confirmation, or the relevant data as to each execution, relating to such order (even though such execution represents the purchase or sale of only a part of the order), and that in any event the customer will assure that such instructions are delivered to its agent no later than:

(A) in the case of a purchase by the customer where the agent is to receive the securities against payment (COD), the close of business on the [second]<u>first</u> business day after the date of execution of the trade as to which the particular confirmation relates; or

(B) No Change.

(5) No Change.

(b) No Change.

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