

OMB APPROVAL

OMB Number: 3235-0045
Expires: June 30, 2010
Estimated average burden
hours per response.....38

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

File No. SR - 2008 - 023

Amendment No.

Proposed Rule Change by Financial Industry Regulatory Authority

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial ☒ Amendment ☐ Withdrawal ☐

Section 19(b)(2) ☒Section 19(b)(3)(A) ☐Section 19(b)(3)(B) ☐

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

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

Exhibit 2 Sent As Paper Document
☐

Exhibit 3 Sent As Paper Document
☐

Description

Provide a brief description of the proposed rule change (limit 250 characters).

Proposed rule change to amend NASD Interpretive Material 9216 to expand the FINRA Minor Rule Violation Plan to include violations of options position and exercise limits and contrary exercise advice procedures

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Last Name
Title
E-mail
Telephone Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By
(Name)

(Title)

NOTE: Clicking the button at right will digitally sign and lock
this form. A digital signature is as legally binding as a physical
signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information

Add

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

Add

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add

Remove

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

Exhibit Sent As Paper Document

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Exhibit 3 - Form, Report, or Questionnaire

Add

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View

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 Sent As Paper Document

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Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

Add

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

Partial Amendment

Add

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

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“SEA” or “Act”),¹ Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend NASD Interpretive Material (IM) 9216² to expand FINRA’s Minor Rule Violation Plan (“MRVP”) to include violations of options position and exercise limits and contrary exercise advice procedures.

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

* * * * *

9200. DISCIPLINARY PROCEEDINGS

* * * * *

IM-9216. Violations Appropriate for Disposition Under Plan Pursuant to SE[C]A Rule 19d-1(c)(2)

Any member of FINRA that is also a member of the New York Stock Exchange LLC (“NYSE”) (“Dual Member”) (including any persons affiliated with such member) may be subject to a fine under NASD 9216(b) with respect to any rule listed in this IM-9216 that applies to such member or person. However, any Dual Member that was not

¹ 15 U.S.C. 78s(b)(1).

² FINRA has filed with the Commission a proposed rule change (SR-FINRA-2008-021) in which FINRA proposes, among other things, to adopt NASD IM-9216 as FINRA Rule 9217, without material change. Assuming Commission approval of this proposed rule change prior to the approval of SR-FINRA-2008-021, FINRA will amend SR-FINRA-2008-021, as necessary, to reflect such approval.

also a member of NASD as of July 30, 2007 and that does not engage in any activities that would have required it to be an NASD member (and its affiliated persons that are not otherwise subject to NASD rules) shall only be subject to a fine under NASD Rule 9216(b) with respect to the following rules listed in this IM-9216: any NYSE rule, SEC Exchange Act rule, NASD By-Law or Schedule to the By-Laws, or the NASD Rule 8000 Series.

Any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under NASD Rule 9216(b) with respect to any rule listed in this IM-9216, with the exception of the NYSE rules.

- NASD Rules 2210, 2211, and 2220, and IM-2210-1, -2210-2, -2210-3, -2210-4, -2210-5, -2210-7, and -2210-8 — Communications with the public.

- NASD Rule 3360 — Failure to timely file reports of short positions on Form NS-1.

- NASD Rule 3110 — Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with NASD Rules.

- NASD Rules 8211 and 8213 — Failure to submit trading data as requested.

- Article IV of the NASD By-Laws — Failure to timely submit amendments to Form BD.

- Article V of the NASD By-Laws — Failure to timely submit amendments to Form U4.
- Article V of the NASD By-Laws — Failure to timely submit amendments to Form U5.
- NASD Rule 1120 — Failure to comply with the Firm Element of the continuing education requirements.
- NASD Rule 2860(b)(3) and (b)(4) – Failure to comply with options position and exercise limits.
- NASD Rule 2860(b)(23) – Failure to comply with contrary exercise advice procedures.
- NASD Rule 3010(b) — Failure to timely file reports pursuant to the Taping Rule.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

At its meeting on April 17, 2008, the FINRA Board of Governors authorized the filing of the proposed rule change with the SEC. No other action by FINRA is necessary for the filing of the proposed rule change.

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

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

(a) Purpose

The proposed rule change would amend NASD Interpretative Material (IM) 9216 to include in FINRA's MRVP violations of (1) options position and exercise limits under NASD Rule 2860(b)(3) and (b)(4), and (2) contrary exercise advice procedures under NASD Rule 2860(b)(23). NASD Rule 9216 sets forth FINRA's MRVP, which allows FINRA to impose a fine of up to \$2,500 on any member or person associated with a member for a minor violation of the rules identified in IM-9216. The purpose of the MRVP is to provide meaningful sanctions for minor or technical violations of rules when the initiation of a formal disciplinary proceeding would be more significant than warranted. Minor Rule Violation letters also represent a useful tool for implementing the concept of progressive discipline.

Inclusion of a rule in the MRVP does not mean that all violations of that rule should be treated as Minor Rule Violations, and, in fact, significant violations would not be handled under the MRVP. Accordingly, under the MRVP, FINRA retains the discretion to bring full disciplinary proceedings for any violation of a rule included in the MRVP.

The NASD options rules contain provisions imposing limits on the size of an options position, and limits on the number of options contracts that can be exercised into shares of the underlying security during a fixed period. To address inadvertent violations of these rules, due to among other things, miscounting, technical problems, or a misinterpretation of the position limit calculation methodologies, that in the judgment of FINRA do not materially affect the market, FINRA proposes adding violations of options

position and exercise limits as eligible for disposition under the MRVP. Violations of these rules deemed to have a manipulative effect or intent would not be treated as Minor Rule Violations.

Options issued by The Options Clearing Corporation (i.e., exchange-traded options) have specific terms regarding whether options that can be settled only by delivery of the asset underlying the option (typically an equity security) will be automatically exercised at settlement. The NASD options rule has detailed “contrary exercise advice” (“CEA”) procedures describing the manner in which an option holder can elect not to exercise an option that normally would be exercised, or exercise an option contract that normally would expire worthless. To prevent option holders from unfairly exploiting after-hours news or market information that affects the price of the underlying security, the CEA notices must be submitted to the broker-dealer and by the broker-dealer to the OCC by certain specified cut-off times. Occasionally, due to technical problems or other inadvertent errors, firms fail to submit CEA notices within the applicable time limits. For those instances, FINRA proposes to have the flexibility to treat the violation as a Minor Rule Violation. Violations of the CEA rules that exploit or are intended to exploit after-hours news would not be treated as Minor Rule Violations.

FINRA notes that position and exercise limits and CEA violations are part of the MRVPs of the options exchanges,³ thus including them in FINRA’s plan would promote

³ See NASDAQ Options Rules, Chapter X, Section 7 (Penalty for Minor Rule Violations); Boston Options Exchange Rules, Chapter X, Section 2 (Penalty for Rule Violations); Chicago Board Options Exchange Rule 17.50 (Imposition of Fines for Minor Rule Violations); American Stock Exchange Rule 590. Part 1 (General Rule Violations); Philadelphia Stock Exchange Rules F-15 (Minor Infractions of Position/Exercise Limits and Hedge Exemptions) and F-35 (Violations of Exercise and Exercise Advice Rules for Noncash-Settled Equity

greater consistency in sanctions among substantively similar rules enforced by FINRA and the options exchanges.

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

(b) Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁴ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with Section 15A(b)(7) of the Act⁵ in that it provides for the appropriate discipline for violation of FINRA rules. The rule change also is consistent with Section 15A(b)(8) of the Act⁶ in that it furthers the statutory goals of providing a fair procedure for disciplining members and associated persons. FINRA believes that the addition of these violations to the MRVP will provide FINRA staff with the ability to provide meaningful sanctions for minor or technical violations of these rules when the initiation of a formal disciplinary proceeding would be more significant than warranted.

Option Contracts); International Securities Exchange Rule 1614 (Imposition of Fines for Minor Rule Violations).

⁴ 15 U.S.C. 78o-3(b)(6).

⁵ 15 U.S.C. 78o-3(b)(7).

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.

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

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

FINRA does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.⁷

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

FINRA requests the Commission to find good cause pursuant to Section 19(b)(2) of the Act⁸ for approving the proposed rule change prior to the 30th day after its publication in the Federal Register.

FINRA requests the Commission to accelerate the effectiveness of the proposed rule change prior to the 30th day after its publication in the Federal Register because violations of the position and exercise limits and CEA procedures are already included in the MRVPs of the options exchanges, thus including them in FINRA's plan would promote greater consistency in sanctions among substantively similar rules enforced by

⁶ 15 U.S.C. 78o-3(b)(8).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 15 U.S.C. 78s(b)(2).

FINRA and the options exchanges.⁹ Moreover, FINRA's existing MRVP already includes violations of position and exercise limits and contrary exercise advice procedures with respect to incorporated NYSE Rules 704 (Position Limits), 705 (Exercise Limits) and 780 (Exercise of Options Contracts).

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

As noted above, the proposed rule change would amend FINRA's MRVP to include violations of options position and exercise limits and CEA procedures, and would make FINRA's MRVP consistent with the MRVPs of the options exchanges.

9. Exhibits

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

⁹ See supra note 3.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-FINRA-2008-023)

Self-Regulatory Organizations: Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Violations Appropriate for Disposition Under FINRA's Minor Rule Violation Plan

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") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) 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. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

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

FINRA is proposing to amend NASD Interpretive Material (IM) 9216³ to expand FINRA's Minor Rule Violation Plan ("MRVP") to include violations of options position and exercise limits and contrary exercise advice procedures. Below is the text of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ FINRA has filed with the Commission a proposed rule change (SR-FINRA-2008-021) in which FINRA proposes, among other things, to adopt NASD IM-9216 as FINRA Rule 9217, without material change. Assuming Commission approval of this proposed rule change prior to the approval of SR-FINRA-2008-021, FINRA will amend SR-FINRA-2008-021, as necessary, to reflect such approval.

proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

9200. DISCIPLINARY PROCEEDINGS

* * * * *

IM-9216. Violations Appropriate for Disposition Under Plan Pursuant to SE[C]A Rule 19d-1(c)(2)

Any member of FINRA that is also a member of the New York Stock Exchange LLC (“NYSE”) (“Dual Member”) (including any persons affiliated with such member) may be subject to a fine under NASD 9216(b) with respect to any rule listed in this IM-9216 that applies to such member or person. However, any Dual Member that was not also a member of NASD as of July 30, 2007 and that does not engage in any activities that would have required it to be an NASD member (and its affiliated persons that are not otherwise subject to NASD rules) shall only be subject to a fine under NASD Rule 9216(b) with respect to the following rules listed in this IM-9216: any NYSE rule, SEC Exchange Act rule, NASD By-Law or Schedule to the By-Laws, or the NASD Rule 8000 Series.

Any member of FINRA that is not also a member of the NYSE (and its associated persons that are not otherwise subject to NYSE rules) may be subject to a fine under NASD Rule 9216(b) with respect to any rule listed in this IM-9216, with the exception of the NYSE rules.

- NASD Rules 2210, 2211, and 2220, and IM-2210-1, -2210-2, -2210-3, -2210-4, -2210-5, -2210-7, and -2210-8 — Communications with the public.

- NASD Rule 3360 — Failure to timely file reports of short positions on Form NS-1.

- NASD Rule 3110 — Failure to keep and preserve books, accounts, records, memoranda, and correspondence in conformance with all applicable laws, rules, regulations and statements of policy promulgated thereunder, and with NASD Rules.

- NASD Rules 8211 and 8213 — Failure to submit trading data as requested.

- Article IV of the NASD By-Laws — Failure to timely submit amendments to Form BD.

- Article V of the NASD By-Laws — Failure to timely submit amendments to Form U4.

- Article V of the NASD By-Laws — Failure to timely submit amendments to Form U5.

- NASD Rule 1120 — Failure to comply with the Firm Element of the continuing education requirements.

- NASD Rule 2860(b)(3) and (b)(4) – Failure to comply with options position and exercise limits.

- NASD Rule 2860(b)(23) – Failure to comply with contrary exercise advice procedures.

- NASD Rule 3010(b) — Failure to timely file reports pursuant to the Taping Rule.

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

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

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

1. Purpose

The proposed rule change would amend NASD Interpretative Material (IM) 9216 to include in FINRA's MRVP violations of (1) options position and exercise limits under NASD Rule 2860(b)(3) and (b)(4), and (2) contrary exercise advice procedures under NASD Rule 2860(b)(23). NASD Rule 9216 sets forth FINRA's MRVP, which allows FINRA to impose a fine of up to \$2,500 on any member or person associated with a member for a minor violation of the rules identified in IM-9216. The purpose of the MRVP is to provide meaningful sanctions for minor or technical violations of rules when the initiation of a formal disciplinary proceeding would be more significant than warranted. Minor Rule Violation letters also represent a useful tool for implementing the concept of progressive discipline.

Inclusion of a rule in the MRVP does not mean that all violations of that rule should be treated as Minor Rule Violations, and, in fact, significant violations would not be handled under the MRVP. Accordingly, under the MRVP, FINRA retains the

discretion to bring full disciplinary proceedings for any violation of a rule included in the MRVP.

The NASD options rules contain provisions imposing limits on the size of an options position, and limits on the number of options contracts that can be exercised into shares of the underlying security during a fixed period. To address inadvertent violations of these rules, due to among other things, miscounting, technical problems, or a misinterpretation of the position limit calculation methodologies, that in the judgment of FINRA do not materially affect the market, FINRA proposes adding violations of options position and exercise limits as eligible for disposition under the MRVP. Violations of these rules deemed to have a manipulative effect or intent would not be treated as Minor Rule Violations.

Options issued by The Options Clearing Corporation (i.e., exchange-traded options) have specific terms regarding whether options that can be settled only by delivery of the asset underlying the option (typically an equity security) will be automatically exercised at settlement. The NASD options rule has detailed “contrary exercise advice” (“CEA”) procedures describing the manner in which an option holder can elect not to exercise an option that normally would be exercised, or exercise an option contract that normally would expire worthless. To prevent option holders from unfairly exploiting after-hours news or market information that affects the price of the underlying security, the CEA notices must be submitted to the broker-dealer and by the broker-dealer to the OCC by certain specified cut-off times. Occasionally, due to technical problems or other inadvertent errors, firms fail to submit CEA notices within the applicable time limits. For those instances, FINRA proposes to have the flexibility to

treat the violation as a Minor Rule Violation. Violations of the CEA rules that exploit or are intended to exploit after-hours news would not be treated as Minor Rule Violations.

FINRA notes that position and exercise limits and CEA violations are part of the MRVPs of the options exchanges,⁴ thus including them in FINRA's plan would promote greater consistency in sanctions among substantively similar rules enforced by FINRA and the options exchanges.

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

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁵ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with Section

⁴ See NASDAQ Options Rules, Chapter X, Section 7 (Penalty for Minor Rule Violations); Boston Options Exchange Rules, Chapter X, Section 2 (Penalty for Rule Violations); Chicago Board Options Exchange Rule 17.50 (Imposition of Fines for Minor Rule Violations); American Stock Exchange Rule 590. Part 1 (General Rule Violations); Philadelphia Stock Exchange Rules F-15 (Minor Infractions of Position/Exercise Limits and Hedge Exemptions) and F-35 (Violations of Exercise and Exercise Advice Rules for Noncash-Settled Equity Option Contracts); International Securities Exchange Rule 1614 (Imposition of Fines for Minor Rule Violations).

⁵ 15 U.S.C. 78o-3(b)(6).

15A(b)(7) of the Act⁶ in that it provides for the appropriate discipline for violation of FINRA rules. The rule change also is consistent with Section 15A(b)(8) of the Act⁷ in that it furthers the statutory goals of providing a fair procedure for disciplining members and associated persons. FINRA believes that the addition of these violations to the MRVP will provide FINRA staff with the ability to provide meaningful sanctions for minor or technical violations of these rules when the initiation of a formal disciplinary proceeding would be more significant than warranted.

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.

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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

FINRA has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act⁸ for approving the proposed rule change prior to the 30th day after publication in the Federal Register. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FINRA and, in particular, the requirements of Section 15A of the Act and

⁶ 15 U.S.C. 78o-3(b)(7).

⁷ 15 U.S.C. 78o-3(b)(8).

⁸ 15 U.S.C. 78s(b)(2).

the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in that accelerated approval will promote greater consistency in sanctions among substantively similar rules enforced by FINRA and the options exchanges

Within 35 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 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-2008-023 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-FINRA-2008-023. 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 Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. 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-2008-023 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Secretary

⁹ 17 CFR 200.30-3(a)(12).