

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57217; File No. SR-FINRA-2008-003)

January 28, 2008

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Pilot Regarding the Use of Multiple MPIDs on the Trade Reporting Facilities and the Alternative Display Facility

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 January 18, 2008, the Financial Industry Regulatory Authority, Inc. (“FINRA”) (f/k/a National Association of Securities Dealers, Inc. (“NASD”)) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by FINRA. FINRA has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to amend NASD Rules 4613A and 5140 to extend through January 30, 2009, the current rules regarding the use of multiple Market Participant Symbols (“MPIDs”) on the Trade Reporting Facilities (“TRFs”) and the Alternative Display Facility (“ADF”). The text of the proposed rule change is available at www.finra.org, the principal office of FINRA, and the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

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

(A) NASD Rule 4613A and IM-4613A-1

NASD Rule 4613A(b) (Character of Quotations) provides that a Registered Reporting ADF electronic communications network ("ECN") may request additional MPIDs for displaying quotes and orders and reporting trades through the ADF trade reporting facility, the Trade Reporting And Comparison Service, for any ADF-Eligible Security. A Registered Reporting ADF ECN that is permitted the use of additional MPIDs for displaying quotes and orders is subject to the same rules applicable to the member's first quotation (i.e., an ECN that displays one or more additional quotes/orders is required to comply with all rules applicable to ECNs in their display of quotes/orders). A Registered Reporting ADF ECN is also prohibited from using an additional MPID to accomplish indirectly what it is prohibited from doing directly through its Primary MPID. In addition, FINRA staff retains full discretion to determine whether a bona fide regulatory and/or business need exists for being granted an additional MPID and to limit or withdraw the additional MPID display privilege at any time. The procedures for requesting, and the restrictions surrounding the use of, multiple MPIDs are set forth in IM-4613A-1 (Procedures for Allocation of Multiple MPIDs).

The Commission approved NASD Rule 4613A(b) and IM-4613A-1 on a pilot basis on August 11, 2006.⁵ By its terms, the initial pilot period expired on January 26, 2007.⁶ On January 31, 2007, the Commission approved a one-year extension of the pilot period until January 25, 2008.⁷ FINRA believes that an additional one-year extension until January 30, 2009, will provide additional time to analyze the use of multiple MPIDs on the ADF. FINRA is not proposing any other changes to the pilot as this time.

(B) NASD Rule 5140 and IM-5140

NASD Rule 5140 (Multiple MPIDs for Trade Reporting Facility Participants) provides that any Trade Reporting Facility Participant that wishes to use more than one MPID for purposes of reporting trades to a TRF must submit a written request to, and obtain approval from, NASD Operations for such additional MPIDs. In addition, IM-5140 (Use of Multiple MPIDs) states that FINRA considers the issuance of, and trade reporting with, multiple MPIDs to be a privilege and not a right. A Trade Reporting Facility Participant must identify the purpose(s) and system(s) for which the multiple MPIDs will be used. If FINRA determines that the use of multiple MPIDs is detrimental to the marketplace, or that a Trade Reporting Facility Participant is using one or more additional MPIDs improperly or for other than the purpose(s) identified by the Participant, FINRA staff retains full discretion to limit or withdraw its grant of the additional

⁵ See Securities Exchange Act Release No. 54307 (August 11, 2006), 71 FR 47551 (August 17, 2006).

⁶ The expiration of the pilot period coincided with the expiration of the ADF pilot period. See Securities Exchange Act Release No. 53699 (April 21, 2006), 71 FR 25271 (April 28, 2006). On January 26, 2007, the Commission approved a proposed rule change to make the ADF rules permanent. See Securities Exchange Act Release No. 55181 (January 26, 2007), 72 FR 5093 (February 2, 2007).

⁷ See Securities Exchange Act Release No. 55206 (January 31, 2007), 72 FR 5479 (February 6, 2007).

MPID(s) to such Trade Reporting Facility Participant. FINRA believes that Rule 5140 and IM-5140 are necessary to consolidate the process of issuing, and tracking the use of, multiple MPIDs used to report trades to TRFs.

The Commission approved NASD Rule 5140 on a pilot basis on November 6, 2006.⁸ By its terms, the pilot period expired on January 26, 2007. On January 31, 2007, the Commission approved a one-year extension of the pilot period until January 25, 2008.⁹ FINRA believes that an additional one-year extension until January 30, 2009, will provide additional time to analyze the use of multiple MPIDs on the TRFs. FINRA is not proposing any other changes to the pilot as this time.

FINRA is proposing to implement the proposed rule change on January 25, 2008.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁰ which requires, among other things, that FINRA rules 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 these requirements because it will provide a process by which ECNs (in the case of the ADF) and Trade Reporting Facility Participants (in the case of TRFs) can request, and FINRA can properly allocate, the use of additional MPIDs for displaying quotes and orders through the ADF or reporting trades to a TRF.

⁸ See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006); see also Securities Exchange Act Release No. 54715A (November 14, 2006), 71 FR 67183 (November 20, 2006) (correcting original approval order).

⁹ See Securities Exchange Act Release No. 55206 (January 31, 2007), 72 FR 5479 (February 6, 2007).

¹⁰ 15 U.S.C. 78o-3(b)(6).

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

FINRA does not believe that the proposed rule change will impose 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

FINRA has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

FINRA has requested that the Commission waive the 30-day operative delay, which would make the rule change operative immediately upon filing with the Commission. The Commission believes waiving the 30-day operative date is consistent with the protection of investors and the public interest because the proposed rule change extends without interruption

¹¹ 15 U.S.C. 78s(b)(3)(A).

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

the benefits of a pilot program that the Commission approved and previously extended.¹³ Furthermore, the Commission agrees that extending the pilot for another year will provide additional time for FINRA to analyze the use of multiple MPIDs on the ADR. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁵

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-2008-003 on the subject line.

Paper comments

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

¹³ See supra notes 5 through 9.

¹⁴ For purposes only of waiving the 30-day pre-operative period, the Commission has considered the impact of the proposed rule change on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

All submissions should refer to File Number SR-FINRA-2008-003. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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-2008-003 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.¹⁶

Florence E. Harmon
Deputy Secretary

¹⁶ 17 CFR 200.30-3(a)(12).