

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-61297; File No. SR-FINRA-2009-094)

January 6, 2010

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Extending the Pilot Period Regarding the Use of Multiple MPIDs on FINRA Facilities

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 29, 2009, 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. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to extend through January 28, 2011, the current rules regarding the use of multiple Market Participant Symbols (“MPIDs”) in FINRA Rules 6160 (with respect to Trade Reporting Facilities (“TRFs”)), 6170 (with respect to the Alternative Display Facility (“ADF”)), and 6480 (with respect to the OTC Reporting Facility (“ORF”)).

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

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

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

The text of the proposed rule change is available on FINRA's Web site 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

FINRA has three rules governing the use of multiple MPIDs on FINRA facilities: Rule 6160 (Multiple MPIDs for Trade Reporting Facility Participants), Rule 6170 (Primary and Additional MPIDs for Alternative Display Facility Participants), and Rule 6480 (Multiple MPIDs for Quoting and Trading in OTC Equity Securities). The pilot period for all three rules is scheduled to expire on January 29, 2010. FINRA believes that there continue to be legitimate business reasons for members to maintain multiple MPIDs for use on FINRA facilities. Consequently, FINRA is proposing to extend the pilot period for each of the three rules until January 28, 2011. FINRA is not proposing any other changes to the rules at this time.

(a) Rule 6160

Rule 6160 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, FINRA Operations for such additional MPIDs. In addition, Supplementary Material to the rule 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 MPID(s) to such Trade Reporting Facility Participant for purposes of reporting trades to a TRF. FINRA believes that Rule 6160 is necessary to consolidate the process of issuing, and tracking the use of, multiple MPIDs used to report trades to TRFs.

Rule 6160 was approved by the Commission in 2006 on a pilot basis.<sup>4</sup> The pilot period has been extended several times since the rule was originally adopted and currently expires on January 29, 2010.<sup>5</sup>

(b) Rule 6170

Rule 6170 provides that a Registered Reporting ADF ECN may request additional MPIDs for displaying quotes and orders and reporting trades through the ADF trade reporting facility, TRACS, for any ADF-Eligible Security. Registered Reporting ADF ECNs that are permitted the use of additional MPIDs for displaying quotes and orders are subject to the same

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<sup>4</sup> 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).

<sup>5</sup> See Securities Exchange Act Release No. 59183 (December 30, 2008), 74 FR 842 (January 8, 2009); Securities Exchange Act Release No. 57217 (January 28, 2008), 73 FR 6234 (February 1, 2008); Securities Exchange Act Release No. 55206 (January 31, 2007), 72 FR 5479 (February 6, 2007).

rules applicable to the member's first quotation (i.e., ECNs that display one or more additional quotes/orders are required to comply with all rules applicable to ECNs in their display of quotes/orders). Registered Reporting ADF ECNs are also prohibited from using an additional MPID to accomplish indirectly what they are prohibited from doing directly through their 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 privilege 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 Supplementary Material to the rule.

The Commission approved Rule 6170 on a pilot basis on August 11, 2006.<sup>6</sup> The pilot period has been extended several times since the rule was originally adopted and currently expires on January 29, 2010.<sup>7</sup>

(c) Rule 6480

Like Rule 6160, Rule 6480 provides that any member that wishes to use more than one MPID for purposes of quoting an OTC Equity Security or reporting trades to the ORF must submit a written request to, and obtain approval from, FINRA Operations for such additional MPIDs. The rule also states that a member that posts a quotation in an OTC Equity Security and

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<sup>6</sup> See Securities Exchange Act Release No. 54307 (August 11, 2006), 71 FR 47551 (August 17, 2006). By its terms, the initial pilot period expired on January 26, 2007, to coincide 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).

<sup>7</sup> See Securities Exchange Act Release No. 59183 (December 30, 2008), 74 FR 842 (January 8, 2009); Securities Exchange Act Release No. 57217 (January 28, 2008), 73 FR 6234 (February 1, 2008); Securities Exchange Act Release No. 55206 (January 31, 2007), 72 FR 5479 (February 6, 2007).

reports to a FINRA system a trade resulting from such posted quotation must utilize the same MPID for reporting purposes. In addition, Supplementary Material to the rule states that FINRA considers the issuance of, and trade reporting with, multiple MPIDs to be a privilege and not a right. When requesting an additional MPID(s), a member 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 member is using one or more additional MPIDs improperly or for purposes other than the purpose(s) identified by the member, FINRA staff retains full discretion to limit or withdraw its grant of the additional MPID(s) to such member.

FINRA adopted Rule 6480 on a pilot basis on July 23, 2009, and the pilot period expires on January 29, 2010.<sup>8</sup>

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date of the proposed rule change will be January 29, 2010.

## 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>9</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with these requirements because it will provide a process by which members 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 or the ORF.

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<sup>8</sup> See Securities Exchange Act Release No. 60414 (July 31, 2009), 74 FR 39721 (August 7, 2009).

<sup>9</sup> 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 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

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, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6) thereunder.<sup>11</sup>

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.

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

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2009-094 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-FINRA-2009-094. 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 publicly available. All submissions should refer to File Number SR-FINRA-2009-094 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.<sup>12</sup>

Florence E. Harmon  
Deputy Secretary

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