

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Elizabeth M. Murphy,

Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63729; File No. SR-FINRA-2011-003]

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

January 18, 2011.

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 January 5, 2011, 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 and II 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 a rule change to extend through January 27, 2012, 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”)).

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 28, 2011. 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 27, 2012. FINRA is not proposing any other changes to the rules at this time; however, FINRA notes that it intends to file a proposed rule change within the next year that amends the rules governing multiple MPIDs, including a proposed rule change to make the rules permanent.

###### (1) 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 28, 2011.<sup>5</sup>

###### (2) 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. Among other things, Registered Reporting ADF ECNs are 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

<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. 61297 (January 6, 2010), 75 FR 2173 (January 14, 2010); 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).

<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>15</sup> 17 CFR 200.30-3(a)(12).

<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).

originally adopted and currently expires on January 28, 2011.<sup>7</sup>

### (3) 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 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.<sup>8</sup> The pilot period was extended and expires on January 28, 2011.<sup>9</sup>

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date of the proposed rule change will be January 28, 2011.

### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>10</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.

### 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>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. FINRA has provided 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.

FINRA asks that the Commission waive the 30-day pre-operative waiting period contained in Exchange Act Rule 19b-4(f)(6)(iii).<sup>13</sup> FINRA requests this waiver in order to prevent a lapse in the current pilots.

The Commission acknowledges that the proposal presents no novel issues, and that it will provide a benefit to market participants by avoiding a temporary lapse in the pilot programs. For these reasons, the Commission believes it is consistent with the protection of investors and the public

interest to waive the 30-day operative delay, and hereby grants such waiver.<sup>14</sup>

### 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](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2011-003 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-2011-003. 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 Web site 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 publicly available. All submissions should refer to File Number SR-FINRA-2011-003 and

<sup>7</sup> See Securities Exchange Act Release No. 61297 (January 6, 2010), 75 FR 2173 (January 14, 2010); 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).

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

<sup>9</sup> See Securities Exchange Act Release No. 61297 (January 6, 2010), 75 FR 2173 (January 14, 2010).

<sup>10</sup> 15 U.S.C. 78o-3(b)(6).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

should be submitted on or before February 15, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63722; File No. SR-NSCC-2010-16]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change To Amend Procedure II of the NSCC Rules & Procedures To Modify the Money Tolerance Comparison Provisions for Fixed Income Securities

January 14, 2011.

#### I. Introduction

On November 19, 2010, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-NSCC-2010-16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on December 8, 2010.<sup>2</sup> The Commission received no comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### II. Description

NSCC provides a Real-Time Trade Matching ("RTTM") service for trade input and comparison of corporate bond, municipal bond, and unit investment trust (collectively "CMU") fixed income securities. Matching requires that the two trade counterparties submit certain required trade details to RTTM that either match exactly or fall within predefined parameters. If the trade details are matched within RTTM, a valid and binding contract between the submitting trade parties results. If the purchaser and seller submit trade data that matches in all required aspects except for trade value, NSCC uses the seller's money (referred to as "seller's value") as the trade value and deems the trade

compared as long as the difference between the seller's submitted trade value and the buyer's submitted trade value falls within prescribed dollar values (*i.e.*, money tolerance amounts) as more fully described below.

Prior to the rule change, Procedure II of NSCC's Rules & Procedures provided two scenarios in which trades would be compared using the seller's value. In the first scenario, NSCC uses the seller's value to match a trade submitted prior to the cut-off time for intraday comparison if the respective trade parties have submitted contract amounts that are within (1) a net \$2 difference for trades of \$1 million or less and (2) \$2 per million for trades greater than \$1 million. In the second scenario, NSCC also used the seller's value during the end-of-day enhanced comparison process to match a trade that remained unpaired after the intraday comparison process if the contract amounts were within (i) a net \$10.00 difference for trades of \$100,000 or less and (ii) \$.10 per \$1,000 for trades greater than \$100,000.

Since the establishment of these CMU money tolerance amounts in 1995, member firms have significantly improved the timing and accuracy of fixed income trade reporting. In 2005, the Municipal Securities Rulemaking Board ("MSRB") instituted a requirement that firms report trades in municipal securities to the RTTM engine within 15 minutes, which required member firms to improve their reporting accuracy and technology. As a result, RTTM is matching a greater percentage of CMU trades upon initial trade input from the buyer and seller.

NSCC believes that because of these improvements the current money tolerance is wider than needed and that best practices dictates that the money tolerance be modified to reflect current business conditions. Accordingly, NSCC is reviewing the CMU money tolerance for the above described second scenario in which trades are compared using the seller's value. As amended, NSCC's Rules and Procedures will provide that transactions that remain unpaired after the intraday comparison process shall be deemed compared during the end-of-day enhanced comparison process using the seller's value if the trade parties have submitted contact amounts that have a net \$10.00 difference for trades of \$250,000 or less and \$0.04 per \$1,000 for trades greater than \$250,000.<sup>3</sup> NSCC members will be

advised of the implementation date through the issuance of an NSCC Important Notice.

#### III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.<sup>4</sup> By narrowing the money tolerance, the rule change should allow NSCC to enhance the efficiency of its clearance and settlement processes by providing for more trades to be compared and settled. As a result, NSCC should be better enabled to facilitate the prompt and accurate clearance and settlement of securities transactions and to remove impediments to and help perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with NSCC's requirements under the Act, in particular with the requirements of Section 17A of the Act, and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-2010-16) be and hereby is approved.<sup>5</sup>

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 63404 (December 1, 2010), 75 FR 76515 (December 8, 2010).

<sup>3</sup> NSCC has informed Commission staff that NSCC money tolerance amounts were developed in part to align NSCC's money tolerance amounts with those used by FICC's Government Securities Division.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 17 CFR 200.30-3(a)(12).