to confirm how institutional brokers should handle stop and stop-limit orders.[3] Under these provisions, an institutional broker could choose to, but would not be required to, accept stop or stop-limit orders.

Under this proposal, a stop order to buy (sell) would become a market order when a transaction in the security at or above (below) the stop price is reported in an effective transaction reporting plan after the order is received by an institutional broker. Similarly, stop-limit orders to buy (sell) would become limit orders when a transaction in the security at or above (below) the stop price is reported in an effective transaction reporting plan after the order is received by an institutional broker. Stop or stop-limit orders could be elected either by the price of the opening transaction on the Exchange or by the price of the opening on any other market center reporting in an effective transaction reporting plan. These proposed provisions are substantially similar to requirements set forth in the rules of other self-regulatory organizations, including New York Stock Exchange LLC (''NYSE'') and the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')).[4]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(5) of the Act.[6] The proposed rule change is consistent with Section 6(b)(5) of the Act because it would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest by permitting the Exchange to add a new provision to its institutional broker rules to confirm how institutional brokers should handle stop and stop-limit orders.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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

Written comments on the proposed rule change were neither solicited nor received.

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

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 Exchange 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–CHX–2007–09 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.

All submissions should refer to File Number SR–CHX–2007–09. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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–CHX–2007–09 and should be submitted on or before November 9, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20586 Filed 10–18–07; 8:45 am]

BILLING CODE 8011–01–P

[3] Other provisions of the institutional broker rules confirm the order-handling obligations associated with market, limit, and not held orders.

[4] *See* NYSE Rule 13; NASD Rule 5120(h).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56645; File No. SR–NASD–2005–080]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc.); Notice of Filing of Amendment No. 4 and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 1, 2, 3 and 4 Relating to Fairness Opinions

October 11, 2007

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] on June 22, 2005, the National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc. (''FINRA'')), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change relating to fairness opinion disclosures and procedures.

On April 4, 2006, the Commission issued a release noticing the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, which was published for comment in the **Federal Register** on

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

[2] 17 CFR 240.19b–4.

April 11, 2006.[3] The comment period expired on May 2, 2006. The Commission received eight comment letters in response to the proposed rule change.[4] On June 7, 2007, FINRA filed Amendment No. 4 to the proposed rule change. This order provides notice of the proposed rule change, as modified by Amendment No. 4, and approves the proposed rule change as amended on an accelerated basis.

II. Background

FINRA is proposing to establish new Rule 2290 to address disclosures and procedures in connection with the issuance of fairness opinions by member firms. Fairness opinions are routinely obtained by boards of directors in corporate control transactions and address the fairness, from a financial perspective, of the consideration being offered in the transaction.

Fairness opinions may serve a variety of purposes, including as indicia of the exercise of care by the board of directors in a corporate control transaction as well as to supplement information available to shareholders and, as such, are often provided as part of proxy materials. Fairness opinions offer a view as to whether the consideration offered in a deal is within the range of what would be considered ''fair,'' rather than offering an opinion as to whether the consideration offered is the best price that could likely be attained.

In its proposal, FINRA expressed concern that the disclosures provided in fairness opinions may not be adequate to alert shareholders as to potential conflicts of interest that may exist between the firm issuing the opinion and the parties involved in the transaction. For example, in many cases, the firm issuing the fairness opinion is also acting as an advisor to a party to the transaction. As such, there may be a contingent compensation structure dependent upon the success of the deal. There may also be other material relationships between the member firm and a party to the transaction that is the subject of the fairness opinion involving compensation that has been, or is intended to be, received. Thus, the proposed rule change would provide shareholders with certain disclosures with regard to any fairness opinion issued by a member firm if, at the time of its issuance to the board of directors, the member knows or has reason to know that the fairness opinion will be provided or described to the company's public shareholders.

Further, the proposed rule change seeks to require member firms to establish written procedures for use in issuing fairness opinions, including addressing when a member firm will employ the use of an internal committee in approving a fairness opinion. In cases where a committee is used, the member must set forth in its procedures, among other things, the process for selecting personnel to be on the fairness committee.

III. Discussion

The Commission received eight comment letters in response to the proposed rule change.[5] As discussed below, commenters generally supported the fundamental goals and objectives behind the proposed rule change, and several commenters suggested modifications or requested clarification. In response to various concerns and suggestions raised by commenters, FINRA filed Amendment No. 4 to the proposed rule change.

After careful review, the Commission finds, as discussed more fully below, that the proposed rule change is consistent with the requirements of the Exchange Act and the regulations thereunder applicable to FINRA.[6] In particular, the Commission believes that the proposed rule change is consistent with Sections 15A(b)(6) and 15A(b)(9) of the Exchange Act.[7]

Section 15A(b)(6) requires that the rules of a registered national securities association 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 15A(b)(9) requires that the rules of an association not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Section 3(f) of the Exchange Act directs the Commission to consider, in addition to the protection of investors, whether approval of a rule change will promote efficiency, competition, and capital formation.[8] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation.

The Commission believes that the proposed rule change provides investors with useful information in understanding the primary potential conflicts of interest faced by member firms that issue fairness opinions. The proposed rule change is tailored to require any member firm that issues a fairness opinion to include the specified disclosures only where the member firm knows or has reason to know that the fairness opinion will be provided or described to the company's public shareholders. Thus, even though an opinion may be prepared for use by the board of directors of a client of a member firm, because the fairness opinion is usually included in materials provided to public shareholders, these shareholders will now be made aware of potential conflicts of interest with regard to the existence of contingent compensation arrangements and other material relationships between the member and any party to the transaction that is the subject of the fairness opinion.

Further, new Rule 2290's procedural requirements provide safeguards to help member firms manage potential conflicts of interest in approving fairness opinions by, among other things, requiring that any fairness committee formed must include representation by persons who do not serve on the deal team to the transaction that is the subject of the fairness opinion.

A. Disclosure Regarding Compensation Contingent Upon the Successful Completion of a Transaction

New Rule 2290(a)(1) requires that when a member firm acts as a financial advisor to any party to a transaction that is the subject of a fairness opinion issued by the firm, the member must disclose if the member will receive compensation that is contingent upon the successful completion of the transaction, for rendering the fairness

[3] *See* Securities Exchange Act Release No. 53598 (April 4, 2006), 71 FR 18395 (April 11, 2006) (''Original Proposal'').

[4] *See* Letters to Jonathan G. Katz, Secretary, Commission, from: Michael W. Kane, Ph.D., J.D., President and CEO, Kane & Company, Inc. (May 1, 2006); Donna M. Hitscherich, Faculty, Columbia University Graduate School of Business, New York (May 1, 2006); Gilbert E. Matthews, CFA, Chairman, Sutter Securities Incorporated (May 1, 2006); Ann Yerger, Executive Director, Council of Institutional Investors (May 1, 2006); John Faulkner, Chair, Capital Markets Committee, Securities Industry Association (May 2, 2006); Marjorie Bowen, Managing Director, National Co-Director of Fairness Opinion Practice, Houlihan Lokey Howard & Zukin Capital, Inc. (May 2, 2006); Daniel S. Sternberg, Committee Chair, Special Committee on Mergers, Acquisitions and Corporate Control Contests, The Association of the Bar of the City of New York (May 3, 2006); Michael J. Holiday, Chair, Committee on Securities Regulation, New York State Bar Association (May 11, 2006).

[5] *See supra* note 4.

[6] *See* 15 U.S.C. 19(b)(2).

[7] 15 U.S.C. 78o–3(b)(6) and (9).

[8] 15 U.S.C. 78c(f).

opinion and/or serving as an advisor. New Rule 2290(a)(2) also requires that a member firm disclose if it will receive any other significant payment or compensation that is contingent upon the successful completion of the transaction.

Commenters were generally supportive of these provisions. However, one commenter suggested that the disclosure should be quantitative, disclosing the actual amount of the contingent compensation that would be received by the member firm, rather than descriptive, disclosing only the existence of such compensation arrangement. Commenters also expressed concern regarding tracking smaller amounts of contingent compensation or other payments and suggested a threshold amount in order to make compliance more practicable. Two commenters also requested that FINRA clarify that the existence of such contingent compensation arrangement does not constitute an acknowledgement that an actual conflict of interests exists.

In FINRA's response to comments, FINRA stated that it continues to believe that it is sufficient that shareholders are aware of the existence of a contingent compensation relationship. FINRA also did not determine it appropriate to clarify in the rule text that the existence of a contingent compensation arrangement is not an acknowledgement that an actual conflict of interests exists. However, in Amendment No. 4, FINRA explained, among other things, that the proposed rule change does not presume a conflict merely because the disclosures are made. Further, in Amendment No. 4, FINRA amended the ''catch-all'' provision of paragraph (a)(2) regarding other payments or compensation by adding a ''significant'' qualifier. FINRA noted that it believes this change will ease compliance burdens.

We believe that a descriptive disclosure that alerts shareholders to the existence of a contingent compensation arrangement is sufficient to serve the basic purpose of highlighting for investors that the issuing member stands to benefit financially from the successful completion of the transaction, and therefore, that a conflict of interests may exist. We also believe that adding the ''significant'' qualifier strikes a proper balance. The Commission finds that the proposed rule change requiring disclosure of contingent compensation for rendering the fairness opinion and/or serving as an advisor, or of other significant payments dependent on the successful outcome of the transaction, are consistent with the Exchange Act, particularly Sections 15A(b)(6) and 15A(b)(9).

B. Disclosure of Material Relationships Between the Member and Parties to the Transaction

New Rule 2290(a)(3) requires that member firms disclose any material relationships that existed during the past two years or material relationships that are mutually understood to be contemplated in which any compensation was received or is intended to be received as a result of the relationship between the member and any party to the transaction that is the subject of the fairness opinion.

Several commenters expressed concern that the requirement was overbroad and implied that members must breach confidential obligations or make premature disclosures of non-public information. FINRA noted that the disclosure provision of paragraph (a)(3) is largely based on Item 1015(b)(4) of the Commission's Regulation M–A and was less specific than Item 1015(b)(4) because the disclosures of ''material relationships'' in the proposed rule change are descriptive rather than quantitative.

In Amendment No. 4, FINRA made one modification to this provision to clarify that each of the material relationships should be identified in the fairness opinion. The Commission finds that the disclosure requirement regarding material relationships is consistent with the Exchange Act, particularly Sections 15A(b)(6) and 15A(b)(9).

C. Disclosure Regarding Independent Verification of Information That Formed a Substantial Basis for the Fairness Opinion

New Rule 2290(a)(4) requires that members disclose if any information that formed a substantial basis for the fairness opinion that was supplied to the member by the company requesting the opinion concerning the companies that are parties to the transaction has been independently verified by the member, and if so, a description of the information or categories of information that were verified.

Paragraph (a)(4) in the Original Proposal would have required disclosure of the categories of information that formed a substantial basis for the fairness opinion that was supplied to the member by the company requesting the opinion concerning the companies involved in the transaction, and whether any such information has been independently verified by the member. Two commenters believed that this requirement should be deleted because it was not clear what ''verify'' the information meant. One commenter asserted that in most cases this information could not be verified so the disclosure of the categories of information would be meaningless for the investor. FINRA clarified in Amendment No. 4 that it did not intend to require independent verification of the information provided to the member. Rather, as noted by FINRA in Amendment No. 4, the disclosure is intended to provide a public shareholder with information concerning the extent to which information relied on by the member was verified. Upon further review, FINRA determined that disclosing the categories of information that formed a substantial basis for the fairness opinion would not provide meaningful guidance to the investor, particularly when this information is not ''verified.''

Accordingly, in Amendment No. 4, FINRA retained the provision requiring disclosure if any information that formed a substantial basis for the fairness opinion that was supplied by the company requesting the opinion has been verified and, if so, the requirement that the member disclose a description of the verified information or categories of this information. FINRA eliminated, however, the requirement to list each category of information when such information has not been verified. FINRA noted that when no information has been verified, a blanket statement to that effect, as is common practice today, would be sufficient. The Commission finds that the disclosure requirement regarding verification of information supplied by the company requesting the opinion that formed a substantial basis for the opinion is consistent with the Exchange Act, particularly Sections 15A(b)(6) and 15A(b)(9).

D. Disclosures Regarding Use of a Fairness Committee

New Rule 2290(a)(5) requires member disclosure of whether or not the fairness opinion was approved or issued by a fairness committee. Commenters supported the use of committees and noted that use of such committees is commonplace today. One commenter believed that the disclosure was not material and may create a misleading impression that a fairness opinion rendered by a fairness committee is substantively better than one not approved by a committee. The commenter suggested, however, that if the provision is retained, FINRA should revise the rule text to acknowledge that a fairness committee may not always be

called a ''fairness committee'' within a particular firm.

In Amendment No. 4, FINRA stated its belief that fairness opinions that are approved by a fairness committee that follows the procedures required by the proposed rule generally are less susceptible to conflicts and that fairness opinions should include disclosure regarding whether a fairness committee was used. Regarding the term ''fairness committee,'' FINRA also believes that the term would include any committee or group that approves a fairness opinion in accordance with the procedural requirements of paragraph (b) regardless of whether the member calls it a ''fairness committee.'' In addition, FINRA amended the rule language to clarify that members must specifically disclose whether or not a fairness committee approved or issued the fairness opinion. The Commission finds that the disclosure requirements regarding use of a fairness committee are consistent with the Exchange Act, particularly Sections 15A(b)(6) and 15A(b)(9).

E. Disclosure Regarding Relative Compensation to Officers, Directors, and Employees

New Rule 2290(a)(6) requires member firms to disclose whether or not the fairness opinion expresses an opinion about the fairness of the amount or nature of the compensation from the transaction underlying the fairness opinion, to the company's officers, directors or employees, or class of such persons, relative to the compensation to the public shareholders of the company.

The Original Proposal would have required members to establish a process by which the member would evaluate the degree to which the amount and nature of the compensation from the transactions underlying the fairness opinion benefits insiders relative to the benefits to shareholders. Commenters argued that members do not possess the expertise to make this determination and that this type of determination is outside of the scope of what the member opines on in a fairness opinion. In Amendment No. 4, FINRA revised the proposed rule in response to comments, stating that it believes the disclosure in new Rule 2290(a)(6) suitably highlights to the investor the potential conflict of interests between the member issuing the fairness opinion and the party receiving the opinion by requiring disclosure whether the member did or did not take into account the amount and nature of compensation flowing to certain insiders relative to the benefits to shareholders in reaching a fairness determination.

The Commission finds that this provision is consistent with the Exchange Act, particularly Sections 15A(b)(6) and 15A(b)(9).

F. Procedures for Use of a Fairness Committee

New Rule 2290(b)(1) requires that any member issuing a fairness opinion must have written procedures for approval of a fairness opinion by the member, including: The types of transactions and the circumstances in which the member will use a fairness committee to approve or issue a fairness opinion, and in those transactions in which it uses a fairness committee: (A) The process for selecting personnel to be on the fairness committee; (B) the necessary qualifications of persons serving on the fairness committee; and (C) the process to promote a balanced review by the fairness committee, which shall include the review and approval by persons who do not serve on the deal team to the transaction.

In response to the Original Proposal, one commenter suggested requiring ''written'' procedures since FINRA refers to having written procedures in the rule filing but this is not indicated in the rule text itself. FINRA made the recommended change to the rule language.

In addition, two commenters recommended revising the language of paragraph (b)(1)(C) as found in the Original Proposal. The Original Proposal required procedures regarding the process to promote a balanced review by the fairness committee, which included the review and approval by persons who do not serve on or advise the deal team to the transaction. Commenters noted that persons who advise the deal team often consult with the fairness committee regarding, for instance, valuation techniques, and that this advice should not be impaired. Commenters also stated that the language in the Original Proposal implied that such consultation was not permissible and, therefore, suggested deleting the phrase ''or advise.''

In Amendment No. 4, FINRA stated that it believes that commenters may have misunderstood the intent of paragraph (b)(1)(C) in the Original Proposal. Nevertheless, in Amendment No. 4, FINRA deleted the language ''or advise'' to help alleviate confusion.

FINRA also noted in Amendment No. 4 that whether a person is considered to be part of the deal team requires an analysis of the particular facts and circumstances, and will not be determined by whether a person is included on all document distributions or participated in certain meetings, but rather will depend on the nature and substance of his or her contacts and the advice rendered to the firm. The Commission finds that this procedural requirement will help firms manage potential conflicts of interest and is consistent with the Exchange Act, particularly Sections 15A(b)(6) and 15A(b)(9).

G. Procedures Regarding Valuation Analyses

Paragraph (b)(2) of the Original Proposal would have required members to have a process to determine whether the valuation analyses used in the fairness opinion are appropriate and the member's procedures would have to state the extent to which the appropriateness of the use of such valuation analyses is determined by the type of company or transaction that is the subject of the fairness opinion. In Amendment No. 4, however, FINRA deleted this second requirement because it believes that a specific requirement addressing the detail regarding the impact of the type of company or transaction on the valuation analyses is not necessary. Thus, new Rule 2290(b)(2) only requires procedures addressing the process to determine whether the valuation analyses used in the fairness opinion are appropriate. The Commission finds that this provision is consistent with the Exchange Act, particularly Sections 15A(b)(6) and 15A(b)(9).

H. Procedures Regarding Relative Compensation to Officers, Directors, and Employees

Paragraph (b)(3) of the Original Proposal would have required members to have a process to evaluate whether the amount and nature of the compensation from the transaction underlying the fairness opinion benefiting any individual officers, directors or employees, or class of such persons, relative to the benefits to shareholders of the company, was a factor in reaching a fairness determination. Several commenters expressed concern regarding this proposed provision. Commenters argued that the proposal implied that members must make a judgment as to the appropriateness of compensation to insiders relative to the compensation to be paid to shareholders. They noted that members issuing fairness opinions do not have the expertise to evaluate executive compensation matters and that the appropriateness of management compensation is beyond the scope of a fairness opinion and that an insider's compensation in general is not a factor in rendering a fairness opinion and,

therefore, this provision does not make sense in terms of how members perform a fairness opinion evaluation.

In Amendment No. 4, FINRA stated that the procedure required by the Original Proposal was intended to guard against potential conflicts of interest between the member issuing the fairness opinion and those insiders who may stand to gain an economic benefit from the transaction, and who generally are in a position to make determinations about which member will perform the fairness opinion evaluation. In response to comments, however, in Amendment No. 4 FINRA deleted the procedures in paragraph (b)(3) of the Original Proposal and added the disclosure requirements in paragraph (a)(6) to new Rule 2290. The Commission finds that this provision is responsive to comments received and is consistent with the Exchange Act, particularly Sections 15A(b)(6) and 15A(b)(9).

IV. Accelerated Approval of Amendment No. 4 and Solicitation of Comments

The Commission finds good cause to approve Amendment No. 4 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the amendment in the **Federal Register**. The proposed rule change was published in the **Federal Register** on April 11, 2006.[9] FINRA submitted Amendment No. 4 in response to comments received on the proposed rule change. The Commission believes that Amendment No. 4 clarifies the obligations of FINRA member firms. Amendment No. 4 does not contain major modifications that are more restrictive than the scope of the proposed rule change as published in the **Federal Register**. The Commission believes that approving Amendment No. 4 will provide greater clarity and simplify compliance, thus furthering the public interest and the investor protection goals of the Exchange Act. Finally, the Commission finds that it is in the public interest to approve the proposed rule change as soon as possible to expedite its implementation.

Accordingly, the Commission believes good cause exists, consistent with Sections 15A(b)(6) and 19(b) of the Exchange Act,[10] to approve Amendment No.4 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 4, including whether Amendment No. 4 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–NASD–2005–080 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.

All submissions should refer to File Number SR–NASD–2005–080. 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 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–NASD–2005–080 and should be submitted on or before November 8, 2007.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[11] that the proposed rule change (SR–NASD–2005–080), as modified by Amendment Nos. 1, 2, 3, and 4, be, and hereby is, approved.[12]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–20585 Filed 10–18–07; 8:45 am]

BILLING CODE 8011–01–P

[9] *See supra* note 3.

[10] 15 U.S.C. 78o–3(b)(6), and 78s(b).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56661; File No. SR–NASD–2005–100]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc. (n/k/a Financial Industry Regulatory Authority, Inc.); Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto, To Require Members To Provide Customers in TRACE-Eligible Debt Securities With Additional, Transaction-Specific Disclosures and To Notify Customers of the Availability of a Disclosure Document

October 15, 2007.

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 August 19, 2005, the National Association of Securities Dealers, Inc. (''NASD''), n/k/a Financial Industry Regulatory Authority, Inc. (''FINRA''),[3] 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.[4] On December 21, 2005, NASD filed Amendment No. 1 to the proposed rule change. On January 26, 2007, NASD filed Amendment No. 2 to the proposed rule change. On July 16, 2007, NASD

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

[2] 17 CFR 240.19b–4.

[3] On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD's Certificate of Incorporation to reflect its name change to FINRA, in connection with the consolidation of the member firm regulatory functions of NASD and NYSE Regulation, Inc. *See* Securities Exchange Act Release No. 56146 (July 26, 2007), 72 FR 42190 (August 1, 2007).

[4] Commission staff made certain changes to the description of the proposed rule change with the consent of FINRA staff to further clarify the description, to reflect the organization's name change, and to make other changes incidental to the consolidation during a telephone conversation between Sharon Zackula, Associate Vice President and Associate General Counsel, and James Eastman, Assistant General Counsel, FINRA, and Joshua Kans, Senior Special Counsel, and Kristina Fausti, Special Counsel, Division of Market Regulation, Commission, on March 20, 2007; telephone conversations between Sharon Zackula and James Eastman, and Kristina Fausti, on August 17, 2007, and August 20, 2007, respectively; and a telephone conversation between Sharon Zackula, and Josh Kans and Kristina Fausti, on September 21, 2007.