(''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule G–11(i) (settlement of syndicate or similar account), Rule G–11(j) (payment of designations), and Rule G–12(i) (settlement of joint or similar account). The proposed rule change was published for comment in the **Federal Register** on August 18, 2009.[3] The Commission received one comment letter about the proposed rule change.[4] On September 22, 2009, the MSRB filed a response to the comment letter.[5] This order approves the proposed rule change.

The proposed rule change would accelerate the settlement of syndicate accounts and secondary market trading accounts, and the payment of designations, by shortening certain time periods within the rules. These proposals are designed to reduce the exposure of syndicate and secondary market trading account members to the risk of potential deterioration in the credit of the syndicate or account manager during the pendency of account settlements. For the proposed amendments to Rule G–11, the MSRB requested that the amendments become effective for new issues of municipal securities for which the Time of Formal Award (as defined in Rule G–34(a)(ii)(C)(1)(a)) is more than 30 calendar days after the date the amendments are approved by the SEC. For the proposed amendments to Rule G–12, the MSRB requested that the amendments become effective for secondary market trading accounts formed more than 30 days after the date the amendments are approved by the SEC. A full description of the proposal is contained in the Commission's Notice.

As previously noted, the Commission received one comment letter relating to the proposed rule change.[6] The RBDA generally supported the spirit of the MSRB's proposal and applauded the MSRB for acting to reduce risks faced by syndicate members, but expressed concern about the proposed amendments to Rule G–11(j). The RBDA supported the proposal to amend Rule G–11(i) to reduce the time period for closing syndicate accounts to 30 calendar days following the date the issuer delivers the securities to the syndicate and also supported the proposed amendment to Rule G–12(i) to reduce the time to close joint or similar accounts—secondary market trading accounts—to 30 calendar days following the date all securities have been delivered by the account manager to the account members. However, the RBDA believes that the proposed amendments to Rule G–11(j) related to payments of designations imposing a deadline of two business days for submissions of designations and 10 calendar days for payments of designations is too short and would create undue burdens for both syndicate members and managers. The RBDA recommended that the MSRB maintain the current 30-day deadline for the payments of designations.

The MSRB stated in its Response Letter that the proposed amendments to Rule G–11(j) are intended to reduce the exposure of co-managers to the credit risk of the senior manager. The MSRB noted that in most underwriting syndicates, a large percentage of the syndicate profits are distributed as payments for designations. The MSRB believes that the shorter time periods are reasonable and that any administrative burdens associated with the changes are more than outweighed by the significant reduction in credit risk to co-managers, especially in the case of smaller firms. Accordingly, the MSRB did not propose to modify the proposal.

The Commission has carefully considered the proposed rule change, the comment letter received, and the MSRB's response to the comment letter and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB[7] and, in particular, the requirements of Section 15B(b)(2)(C) of the Act[8] and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Act requires, among other things, that the MSRB's rules 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.[9] In particular, the Commission finds that the proposed rule change is consistent with the Act because it will further the free and open market in municipal securities by reducing the exposure of dealers to the potential deterioration of the credit of syndicate managers during the period prior to settlement of syndicate accounts and by providing a comparable rule for the settlement of secondary market trading accounts. The proposed amendments will become effective on the dates requested by the MSRB.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–MSRB–2009–12), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 60487 (Aug. 12, 2009), 74 FR 41771 (August 18, 2009) (''Commission's Notice'').

[4] *See* letter from Michael Decker and Mike Nicholas, Co-Chief Executive Officers, Regional Bond Dealers Association (''RBDA''), dated September 8, 2009.

[5] *See* letter from Margaret C. Henry, Associate General Counsel, MSRB, to Elizabeth M. Murphy, Secretary, SEC, dated September 22, 2009 (''Response Letter'').

[6] *See supra* note 4.

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78o–4(b)(2)(C).

[9] *Id.*

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60722; File No. SR–FINRA–2009–063]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend to November 30, 2010, the Implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

September 25, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 21, 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 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,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is

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

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

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 to November 30, 2010, the implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps) on an interim pilot program basis, and to make minor technical changes. FINRA Rule 4240, as approved by the SEC on May 22, 2009, will expire on September 25, 2009. The rule implements an interim pilot program with respect to margin requirements for transactions in credit default swaps executed by a member (regardless of the type of account in which the transaction is booked), including those in which the offsetting matching hedging transactions are effected by the member in credit default swap contracts that are cleared through the central counterparty clearing services of the Chicago Mercantile Exchange.

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

On May 22, 2009, the Commission approved FINRA Rule 4240,[4] which implements an interim pilot program (the ''Interim Pilot Program'') with respect to margin requirements for transactions in credit default swaps (''CDS'') executed by a member (regardless of the type of account in which the transaction is booked), including those in which the offsetting matching hedging transactions are effected by the member in credit default swap contracts that are cleared through the central counterparty clearing services of the Chicago Mercantile Exchange (''CME''). As originally approved by the Commission, the rule will expire on September 25, 2009.

As explained in the Approval Order, FINRA Rule 4240 is intended to be coterminous with certain Commission actions intended to address concerns arising from systemic risk posed by CDS, including, among others, risks to the financial system arising from the lack of a central clearing counterparty to clear and settle CDS.[5] Recently, the Commission has determined to extend the period for which certain of these actions are in effect.[6] FINRA believes it is appropriate to extend the implementation of the Interim Pilot Program accordingly, to November 30, 2010. In addition, FINRA is proposing a minor technical correction to FINRA Rule 4240.01(a).[7]

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately. The proposed rule change will expire on November 30, 2010.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] 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 will further the purposes of the Act because, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, the margin requirements set forth by the proposed rule change will help to stabilize the financial markets.

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

The Commission, in approving the Interim Pilot Program on an accelerated basis, solicited comment on the original proposed rule change that established the program.[9] That comment period ended on June 18, 2009. The Commission received one comment.[10] The commenter raised concerns regarding Federal agency action with respect to regulation of CDS. FINRA declines to respond to those comments as beyond the scope of the proposed rule change.

In addition, FINRA received one letter in response to the *Regulatory Notice*[11] announcing the Commission's approval of the original rule change establishing the Interim Pilot Program.[12] SIFMA suggested that, while the adoption of a margin rule for CDS addresses an important regulatory issue, there are certain other obstacles to broker-dealers engaging in transactions in CDS, among other derivative instruments. While FINRA views this comment as generally beyond the scope of the proposed rule change, FINRA welcomes further substantive dialogue on this issue. SIFMA also sought clarification as to

[4] *See* Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Approval of Proposed Rule Change; File No. SR–FINRA–2009–012) (''Approval Order'').

[5] *See* 74 FR 25588 through 25589. In early 2009 the Commission enacted interim final temporary rules (the ''interim final temporary rules'') providing enumerated exemptions under the Federal securities laws for certain CDS to facilitate the operation of one or more central clearing counterparties in such CDS. *See* Securities Act Release No. 8999 (January 14, 2009), 74 FR 3967 (January 22, 2009) (Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps). *See also* Securities Exchange Act Release No. 59578 (March 13, 2009), 74 FR 11781 (March 19, 2009) (Order Granting Temporary Exemptions in Connection with Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, LLC Related to Central Clearing of Credit Default Swaps); Securities Exchange Act Release No. 59165 (December 24, 2008), 74 FR 133 (January 2, 2009) (Order Granting Temporary Exemptions for Broker-Dealers and Exchanges Effecting Transactions in Credit Default Swaps).

[6] *See* Securities Act Release No. 9063 (September 14, 2009) (Extension of Temporary Exemptions for Eligible Credit Default Swaps).

[7] *See* Exhibit 5.

[8] 15 U.S.C. 78*o*–3(b)(6).

[9] *See* Approval Order, *supra* note 4.

[10] Letter from Gary De Waal, Senior Managing Director and Group General Counsel, Newedge USA, LLC, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated June 18, 2009, available at: *http://www.sec.gov/rules/sro/finra.shtml.*

[11] *See Regulatory Notice* 09–30 (June 2009) (Credit Default Swaps).

[12] Letter from Daniel McIsaac, Chair, Capital Steering Committee, Securities Industry and Financial Markets Association, to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated August 3, 2009 (''SIFMA''), available at: *http://www.sifma.org/comments/index.aspx.*

why FINRA Rule 4240 addresses in particular CDS transactions that are cleared using the central counterparty clearing facilities of the CME. In response, FINRA notes that, as explained in the Approval Order, the CME requested that FINRA adopt customer margin rules for CDS and suggested a specific customer margin methodology that could be employed.[13] FINRA performed an analysis of the margin methodology suggested by CME, as well as the alternative methodology set forth in Rule 4240(c)(2), prior to proposing Rule 4240. The Approval Order further noted that FINRA will consider proposals it receives from CDS central clearing counterparties in addition to the CME to amend the customer margin rules for CDS and, if appropriate, will propose changes to such rules.

SIFMA suggested certain changes to the margin requirements set forth in FINRA Rule 4240. FINRA believes these suggestions are premature and that additional time is needed to make a meaningful determination about whether Rule 4240 should be made permanent and whether certain provisions should be modified and, if so, to what extent. Consequently, at this time, FINRA is only seeking to extend the Interim Pilot Program and make minor technical changes. Lastly, SIFMA requested clarification as to certain net capital requirements and implementation issues, as well as documentation issues discussed in *Regulatory Notice* 09–30. FINRA notes that it will provide further guidance working with the SEC regarding implementation of Rule 4240, as appropriate.

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 [14] and Rule 19b–(f)(6) thereunder.[15]

Normally, a proposed rule change filed under 19b–4(f)(6) may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA requested that the Commission waive the 30-day operative delay, so that the proposed rule change may become operative upon filing. The Commission believes that the earlier operative date is consistent with the protection of investors and the public interest because the proposed rule change permits the Exchange to implement without further delay the extension of its pilot program.[16] This will prevent FINRA Rule 4240 from lapsing. Additionally, the Commission extended the temporary exemptions for eligible credit default swaps and therefore agrees with FINRA that it is appropriate to extend the implementation of the Interim Pilot Program to November 30, 2010.[17]

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
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2009–063 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FINRA–2009–063. 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–FINRA–2009–063 and should be submitted on or before October 22, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

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[13] *See* 74 FR 25589.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

[16] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation.

[17] *See supra* note 6 and accompanying text.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60721; File No. SR–NYSEArca–2009–85]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Commentary .04 to Rule 6.4 Series of Options Open for Trading

September 25, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 23, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange

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

[2] 17 CFR 240.19b–4.