

securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Funds will be subject to the criteria in NYSE Arca Equities Rule 8.200 and Commentary .02 thereto for initial and continued listing of the Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its ETP Holders of the suitability requirements of NYSE Arca Equities Rule 9.2(a) in an Information Bulletin. Specifically, ETP Holders will be reminded in the Information Bulletin that, in recommending transactions in the Shares, they must have a reasonable basis to believe that (a) the recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member, and (b) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the Shares. In connection with the suitability obligation, the Information Bulletin will also provide that members must make reasonable efforts to obtain the following information: (i) The customer's financial status; (ii) the customer's tax status; (iii) the customer's investment objectives; and (iv) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.<sup>21</sup> Further, the Exchange's Information Bulletin regarding the Funds will provide information regarding the suitability of an investment in the Shares, as stated in the Registration Statements.

(5) With respect to the Funds' futures contracts traded on exchanges, not more than 10% of the weight of such futures

<sup>21</sup> FINRA has implemented increased sales practice and customer margin requirements for FINRA members applicable to leveraged ETFs (which include the Shares) and options on leveraged ETFs, as described in FINRA Regulatory Notices 09-31 (June 2009), 09-53 (August 2009) and 09-65 (November 2009) ("FINRA Regulatory Notices"). The Exchange represents that ETP Holders that carry customer accounts will be required to follow the FINRA guidance set forth in these notices.

contracts in the aggregate shall consist of components whose principal trading market is not a member of the Intermarket Surveillance Group or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

(6) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Shares in creation baskets and redemption baskets (and that Shares are not individually redeemable); (c) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the IFV is disseminated; (e) a static IFV will be disseminated between the close of trading of Natural Gas Futures Contracts on NYMEX and the close of the NYSE Arca Core Trading Session; (f) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (g) trading information. In addition, the Information Bulletin will reference the FINRA Regulatory Notices regarding sales practice and customer margin requirements for FINRA members applicable to leveraged products.

(7) A minimum of 100,000 Shares will be outstanding as of the start of trading on the Exchange.

(8) For the initial and continued listing of the Shares, the Funds will be in compliance with NYSE Arca Equities Rule 5.3 and Rule 10A-3 under the Act.

This approval order is based on the Exchange's representations.<sup>22</sup>

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>23</sup> and the rules and

<sup>22</sup> The Commission notes that it does not regulate the market for futures in which the Fund plans to take positions, which is the responsibility of the Commodity Futures Trading Commission ("CFTC"). The CFTC has the authority to set limits on the positions that any person may take in futures. These limits may be directly set by the CFTC or by the markets on which the futures are traded. The Commission has no role in establishing position limits on futures, even though such limits could impact an exchange-traded product that is under the jurisdiction of the Commission.

<sup>23</sup> 15 U.S.C. 78f(b)(5).

regulations thereunder applicable to a national securities exchange.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> that the proposed rule change (SR-NYSEArca-2011-24) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Elizabeth M. Murphy,**

*Secretary.*

[FR Doc. 2011-21175 Filed 8-18-11; 8:45 am]

BILLING CODE 8011-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65137; File No. SR-FINRA-2011-040]

#### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend the Supplementary Material to FINRA Rule 1230(b)(6) (Operations Professional)

August 15, 2011.

On August 12, 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 substantially prepared by FINRA. The Commission is publishing this notice and order to solicit comment on the proposed rule change and approve the proposed rule change on an accelerated basis.

#### I. Description of Proposed Rule Change

FINRA is proposing to amend the supplementary material to FINRA Rule 1230(b)(6) (Operations Professional), FINRA Rule 1230.06 (Scope of Operations Professional Requirement), to clarify the application of the Operations Professional requirements to employees of a foreign broker-dealer whose activities, relating to certain transactions in foreign securities on behalf of a member's customers, as further detailed herein, are limited to facilitating the clearance and settlement of such transactions.

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.

<sup>24</sup> 15 U.S.C. 78s(b)(2).

<sup>25</sup> 17 CFR 200.30-3(a)(12).

## 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 June 16, 2011, the Commission approved SR-FINRA-2011-013, which adopted FINRA Rule 1230(b)(6) (Operations Professional), and its accompanying supplementary material in FINRA Rule 1230.06 (Scope of Operations Professional Requirement), to establish a registration category and qualification examination requirement for certain operations personnel (Operations Professionals).<sup>1</sup> FINRA Rule 1230(b)(6), and its accompanying supplementary material in FINRA Rule 1230.06, takes effect on October 17, 2011.<sup>2</sup>

Questions have been raised regarding the application of the Operations Professional requirements to employees of a foreign broker-dealer whose activities, relating to certain transactions in foreign securities on behalf of a member's customers, are limited to facilitating the clearance and settlement of such transactions. These arrangements between the member and the foreign broker-dealer involve transactions in foreign securities to be executed by the foreign broker-dealer on the foreign market, where the foreign broker-dealer accepts the member's customer's instructions to settle the transactions on a DVP/RVP basis through the foreign clearing system and settle directly with the customer's custodian.

To provide clarification with respect to the application of FINRA Rule

1230(b)(6) to such arrangements, the proposed rule change would amend supplementary material .06 to FINRA Rule 1230(b)(6) to provide that an employee of a foreign broker-dealer whose activities, relating to a transaction in foreign securities on behalf of a customer of a member, are limited to facilitating the clearance and settlement of the transaction shall not be required to register as an Operations Professional pursuant to FINRA Rule 1230(b)(6)(A) where: (1) The member sending the order for a transaction in foreign securities on behalf of the customer to the foreign broker-dealer is not a direct participant of the applicable foreign clearing system; and (2) in executing such order in the foreign market, the foreign broker-dealer accepts the member's customer's instructions to settle the transaction in foreign securities on a DVP/RVP basis through the foreign clearing system and settle directly with a custodian for the customer.<sup>3</sup>

The effective date of the proposed rule change will be October 17, 2011, the effective date of FINRA Rule 1230(b)(6) (Operations Professional) and its accompanying supplementary material in FINRA Rule 1230.06 (Scope of Operations Professional Requirement).

#### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>4</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 the proposed rule change would provide clarification in response to questions raised regarding the application of the Operations Professional requirements to employees of a foreign broker-dealer facilitating the clearance and settlement of certain transactions in foreign securities on behalf of a member's customers pursuant to the arrangements described above.

### 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. Commission's Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to FINRA and, in particular, the requirements of Section 15A of the Act<sup>5</sup> and the rules and regulations thereunder.

FINRA has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act<sup>6</sup> for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. The Commission finds good cause, pursuant to Section 19(b)(2), for approving the proposed rule change prior to the 30th day after publication of notice of the filing in the **Federal Register**. The proposed rule change is intended to clarify the scope of application of FINRA's Rule 1230(b)(6), which rule comes into effect on October 17, 2011.<sup>7</sup> By accelerating the approval of the proposed rule, and allowing it to become effective on October 17, 2011, the Commission can eliminate uncertainty about the rule's applicability to the persons who are the subject of this interpretation, improve the ability of FINRA members to plan accordingly for the upcoming compliance date of Rule 1230(b)(6), and avoid undue burdens associated with preparing for the registration of persons who will not be required to register under this interpretation.<sup>8</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:

<sup>1</sup> See Securities Exchange Act Release No. 64687 (June 16, 2011), 76 FR 36586 (June 22, 2011) (Order Approving Proposed Rule Change; File No. SR-FINRA-2011-013). This rule change also established continuing education requirements for Operations Professionals and adopted NASD Rule 1120 (Continuing Education Requirements) as FINRA Rule 1250 (Continuing Education Requirements) in the consolidated FINRA rulebook with certain changes.

<sup>2</sup> See *Regulatory Notice* 11-33 (July 2011).

<sup>3</sup> We are approving this rule change as it addresses the application of FINRA Rule 1230(b)(6) to the fact pattern described above. No statement in the proposed rule or this order otherwise affects the Commission's interpretation of any provision of the Securities Exchange Act of 1934, or any rule thereunder, including Rule 15c3-3 (17 CFR 240.15c3-3).

<sup>4</sup> 15 U.S.C. 78o-3(b)(6).

<sup>5</sup> 15 U.S.C. 78o-3.

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> See *Regulatory Notice* 11-33 (July 2011) (Operations Professionals).

<sup>8</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

*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-2011-040 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-2011-040. 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 website (<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 website 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 available publicly. All submissions should refer to File Number SR-FINRA-2011-040 and should be submitted on or before September 9, 2011.

**V. Conclusion**

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-FINRA-2011-040) is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Elizabeth M. Murphy**,  
Secretary.

[FR Doc. 2011-21176 Filed 8-18-11; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-64892A; File No. SR-FINRA-2011-034]

**Self-Regulatory Organizations;  
Financial Industry Regulatory  
Authority, Inc.; Notice of Filing and  
Order Granting Accelerated Approval  
of Proposed Rule Change To Amend  
FINRA Rule 4240 (Margin  
Requirements for Credit Default  
Swaps); Correction**

August 15, 2011.

FR Doc. No. 2011-18221, beginning on page 43360 for Wednesday, July 20, 2011, contained an error. Release No. 34-64892 ("Release") approved a proposed rule change on an accelerated basis filed by FINRA (File No. SR-FINRA-2011-034). Section V of the Release was inadvertently omitted. Accordingly, the conclusion of the Release is added to read as noted below. On page 43363, column 1, following line 6, insert:

**"V. Conclusion**

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>1</sup> that the proposed rule change (SR-FINRA-2011-034), be, and hereby is, approved on an accelerated basis."

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>2</sup>

**Elizabeth M. Murphy**,  
Secretary.

[FR Doc. 2011-21190 Filed 8-18-11; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[File No. 500-1]

**Auriga Laboratories, Inc., Curon  
Medical, Inc., Goldstate Corp.,  
OneWorld Systems, Inc., and  
PracticeXpert, Inc.; Order of  
Suspension of Trading**

August 17, 2011.

It appears to the Securities and Exchange Commission that there is a

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(2).

<sup>2</sup> 17 CFR 200.30-3(a)(12).

lack of current and accurate information concerning the securities of Auriga Laboratories, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Curon Medical, Inc. because it has not filed any periodic reports since the period ended June 30, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Goldstate Corp. because it has not filed any periodic reports since the period ended March 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of OneWorld Systems, Inc. because it has not filed any periodic reports since the period ended December 31, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of PracticeXpert, Inc. because it has not filed any periodic reports since the period ended June 30, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on August 17, 2011, through 11:59 p.m. EDT on August 30, 2011.

By the Commission.

**Elizabeth M. Murphy**,  
Secretary.

[FR Doc. 2011-21336 Filed 8-17-11; 4:15 pm]

**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #12734 and #12735]

**Iowa Disaster #IA-00035**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Iowa Dated.

*Incident:* Severe Storms and Flash Flooding.

*Incident Period:* 07/27/2011 through 07/28/2011.

<sup>9</sup> 15 U.S.C. 78s(b)(2).