II. Notice of Commission Action

The Commission establishes Docket No. CP2016–19 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than November 19, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–19 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than November 19, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2015–29399 Filed 11–17–15; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–18; Order No. 2811]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an additional Global Expedited Package Services 3 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* November 19, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On November 10, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a redacted copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2016–18 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than November 19, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–18 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than November 19, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, November 10, 2015 (Notice).

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2015–29398 Filed 11–17–15; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76430; File No. SR–FINRA–2015–029]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change To Adopt FINRA Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions), as Modified by Partial Amendment No. 1, in the Consolidated FINRA Rulebook

November 12, 2015.

I. Introduction

On July 31, 2015, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a new, consolidated rule addressing accounts opened or established by associated persons of members at firms other than the firm with which they are associated.

The proposed rule change was published for comment in the **Federal Register** on August 14, 2015.[3] On September 22, 2015, FINRA extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to November 12, 2015. The Commission received four comment letters in response to the proposed rule change.[4]

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

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Rel. No. 75655 (Aug. 10, 2015), 80 FR 48941 (Aug. 14, 2015) (File No. SR–FINRA–2015–029) (''Notice'').

[4] *See* Letters from Eric Arnold and Clifford Kirsch, Sutherland Asbill & Brennan LLP (for the Committee of Annuity Insurers), dated September 4, 2015 (''Sutherland Letter''); Michael J. Hogan, President and Chief Executive Officer, FOLIO*fn* Investments, Inc., dated September 4, 2015 (''FOLIO*fn* Letter''); Joseph C. Peiffer, President, Public Investors Arbitration Bar Association (''PIABA''), dated September 3, 2015 (''PIABA Letter''); and Kevin Zambrowicz, Associate General Counsel & Managing Director, and Stephen Vogt, Assistant Vice President & Assistant General Counsel, Securities Industry and Financial Markets

On November 10, 2015, FINRA responded to the comments and filed Partial Amendment No. 1 to the proposal.[5] The Commission is publishing this order to solicit comments on Partial Amendment No. 1 from interested persons and to institute proceedings pursuant to Exchange Act Section 19(b)(2)(B)[6] to determine whether to approve or disapprove the proposed rule change, as modified by Partial Amendment No. 1.

Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the proposed rule change, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as discussed below, the Commission seeks additional input on the proposed rule change, as modified by Partial Amendment No. 1, and issues presented by the proposal.

II. Description of the Proposed Rule Change[7]

As part of the process of developing a new consolidated rulebook (''Consolidated FINRA Rulebook''),[8] FINRA is proposing to adopt new FINRA Rule 3210 (Accounts at Other Broker-Dealers and Financial Institutions) in the Consolidated FINRA Rulebook, and to delete NASD Rule 3050, Incorporated New York Stock Exchange (''NYSE'') Rules 407 and 407A, and Incorporated NYSE Rule Interpretations 407/01 and 407/02.[9]

A. Current NASD Rule 3050

Current NASD Rule 3050 provides a means to inform member firms about transactions effected by their associated persons in accounts established outside the firm. This information gives members an opportunity to weigh the effect these accounts may have on the firm and its customers.[10] The rule imposes specified obligations on member firms and associated persons, including:

• *Obligations of Member Firms:* NASD Rule 3050(a) requires that a member (called an ''executing member'') that knowingly executes a transaction for the purchase or sale of a security for the account of a person associated with another member (called an ''employer member''), or for any account over which the associated person has discretionary authority, must use reasonable diligence to determine that the execution of the transaction will not adversely affect the interests of the employer member. NASD Rule 3050(b) requires that, when an executing member knows that a person associated with an employer member has or will have a financial interest in, or discretionary authority over, any existing or proposed account carried by the executing member, the executing member must:

(1) Notify the employer member in writing, prior to the execution of a transaction for the account, of the executing member's intention to open or maintain that account;

(2) upon written request by the employer member, transmit duplicate copies of confirmations, statements, or other information with respect to the account; and

(3) notify the person associated with the employer member of the executing member's intention to provide the notice and information required by (1) and (2), above.

• *Obligations of Associated Persons:* Associated persons who: (1) Open securities accounts or place securities orders through (a) a member firm other than their employer, or (b) other financial institution that is not a FINRA member, and (2) have a financial interest in, or discretionary authority over, such accounts or orders[11] must comply with the following:

(1) NASD Rule 3050(c) requires that a person associated with a member, prior to opening an account or placing an initial order for the purchase or sale of securities with another member, must notify both the employer member and the executing member, in writing, of his or her association with the other member. The rule also provides that if the account was established prior to the person's association with the employer member, the person must notify both members in writing promptly after becoming associated; and

(2) NASD Rule 3050(d) provides that if the associated person opens a securities account or places an order for the purchase or sale of securities with a broker-dealer that is registered pursuant to Exchange Act Section 15(b)(11) (a notice-registered broker-dealer), a domestic or foreign investment adviser, bank, or other financial institution (*i.e.,* firms that are not FINRA members), then he or she must: (i) Notify his or her employer member in writing, prior to the execution of any initial transactions, of the intention to open the account or place the order; and (ii) upon written request by the employer member, request in writing and assure that the notice-registered broker-dealer, investment adviser, bank, or other financial institution provides the employer member with duplicate copies of confirmations, statements, or other information concerning the account or order. NASD Rule 3050(d) also provides that if an account subject to Rule 3050(d) was established prior to the person's association with the member, the person must comply with the rule promptly after becoming associated.

In addition, NASD Rule 3050(f) provides that the requirements of Rule 3050 do not apply to transactions in unit investment trusts and variable contracts or redeemable securities of companies registered under the Investment Company Act of 1940 (''Investment Company Act''), or to accounts which are limited to transactions in such securities.

B. Current NYSE Rules 407 and 407A

The purpose of NYSE Rule 407 is similar to the purpose of FINRA Rule 3050—to provide member firms information about transactions effected by their associated persons in accounts established outside their firm. According to FINRA, the NYSE and NASD rules are similar with some variations, including:

• NYSE Rule 407(a) is similar to NASD Rule 3050(b), except that Rule 407(a) requires that an executing member receive an employer member's prior written consent before: (1) Opening a securities or commodities account, or (2) executing any transaction in which a member or employee associated with another member or member organization is directly or indirectly interested. The rule also requires that duplicate confirmations and account statements be sent promptly to the employer.

• NYSE Rule 407(b) is similar to NASD Rules 3050(c) and (d), except that Rule 407(b) generally requires that associated persons who: (1) Establish or maintain a securities or commodities account, or enter into a securities transaction at (a) another member firm, or (b) a domestic or foreign non-member

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Association, dated September 3, 2015 (''SIFMA Letter'').

[5] *See* Letter from Patrice Gliniecki, Senior Vice President and Deputy General Counsel, FINRA, to the Commission, dated November 10, 2015 (''FINRA Response Letter''). The FINRA Response Letter and the text of Partial Amendment No. 1 are 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.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] The proposed rule change, as described in this Item II, is excerpted, in part, from the Notice, which was substantially prepared by FINRA. *See supra* note 3.

[8] The current FINRA rulebook consists of: (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (''Incorporated NYSE Rules''). *See supra* note 3.

[9] For convenience, the Incorporated NYSE Rules are referred to as the ''NYSE Rules.''

[10] *See* Exchange Act Release No. 4924 (Aug. 21, 1953); *see also supra* note 3.

[11] *See* NASD Rule 3050(e).

broker-dealer, investment adviser, bank, or other financial institution,[12] and (2) have a financial interest in, or discretionary authority over, such accounts or transactions must obtain the employer firm's prior written consent. The rule also requires that persons having accounts or effecting transactions as covered by the rule must arrange for duplicate confirmations and statements (or their equivalents) to be sent to the employer firm. The rule further requires that all such accounts and transactions must periodically be reviewed by the employer member.

• NYSE Rule 407.12 is similar to NASD Rule 3050(f), except that Rule 407.12 excepts the specified transactions and accounts (*i.e.*, transactions in unit investment trusts and variable contracts or redeemable securities of companies registered under the Investment Company Act, or to accounts which are limited to transactions in such securities, or to monthly investment plan type accounts) only from the obligation to send duplicate confirmations and statements unless requested by the employer.

In addition, NYSE Rule 407A (Disclosure of All Member Accounts) requires members to promptly report to the NYSE any securities account (including accounts at a member or non-member broker-dealer, investment adviser, bank or other financial institution), in which the member has a financial interest or the power to make investment decisions. NYSE Rule 407A also requires a member having such an account to notify the financial institution that carries or services the account that it is a member of the NYSE. In addition, the rule requires that members report to the NYSE when any such securities account is closed. FINRA states that ''[t]hese reporting requirements were designed to provide the NYSE with current information about where floor members carry securities accounts.'' [13]

NYSE Rule Interpretation 407/01 addresses the process for determining whether the account of a spouse of an associated person should be subject to NYSE Rule 407.

NYSE Rule Interpretation 407/02 provides that NYSE Rule 407(b) applies when an associated person is also a majority stockholder of a non-public corporation that wishes to open a discretionary margin account at another member.

[12] NYSE Rule 407.13 states that, for purposes of the rule, the term ''other financial institution'' includes, but is not limited to, insurance companies, trust companies, credit unions, and investment companies.

[13] *See supra* note 3.

C. Proposed New FINRA Rule 3210 [14]

Proposed FINRA Rule 3210(a) would require an associated person to obtain his or her employer firm's prior written consent before opening or otherwise establishing an account in which securities transactions can be effected and in which the associated person has a beneficial interest at a member other than the employer member (*i.e.*, executing member), or at any other financial institution.[15] Proposed FINRA Rule 3210.02 would deem the associated person to have a beneficial interest in any account that is held by: (a) The spouse of the associated person; (b) a child of the associated person or of the associated person's spouse, provided that the child resides in the same household as or is financially dependent upon the associated person; (c) any other related individual over whose account the associated person has control; or (d) any other individual over whose account the associated person has control and to whose financial support the associated person materially contributes. Notably, the proposal would ''[eliminate] the language in the current rules that references accounts or transactions where the associated person has 'the power, directly or indirectly, to make investment decisions,' as set forth in NYSE Rule 407(b), and accounts where the associated person has 'discretionary authority,' as set forth in NASD Rule 3050(b).'' [16]

Proposed FINRA Rule 3210(b) would require an associated person to provide written notice to the executing member, or other financial institution, of his or her association with the employer member prior to opening or otherwise establishing an account subject to the rule.

Proposed FINRA Rule 3210(c) would require an executing member, upon written request by the employer member, to transmit duplicate copies of confirmations and statements, or the transactional data contained therein, with respect to an account subject to the rule.

Proposed FINRA Rule 3210.01 would require an associated person to obtain the written consent of the employer member, within 30 calendar days of becoming so associated, to maintain an account that was opened or otherwise established prior to the person's association with the employer member. The proposed rule also would require the associated person to notify in writing the executing member or other financial institution of his or her association with the employer member.

Proposed FINRA Rule 3210.03 states that proposed FINRA Rule 3210(c) (discussed above) would not apply to transactions in unit investment trusts, municipal fund securities as defined under MSRB Rule D–12, qualified tuition programs pursuant to Section 529 of the Internal Revenue Code, and variable contracts or redeemable securities of companies registered under the Investment Company Act, as amended, or to accounts that are limited to transactions in such securities, or to monthly investment plan type accounts.

Proposed FINRA Rule 3210.04 would require an employer member to consider the extent to which it will be able to obtain, upon written request, duplicate copies of confirmations and statements, or the transactional data contained therein, directly from the non-member financial institution in determining whether to provide its written consent to an associated person to open or maintain an account subject to the rule at a financial institution other than a member.

D. Partial Amendment No. 1

In its amendment, FINRA is proposing to amend proposed FINRA Rule 3210.03 to exclude from the requirements of FINRA Rule 3210 transactions in unit investment trusts, municipal fund securities as defined under MSRB Rule D–12, qualified tuition programs pursuant to Section 529 of the Internal Revenue Code, and variable contracts or redeemable securities of companies registered under the Investment Company Act, as amended, or to accounts that are limited to transactions in such securities, or to monthly investment plan type accounts.

This proposed amendment would establish a rebuttable presumption that an associated person has a beneficial interest in an account held by an individual listed in proposed Rule 3210.02(a)–(d). Specifically, the proposal would state that for purposes of Rule 3210, an associated person would be presumed (not deemed) to have a beneficial interest in any account that is held by an individual listed in Rule 3210.02(a)–(d). Further, the amendment to proposed Rule 3210.02(a) would require that in order for an

[14] The description in this section describes the proposed rules change prior to the proposed amendments, which are described below.

[15] Based on NYSE Rule 407.13 and NASD Rule 3050(d), proposed FINRA Rule 3210.05 provides that the terms ''other financial institution'' and ''financial institution other than a member'' include, but are not limited to, any broker-dealer that is registered pursuant to Exchange Act Section 15(b)(11), domestic or foreign non-member broker-dealer, investment adviser, bank, insurance company, trust company, credit union, and investment company.

[16] *See supra* note 3.

associated person to be presumed to have a beneficial interest in an account held by his or her spouse, the spouse must ''[reside] in the same household as the associated person.'' Moreover, amendment to proposed FINRA Rule 3210.02 would state that an associated person could overcome the presumption of beneficial interest in an account by ''[demonstrating], to the satisfaction of the employer member, that the associated person derives no economic benefit from the account.''

The text of the proposed rule change, as amended, is available, at the principal office of FINRA, on FINRA's Web site at *http://www.finra.org*, and at the Commission's Public Reference Room. In addition, you may also find a more detailed description of the original proposed rule change in the Notice.[17]

III. Summary of Comments

As noted above, the Commission received four comment letters on the proposed rule change. Two commenters generally expressed support for FINRA's proposal.[18] The other two commenters did not support the proposed rule.[19] All four commenters recommended amendments to the proposal. FINRA also responded to the comments.

A. Receipt of Duplicate Confirmations and Account Statements

One commenter stated that despite specifying that an employing firm is ''responsible for supervising its broker's trading activities,'' the proposal only requires an executing member to provide duplicate account documents (with respect to an account subject to the rule) upon written request by the employer member.[20] This commenter recommended that FINRA amend the proposal to require the employing firm to obtain these confirmations and statements from the executing firm so that the employing firm has sufficient information available for its supervisory personnel to monitor associated persons' outside trading activity.[21]

Similarly, this commenter stated its view that the proposed requirement for an employing firm to consider the extent to which it would be able to obtain duplicate account documents in determining whether to consent to an associated person opening or maintaining an account with a non-member financial institution would be ineffective.[22] This commenter recommended that FINRA amend the rule to require that duplicate copies of monthly statements and confirmations or the equivalent be available for the employing firm's review as a precondition to the opening of outside accounts.[23]

In its response, FINRA stated that the proposed requirement to transmit duplicate account documents ''upon written request'' by the employer member is intended to provide employer members reasonable flexibility to craft appropriate supervisory policies and procedures according to their business model and the risk profile of their activities.[24] Similarly, FINRA stated that with respect to accounts at non-member institutions the approach reflected in the proposal rule should permit employer members the flexibility they need to carry out their supervisory responsibilities under FINRA rules.[25] FINRA believes that specifying preconditions for such accounts would negate the flexibility the rule aims to achieve.[26]

Accordingly, FINRA declined to make the suggested changes.

B. Non-Member Accounts

One commenter stated its view that in trying to provide FINRA members greater flexibility in determining whether to consent to an associated person opening or maintaining an account at non-member financial institutions, the proposal focuses too much on only one element of the analysis (*i.e.*, duplicate statements).[27] This commenter believes that the proposal would be made easier to implement from a supervisory and operational standpoint if FINRA uses ''principles based'' language in Proposed FINRA Rule 3210.04.[28] Accordingly, the commenter recommended that FINRA amend the proposal to provide that if a firm decides to permit accounts of its associated persons to be opened and maintained at an outside institution, the firm must, at a minimum, determine that the account activity can be properly monitored pursuant to the requirements of Rule 3110(d).[29]

In its response, FINRA stated that the proposal is sufficient to imply, in light of the supervisory obligations that apply to all members, that members will consider whether activity in the account can be properly monitored when determining whether to provide their written consent to an associated person to open or maintain an account at a non-member financial institution.[30] In addition, FINRA reminded its members that the rule in no way lessens the breadth and scope of members' supervisory obligations.[31] Accordingly, FINRA declined to make the suggested changes.

C. Discretionary Accounts

One commenter recommended that FINRA maintain the requirement that brokers obtain prior written consent from their employing firm before opening discretionary accounts for customers at other firms.[32] The commenter believes that knowledge of the opening of these types of accounts allows employing members to take appropriate steps to supervise outside trading activity.[33]

In its response, FINRA stated that the proposal is designed to demarcate more clearly the respective scope of FINRA Rule 3210, which is meant to address monitoring of personal and related accounts, versus FINRA Rule 3280, which addresses private securities transactions.[34] Specifically, FINRA stated that to the extent associated persons make investment decisions or have discretionary authority in contexts that involve private securities transactions within the scope of FINRA Rule 3280, then such transactions are subject to that rule's provisions.[35] Accordingly, FINRA declined to make the suggested change.

D. Accessing Transactional Data

Two commenters expressed concern that the proposed rule change would limit the methods that an employer firm could use to receive and, consequently, access transactional data.[36] One commenter stated its view that by requiring transactional data to be ''transmitted'' to the employer firm, FINRA unintentionally restricts the various ways by which employer firms can have access to the transactional data.[37] Accordingly, this commenter recommended that FINRA amend the proposal to leave it up to the executing firm to decide, in considering its business model and technical sophistication, how to best make

[17] *See supra* note 3.
[18] *See* SIFMA Letter and FOLIO*fn* Letter.
[19] *See* PIABA Letter and Sutherland Letter.
[20] *See* PIABA Letter.
[21] *Id.*
[22] *Id.*
[23] *Id.*
[24] *See* FINRA Response Letter.
[25] *Id.*
[26] *Id.*
[27] *See* SIFMA Letter.
[28] *Id.*
[29] *Id.*
[30] *See* FINRA Response Letter.
[31] *Id.*
[32] *See* PIABA Letter.
[33] *Id.*
[34] *See* FINRA Response Letter.
[35] *Id.*
[36] *See* FOLIOfn Letter and SIFMA Letter.
[37] *See* FOLIOfn Letter.

available the information.[38] Similarly, the other commenter recommended that FINRA amend the proposal to state that an employing member may satisfy its obligations under the proposal by receiving transactional data through automated means, such as electronic data feeds, in lieu of receiving hardcopy or imaged confirmations and statements.[39]

In its response, FINRA stated that it did not intend to specify any particular methodology as to transmission of the specified information.[40] FINRA also stated that it believes that the proposed rule change is sufficiently broad by its terms to permit members all reasonable flexibility as to the manner of obtaining and reviewing the specified information, whether by hard copy or electronic means.[41] Accordingly, FINRA declined to make the suggested changes.

E. Definition of ''Beneficial Interest''

Two commenters recommended that FINRA amend proposed Rule 3210.02 to revise the proposed definition of ''beneficial interest.'' [42] One commenter stated its view that presuming beneficial interest in any account held by the spouse of an associated person (and other familial relationships) is overly broad.[43] Instead, the commenter recommended that FINRA amend the proposed definition to apply only when and if an associated person has control over an account.[44]

Similarly, the other commenter stated its view that including all spousal accounts in the list of accounts in which an associated person is deemed to have a beneficial interest is overly broad and costly.[45] In particular, the commenter stated that it is not uncommon for spouses to maintain completely separate financial lives.[46] Accordingly, the commenter suggested that FINRA amend the definition of beneficial interest to apply to the spouse of the associated person, provided that the spouse resides in the same household as the associated person and that the associated person has control over such account.[47]

In its response, FINRA stated that it is aware of the potential difficulties that could arise with respect to spouse accounts as proposed in the original filing.[48] Accordingly, FINRA proposes in Partial Amendment No. 1 to amend to proposed Rule 3210.02 to: (1) State that for purposes of Rule 3210, an associated person would be presumed (not deemed) to have a beneficial interest in any account that is held by an individual listed in Rule 3210.02(a)–(d); (2) require that in order for an associated person to be presumed to have a beneficial interest in an account held by his or her spouse, the spouse must ''[reside] in the same household as the associated person;'' and (3) state that an associated person could overcome the presumption of beneficial interest in an account by ''[demonstrating], to the satisfaction of the employer member, that the associated person derives no economic benefit from the account.'' FINRA believes that these changes would address commenters' concerns regarding the potential issues that could be posed by different family circumstances.[49] In addition, FINRA believes that where a spouse resides with the associated person, it serves a legitimate purpose that there should be a presumption that the spouse's accounts are subject to the rule, regardless of whether the associated person exercises control.[50] However, FINRA also believes that the proposed rebuttable presumption would afford adequate flexibility for employer members to exclude accounts that pose little or no supervisory risk.[51]

F. Application of the Proposed Rule

1. Prospective Application

One commenter argued that proposed Rules 3210(a) (the consent requirement) and 3210(b) (the notice requirement) should not apply to accounts already opened by associated persons with executing members before the proposed rule's compliance date.[52] The commenter requested that FINRA confirm that these requirements would only apply to associated persons who open accounts after the compliance date.[53]

In response, FINRA clarified in Partial Amendment No. 1 that proposed Rules 3210(a) and 3210(b) would apply to accounts that an associated person opens or otherwise establishes on or after the proposed new rule's implementation date.[54] FINRA also stated, however, that if the associated person has an existing account prior to his or her association with an employer member, proposed FINRA Rule 3210.01 would apply, without regard to when the account was opened, whenever the associated person enters into a new association with a member.[55]

2. 30-Day Notice for Existing Accounts

One commenter argued that requiring an employing firm to consent to accounts established by an associated person prior to his or her association with the firm within 30-day (pursuant to proposed FINRA Rule 3210.01) might raise operational, supervisory, and related challenges.[56] Accordingly, the commenter recommended that FINRA amend the rule to require that within 30 calendar days of becoming so associated, the associated person shall notify in writing the executing member or other financial institution of his or her association with the employer member and seek written consent of the employer member to maintain the account.[57]

In its response, FINRA disagreed with the commenter and stated that it believes that employer members should be able to make a determination within the 30-day period.[58] Accordingly, FINRA declined to make the suggested change.

G. Exemptions for Certain Account Transactions

1. Exemption From Providing Transaction Data

One commenter recommended that FINRA amend proposed Rule 3210.03 to exempt transactions in all insurance contracts that are securities from the requirement that an executing member must provide the employing member with duplicate account confirmations and statements. The commenter argued that all insurance contracts that are securities are substantially similar to ''variable contracts'' that would be exempted under proposed Rule 3210.03, and therefore also pose limited risk with respect to the need to oversee associated persons accounts.[59]

In its response, FINRA stated that the original proposal added to the exemption products that are clearly identifiable and bear similarity to and are consistent with the rationale underlying the other products set forth in the rule.[60] FINRA also stated, however, that it is not prepared at this time to broadly except insurance

[38] *Id.*
[39] *See* SIFMA Letter.
[40] *See* FINRA Response Letter.
[41] *Id.*
[42] *See* FOLIOfn Letter and SIFMA Letter.
[43] *See* FOLIOfn Letter.
[44] *Id.*
[45] *See* SIFMA Letter.
[46] *Id.*
[47] *Id.*
[48] *See* FINRA Response Letter.
[49] *Id.*
[50] *Id.*
[51] *Id.*
[52] *See* Sutherland Letter.
[53] *Id.*
[54] *See* FINRA Response Letter.
[55] *Id.*
[56] *See* SIFMA Letter.
[57] *Id.*
[58] *See* FINRA Response Letter.
[59] *See* Sutherland Letter.
[60] *See* FINRA Response Letter.

products from the rule's requirements, but will consider whether further exceptions are appropriate based on the attributes of specific insurance products.[61] Accordingly, FINRA declined to make the suggested change.

2. Exemption From the Notice and Consent Requirements

Two commenters recommended that FINRA also exempt certain transactions (*i.e.,* transactions in unit investment trusts, municipal fund securities, 529 Plans, variable contracts, or mutual fund shares) from the requirement that an associated person must notify the executing member and obtain the prior written consent of the employer member before opening an account.[62] One of these commenters noted that current NASD Rule 3050 provides a complete exemption from all provisions of the rule for the exempted transactions and believes that adoption of the structure under NASD Rule 3050 would more closely track the policy determinations articulated under the proposed rule change and creates less regulatory burden on firms.[63] Similarly, the other commenter reasoned that: (1) Employees have no ability to engage in insider trading or other manipulative practices through these accounts or types of products; (2) firms will incur significant operational and supervisory costs associated with this new requirement without any appreciable investor protection benefits; and (3) not excluding these types of transactions and accounts from the entire rule will have a negative impact on firms' ability to design, implement, and maintain a reasonably designed, risk-based compliance system because firms will be required to direct limited compliance resources to processing notice requests for accounts and transactions that represent little, if any, risk of insider trading or other violative conduct.[64]

In its response, FINRA stated its goal that members not be burdened with information collection where the specified transactions and account types pose limited risk from the standpoint of the rule's supervisory purposes.[65] Accordingly, FINRA proposes in Partial Amendment No. 1 to amend Supplementary Material .03 to provide that the specified transactions and accounts shall not be subject to the requirements of proposed FINRA Rule 3210.[66]

H. Consistency With MSRB Rule G–28

One commenter recommended that, since both FINRA and the Municipal Securities Rulemaking Board (''MSRB'') have rules governing employee transactions, FINRA and the MSRB should work together to develop a uniform standard for the industry.[67]

In its response letter, FINRA stated that it believes that the comment is outside the scope of the proposed rule change.[68]

IV. Proceedings to Determine Whether to Approve or Disapprove SR–FINRA–2015–029 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether the proposed rule change should be approved or disapproved.[69] Institution of proceedings appears appropriate at this time in view of the legal and policy issues raised by the proposal. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the issues presented by the proposed rule change and provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the proposal.

Pursuant to Exchange Act Section 19(b)(2)(B),[70] the Commission is providing notice of the grounds for disapproval under consideration. In particular, Exchange Act Section 15A(b)(6)[71] 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.

The Commission believes FINRA's proposed rule change raises questions as to whether it is consistent with the requirements of Exchange Act Sections 15A(b)(6).

V. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues raised by the proposed rule change, as modified by Partial Amendment No. 1. In particular, the Commission invites the written views of interested persons on whether the proposed rule change, as modified by Partial Amendment No. 1, is inconsistent with Section 15A(b)(6), or any other provision, of the Exchange Act, or the rules and regulations thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.[72]

Interested persons are invited to submit written data, views, and arguments by December 9, 2015 concerning whether the proposed rule change should be approved or disapproved. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by January 4, 2016. 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 email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2015–029 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FINRA–2015–029. This file number should be included on the subject line if email 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

[61] *Id.*

[62] *See* Sutherland Letter and SIFMA Letter.

[63] *See* Sutherland Letter.

[64] *See* SIFMA Letter.

[65] *See* FINRA Response Letter.

[66] *Id.*

[67] *See* SIFMA Letter.

[68] *See* FINRA Response Letter.

[69] 15 U.S.C. 78s(b)(2). Exchange Act Section 19(b)(2)(B) provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. The time for conclusion of the proceedings may be extended for up to an additional 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding or if the self-regulatory organization consents to the extension.

[70] 15 U.S.C. 78s(b)(2)(B).

[71] 15 U.S.C. 78*o*–3(b)(6).

[72] Exchange Act Section 19(b)(2), as amended by the Securities Acts Amendments of 1975, Pub. L. 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principle 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–2015–029 and should be submitted on or before December 9, 2015. If comments are received, any rebuttal comments should be submitted by January 4, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[73]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–29394 Filed 11–17–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76428; File No. SR–NYSEMKT–2015–93]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Discontinue the NYSE MKT Realtime Reference Price Market Data Product Offering

November 12, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on October 30, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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

The Exchange proposes to discontinue the NYSE MKT Realtime Reference Price (''NYSE MKT RRP'') market data product offering. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, 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, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2009, the Securities and Exchange Commission (''Commission'') approved the NYSE MKT RRP market data product and certain fees for it.[4] The NYSE MKT RRP market data product provides, on a real-time basis, last sale prices in all securities that trade on the Exchange. Currently, there are no subscribers to the NYSE MKT RRP market data product. Therefore, the Exchange has determined to discontinue the NYSE MKT RRP market data product. The Exchange also proposes to update the Fee Schedule to remove reference to the NYSE MKT RRP in connection with this change.

The Exchange will announce the date that the NYSE MKT RRP will be decommissioned via an NYSE Market Data Notice.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[5] of the Act, in general, and furthers the objectives of Section 6(b)(5)[6] of the Act, in particular, in that it is 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 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, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange believes that discontinuing NYSE MKT RRP and removing it from the Fee Schedule would remove impediments to and perfect a free and open market by streamlining the Exchange's market data product offerings to include those for which there has been more demand and would provide vendors and subscribers with a simpler and more standardized suite of market data products. The proposal to discontinue NYSE MKT RRP is applicable to all members, issuers and other persons and does not unfairly discriminate between customers, issuers, brokers or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Commission concluded that Regulation NMS—by lessening regulation of the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[7]

[73] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 61144 (December 10, 2009), 74 FR 67275 (December 18, 2009) (SR–NYSEMKT–2009–85).

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

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

[7] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (File No. S7–10–04).