

site at [www.nyse.com](http://www.nyse.com). 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–NYSEARCA–2014–39 and should be submitted on or before May 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71981; File No. SR–FINRA–2014–019]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Amending the Security Futures Risk Disclosure Statement

April 21, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b–4 thereunder, <sup>2</sup> notice is hereby given that on April 8, 2014, 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, II, and III below, which Items have been substantially prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b–4 under the Act, <sup>3</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend the security futures risk disclosure statement (“Statement”).

Below is the text of the proposed supplement to the Statement reflecting amendments to the current Section 5.2

(Settlement by Physical Delivery). The text of the proposed supplement is new.

\* \* \* \* \*

#### *April 2014 Supplement to the Security Futures Risk Disclosure Statement*

The October 2002 Security Futures Risk Disclosure Statement is amended as provided below.

The first paragraph under Section 5.2 (Settlement by Physical Delivery) is replaced with the following paragraph:

Settlement by physical delivery is carried out by clearing brokers or their agents with National Securities Clearing Corporation (NSCC), an SEC-regulated securities clearing agency. Such settlements are made in much the same way as they are for purchases and sales of the underlying security. Promptly after the last day of trading, the regulated exchange’s clearing organization will report a purchase and sale of the underlying stock at the previous day’s settlement price (also referred to as the “invoice price”) to NSCC. In general, if NSCC does not reject the transaction by a time specified in its rules, settlement is effected pursuant to the rules of the exchange and NSCC’s Rules and Procedures within the normal clearance and settlement cycle for securities transactions, which currently is three business days. However, settlement may be effected on a shorter timeframe based on the rules of the exchange and subject to NSCC’s Rules and Procedures.

\* \* \* \* \*

#### 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

In 2002, FINRA developed sales practice rules governing security futures. <sup>4</sup> Among those rules’ requirements is the obligation of a

member to deliver the current Statement to each customer at or prior to the time such customer’s account is approved for trading security futures. <sup>5</sup> Thereafter, the member must distribute each new or revised Statement to each customer having an account approved for such trading or, in the alternative, not later than the time a confirmation of a transaction is delivered to each customer that enters into a security futures transaction. <sup>6</sup> FINRA guidance provides that firms may separately distribute new supplements to such customers; firms are not required to redistribute the entire Statement or earlier supplements. <sup>7</sup>

The original Statement was approved by the SEC in 2002, <sup>8</sup> and the first supplement to the Statement was added in 2010. <sup>9</sup> FINRA is proposing a second supplement to the Statement (“proposed supplement”) to accommodate proposed changes by OneChicago, LLC, to list a product with a physical delivery settlement cycle shorter than three business days. The proposed supplement discloses that settlement by physical delivery may be effected on a timeframe shorter than three business days based on the rules of the exchange and subject to NSCC’s Rules and Procedures. As with the previous supplement to the Statement, the proposed supplement is intended to be read in conjunction with the Statement.

FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission notice of the filing of the rule change for immediate effectiveness. The implementation date will be no later than 90 days after the date of the filing.

###### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, <sup>10</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative

<sup>5</sup> FINRA Rule 2370(b)(11).

<sup>6</sup> *Id.*

<sup>7</sup> See FINRA *Information Notice*, September 7, 2010 (August 2010 Supplement to the Security Futures Risk Disclosure Statement).

<sup>8</sup> See Securities Exchange Act Release No. 46612 (October 7, 2002), 67 FR 64151 (October 17, 2002) (Notice of Filing and Summary Effectiveness of File No. SR–NASD–2002–128).

<sup>9</sup> The amendment added a supplement to the Statement to accommodate changes by OneChicago, LLC, to list a class of security futures for which adjustments are made for ordinary dividends. See Securities Exchange Act Release No. 62787 (August 27, 2010), 75 FR 53998 (September 2, 2010) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2010–045).

<sup>10</sup> 15 U.S.C. 78o–3(b)(6).

<sup>14</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 17 CFR 240.19b–4(f)(6).

<sup>4</sup> See Securities Exchange Act Release No. 46663 (October 15, 2002), 67 FR 64944 (October 22, 2002) (Order Approving File No. SR–NASD–2002–040).

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 supplement, by updating the security futures risk disclosure statement, will help to accurately inform customers of the characteristics and risks of security futures. The proposed supplement discloses that settlement by physical delivery may be effected on a timeframe shorter than three business days based on the rules of the exchange and subject to NSCC's Rules and Procedures.

#### *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. While FINRA recognizes that there may be a burden associated with the distribution of the proposed supplement to the Statement, FINRA believes that any such burden would be outweighed by the benefit to customers of accurately disclosing the characteristics and risks of security futures. FINRA also believes that any burden will be minimal because firms would only be required to distribute the proposed supplement and would not be required to redistribute the Statement and initial supplement if they have already provided those documents to customers. In addition, firms may electronically transmit documents that they are required to furnish to customers under FINRA rules, including the proposed supplement, provided firms adhere to the standards contained in the Commission's May 1996 and October 1995 releases on electronic delivery,<sup>11</sup> and as discussed in *Notice to Members* 98-3.<sup>12</sup> Firms also may transmit the proposed supplement to customers through the use of a hyperlink, provided that customers have consented to electronic delivery.<sup>13</sup> Moreover, FINRA Rule 2370(b)(11) provides flexibility on when each revised Statement (e.g., a new supplement) must be delivered after a customer's account is approved for trading security futures. Instead of having to automatically and immediately distribute a new supplement to every customer having an account approved for trading security

futures, a firm may distribute a new supplement no later than the time a confirmation of a transaction is delivered to each customer who enters into a security futures transaction. Accordingly, firms would not be required to distribute the proposed supplement to customers who have accounts approved for trading security futures but do not engage in any new security futures transactions.

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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-FINRA-2014-019 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-2014-019. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FINRA-2014-019 and should be submitted on or before May 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

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<sup>11</sup> See Securities Act Release No. 7288 (May 9, 1996), 61 FR 24644 (May 15, 1996) and Securities Act Release No. 7233 (October 6, 1995), 60 FR 53458 (October 13, 1995).

<sup>12</sup> See *Notice to Members* 98-3 (January 1998).

<sup>13</sup> See FINRA *Information Notice*, September 7, 2010 (August 2010 Supplement to the Security Futures Risk Disclosure Statement).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), FINRA provided the Commission with written notice of its intention to file the proposed rule change at least five business days prior to filing the proposal with the Commission or such shorter period as designated by the Commission.

<sup>16</sup> 17 CFR 200.30-3(a)(12).