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 principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–063, and should be submitted on or before August 3, 2015.

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

Brent J. Fields,

Secretary.

[FR Doc. 2015–16974 Filed 7–10–15; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75377; File No. SR–FINRA–2015–022]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Amend FINRA Rule 2210 (Communications with the Public)

July 7, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 29, 2015, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

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

FINRA is proposing to amend FINRA Rule 2210 to require each of a member's Web sites to include a readily apparent reference and hyperlink to BrokerCheck on: (i) The initial Web page that the member intends to be viewed by retail investors; and (ii) any other Web page that includes a professional profile of one or more registered persons who conduct [sic] business with retail investors. These requirements would not apply to a member that does not provide products or services to retail investors, or to a directory or list of registered persons limited to names and contact information.

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

FINRA established BrokerCheck in 1988 (then known as the Public Disclosure Program) to provide the public with information on the professional background, business practices, and conduct of FINRA members and their associated persons. The information that FINRA releases to the public through BrokerCheck is derived from the Central Registration Depository (''CRD®''), the securities industry online registration and licensing database. FINRA members, their associated persons and regulators report information to the CRD system via the uniform registration forms. By making most of this information publicly available, BrokerCheck, among other things, helps investors make informed choices about the individuals and firms with which they conduct business.

In January 2013, FINRA filed with the SEC a proposed rule change to amend FINRA Rule 2267 (Investor Education and Protection)[3] to require all members to include a prominent description of and link to BrokerCheck on their Web sites, social media pages and any comparable Internet presence, as well as on the Web sites, social media pages and any comparable Internet presence relating to a member's investment banking or securities business maintained by or on behalf of any person associated with a member.[4] The proposed rule change was intended to increase investor awareness and use of BrokerCheck. The Commission received 24 comment letters in response to the proposed rule change. FINRA withdrew the filing to better understand commenters' concerns regarding the challenges of implementing the proposed rule change.

Many of the comments received on the 2013 proposed rule change expressed concern with the challenges of implementing the proposal with respect to social media pages, the lack of guidance with respect to terms and phrases in the proposed amendments, and the disadvantages of using a ''deep'' link to BrokerCheck summary reports that would bypass the BrokerCheck homepage.[5] Commenters suggested that the link to BrokerCheck be required initially for member Web sites, where its implementation would be relatively straightforward, and that the value of the link be assessed first in that context before expanding to third party sites.

In light of commenters' concerns, FINRA has developed a revised proposal that addresses member Web sites. Specifically, the revised proposal would amend FINRA Rule 2210 (Communications with the Public) to require each of a member's Web sites to include a readily apparent reference and hyperlink to BrokerCheck on: (i) The initial Web page that the member intends to be viewed by retail investors; and (ii) any other Web page that includes a professional profile of one or more registered persons who conduct

[3] Subject to limited exceptions, FINRA Rule 2267(a) requires members to provide annually in writing to each of their customers the BrokerCheck hotline number, the FINRA Web site address, and a notification of the availability of an investor brochure that describes BrokerCheck.

[4] *See* Securities Exchange Act Release No. 68700 (January 18, 2013), 78 FR 5542 (January 25, 2013) (Notice of Filing of SR–FINRA–2013–002). *See also infra* Item II.C. of the filing for further discussion of the 2013 filing and prior proposals.

[5] The SEC also received numerous comment letters that raised issues outside the scope of the proposed rule change to FINRA Rule 2267. These comment letters focused generally on concerns regarding the current operation and display of BrokerCheck reports.

[sic] business with retail investors. The proposal would not apply to a member that does not provide products or services to retail investors, or a directory or list of registered persons limited to names and contact information.

FINRA believes that the revised proposal addresses many of the commenters' concerns on the original proposal to amend Rule 2267. By incorporating the proposed rule change into the regulatory framework for communications with the public, the revised proposal would group the proposed requirement with other related standards that apply to member Web sites. By excluding those members that do not provide products and services to retail investors, the revised proposal is more aligned with its goal of increasing retail investor awareness and usage of BrokerCheck. FINRA also believes that the revised proposal should reduce the potential burden on members by clarifying that the requirement would not apply to directory pages limited to registered persons' names and contact information, since firms would not need to include as many links to BrokerCheck on their Web sites.

The revised proposal also responds to commenters' concerns with respect to communications on third-party sites that are not controlled by the member, such as social media sites, by limiting its application to Web sites of the member, rather than applying its requirements to third-party sites, such as social media sites, which the member does not control. The revised proposal also no longer requires a deep link to the BrokerCheck report of a member or registered person; instead, it would require a link to the BrokerCheck homepage.

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 approval. The effective date will be no later than 180 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] 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 help protect investors by making them aware of information available on BrokerCheck by requiring links to BrokerCheck on member Web sites.

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. FINRA recognizes that the proposed rule change would impose burdens on members associated with implementing references and hyperlinks to BrokerCheck on their Web sites and to keep those references and hyperlinks current. However, FINRA believes that by limiting the application of the proposal only to a member's own Web sites, the revised proposal significantly reduces these implementation costs for members, while maintaining the proposal's investor protection goals.

FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rulemaking, its potential economic impacts, including anticipated costs and benefits, and the alternatives FINRA considered in assessing how to best meet its regulatory objectives.

Economic Impact Assessment

A. Regulatory Need

BrokerCheck provides investors with information on the professional background, business practices, regulatory history, and conduct of members and their associated persons. Among other things, BrokerCheck helps investors make well-informed choices about the individuals and firms with which they conduct business. FINRA believes that the need for greater investor awareness and access to BrokerCheck continues to be important to protect investors. The proposed rule change will help increase investor awareness and make it easier for investors to find BrokerCheck by requiring references and hyperlinks to BrokerCheck on member Web sites.

B. Economic Impacts

(i) Anticipated Benefits

FINRA believes that BrokerCheck serves as a critical source of information for investors and considers BrokerCheck to be among the first resources they should turn to when choosing whether to do business with a particular firm or registered person. BrokerCheck enables investors to search for and download information on professional background and regulatory history of members and their registered persons, thereby reducing the direct and indirect costs associated with acquiring valuable information about the members and their registered persons (''search costs'').[7] As discussed above, the proposed rule will increase investor awareness and the likely usage of BrokerCheck. By making more investors aware of the information available on BrokerCheck, the proposed rule will make investors' searches for information about firms and registered persons more efficient and will help them make more informed decisions about whether to do business with a particular firm or registered person, thereby enhancing investor protection.

(ii) Anticipated Costs

The proposed rule change will impose costs on members that provide products and services to retail investors, which FINRA estimates to be approximately 3,800 members.[8] These members would incur costs associated with identifying the Web pages that would need to be updated based upon this proposed rule and determining where to place the references and hyperlinks within these Web pages, updating the required Web pages, as well as testing and deploying the updated Web site. In addition, these members would incur costs associated with maintaining the links on their Web pages and updating their policies and procedures to ensure ongoing compliance as their Web sites are updated or new Web pages are added over time. Members would have flexibility on how best to link to BrokerCheck, which is intended to

[6] 15 U.S.C. 78*o*–3(b)(6).

[7] Search costs encompass the time, energy and money expended by a consumer who is researching a product or service for purchase. *See, e.g.,* Meir G. Kohn & Steven Shavell, The Theory of Search, 9 Journal of Economic Theory 93 (1974); Simon P. Anderson & Regis Renault, Pricing, Product Diversity, and Search Costs: A Bertrand-Chamberlin-Diamond Model, 30, No. 4 The RAND Journal of Economics 719 (1999).

[8] FINRA's estimate is based on the types of business in which members are engaged (based on information provided in response to Question 12 on Form BD). FINRA identified businesses that are generally associated with products and services for retail investors and estimates that approximately 3,800 members are engaged in such retail-oriented businesses. FINRA notes that this estimate includes members engaged in private placements of securities. Form BD information identifies members engaged in private placements but does not distinguish between those who conduct private placement of securities with retail versus institutional investors as those terms are defined in Rule 2210. However, based on staff experience, FINRA believes that a significant portion of the members engaged in private placements provide products and services to retail investors. Nonetheless, FINRA notes that the estimates in this proposal could be overstated and serve as an upper-bound for the number of impacted members and the corresponding aggregate cost estimates, discussed below.

reduce costs by allowing members to choose the most cost-effective option.

Based on staff experience, FINRA estimates that on average the initial implementation costs for large members would be approximately $2,400 per member, and for mid-size and small members [9] the costs are estimated to be approximately $128 per member.

These estimates are based on FINRA's assumption that large members typically have full-featured Web sites that dynamically generate Web pages based on data and logic. The technology personnel at these members would be required to update the underlying information in order to automate the implementation of references and hyperlinks to BrokerCheck across all applicable Web pages. FINRA estimates that on average it would take large members approximately 60 hours of technology staffs' time to make the required updates, which at a $40 hourly rate would cost approximately $2,400 per firm.[10] FINRA assumes that mid-size and small members typically have less complex Web sites, which they manage and maintain with non-technical staff. These members would use personnel in non-technical roles to accomplish the required updates to their Web sites. FINRA estimates that on average it would take mid-size or small members approximately eight hours of non-technical staffs' time to make the required updates, which at a $16 hourly rate would cost approximately $128 per member.[11]

FINRA notes that costs associated with updating existing Web sites to include the required information will likely vary significantly across members depending on the scope and design of their Web sites, the extent to which the Web sites are automated (*e.g.,* include content management systems that dynamically generate Web pages) and the number of Web pages that include professional profiles of the applicable registered representatives. FINRA further estimates that there are approximately 175 large members and 3,625 mid-size and small members that provide products and services to retail investors and would be required to implement references and hyperlinks to BrokerCheck on their Web sites. Based on its average cost estimates for large, mid-size and small members, FINRA estimates that the total implementation costs associated with this rule proposal to the membership would be approximately $884,000.[12]

In addition to the initial implementation costs, members would also incur ongoing costs associated with maintaining the links on their Web pages and creating and maintaining procedures and internal controls to ensure that they remain compliant with the proposed rule. However, FINRA believes that the ongoing compliance costs associated with this rule proposal would likely be minimal because, apart from standard Web site upkeep, ''static'' BrokerCheck hyperlinks and references would require minimal (if any) additional maintenance on an ongoing basis.[13] FINRA will read with interest comments from members on the anticipated costs of compliance with the proposal.

C. Alternatives

In considering how to best meet its regulatory objectives, FINRA considered several alternatives to particular features of this proposal. For example, some commenters suggested that the goals of the rule could be attained more cost effectively if FINRA were to advertise BrokerCheck and its benefits to investors more aggressively. FINRA agrees that better recognition of the benefits of BrokerCheck will serve the investing public well and is considering additional ways in which to enhance awareness. FINRA believes that the proposed rule change serves as a well-calibrated effort to reduce investor search costs and to provide investors access to critical information as they make their decision regarding whether to engage in business with a particular firm or individual.

In developing this proposal, FINRA considered requiring members to include links to BrokerCheck on third-party Web sites, including social media sites. Several commenters expressed concerns about this requirement. As discussed in more detail below, commenters pointed out the limitations in their ability to control the content and features of third-party Web sites, and the significant costs associated with complying with such a requirement. FINRA recognizes the difficulties and costs associated with including links on third-party Web sites, and as a result FINRA has determined at this time to exclude the third-party Web site requirement and limit the application of the rule proposal to members' Web sites.

Finally, FINRA initially proposed that members would be required to include a deep link to BrokerCheck summary reports. These links would direct investors to the specific BrokerCheck page representing the collected information for an individual broker. Commenters noted the disadvantages of using a deep link that would bypass the BrokerCheck homepage, and speculated that there would be significant costs and operational challenges associated with including and tracking deep links. Based on these comments, FINRA has determined not to require the deep link in the proposed rule at this time.

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

Background

In February 2012, FINRA published *Regulatory Notice* 12–10 seeking comment on a proposal regarding ways to facilitate and increase investor use of BrokerCheck information. A copy of the *Regulatory Notice* is attached as Exhibit 2a.[14] FINRA received 71 comment letters in response to *Regulatory Notice* 12–10. In January 2013, FINRA filed with the SEC SR–FINRA–2013–002, a proposed rule change to amend FINRA Rule 2267 to require that members include a prominent description of and link to BrokerCheck on their Web sites, social media pages and any comparable Internet presence and on Web sites, social media pages and any comparable Internet presence relating to a member's investment banking or securities

[9] Based on FINRA By-Laws, Article I (Definitions), members with 150 or fewer registered representatives are classified as small, members with 151 to 499 registered representatives are classified as mid-size, and members with 500 or more registered representatives are classified as large.

[10] The $40 per hour estimate is based on the high end of the compensation range for web application developers, reported on publicly available sources. For example, the total compensation, including salary, bonus and other benefits, reported for web applications developer on payscale.com ranges from $33,122 to $84,271, which on an hourly basis is approximately $16-$41 per hour. *See http://www.payscale.com/research/US/Job=Web_Developer/Salary* (accessed May 20, 2015).

[11] For the purpose of estimating costs for mid-size or small members, FINRA uses a $16 hourly rate, which corresponds to the low end of the compensation range for a web application developer, as discussed above.

[12] As discussed above, FINRA estimates that there are 175 large members that would be required to implement references and hyperlinks to BrokerCheck on their Web sites, and the implementation costs for these large firms would be approximately $2,400 per firm. Thus, the total implementation costs for these large members would be approximately $420,000 ($2,400 × 175). Similarly, the total implementation cost for the 3,625 mid-size and small members, based on a $128 per firm estimate, would be approximately $464,000 ($128 × 3,625). Hence, the total implementation cost across all members is anticipated to be about $884,000.

[13] Ongoing costs associated with maintaining hyperlinks could be significant if the underlying hyperlinks change regularly over time. However, considering that FINRA does not anticipate changing the BrokerCheck hyperlink, costs associated with maintaining such a link are anticipated to be minimal.

[14] The Commission notes that the Exhibits referred to herein (Exhibits 2a—2e) are attached to the filing, not to this Notice.

business maintained by or on behalf of any person associated with a member. A copy of the 2013 Notice of Filing is attached as Exhibit 2b. On January 25, 2013, the 2013 filing was published for comment in the **Federal Register**, and the SEC received 24 comment letters in response to the proposal. FINRA withdrew the filing on April 18, 2013 to assess and respond to commenters' concerns.

In light of concerns raised on the earlier proposals, in April 2014, FINRA published *Regulatory Notice* 14–19 (''*Notice* 14–19''), requesting comment on the rules as proposed therein (the ''*Notice* 14–19 proposal''). A copy of *Notice* 14–19 is attached as Exhibit 2c. The comment period expired on June 16, 2014. FINRA received 22 comments in response to *Notice* 14–19. A list of the commenters in response to *Notice* 14–19 is attached as Exhibit 2d, and copies of the comment letters received in response to *Notice* 14–19 are attached as Exhibit 2e.[15] A summary of the comments and FINRA's response is provided below.

The *Notice* 14–19 proposal would have required a member to include a readily apparent reference and hyperlink to BrokerCheck on each firm Web site that is available to retail investors. It also would have required a member to include a readily apparent reference and hyperlink to BrokerCheck in online retail communications with the public that include a professional profile of, or contact information for, an associated person.

The requirement to include a link to BrokerCheck where there is contact information or a professional profile of an associated person would have been subject to the following conditions:

- If the retail communication appeared on the member's Web site or any site that it hosted, the link would have had to appear in close proximity to the profile or contact information.
- If the retail communication appeared on a third-party Web site (such as a social media page) that permitted a hyperlink to another Web site, the member would have been required to either:
  - ○ Post a hyperlink to BrokerCheck in close proximity to the profile or contact information; or
  - ○ Post a hyperlink to the member's Web site, which included a readily apparent reference and hyperlink to BrokerCheck, in close proximity to the profile or contact information. The third-party Web site would have had to disclose that a hyperlink to BrokerCheck is available through the linked Web site.
- If the retail communication appeared on a third-party Web site that did not permit a hyperlink to another Web site, the member would have been required to provide the BrokerCheck web address (URL) in close proximity to the profile or contact information and, to the extent feasible, disclose that information concerning the associated person is available through BrokerCheck.

The proposal would have excepted from these requirements:

- Electronic mail and text messages;
- A retail communication that is posted on an online interactive forum (such as a message board, Twitter feed or chat room);
- A member that does not provide products or services to retail investors; and
- A directory or list of associated persons limited to names and contact information.

Seven commenters supported the proposal.[16] Six commenters opposed the proposal.[17] Eight commenters did not expressly support or oppose the proposal, but recommended changes to, or sought clarification of, the proposal.[18] One commenter expressed overall opposition to FINRA and to BrokerCheck in particular.[19]

Comments Supporting Proposal

Commenters supporting the proposal stated that the benefits of the proposal outweigh its potential costs, and that the proposal would increase investors' awareness of BrokerCheck. Four commenters[20] supported the proposal overall, but opposed the omission of the 2013 version's requirement to include a deep link to an associated person's BrokerCheck report. These commenters stated that investors would have difficulty searching for a particular broker's BrokerCheck report on the FINRA Web site without a deep link, particularly where a broker has a common name, such as John Smith. One commenter recognized the difficulty of including deep links on third-party sites, but suggested that FINRA at least require deep links from pages on a member's Web site that include a broker's contact or profile information.[21] One commenter suggested that FINRA inquire of its examination staff or, alternatively, poll members firms to ascertain and compare utilization rates of the different types of online communications occurring between a financial advisor and their clients and gear the requirements toward embedding links to BrokerCheck and deep links to individual financial advisors in those communications.[22]

Two commenters[23] opposed the exception for electronic mail. PIABA noted that including a link to BrokerCheck in an associated person's email signature block would not be burdensome. PIABA also recommended that the proposal require a BrokerCheck description and hyperlink be placed in printed customer account statements. PIABA further recommended changes to BrokerCheck itself to increase the information available to investors.

Comments Opposing the Proposal

Six commenters opposed the proposal. All cited the potential compliance burdens associated with this proposed rule change as a principal reason not to adopt it, particularly the burdens it would impose on small members. Two commenters strongly opposed the proposal because they believe BrokerCheck presents a biased and unfavorable view of securities firms and their personnel.[24]

Many questioned the potential benefits the proposal would offer to investors, noting that investors may already search for information about members and their representatives, such as through Google or the FINRA Web site.[25] One commenter also noted that the proposal will require a small firm compliance officer to divert resources from servicing client accounts and instead use them to achieve compliance with a rule that offers little public benefits.[26]

Comments Recommending Changes to or Clarifications of the Proposal

A number of commenters expressed concerns with requirements to include links and disclosures on third-party Web sites not controlled by a member.[27] Commenters noted that members do not control the content, appearance, or features of third-party sites, and thus are dependent on these sites in terms of complying with the rule proposal.

[15] *See* Exhibit 2d for a list of abbreviations assigned to commenters.

[16] *See* GSU, NASAA, ICI, PIRC, PIABA, University of Miami School of Law Investor Rights Clinic, and Teresa Vollenweider.

[17] *See* Alpine, Buckman, Farmers, First Georgetown, MSTC, and Windham.

[18] *See* Schwab, CAI, Commonwealth, FSI, Lincoln, NFP, SIFMA, and Wells Fargo.

[19] *See* Carrie Devorah.

[20] *See* NASAA, GSU, PIRC and PIABA.

[21] *See* GSU.

[22] *See* NASAA.

[23] *See* NASAA and PIABA.

[24] *See* Alpine and Buckman.

[25] *See* Farmers, First Georgetown, MSTC, and Windham.

[26] *See* Windham.

[27] *See* Schwab, CAI, FSI, Lincoln, SIFMA and Wells Fargo.

Commenters pointed out that the proposal appears to be based on technology and social media site rules as they appear today, without taking into account future changes. For example, commenters stated the rules fail to explain a member's responsibilities if a third-party site revised its rules and no longer allowed links to other Web sites. These commenters also argued that the proposal inadequately addressed limits imposed by third-party sites. For example, although Twitter allows a single link to another site, its Profile section limits the user to 160 characters, hardly enough to include either a link to BrokerCheck, or a link to a member's Web site plus the additional disclosure required by the rule proposal. In addition, the requirement would preclude a member from including any other content in the Profile section.

SIFMA recommended that FINRA alter its proposal to make it more principles-based with respect to requirements applicable to third-party sites. SIFMA suggested that the rule be revised to use ''should, to the extent reasonable'' or similar language regarding third-party site linking and disclosure obligations instead of ''must.'' Wells Fargo recommended that the proposal should relieve members of its requirements if a third-party site cannot accommodate a firm's request to include the required link or disclosures.

Commenters requested that FINRA clarify that the rule proposal does not apply to either: (i) Search-engine based, text-only advertising (such as advertisements generated by Google or Bing); or (ii) other ''static'' web-based advertising that contains general references to the services provided by an associated person and includes a link to the person's profile page.[28] One commenter also requested that the proposal expressly exclude certain types of online retail communications, such as interviews, articles, reprints, award listings, biographies, sponsorships, press releases, radio replays, and advertisements that include associated persons' profiles or contact information.[29]

Commenters also urged FINRA to clarify when a member would be deemed to have ''adopted'' or become ''entangled'' with a third-party Web site, thus making it responsible for including a link to BrokerCheck on the site.[30] One commenter recommended that FINRA make clear in the rule language that it does not apply to a third-party site that a member has not adopted or become entangled with.[31]

Commenters requested that FINRA clarify the extent to which a member must include a BrokerCheck link on its own Web site.[32] For example, does a member have to include a link on each Web page of the firm's Web site, or only once on its homepage? Also, what if a member has contact information or profiles of multiple representatives on a single Web page? Does the member have to include multiple links to BrokerCheck, or may it only include one such link?

The ICI recommended that FINRA provide members with flexibility as to where on a firm's Web site a link to BrokerCheck must appear. For example, a member should be allowed to include the link on a Web page that the member reasonably determines will draw the attention of retail investors. SIFMA and the ICI also requested that FINRA clarify that members may use ''buffer'' screens that inform a user that they are leaving the firm's Web site before the user lands on the BrokerCheck Web site.

Given that FINRA includes a link to BrokerCheck on its own Web site, one member asked whether a link to the FINRA Web site would meet the rule's requirements.[33] This commenter noted that, if so, the rule proposal appears to be redundant, given that FINRA Rule 2210(e)(3) already requires members that indicate FINRA membership to include a link to FINRA's Web site.

Two commenters recommended that the proposal only apply to Web pages that provide contact or profile information for registered representatives, rather than all associated persons.[34]

SIFMA and Wells Fargo requested that the exception for directories be clarified. First, SIFMA sought clarification that including a link to an associated person's profile page in a directory would not trigger the requirements to include a link to and description of BrokerCheck. Second, they urged FINRA to allow more information in directories without requiring a BrokerCheck link, such as general biographical information and areas of expertise.

The ICI and SIFMA recommended that FINRA expand the exception for email and text messages to include other similar forms of messaging. This expansion would take into account future technological changes to electronic messaging.

SIFMA requested clarification that the rule proposal would not apply to mobile device ''apps'' or other web-based applications (such as trading platforms or OES) that provide customers with access to their accounts and other member-provided information and capabilities. SIFMA also requested that FINRA include a safe harbor for broken links that allow members time to correct any links that subsequently fail.

Commenters agreed with the revision to the prior proposal that eliminated the requirement to include a deep link to a member's or associated person's BrokerCheck report.[35] Commenters noted that the costs of including and tracking deep links in member and third-party Web sites would have been significant and operationally unfeasible.

Commenters reiterated opponents' views that the proposal would impose significant costs and burdens on members.[36] These costs include requiring members to create and implement new written policies and procedures, and performing ongoing surveillance of firm and associated persons' Web sites to ensure compliance with the rule proposal. One member noted that it has approved roughly 1,000 LinkedIn profiles, and that in order to achieve compliance with the rule, the firm would have to incur 700 employee hours (or nearly 17 weeks of a full-time employee's time).[37]

Commenters recommended that the Chief Economist's office perform a cost-benefit analysis of the rule proposal to ensure that its benefits will exceed its costs before FINRA proceeds with the proposal. Other commenters urged that, if FINRA adopts the rule proposal, members be given at least six months to implement any required changes.[38]

Commenters also recommended that FINRA explore alternatives to requiring links to BrokerCheck as a means to increase investor knowledge and usage of the site.[39] For example, FINRA could pursue its own investor outreach program, or encourage state securities regulators to include links to BrokerCheck on their Web sites. FINRA could make the references to BrokerCheck on its own Web site more prominent and user-friendly, and improve the visual quality and clarity of BrokerCheck summary reports. FINRA could also target focus groups in order to identify possible alternative means of

[28] *See* SIFMA and Wells Fargo.

[29] *See* Wells Fargo.

[30] *See* CAI and Commonwealth.

[31] *See* Commonwealth.

[32] *See* CAI, Commonwealth, Lincoln and SIFMA.

[33] *See* NFP.

[34] *See* CAI and Lincoln.

[35] *See* Schwab, CAI, Commonwealth, FSI, SIFMA and Wells Fargo.

[36] *See* CAI, FSI, Lincoln, SIFMA and Wells Fargo.

[37] *See* Lincoln.

[38] *See* ICI, SIFMA and Wells Fargo.

[39] *See* Schwab, CAI, and FSI.

facilitating and increasing investor use of BrokerCheck.

General Comments

One commenter strongly criticized FINRA's commitment to protect investors. The commenter noted that the proposal would do little good because, in this commenter's view, it would merely present ''expunged backgrounds and brokercheck historys [sic] that are, too often, fairytales.'' [40]

Response to Comments

As discussed above, many of the comments either opposing the proposal in full, or recommending changes to the proposal, concerned requirements in the *Notice* 14–19 proposal that would have required members to include links to BrokerCheck on third-party Web sites, such as social media sites. FINRA believes it has addressed these concerns by revising the current proposal to limit its applicability to a member's own Web site. FINRA however will further consider the commenters' concerns regarding links on third-party Web sites and determine whether to pursue separate rulemaking addressing such links.

Under the current version, each of a member's Web sites must include a readily apparent reference and link to BrokerCheck on: (i) The initial Web page that the member intends to be viewed by retail investors; and (ii) any other Web page that includes a professional profile of one or more registered persons who conduct [sic] business with retail investors. The current version provides exceptions from these requirements for: (i) A member that does not provide products or services to retail investors; and (ii) a directory or list of registered persons limited to names and contact information. The current version would not require a member to include a link to BrokerCheck from any third-party Web site, such as a social media site.

FINRA does not agree that it is necessary at this time to reinstate a requirement to include a deep link to a member's or a registered person's BrokerCheck report. A deep link requirement could potentially increase Web site maintenance costs, and FINRA is not proposing to require such links at this time. Most investors should be able to find information concerning particular members or registered representatives without difficulty given the ease of operation of the BrokerCheck search feature.

FINRA also does not believe it is necessary or appropriate to require links to BrokerCheck on each email sent by a member or registered person. FINRA believes that such a requirement would be overly burdensome and require significant system changes, without commensurate benefit. However, FINRA has removed the express exception for emails and text messages as unnecessary, since the proposal by its terms only applies to a member's own Web site. For the same reason, FINRA has removed the prior exception for retail communications posted on online interactive forums.

FINRA does not agree with comments that BrokerCheck presents a biased and unfavorable view of securities firms and their personnel, or that it omits important information to which investors should have access. FINRA has carefully considered the need to provide investors with information necessary to make informed choices about the individuals and members with which they conduct business. Moreover, FINRA is required by statute to establish and maintain a system for collecting and retaining registration information, including disciplinary actions, regulatory, judicial and arbitration proceedings, and other information required by law, or exchange or association rule, and the source and status of such information.[41] FINRA believes that it is important that investors have access to this information to help them make informed decisions when selecting a broker-dealer or registered person with whom to do business. FINRA regularly assesses the BrokerCheck program and may consider the inclusion of additional information in BrokerCheck at a later time.

FINRA does not agree that the proposal should allow more information in directories of registered persons without requiring a BrokerCheck link, such as biographical information or areas of expertise. This kind of information is precisely the content that should trigger a link to BrokerCheck, since its intent is to generate investor interest in a particular registered representative.

FINRA believes it has answered commenters' questions concerning the scope of the proposed link requirements. In this regard, a member is required to include a link to BrokerCheck only on Web pages that are either the initial page that the member intends to be viewed by retail investors, or pages that include profile information about registered persons that conduct business with retail investors. Links are not required on every Web page of a member's Web site. If a Web page includes profile information about multiple registered persons, only one link to BrokerCheck is required. In response to comments received to the *Notice* 14–19 proposal, FINRA has revised the rule as proposed in *Notice* 14–19 to require a link to BrokerCheck on Web pages that provide profile information about registered persons, rather than Web pages that provide profile information about any associated person. Members also may use ''buffer'' screens or interstitial exiting site pages to inform investors that they are leaving the member Web site prior to connecting to BrokerCheck, although there is no requirement to do so.

In addition, members have flexibility on how best to link to BrokerCheck, as long as the reference and link to BrokerCheck are readily apparent. For example, members have expressed interest in using ''widgets'' as a way to link to BrokerCheck. Use of widgets would meet to [sic] the proposal's requirements, as long as the link and reference to BrokerCheck are readily apparent.

FINRA does not agree that the proposal is redundant given that FINRA includes a link to BrokerCheck on the FINRA Web site. FINRA believes that the proposal will increase awareness of BrokerCheck and believes that more investors will use BrokerCheck after it is implemented.

FINRA also does not believe it is necessary or appropriate to create an exception from the proposal for mobile device applications. To the extent that a web-based application merely provides access to a customer's account information and does not contain profile information about a registered representative that conducts business with retail investors, the proposed requirements would not apply. However, if a customer uses his or her mobile device to access a Web page that contains profile information about a registered representative that conducts business with retail investors, FINRA believes it is important for the customer to be made aware of BrokerCheck, irrespective of whether the investor used a mobile device or a desktop or laptop computer to view such a Web page.

FINRA has considered the potential costs and benefits of the *Notice* 14–19 proposal and, accordingly, revised the proposal to reduce its potential costs while maintaining the proposal's investor protection goals. FINRA also has proposed to allow members at least six months to comply with the proposed rule change. FINRA appreciates the suggestions to explore alternatives to increase investor knowledge and usage

[40] *See* Carrie Devorah.

[41] *See* 15 U.S.C. 78*o*–3(i).

of BrokerCheck. While such suggestions are beyond the scope of this proposal, FINRA intends to continue to consider ways to increase investor knowledge and usage of BrokerCheck.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov. Please include File Number SR–FINRA–2015–022 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–2015–022.* 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 10:00 a.m. and 3:00 p.m. Copies of the 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–2015–022 and should be submitted on or before August 3, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Brent J. Fields,

Secretary.

[FR Doc. 2015–16978 Filed 7–10–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75375; File No. SR–NASDAQ–2015–066]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Definition of Designated Retail Order in Nasdaq Rule 7018

July 7, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in in Items I and II below, which Items have been prepared by Nasdaq. 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

Nasdaq proposes to amend the definition of ''Designated Retail Order'' in Nasdaq Rule 7018.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

[42] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below, and is set forth in Sections A, B, and C below.

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

1. Purpose

The Exchange proposes to amend the definition of ''Designated Retail Order'' (''DRO'') in Nasdaq Rule 7018 in order to clarify it and make it more consistent with the definition of ''Retail Order'' as previously set forth in Nasdaq Rule 4780(a)(2) (eliminated by the recently approved SR–NASDAQ–2015–024), BATS Y-Exchange, Inc. (''BATS'') Rule 11.24(a)(2)[3] and NYSE Arca, Inc. (''NYSE Arca'') Rule 7.44(a)(3)[4], as well as how it is defined in within the BATS Retail Member Organization Application Form (''BATS Form'').[5] The Exchange will also update its Designated Retail Order Attestation form[6] (''Attestation Form'') to be consistent with the proposed rule change. Pursuant to previous approvals, any and all members are required to submit a retail order attestation form to the specific exchange before submitting a retail order to that exchange.[7]

As mentioned above, the proposed changes to the DRO definition in Nasdaq Rule 7018, as well as the corresponding changes to Nasdaq's Attestation Form, will be consistent with the recently eliminated Nasdaq Rule 4780 and in line with the revisions made by BATS to the BATS Form. Specifically, BATS updated its BATS Form to include three key elements:[8] (1) To ensure that the order is a riskless principal order that meets the criteria of

[3] *See* BATS Rule 11.24(a)(2).

[4] *See* NYSE Arca Rule 7.44(a)(3).

[5] *See http://cdn.batstrading.com/resources/membership/BYX_Retail_Member_Organization_Application.pdf.*

[6] *See http://www.nasdaqtrader.com/content/AdministrationSupport/AgreementsTrading/dro_eligibility_form.pdf.*

[7] *See e.g.,* Securities Exchange Act Release No. 69719 (June 7, 2013), 78 FR 35656 (June 13, 2014) (SR–NASDAQ–2013–031); Securities Exchange Act Release No. 69643 (May 28, 2013), 78 FR 33136 (June 3, 2014) (SR–BYX–2013–008); and Securities Exchange Act Release No. 69513 (May 3, 2013), 78 FR 27261 (May 9, 2014) (SR–NYSE–2013–08).

[8] *Supra* note 5.