

November 27, 2007

Nancy M. Morris  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1090

Re: Proposed National Market System Plan (SEC File Nos. 4-533 and 4-534)

Dear Ms. Morris:

The Financial Industry Regulatory Authority, Inc. (FINRA) staff<sup>1</sup> appreciates the opportunity to comment on the proposed National Market System Plan for Reserving, Selecting, and Allocating Securities Symbols ("Symbology Plan").<sup>2</sup> FINRA would like to express an investor protection concern regarding a potential ambiguity of Symbology Plan language as currently proposed in Section IV(f), which addresses the control of a symbol when an SRO (a "New Listing SRO") lists a security or product that previously was listed on another SRO (a "Prior Listing SRO"). This section in the Five Character Version effectively grants the New Listing SRO the unfettered right to the symbol in question in all such cases regardless of character length. The same section in the Three Character Version grants the New Listing SRO the right to three-character symbols, but gives the Prior Listing SRO the right to the symbol for one- and two-character symbols.

As the self-regulatory authority responsible for the Over-the-Counter (OTC) market, FINRA is tasked with regulating trading in the OTC Equity market, which includes the trading of non-exchange listed securities quoted on both the OTC Bulletin Board and the Pink Sheets LLC electronic quotation platform.<sup>3</sup> While FINRA regulates trading, broker-dealer practices and other activities in this market, it does not "list" securities for trading on the market. Rather, OTC Equity securities are non-exchange listed securities that may be freely traded in the OTC market, but are reported to FINRA for regulatory and dissemination purposes.

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<sup>1</sup> The comments provided in this letter are solely those of the staff of FINRA; they have not been reviewed or endorsed by the Board of Governors of FINRA. For ease of reference, this letter may use "we," "FINRA," and "FINRA staff" interchangeably, but these terms refer only to the FINRA staff.

<sup>2</sup> See Securities Exchange Act Release No. 34-56037 (July 10, 2007); 72 FR 39096 (July 17, 2007) (noticing for public comment SEC File Nos. 4-533 ("Five Character Version") and 4-534 ("Three Character Version")).

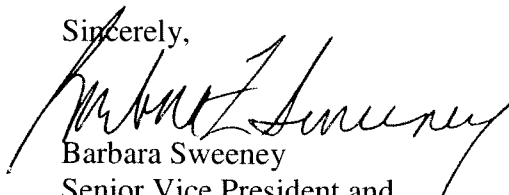
<sup>3</sup> See OTC Equity security defined in the NASD Rule 6600 Series.

FINRA strongly supports the uniform application of the Symbology Plan to all equity securities, including OTC Equities.<sup>4</sup> However, usage of the term “lists” in Section IV(f) creates potential ambiguity as to whether FINRA, in its capacity as the SRO of the OTC Equity market, will have the right to a symbol that is delisted from an exchange, because FINRA does not “list” securities that trade in the OTC Equity market. In short, if the current language in Section IV(f) is interpreted strictly, an issuer that is unable to maintain its exchange listing could be stripped of its symbol upon being delisted by the exchange. FINRA believes this poses a significant investor protection concern in that investor confusion could result from the loss of an issuer’s symbol when an issuer moves from an exchange into the OTC Equity market.<sup>5</sup> Moreover, FINRA believes the risk of investor confusion would be particularly acute immediately after a delisting when pricing transparency is most critical.

Thus, FINRA strongly urges the Securities and Exchange Commission to adopt final Symbology Plan language in Section IV(f) explicitly stating that the provision applies equally to a delisted security trading in the OTC Equity market and that, in such cases, FINRA (and not the listing exchange) has the right to use the delisted security’s symbol. This should support investor protection by ensuring symbol continuity for issues that are delisted from exchanges.<sup>6</sup>

FINRA appreciates the opportunity to express this concern. Should you have any questions concerning this comment letter please contact Steven A. Joachim, Executive Vice President, at 212-858-5117.

Sincerely,



Barbara Sweeney  
Senior Vice President and  
Corporate Secretary

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<sup>4</sup> See Symbology Plan Five Character Version preamble stating that the plan applies to “NMS securities” and “any other equity securities quoted, traded and/or trade reported through an SRO facility.”

<sup>5</sup> Through year-to-date October 31, 2007, 169 distinct issuers have been delisted from exchanges and thereafter traded in the OTC Equity market.

<sup>6</sup> Section IV(b)(5) of the Symbology Plan accounts for a symbol being reserved for a 24-month period. If the symbol is not used for a listing within that period, it is released for use by other plan participants. FINRA proposes that OTC Equity symbols be treated in similar fashion, in that they would be retained by the issuer trading in the OTC Equity market, unless no trades are reported in the issue for a reasonable period of time. Specifically, FINRA proposes that OTC Equity issuers retain the rights to their symbols, unless no trades are reported for a 6-month period. FINRA further proposes that it have the ability to deem a symbol releasable (upon request from an exchange) before the expiration of the 6-month period, if it reasonably determines that investor protection concerns are not raised. FINRA also proposes that it have the ability to retain a symbol even after the 6-month period, if it reasonably determines that investor protection concerns would be raised by the symbol release (*e.g.*, if the issuer was taking corporate action that could cause the stock price to fluctuate at or about the time that the symbol would otherwise be changed).