

telecommunications services underlying Nasdaq Workstation II service, and clarifies the various component functions encompassed within the circuit installation fee so that the true nature of the charge is made clear to new subscribers. These requirements would pertain only to new subscribers or existing subscribers that have defaulted on the payment of their charges.

Note that the instant filing applies only to non-member subscribers. A companion filing, which applies the proposed rule change to member subscribers, is being filed separately for immediate effectiveness.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires that the rule of the Association provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system while the association operates or controls.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The NASD 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, as amended.

*(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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date 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 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by November 16, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-36403; File No. SR-NASD-95-15]

**Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to a Statement of Policy to Establish Internal NASD Procedures Delegating to the NASD Staff and the Fixed Income Committee Authority to Review Requests by Members for Exemptions from Rule G-37(b) of the Municipal Securities Rulemaking Board**

October 20, 1995.

On April 15, 1995,<sup>1</sup> the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities

<sup>1</sup> The NASD submitted two amendments to the proposed rule change prior to publication of notice in the Federal Register, and one amendment subsequent to publication of notice in the Federal Register. Amendment No. 1, submitted on August 15, 1995, deleted all portions of the proposed rule change addressing the ability of NASD members to apply to the Commission for review of any denial by the NASD of a member's request for exemption from Municipal Securities Board Rule G-37. Amendment No. 2, submitted on August 23 revised the proposed rule change to clarify the types of violations of Rule G-37 for which a member could request exemptions. Amendment No. 3, submitted on October 20, 1995, amends the NASD Code of Procedure by adding a footnote to the title referencing the procedures established in the proposed rule change.

Exchange Act of 1934 ("Act"),<sup>2</sup> and Rule 19b-4 thereunder.<sup>3</sup> The proposed rule change adopts a statement of policy to establish internal NASD procedures<sup>4</sup> delegating to the NASD staff and the Fixed Income Committee the authority to review requests by members for exemptions from Rule G-37 of the Municipal Securities Rulemaking Board ("MSRB").<sup>5</sup>

Notice of the proposed rule change, together with the substance of the proposal, was provided by issuance of a Commission release (Securities Exchange Act Release No. 36151, August 24, 1995) and by publication in the Federal Register (60 FR 45202, August 30, 1995). No comment letters were received. This order approves the proposed rule change.

The Commission approved MSRB Rule G-37 on April 7, 1994.<sup>6</sup> MSRB Rule G-37(b) prohibits any broker, dealer, or municipal securities dealer from engaging in municipal securities business with any issuer within two years after any contribution to an official of that issuer made by that broker, dealer, or municipal securities dealer, any municipal finance professional associated with that broker, dealer, or municipal securities dealer, or any political action committee controlled by that broker, dealer, or municipal securities dealer. The two year prohibition, however, is not triggered by contributions by a municipal finance professional to issuer officials for whom that municipal finance professional was entitled to vote if such contribution, in total, did not exceed \$250 per official per election. Subsequently, on June 3, 1994, the Commission granted accelerated approval to an amendment to MSRB Rule G-37<sup>7</sup> to provide a procedure for a broker, dealer, or municipal securities dealer to seek exemptive relief from MSRB Rule G-37(b) if that broker, dealer, or municipal securities dealer discovers that a prohibited political contribution was made. Pursuant to Release 34-34160, subsection (i) to MSRB Rule G-37 permits the NASD to

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

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> The internal NASD procedures established pursuant to the statement of policy will not amend existing rules contained in the NASD Code of Procedure or other existing NASD rules.

<sup>5</sup> MSRB Manual, General Rules, Rule G-37 (CCH) ¶ 3681. MSRB Rule G-37 prohibits members from engaging in municipal securities business if certain political contributions have been made to municipal issuers.

<sup>6</sup> Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994).

<sup>7</sup> Securities Exchange Act Release No. 34160 (June 3, 1994), 59 FR 30376 (June 13, 1994) ("Release 34-34160").

exempt, conditionally or unconditionally, an NASD member who is prohibited from engaging in municipal securities business with an issuer pursuant to subsection (b) of MSRB Rule G-37 from that prohibition. MSRB Rule G-37(i)(i) provides that the NASD shall consider among other factors, whether such exemption is consistent with the public interest, the protection of investors and the purposes of this rule. MSRB Rule G-37(i)(ii) sets forth further criteria for the granting of the exemption by requiring that the MSRB member have in place procedures designed to ensure compliance with the rule,<sup>8</sup> had no actual knowledge of the contributions, has taken appropriate steps to obtain return of the contribution(s), and has taken other remedial measures as may be appropriate.

Release 34-34160 states that the MSRB believes that exemptions from MSRB Rule G-37 should be granted only if a disgruntled employee contributes to an issuer official for the purpose of injuring the member or if an employee makes a number of small contributions during an election cycle (e.g., four years) which, when consolidated, amount to slightly over the \$250 *de minimus* exemption (such as contributions totalling \$255). It also states that the MSRB would expect that the exemption not be routinely requested by dealers and that exemptions would be granted by the NASD only in limited circumstances.<sup>9</sup>

In order to implement a procedure for reviewing requests for NASD member exemptions anticipated under MSRB Rule G-37, the rule change adopts a statement of policy that establishes an NASD internal procedure to grant

<sup>8</sup>The MSRB clarifies its view regarding effective compliance procedures for Rule G-37 in a letter dated March 14, 1995 from Christopher A. Taylor, Executive Director, MSRB, to John E. Pinto Jr., Executive Vice President—Regulation, NASD. That letter states that the MSRB believes that Rule G-37 requires a dealer to have information regarding each contribution made by the dealer, dealer-controlled political action committees and municipal finance professionals so that it can determine where and with whom it may or may not engage in municipal securities business. In addition, the dealer must have information on executive officer contributions and political party payments and consultant hiring practices for disclosure purposes. Moreover, the dealer must ensure that those persons and entities subject to MSRB Rule G-37 are not causing the dealer to violate MSRB Rule G-37. Furthermore, the dealer must ensure that other people and entities hired to assist in municipal securities activities (e.g., consultants) are not being directed to make contributions, or otherwise being used as conduits, in violation of MSRB Rule G-37.

<sup>9</sup>Release 34-34160 also states that the MSRB will seek information from the NASD regarding the granting of any exemptions in order to monitor the implementation of this provision, and to determine if any changes are necessary.

exemptions from MSRB Rule G-37. As noted above, the statement of policy is an internal procedure and does not amend existing rules contained in the NASD Code of Procedure or other existing NASD rules.

The statement of policy provides that the staff of the Regulation Business Line, as assigned by the Executive Vice President of Regulation initially will issue a written decision concerning whether to grant a member's request for exemption from MSRB Rule G-37. If the staff determines to deny the member's request for exemption, the written decision must include a statement advising the member that it has 15 days in which to appeal the initial staff determination to the Fixed Income Committee of the NASD.

The statement of policy provides that the Board will delegate authority to the Fixed Income Committee, or a subcommittee thereof, to review the appeal of a member regarding an NASD staff denial of an exemption from MSRB Rule G-37.

The Board may review a decision of the Fixed Income Committee, or a subcommittee thereof, solely upon the request of one or more Governors. Such a review would be undertaken solely at the discretion of the Board and will be in accordance with resolutions of the Board. In reviewing any decision of the Fixed Income Committee, the Board may affirm, modify or reverse a decision of the Fixed Income Committee, or the relevant subcommittee, or remand the matter to the Fixed Income Committee with appropriate instructions.

The statement of policy reflects the NASD's belief that the Fixed Income Committee is the appropriate reviewing body because the members of the Fixed Income Committee should have the requisite knowledge regarding the municipal business necessary to weigh the member's argument that the requested exemption would comply with the provisions and intent of MSRB Rule G-37. In addition, the NASD stated that it believes that vesting authority with the Fixed Income Committee should ensure that uniform standards are applied throughout the country to requests for exemptions from Rule G-37, and that these standards should effectuate the intent of the MSRB that the NASD grant such exemptions under very limited circumstances, as noted above.

The Commission finds that the rule change is consistent with the provisions of Section 15A(b)(2) of the Act because it establishes a procedure to enforce compliance with MSRB Rule G-37 that is intended to effectuate the intent of the MSRB that the NASD grant exemptions

only under the limited circumstances contemplated by the MSRB. The Commission also finds that, for the reasons set forth above, the rule change is consistent with the provisions of Section 19(g)(1)(B) of the Act, which requires that the NASD, absent reasonable justification or excuse, enforce compliance with MSRB rules.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR-NASD-95-15 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-36392; File No. SR-NSCC-95-11]

**Self-Regulatory Organizations;  
National Securities Clearing  
Corporation; Order Granting  
Temporary Approval of a Proposed  
Rule Change Concerning Book-Entry  
Money Settlements With Members**

October 18, 1995.

On August 8, 1995, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change (File No. SR-NSCC-95-11) with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the Federal Register on August 24, 1995.<sup>2</sup> No comments were received by the Commission. This order approves the proposal on a temporary basis.

**I. Description of the Proposal**

On October 5, 1990, NSCC filed a proposed rule change with the Commission that was noticed in the Federal Register<sup>3</sup> and was subsequently amended three times.<sup>4</sup> On September 4, 1992, the proposal as amended was approved on a temporary basis through

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> Securities Exchange Act Release No. 36112 (August 17, 1995), 60 FR 44093.

<sup>3</sup> Securities Exchange Act Release No. 28715 (December 12, 1990), 55 FR 715 [File No. SR-NSCC-90-21].

<sup>4</sup> Letters from: (1) Jeffrey F. Ingber, Associate General Counsel, NSCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation ("Division"), Commission (August 14, 1991); (2) Peter J. Axilrod, Associate General Counsel, NSCC, to Jerry Carpenter, Branch Chief, Division, Commission (March 23, 1992); and (3) Peter J. Axilrod, Associate General Counsel, NSCC, to Thomas C. Etter, Jr., Attorney, Division, Commission (July 22, 1992).