determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the meetings of the Board of Trustees or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. The Trust will notify all Participating Insurance Companies that separate account disclosure in their respective Separate Account prospectuses may be appropriate to advise accounts regarding the potential risks of mixed and shared funding. The Trust shall disclose in its prospectus that: (a) The Trust is intended to be a funding vehicle for variable annuity and variable life insurance contracts offered by various insurance companies and for Plans; (b) due to differences of tax treatment and other considerations, the interests of various Contract owners participating in the Trust and the interests of Plans investing in the Trust may conflict; and (c) the Board of Trustees will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict.

10. The Trust will comply with all provisions of the 1940 Act that require voting by shareholders (which, for these purposes, will be the persons having a voting interest in the Shares of the Trust), and, in particular, the Trust will either provide for annual shareholder meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act (although the Trust is not one of the trusts described in the Section 16(c) of the 1940 Act), as well as with Section 16(a) of the 1940 Act and, if and when applicable, Section 16(b) of the 1940 Act. Further, the Trust will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of Trustees and with whatever rules the Commission may promulgate with respect thereto.

11. If and to the extent that Rule 6e–2 or 6e–3(T) under the 1940 Act is amended, or proposed Rule 6e–3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in the application, then the Trust and/or Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with such Rules 6e–2 and 6e–3(T), as amended, or proposed Rule 6e–3 as adopted, to the extent that such Rules are applicable.

12. The Participants, at least annually, will submit to the Board of Trustees such reports, materials, or data as the Board of Trustees may reasonably request so that the Board of Trustees may fully carry out the obligations imposed upon it by the conditions contained in the application. Such reports, materials, and data will be submitted more frequently if deemed appropriate by the Board of Trustees. The obligations of the Participants to provide these reports, materials, and data to the Board of Trustees, when the Board of Trustees so reasonably requests, shall be a contractual obligation of all Participants under their agreements governing participation in the Trust.

13. If a Plan should ever become a holder of ten percent or more of the assets of the Trust, such Plan will execute a participation agreement with the Trust. A Plan will execute an application containing an acknowledgment of this condition upon such Plan's initial purchase of the Shares of the Trust.

Conclusion

For the reasons set forth above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–21567 Filed 8–13–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38907; File No. SR–NASD–97–34]

Order of Granting Approval; Notice of Filing and Order Granting Accelerated Approval

August 6, 1997.

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 3 and 4 to Proposed Rule Change Relating to Miscellaneous Amendments to Arbitration Procedures and Clarifications of the Code of Arbitration Procedure.

I. Introduction

On May 5, 1997,[1] the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend and clarify its arbitration procedures.

Notice of the proposed rule change, together with the substance of the proposal, was published for comment in Securities Exchange Act Release No. 38692 (May 29, 1997), 62 FR 30920 (June 5, 1997). No comments were received on the proposal. The NASD subsequently filed Amendment Nos. 3 and 4 on July 15, 1997[4] and July 25, 1997, respectively.[5]

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[1] The NASD filed Amendment Nos. 1 and 2 with the Commission on May 13, 1997, and May 22, 1997, respectively, the substance of which was incorporated into the notice. See letters from Elliott R. Curzon, Assistant General Counsel, NASDR, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated May 8, 1997 (''Amendment No. 1'') and May 20, 1997 (''Amendment No. 2).

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] Amendment No. 3 amends Rule 10330 to state that the Director will serve a copy of the award by using any method available and convenient to the parties and the Director, and that is reasonably expected to cause the award to be delivered to all parties, or their counsel, on the same day. Methods available include, but are not limited to, registered or certified mail, hand delivery, and facsimile or other electronic means. Amendment No. 3 also amends the purpose section of the proposed rule change to state that it is important to permit service by means other than registered mail or personal service, because the Office is frequently asked to provide arbitration awards by facsimile, and could be asked to provide service by other alternative means. In addition, Amendment No. 3 states that it is important that all parties be served with arbitration awards at approximately the same time so that there is no confusion about when the time to seek review of an award begins to run, and parties all have approximately the same amount of time to prepare for and seek review of an award. Also, Amendment No. 3 states that parties should not be required to accept service of awards through means that are inconvenient or unavailable to them, nor should the Office be required to serve an award in a manner that is not readily available. See letter from Elliott R. Curzon, Assistant General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated July 14, 1997 (''Amendment No. 3'').

[5] Amendment No. 4 states that NASDR's Office of Dispute Resolution intends to modify its case tracking system to add a status code that will show when a claim, defense, or proceeding has been dismissed with prejudice and whether the dismissal was a sanction for failing to comply with an order. In order to allow for sufficient time to implement this change to the system, NASDR will make the proposed rule changes in this rule filing effective within forty-five days following Commission approval. See letter from Elliott Curzon, Assistant General Counsel, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated July 23, 1997 (''Amendment No. 4'').

II. Description

NASD Regulation, Inc. (''NASDR'') is proposing to amend the Code of Arbitration Procedure (''Code'') to make certain minor procedural changes designed to enhance the arbitration process.[6] Specifically, NASDR is proposing to amend: (1) Rule 10305 (formerly Section 16), to permit arbitrators to dismiss claims with and without prejudice; (2) Rule 10310 (formerly Section 21), to extend the time periods for notice of selection of arbitrators and further inquiries concerning an arbitrator; (3) Rule 10311 (formerly Section 22), to permit the Director of Arbitration to grant additional peremptory challenges of arbitrators; (4) Rule 10313 (formerly Section 24), to extend the time in which a party can exercise its right to challenge a replacement arbitrator; and (5) Rule 10330 (formerly Section 41), to permit awards to be served by means other than registered mail or personal service.[7]

NASDR is proposing to amend Rule 10305 of the Code (formerly Section 16), which relates to dismissal of arbitration proceedings, to clarify that the arbitrators may dismiss a proceeding without prejudice to the claims or defenses of the parties and refer the parties to their judicial remedies and, in addition, to any other dispute resolution forum agreed to by the parties. The Code does not specify the grounds for dismissals without prejudice; however, such dismissals would generally occur only when appropriate and in the interest of justice, such as where the parties have agreed to the dismissal (especially if they have agreed to proceed in another forum), or where an indispensable party cannot be jointed in the arbitration.

NASDR is also proposing to amend Rule 10305 by adding a new subsection (b) granting arbitrators the express authority to dismiss a claim, defense, or proceeding with prejudice as a sanction for willful and intentional material failure to comply with an order of the arbitrator(s), but only if lesser sanctions have proven ineffective.[8] This provision is intended to establish clearly that arbitrators have the power to issue orders in aid of the arbitration process and to enforce those orders by use of the ultimate sanction of dismissal with prejudice. Such a sanction would be used, for example, where a party refused to produce documents necessary for another party's claim or defense. In such instances, after the arbitrators have imposed lesser sanctions that have not induced compliance with the order, the arbitrators may dismiss a claim, defense, or the entire arbitration proceeding, with prejudice.[9]

NASDR is proposing to amend Rules 10310, 10311, and 10313 of the Code (formerly Sections 21, 22, and 23), which relate to arbitrator selection, peremptory challenges and arbitrator disclosures, to extend the time limitations on a party to (1) seek additional information under Rules 10310 and 10313 about replacement arbitrators, and (2) exercise a peremptory challenge under Rule 10311, from 5 days to 10 business days after notification of the identity of the person(s) proposed as arbitrators.[10] In addition, Rule 10310 is proposed to be amended to extend the Arbitration Department's obligation to provide the parties with the names and histories of the arbitrators from 8 to 15 days prior to the date of the first hearing. The proposed rule change further amends Rule 10310 to replace ''the Director of Arbitration'' with ''the Director'' whenever it occurs.

NASDR is also proposing to amend Rule 10311 to permit the Director to grant additional peremptory challenges under certain circumstances. Currently, the rule permits the Director to grant additional peremptory challenges in multi-party cases when the Director, ''in the interests of justice,'' determines that additional peremptory challenges are warranted by the circumstances of the case. For example, on occasion a party will discover grounds for a cause challenge to one arbitrator after the party has used its peremptory challenge against that arbitrator. In such an instance, the party may argue that it would have used its peremptory challenge differently had it known of the information. Under the current rule, if that circumstance arose in a multi-party case, the Director may, ''in the interests of justice,'' grant additional challenges. NASDR believes that similar circumstances may arise in single-party cases and, therefore, is seeking to amend the rule to permit the Director to grant such additional challenges.

NASDR is also proposing to amend Rule 10330 of the Code (formerly Section 41) to permit the Office of Dispute Resolution to serve arbitration awards by means other than registered mail or personal service.[11] The Office frequently is asked to provide arbitration awards to parties by facsimile. Because the Code does not provide for this method of service, the Office serves the award by facsimile and also duplicate service by one of the other methods specified in the Code. In addition, the Office may be asked to provide arbitration awards by methods other than registered, facsimile, or personal service.[12] By amending the Code to permit facsimile service, the Office will not be required to serve duplicates by another approved method.

Also, it is important that all parties be served with arbitration awards at approximately the same time so that there is no confusion about when the time to seek review of an award begins to run, and parties all have approximately the same amount of time to prepare for and seek review of an award. Finally, parties should not be required to accept service of awards through means that are inconvenient or unavailable to them; nor should the Office be required to serve an award in a manner that is not readily available. Thus, if Party A does not have access to a facsimile machine, the Office may serve other parties by facsimile as long as the Office serves the award on Party A in a manner that is reasonably expected to secure delivery to Party A on the same day.[13]

The proposed rule change also amends references to numbers, such as ''eight (8)'' or ''fifteen (15)'', throughout the proposed rule change to delete the

[6] While NASDR does not believe that the changes proposed in this filing will conflict with amendments to the Code to be proposed in response to the recommendations of the NASD's Arbitration Policy Task Force, some of the changes proposed herein will ultimately be replaced or superseded by those amendments and are, therefore, temporary in nature. For example, the proposed change to the peremptory challenge provision discussed below will be superseded when the Association's list selection rule is filed with and approved by the Commission. Nevertheless, NASDR believes that the rule changes in this proposed rule filing are important enough to be made now even if some of them will eventually be superseded.

[7] See Amendment No. 3, supra note 4.

[8] While the NASD believes that arbitrators currently have plenary power to issue such dismissal orders, this power is rarely exercised because it is not expressly provided for in the Code and arbitrators appear to be reluctant to wield such sanctioning power without express authority.

[9] The Commission notes that NASDR has stated its intention to modify its case tracking system in order to show when a claim, defense, or proceeding has been dismissed with prejudice, and whether the dismissal was a sanction for failing to comply with an order of the arbitrators. See Amendment No. 4, supra note 5.

[10] Although the notice prepared by the NASD stated in the purpose section describing the proposed rule change that the time limitation to exercise a peremptory challenge under Rule 10311 was extended from 5 to 10 days prior to the hearing, the actual language of the rule under the proposed rule change states that the time limitation to exercise a peremptory challenge is 10 business days, ''of notification of the identity of the person(s) named under Rule 10310 or Rule 10321 (d) or (e), whichever comes first.''

[11] See Amendment No. 3, supra note 4.

[12] See Amendment No. 3, supra note 4.

[13] See Amendment No. 3, supra note 4.

word form and retain the Arabic numeral.

III. Discussion

The Commission believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[14] in that clarifying procedures, eliminating ambiguities, and adjusting procedures to accommodate changing practices are consistent with the NASD's goal of providing the investing public with a fair, efficient, and cost-effective forum for the resolution of disputes.[15]

The Commission believes that the portion of the proposed rule change to Rule 10305, relating to dismissal of arbitration proceedings with and without prejudice, is consistent with the Act. This portion of the proposed rule change will provide for a fair, efficient and cost-effective arbitration process by clarifying that the arbitrators can dismiss the proceeding either with or without prejudice; currently, Rule 10305 does not distinguish between these two choices. Also, the proposed rule change amends Rule 10305 to add that the arbitrators, when dismissing without prejudice, can refer the parties to any dispute resolution forum agreed to by the parties, in addition to their judicial remedies. The Commission notes that the NASD stated in the notice that such dismissals without prejudice would generally occur only where appropriate and in the interest of justice, such as where the parties have agreed to the dismissal (especially if they have agreed to proceed in another forum), or where an indispensable party cannot be joined in the arbitration.

The Commission notes that the proposed change to Rule 10305 allowing for dismissal with prejudice is intended to establish clearly that arbitrators have the power to issue orders in aid of the arbitration process and to enforce those orders by use of the sanction of dismissal with prejudice. Such a sanction would be used, for example, where a party refused to produce documents that the arbitrators already have ordered them to produce as necessary for another party's claim or defense. In such instances, after the arbitrators have imposed lesser sanctions that have not induced compliance with their order, the arbitrators may dismiss a claim, defense, or the entire arbitration proceeding, with prejudice. The Commission believes that this proposed rule change would provide for a more efficient arbitration process because it will allow the arbitrators to assert greater control over the proceedings and will provide parties with clear notice of the possible consequences of non-compliance with an order of the arbitrators. It also would help to protect all parties to an arbitration, and ensure that one party to the proceeding does not take advantage of the other.[16]

The Commission believes that the proposed changes to Rules 10310, 10311, and 10313 providing for an extension of time limitations relating to arbitrator selection, peremptory challenges, and arbitrator disclosures are consistent with the Act because they allow the parties more time to gather information to prepare for the arbitration proceedings.[17]

The Commission believes that the proposed change to Section 10311 that allows the Director of Arbitration to grant additional peremptory challenges in certain circumstances is reasonable under the Act. This proposed rule change allows the Director to grant additional peremptory challenges where there is a single claimant or respondent, in appropriate circumstances, which the Director may already do in cases where there are multiple claimants or respondents. For example, the NASDR noted in its filing that on occasion a party will discover grounds for a cause challenge to one arbitrator after the party has used its peremptory challenge against the arbitrator. In such an instance, the party may argue that it would have used its peremptory challenge differently had it known of the information. Under the current rule if that circumstance arose in a multi-party case, the Director may, ''in the interests of justice,'' grant additional challenges. The proposed rule change provides clearly that the Director may grant additional challenges in a case with a single claimant or respondent.

The Commission finds good cause to approve Amendment Nos. 3 and 4 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that the proposed change to Rule 10330, including Amendment No. 3, that allows for service by means other than registered mail or personal service, such as facsimile or other electronic transmission, is reasonable under the Act because it will help to provide for more efficient service.[18] The NASD has stated that its Office frequently is asked to provide arbitration awards to parties by facsimile, but because the Code does not provide for this method of service, the Office provides the award by facsimile but it also duplicates service by one of the other methods specified in the Code. By amending the Code to permit alternative means of service, the Office will not be required to duplicate service by another approved method. The Commission notes that the proposed rule change provides adequate safeguards to allow for all parties to receive notice of the awards in a way that is reasonably expected to provide notice on the same day, for purposes of time limitations on post-award motions. Also, the NASD states that the Office will not serve awards on parties in a way that is inconvenient or unavailable to the party, and the Office will not be required to serve an award in a manner that is not readily available.[19]

Amendment No. 4, which states that the NASDR intends to modify its case tracking system to show when claims, defenses, or proceedings are dismissed with prejudice and whether the dismissal was a sanction for failing to comply with an order of the arbitrators, is consistent with the Act because it will help to protect investors and the public by monitoring when arbitrators use the sanction of dismissal with prejudice. Finally, the Commission notes that the

[14] 15 U.S.C. 78*o*-3.

[15] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] As previously noted, NASDR has stated its intention to modify its case tracking system in order to show when a claim, defense, or proceeding has been dismissed with prejudice, and whether the dismissal was a sanction for failing to comply with an order of the arbitrators. See supra note 9 and Amendment No. 4, supra note 5.

[17] The proposed changes extend the time limitations on a party to (1) seek additional information under Rules 10310 and 10313 about replacement arbitrators, and (2) exercise a peremptory challenge under Rule 10311, from 5 days to 10 business days after notification of the identity of the person(s) proposed as arbitrators. In addition, Rule 10310 is proposed to be amended to change the Office of Dispute Resolution's obligation to provide the parties with the names and histories of the arbitrators from 8 to 15 days before the date of the first hearing.

[18] Amendment No. 3 amends Rule 10330 to allow for service of awards by alternative means while still providing for service in a manner reasonably expected to ensure notice to all the parties on the same day, and in a manner that is not inconvenient or unavailable to them. Amendment No. 3 is designed to avoid confusion as to when the time to seek review of an award begins to run and to provide all parties approximately the same amount of time to prepare for and seek review of an award. In addition, by allowing for alternative means of service, such as by facsimile, the Office will not be required to make duplicative service, as they do now when they are asked to serve an award by facsimile or other means not allowed in the current rule.

[19] See Amendment No. 3, supra note 4. In addition, the proposed rule change also amends references to numbers, such as ''eight (8)'' or ''fifteen (15)'', throughout the proposed rule change to delete the word form and retain the Arabic numeral. Finally, the proposed rule change amends Rule 10310 to replace ''the Director of Arbitration'' with ''the Director'' whenever it occurs.

proposed rule change was noticed for the full comment period and no comment letters were received. Accordingly, the Commission believes that it is consistent with Section 15A(b)(6) of the Act to approve Amendment No. 3 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 3 and 4 to the rule proposal. 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–34 and should be submitted by September 4, 1997.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–NASD–97–34), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Jonathan G. Katz,

Secretary.

[FR Doc. 97–21445 Filed 8–13–97; 8:45 am]

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[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38909; File No. SR–NASD–96–29; Amendment No. 5]

Notice of Filing and Order Granting Temporary Accelerated Approval

August 7, 1997.

Self-Regulatory Organizations; Notice of Filing and Order Granting Temporary Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Allocation and Delegation of Authority and Responsibilities by the National Association of Securities Dealers, Inc., to NASD Regulation, Inc., and The Nasdaq Stock Market, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 5, 1997, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''Commission'') Amendment No. 5 to the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NASD.[1] The Commission is publishing this notice to solicit comments on the proposed rule change as further amended by Amendment No. 5 from interested persons and is simultaneously granting accelerated approval to the proposed rule change for a period of six months.

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

The NASD is proposing to amend the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries (''Delegation Plan'') setting forth the purpose, function, governance, procedures and responsibilities of the NASD, NASD Regulation, Inc. (''NASD Regulation'') and The Nasdaq Stock Market, Inc. (''Nasdaq''), following the reorganization of the NASD.

The initial version of the Delegation Plan (with the implementing provisions contained in Rule 0130) was originally filed with the Commission in SR–NASD–96–16. It was published for comment and approved by the Commission on a temporary basis for a period of 90 days.[2] On July 11, 1996, the Commission issued another release publishing for comment three changes to the Delegation Plan and further approving the Delegation Plan as amended for a period of 120 days.[3] On November 15, 1996 and May 15, 1997, the Commission extended temporary approval of the instant proposed rule change for two additional six month periods.[4]

On April 18, 1997, the NASD filed SR–NASD–97–28, seeking approval of, among other matters, certain proposed amendments to the Delegation Plan.[5] The proposed amendments to the Delegation Plan contained therein were withdrawn by Amendment No. 3 thereto.[6]

The NASD hereby files this Amendment No. 5 to the instant rule filing, pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder, to continue temporary approval of the Delegation Plan, revised to conform to the Rules of the Association, as amended by Release No. 34–38908. Approval until November 15, 1997, the remaining effective period of Amendment No. 4 to the instant rule filing, is requested. During this interval, there will be no further amendments to the Delegation Plan, absent Commission approval of a corresponding Rule 19b–4 filing.

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any

[1] The Commission previously published notice of the proposed rule change and granted accelerated approval thereto for periods of 120 days, six months and six months (Securities Exchange Act Release No. 37425 (July 11, 1996), 61 FR 37518 (July 18, 1996) (''Release No. 34–37425''), Securities Exchange Act Release No. 37957 (November 15, 1996), 61 FR 59267 (November 21, 1997) (''Release No. 34–37957'') and Securities Exchange Act Release No. 38645 (May 15, 1997), 62 FR 28086 (May 22, 1997) (''Release No. 34–38645''), respectively.

[2] Securities Exchange Act Release No. 37107 (April 11, 1996), 61 FR 16948 (April 18, 1996) (''Release No. 34–37107'').

[3] Release No. 34–37425. Release Nos. 34–37107 and 34–37425 published the complete text of the rule change.

[4] Release Nos. 34–37957 and 34–38645, respectively.

[5] Securities Exchange Act Release No. 38545 (April 24, 1997), 62 FR 25226 (May 8, 1997) (''Release No. 34–38545''), the Notice of Filing of a Proposed Rule Change by the National Association of Securities Dealers, Inc. to Proposed Changes in the By-Laws of the NASD, NASD Regulation, Inc., The Nasdaq Stock Market, Inc., the Plan of Allocation and Delegation of Functions by the NASD to Subsidiaries, Membership Application Procedures, Disciplinary Proceedings, Other Proceedings, and Other Conforming Changes (''Release No. 34–38545''). The comment period for Release No. 34–38545 expired on June 6, 1997. SR–NASD–97–28 is being approved simultaneously with the instant filing, see Securities Exchange Act Release No. 38908 (''Release No. 34–38908'').

[6] See Letter from Alden S. Adkins, Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission (dated July 11, 1997).