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 self-regulatory organization 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. The self-regulatory organization 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

The purpose of the proposed rule change is to rebate to members an amount equal to six months of membership dues and an amount equal to twelve months of floor telephone booth and/or post space charges applicable to them because the Exchange has already adequately covered its costs for the year.

The Exchange's Finance Committee has determined that the proposed rebates would be consistent with the general guidelines adopted by the Committee with respect to the appropriate level of capital and retained earnings that the Exchange should possess at any given time. Furthermore, the Committee has focused on the Exchange's capitalization and determined that even after the proposed rebate, the Exchange will have ample capital and resources to continue to fulfill its proscribed duties in its capacity as a self-regulator and as a registered national securities exchange.[3]

2. Statutory Basis

The Exchange represents that proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(4)[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (e) of Rule 19b–4 thereunder.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Soliciation 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, N.W., 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 the filing also will be available for inspection and copying at the principal office of the Chicago Stock Exchange, Inc. All submissions should refer to File No. SR–CHX–97–31 and should be submitted by January 13, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

[FR Doc. 97–33403 Filed 12–22–97; 8:45 am]

BILLING CODE 8010–01–M

[3] See Amendment No. 1.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39451; File No. SR–NASD–97–88]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Incorporated Relating to Process Fees on Members That Are Parties to Arbitration Proceedings

December 15, 1997.

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 December 11, 1997, the National Association of Securities Dealers, Incorporated ''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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

NASD Regulation is proposing to amend Rule 10333 of the NASD's Code of Arbitration Procedure (''Code'') to add a process fee on members that are parties to arbitration proceedings. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

10333. Member Surcharge *and Process Fees*

(a) Each member [who is named as] *that is* a party to an arbitration proceeding, whether in a Claim, Counterclaim, Cross-claim or Third-Party Claim, shall be assessed a non-refundable surcharge pursuant to the schedule below when the Director of Arbitration perfects service of the claim naming the member on any party to the proceeding. For each associated person who is named, the surcharge shall be assessed against the member or members that employed the associated person at the time of the events which gave rise to the dispute, claim or controversy. No member shall be assessed more than a single surcharge in any arbitration proceeding. The surcharge shall not be [subject to reimbursement] *chargeable to any other party* under Rules 10332(c) and 10205(c) of the Code.

Amount in Dispute	Surcharge
$.01–$2,500	$150
$2,500.01–$5,000	200
$5,000.01–$10,000	300
$10,000.01–$25,000	400
$25,000.01–$30,000	600
$30,000.01–$50,000	800
$50,000.01–$100,000	1,000
$100,000.01–$500,000	1,500
$500,000.01–$1,000,000	2,000
$1,000,000.01–$5,000,000	2,500
$5,000,000.01–$10,000,000	3,000
Over $10,000,000	3,600

(b) For purposes of this Rule, service is perfected when the Director of Arbitration properly serves the Respondents to such proceeding under Rule 10314 of the Code.

(c) If the dispute, claim, or controversy does not involve, disclose, or specify a money claim, the non-refundable surcharge shall be $1,200 or such greater or lesser amount as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed the maximum amount specified in the schedule.

(d) Each member that is a party to an arbitration proceeding will pay a non-refundable process fee as set forth in the schedule below for each stage of a proceeding. The process fee shall not be chargeable to any other party under Rules 10332(c) and 10205(c) of the Code. If an associated person of a member is a party, the member that employed the associated person at the time of the events which gave rise to the dispute, claim or controversy will be charged the process fees. The prehearing process fee will accrue according to the schedule set forth below, but will be due and payable when the prehearing conference is held, or, if no prehearing conference is held, when the parties are notified of the date and location of the first hearing session. The hearing fee will accrue and be due and payable when the parties are notified of the date and location of the first hearing session. All accrued but unpaid fees will be due and payable at the conclusion of the member's or associated person's involvement in the proceeding. No member will pay more than one prehearing and hearing process fee for any case. The process fees will stop accruing when either the member enters into a settlement of the dispute or the member is dismissed from the proceeding or, if the member is paying a process fee as a result of an associated person being named as a party, when the associated person enters into a settlement or is dismissed from the proceeding, whichever is later.

Prehearing Process Fee Schedule (proceedings where more than $25,000 is in dispute)

Service of Claim (accrues when the claim has been submitted and is ready to be served on the respondents)	*$50*
Case Preparation (accrues when the first answer to the claim is received or due and discovery and motions proceedings commence	*150*
Prehearing Activities (accrues when the parties are first notified of the names of any of the arbitrators selected to hear the matter or are given the names of arbitrators to select)	*400*
Total	*$600*

Hearing Process Fee Schedule (accrues and becomes due and payable when the parties are notified of the date and location of the first hearing session)

Damages requested	Hearing process fee
$1–$30,000	$0
$30,000.01–$50,000	1,000
$50,000.01–$100,000	1,500
$100,000.01–$500,000	2,500
$500,000.01–$1,000,000	3,500
$1,000,000.01–$5,000,000	4,500
More than $5,000,000	5,000
Unspecified	2,000

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 self-regulatory organization 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. The self-regulatory organization 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

NASD Regulation is proposing to amend Rule 10333 of the Code to add a process fee to be charged to members at several stages of arbitration proceedings. The proposed rule change is the last stage of a three stage effort to make the NASD's dispute resolution program self-funding by charging fees to participants in arbitration proceedings.[1]

The previously approved surcharge and the other pending fee increases will add approximately $12 million to the revenue stream of the Office of Dispute Resolution (''Office''). In addition, they will shift much of the direct cost of operating the dispute resolution forum to the users of the forum. The final 1998 Budget for the Office, however, which includes transfer pricing of services provided by other NASD departments to the Office, projects total expenses of approximately $35.2 million versus projected revenue of approximately $29.1 million, leaving a revenue shortfall of approximately $6.1 million. The proposed fees are designed to recover all of the Office's costs that are not recovered through filing fees, hearing session deposits, forum fees,[2] and member surcharges and to make the Office's activities self-funding in a manner that generally reflects the extent of the use of resources in a given case.

The process fees will be assessed in two parts: (1) The Prehearing Process Fee for the activities in the case from the filing of the claim up to and including the Prehearing Conference; and (2) the Hearing Process Fee for the activities relating to the evidentiary hearing, award and case closing. If the member concludes its involvement in a case through dismissal or settlement, the process fees accrued to that point will be assessed. In addition, if an associated person of a member is named in a proceeding, but the member is not named, the member employing the associated person at the time of the events that gave rise to the dispute will be assessed the process fees when the associated person's involvement in the case is concluded.

The Prehearing Process Fee will accrue in three cumulative stages. When a claim is filed, a $50 fee will accrue against each member named in the claim.[3] When the first answer to the

[1] The first two stages involved increasing the surcharge on members named in arbitration proceedings and increasing filing fees and hearing session deposits. The increase in the member surcharge was submitted to the SEC for approval in rule filing SR–NASD–97–40 and was approved by the SEC. It was implemented on July 1, 1997. The proposed increases in filing fees and hearing session deposits were originally submitted to the SEC for approval in rule filing SR–NASD–97–39, resubmitted in rule filing SR–NASD–97–79, and are currently pending SEC approval.

[2] Forum fees are the charges for hearing sessions assessed at the end of a proceeding. Forum fees are calculated by multiplying the number of hearing sessions by the applicable hearing session deposit.

[3] As discussed above, if an associated person of a member is named, but the member employing the associated person is not named, the process fee will

Continued

claim is received or due, an additional $150 fee will accrue. Finally, when the arbitrators are selected, a fee of $400 will accrue against each member in the case, for a maximum assessment against each member of $600. The Prehearing Process fee will be due and payable when the prehearing conference is held, or, if no prehearing conference is held, when the parties are notified of the date and location of the first hearing. These fees will not be dependent on the amount of the claim.

The Hearing Process Fee will accrue and become due and payable when the parties are notified of the date and location of the first hearing session. The Hearing Process Fee will be a graduated fee ranging from $1000 to $5000, based on the amount in dispute.

If an associated person is named, the member firm that employed the associated person at the time the claim arose will be assessed fees; however, a member will only be assessed once for each case even if both the member and an associated person (or more than one associated person) of the member are named as respondents.[4]

NASD Regulation believes that, by structuring the process fees in the manner proposed, the Office's costs will be recovered even if there are significant variations in the number of cases that proceed all the way through a hearing. Moreover, NASD Regulation believes that the proposed process fees may encourage settlements because significantly greater fees will be incurred by members once the matter proceeds to hearing.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act[5] in that the proposed rule change provides for the equitable allocation of reasonable charges among members and other persons using the Association's arbitration facility and requires member firm users to absorb a reasonable share of the costs of operating the arbitration program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe the proposed rule change will impose any burden on competition.

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

No written comments were solicited on received with respect to the proposed rule change.

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

The proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (e) of Rule 19b–4 thereunder,[7] in that the proposal constitutes a fee which the NASD imposes on its members. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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, N.W., Washington, D.C. 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 will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–88 and should be submitted by January 13, 1998.

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

Margaret H. McFarland,

Deputy Secretary.

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accrue against the member employing the associated person at the time of the events which gave rise to the dispute. References in this rule filing to fees assessed against members named in the proceeding will also refer to the circumstance where the member is not named in the proceeding, but is assessed the fee because a present or, where applicable, former associated person of the member is named in the proceeding.

[4] As with the member surcharge, the proposed process fees will be assessed only against members. They will not be assessed against associated persons. In addition, because the process fee will be assessed against a member if an associated person of the member is named in a proceeding, members would be required to pay the process fee, for example: (1) Where a member brings an arbitration case against an associated person to recover on an promissory note; (2) where an associated person brings an arbitration case against a member for defamation or wrongful discharge; or (3) where a customer brings an arbitration case against an associated person but does not name the member that employed the associated person at the time of the events that are the subject of the claim.

[5] 15 U.S.C. 78*o*–3.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(e).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–97–045]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee will meet to discuss various navigation safety matters affecting the Lower Mississippi River area. The meeting will be open to the public.

DATES: The meeting will be held from 9 a.m. to approximately 11 a.m. on Wednesday, January 28, 1998.

ADDRESSES: The meeting will be held in the basement conference room of the Hale Boggs Federal Building located at 501 Magazine Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: M. Monty Ledet, USCG, c/o Commander, Eighth Coast Guard District (m), Room 1341, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone (504) 589–4686.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 et seq. The meeting is open to the public. Members of the public may present written or oral statements at the meeting. The agenda for the meeting consists of the following items:

Election of Committee Chairman.
Election of Committee Vice Chairman.
Approval of the September 10, 1997 minutes.
Subcommittee Reports.
Old Business.
New Business.
Adjournment.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the