

degree of price transparency in the municipal securities market and will provide a surveillance audit trail that may be used by market regulators in furtherance of their regulatory purposes.

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

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers and merely delays the start-up date for a program that previously has been approved by the Commission.

C. Self-Regulatory Organization's Statement of 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

Because the proposed rule change is merely a technical correction of rule language, the Board has designated this proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing Board rule under Section 19(b)(3)(A) of the Act, which renders the proposed rule change effective upon receipt of this filing by the Commission. At any time within sixty 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. 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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-97-18 and should be submitted by January 27, 1998.

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.

[FR Doc. 98-159 Filed 1-5-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39494; File No. SR-NASD-97-97]

Self-Regulatory Organizations; Notice of Filing, Immediate Effectiveness and Designation of Accelerated Operative Date of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Conforming, Technical Amendments to Certain Rules Relating to Procedures on Grievances Concerning The Automated Systems

December 29, 1997.

Pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 24, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Several technical amendments were made to the proposal on the same date.² The Association has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (e)(6) of Rule 19b-4 under the Act³ which renders the proposal effective upon receipt of this filing by the Commission.⁴ The Commission is

¹ 15 U.S.C. 78s(b)(3)(a).

² Conversation between Arnold Golub, Office of General Counsel, Nasdaq with Mandy Cohen, Division of Market Regulation, Commission (December 24, 1995).

³ 17 CFR 240.19b-4(e)(6).

⁴ The Association has represented that this proposed rule change: (i) Will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition, and (iii) will not become operative for 30 days after the date of this filing, unless

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

The Association is filing the proposed rule change to make conforming technical changes to the Rule 9700 Series to substitute the "Nasdaq Hearing Review Committee," whose tenure will terminate next month, with the "Nasdaq Listing and Hearing Council," which will perform similar functions thereafter. These changes are necessary to conform the Rule 9700 Series to the recently approved revisions to the Nasdaq By-Laws that will take effect in January 1998.⁵ In addition, the text of new rule 4880 has been revised to reflect recent changes in the review process approved by the Commission at the same time as the by-laws.⁶ Finally, for ease of reference, the Rule 9700 Series has been renumbered as the Rule 4800 Series, since the rules contained therein relate to other rules within the Rule 4000 Series. The text of the proposed rule change follows:⁷

* * * * *

Rules of the Association

* * * * *

4000. The Nasdaq Stock Market

* * * * *

[9700] 4800. Procedures on Grievances Concerning the Automated Systems

[9710] 4810. Purpose

The purpose of this Rule [9700] 4800 Series is to provide, where justified, redress for persons aggrieved by the operations of any automated quotation, execution, or communication system owned or operated by the Association, or any subsidiary thereof, and approved by the Commission, not otherwise provided for by *the* [this] Code of Procedure as set forth in the Rule 9000 Series or the Uniform Practice Code as set forth in the Rule 11000 Series, and to provide procedures for the handling of qualification matters pursuant to The Nasdaq Stock Market Rules, as set forth in the Rule 4000 Series.

otherwise accelerated by the Commission. The Association also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b-4(e)(6) under the Act. *Id.*

⁵ See Securities Exchange Act Release No. 39326 (November 14, 1997), 62 FR 62385 (November 21, 1997) (File No. SR-NASD-97-71).

⁶ See *Id.*

⁷ Proposed new language is underline, proposed deletions are in brackets.

[9720] 4820. Form of Application

All applications shall be in writing, and shall specify in reasonable detail the nature of and basis for the redress requested. If the application consists of several allegations, each allegation shall be stated separately. All applications must be signed and shall be directed to [the Association] *Nasdaq*.

[9730] 4830. Request for Hearing

Upon request, the applicant shall be granted a hearing after reasonable notice. In the absence of such request for a hearing, [the Association] *Nasdaq* may, in its discretion, have any application set down for hearing or consider the matter on the basis of the application and supporting documents.

[9740] 4840. Consideration of Applications

All applications shall be considered by a hearing panel designated by the Board of Governors. The applicant shall be entitled to be heard in person and by counsel and to submit any relevant matter. In any such proceeding a record shall be kept.

[9750] 4850. Decision

Decisions on applications shall be in writing and a copy shall be sent by mail to the applicant. The hearing panel may communicate its determination to the applicant prior to the issuance of a written decision, which shall be effective as of the time of such communication. The written decision shall contain the reasons supporting the hearing panel's conclusions.

[9760] 4860. Review by the Nasdaq Listing and Hearing Review [Committee] Council

The decision shall be subject to review by the Nasdaq *Listing and Hearing Review [Committee] Council* on its own motion within 45 calendar days after issuance of the written decision. Any such decision shall also be subject to review upon application of any person aggrieved thereby, filed within 15 calendar days after issuance. The institution of a review, whether on application or on the initiative of the Nasdaq *Listing and Hearing Review [Committee] Council*, shall not operate as a stay of the decision.

[9770] 4870. Findings of the Nasdaq Listing and Hearing Review [Committee] Council on Review

Upon consideration of the record, and after such further hearings as it shall order, the Nasdaq *Listing and Hearing Review [Committee] Council* shall affirm, modify, reverse, dismiss, or remand the decision. The Nasdaq

Listing and Hearing Review [Committee] Council shall set forth specific grounds upon which its determination is based.

[9780] 4880. Discretionary Review by the Board

Determinations of the Nasdaq *Listing and Hearing Review [Committee] Council* may be reviewed by the NASD Board of Governors solely upon the request of one or more Governors *not later than the NASD Board meeting next following the Nasdaq Listing and Hearing Review Council's decision but which is 15 calendar days or more following the decision of the Nasdaq Listing and Hearing Review Council. Notwithstanding the preceding sentence, the NASD Board may determine it is advisable to call for review any decision of the Nasdaq Listing and Hearing Review Council within the 15 calendar day period following the decision of the Nasdaq Listing and Hearing Review Council.* Such review, which may be undertaken solely at the discretion of the Board, shall be in accordance with resolutions of the Board governing the review of Nasdaq *Listing and Hearing Review [Committee] Council* determinations. The Board shall affirm, modify or reverse the determinations of the Nasdaq *Listing and Hearing Review [Committee] Council* or remand the matter to the Nasdaq *Listing and Hearing Review [Committee] Council* with appropriate instructions. The institution of discretionary review by the Board shall not operate as a stay of the decision.

[9790] 4890. Application to Commission for Review

Any decision not appealed under Rule 4860 or called for review under Rule 4860 or Rule 4880 shall become the final action of the Association upon expiration of the time allowed for appeal or call for review. In any case where a person feels aggrieved by any final action of the Association [decision] issued pursuant to Rule [9770] 4870 or Rule [9780] 4880, the person may make application for review to the Commission in accordance with the Act.

* * * * *

In addition to the specific changes set forth above, the following conforming amendments are also necessary to ensure conformance to the corporate governance documents:

- In Rules 4480(e), 4530, 5360, and 9511(a)(3), all references to Rule 9700 Series should be changed to refer to the Rule 4800 Series.
- In Rule 4330(a), the reference to the Rule 9000 Series should be changed to refer to the Rule 4800 Series.

- In Rule 9110(a), the last sentence should be amended to read "The Rule 9100 Series is of general applicability to all proceedings set forth in Rule 9000 Series, [except the proceedings set forth in the Rule 9700 Series,] unless a Rule specifically provides otherwise."

* * * * *

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 Association 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 Association 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 of the Rule Change**

The purpose of the proposed rule change is to technically conform the Rule 9700 Series (as renumbered the Rule 4800 Series), to the recently revised Nasdaq By-Laws that will become effective upon conclusion of the NASD annual meeting in January 1998. The proposed changes are necessary to allow for the expedited and smooth transition from the Association's current corporate structure to the new corporate structure recently approved by the Commission.⁸

To conform the Rule 9700 Series to the Nasdaq By-Laws, as revised, the term "Nasdaq Hearing Review Committee," is being replaced by the term, "Nasdaq Listing and Hearing Review Council." Additionally, the Association is conforming proposed Rule 4880 (currently Rule 9780) to parallel the review process changes recently approved by the Commission at the same time the Nasdaq By-Laws revisions were approved.⁹ As revised, proposed Rule 4880 establishes a period of at least 15 calendar days between the date of the decision of the Nasdaq Listing and Hearing Review Council decision and the meeting at which the NASD Board may consider whether to call a decision for review. Relocation to the Rule 4800 Series is proposed because the 9700 Series relates to the

⁸ See Release No. 34-39326.

⁹ See id.

grievance procedures currently set forth in the Rule 4000 Series. Finally, other conforming changes are being made to correct existing cross references to the Rule 9700 Series to those of the new Rule 4800 Series.

2. Statutory Basis of Rule Change

The Association believes that the proposed rule change is consistent with Section 15A(b)(4) of the Act¹⁰ in that it assures a fair representation of its members in the selection of its directors and administration of its affairs and provides that one or more directors shall be representatives of issuers and investors and not be associated with a member of the Association, a broker, or a dealer.

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

The Association 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

The proposed rule change has been filed by the Association as a "non-controversial" rule change under Rule 19b-4(e)(6).¹¹ Consequently, the rule change shall become operative 30 days after the date of this filing, or such shorter time as the Commission may designate if the change: (i) Will not significantly affect the protection of investors or the public interest; and (ii) will not impose any significant burden on competition, pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and subparagraph (e)(6) of Rule 19b-4 thereunder.¹³ To ensure conformity with the revised Nasdaq By-Laws, however, which are scheduled to become effective at the conclusion of the January 1998 annual meeting of the NASD, the Association requests acceleration of the operative date of the changes contained in this rule filing, so that the revised Rules of the Association and related corporate governance documents will be in force simultaneously.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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.

For the reasons stated, and since such action is in the public interest, does not significantly affect the protection of investors or impose any significant burden on competition, and because the changes in this rule filing conform the Rules of the Association to the by-laws recently approved by the Commission (which will become effective at the conclusion of the NASD's annual meeting), the Commission finds good cause to accelerate the operative date of the changes contained herein, and designate such changes to become operative at the conclusion of the annual meeting of the NASD.

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 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 January 27, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-161 Filed 1-5-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39487; File No. SR-NASD-97-44]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Eligibility of Claims for Arbitration

December 23, 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 June 24, 1997,¹ the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities 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 Rules 10304, 10307 and 10324 of the NASD's Code of Arbitration Procedure ("Code") to establish that all arbitration claims are eligible unless challenged, and to establish a procedure for challenging the eligibility of claims. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

10304. *Time Limit on Eligibility of Claims for Arbitration; Procedures for Determining Eligibility Under This Rule* [Time Limitation Upon Submission]

This rule describes when a claim must be filed in order to be eligible for arbitration, how and when parties may challenge the eligibility of claims, and the Director's role in determining eligibility.

[No dispute, claim, or controversy shall be eligible for submission to arbitration under this Code where six (6) years have elapsed from the occurrence

¹ The NASD filed Amendment Nos. 1, 2, 3 and 4 to the proposed rule change on July 15, 1997, July 21, 1997, December 3, 1997, and December 19, 1997, respectively, the substance of which is incorporated into the notice. See letters from to Elliot R. Curzon, Assistant General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated July 14, 1997 ("Amendment No. 1"), July 18, 1997 ("Amendment No. 2"), and December 18, 1997 ("Amendment No. 4"); and letter from Joan C. Conley, Secretary, NASD Regulation, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated December 3, 1997 (and attachments) ("Amendment No. 3").

¹⁰ 15 U.S.C. 78o-3(b)(4).

¹¹ 17 CFR 240.19b-4(e)(6).

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(e)(6).