

amended ITS Plan.⁹⁴ Deleted text is [bracketed] and new language is italicized.

* * * * *

Section 1. Definitions.

(1)–(16) No Change.

(17) "ITS/CAES Security (stock)" means a security (stock) (a) that is a System security[, (b) that is a 19c-3 security and (c)] and (b) as to which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of Applications. When used with reference to a particular ITS/CAES Market Maker, "ITS/CAES security" means any such security (stock) as to which the particular ITS/CAES Market Maker is so registered.

(18)–(25) No Change.

[(26)] "(19c-3" security" means an Eligible Security that is not a "covered security" as that term is defined in SEC Rule 19c-3 as in effect on May 1, 1982.]

[(27)] (26)

[(27A)] (26A)

[(27B)] (26B)

[(27C)] (26C)

[(27D)] (26D)

[(27E)] (26E)

[(28)] (27)

[(29)] (28)

[(30)] (29)

[(31)] (30)

[(32)] (31)

[(33)] (32)

[(34)] (33)

[(34A)] (33A)

[(34B)] (33B)

[(35)] (34)

[(36)] (35)

[(37)] (36)

Section 2. No Change.

Section 3. No Change.

Section 4. Administration of ITS Plan.

(a)–(b) No Change.

(c) Amendments to the ITS Plan. Any proposed change in, addition to, or deletion from the ITS Plan may be effected only by a means of a written amendment to the ITS Plan which sets forth the change, addition or deletion, is executed on behalf of [each Participant] *two-thirds of the Participants*, and is approved by the SEC or otherwise becomes effective pursuant to section 11A of the Act and Rule 11Aa3-2.

(d)–(f) No Change.

Section 5. The System.

authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under the Act in planning, developing, operating, or regulating a national market system (or subsystem thereof) or one or more of the facilities thereof.

⁹⁴The text reflects the latest unofficial compilation of the ITS Plan supplied by the ITSOC, including all previously incorporated amendments up to May 30, 1997.

(a) No Change.

(b) General Operation.

(i) No Change.

(ii) Selection of System Securities.

The System is designed to accommodate trading in any Eligible Security in the case of any ITS/CAES Market Maker, trading in one or more ITS/CAES securities in which he is registered as such with the NASD for the purposes of the Applications. The particular securities that may be traded through the System at any time ("System securities") shall be selected by the Operating Committee. The Operating Committee may add or delete System securities as it deems appropriate and may delay the commencement of trading in any Eligible Security if capacity or other operational considerations shall require such delay. [ITS/CAES securities may be traded by Exchange Participants and ITS/CAES Market Makers as provided in the ITS Plan and other System securities may be traded by Exchange Participants as provided in the ITS Plan.]

(c)–(d) No Change.

Section 6. No Change.

Section 7. No Change.

Section 8. No Change.

Section 9. No Change.

Section 10. No Change.

Section 11. No Change.

* * * * *

The proposed amendments do not address the manner which the costs of implementing these changes would be apportioned because the Commission believes the ITS Participants should decide this issue among themselves.

Dated: July 24, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-20313 Filed 7-29-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40197A; File No. SR-MSRB-98-04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to Rule G-32, on Disclosures in Connection With New Issues

July 23, 1998.

Correction

In FR Document No. 98-19445, beginning on page 39322 for Wednesday, July 22, 1998, the first full paragraph of the page is revised to read:

The amendment provides an alternate method of compliance with Rule G-32 in the case of Exempt VRDOs where the final official statement is either unavailable or incomplete. The amendment is intended to provide relief to dealers in the event they do not receive the final official statement from the issuer with enough time to deliver the document to their customers by settlement. Therefore, in those limited circumstances where dealers may in fact receive the official statement in final form in sufficient time to deliver it to customers by settlement (e.g., if an issuer approves completion of the official statement in final form prior to execution of the purchase contract), dealers would have the option of complying with the existing provision of the rule by delivering the official statement in final form to the customer by settlement.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-20366 Filed 7-29-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40252; File No. SR-NASD-98-46]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Technical Corrections to Delegation Plan and IM-1000-4

July 23, 1998.

On July 9, 1998, the National Association of Securities Dealers, Inc. ("NASD") through its regulatory subsidiary NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² The proposed rule change is described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act, which

¹ 17 CFR 200.30-3(a)(12).

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

renders the proposal effective upon the Commission's receipt of this filing. 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 make a technical correction to NASD Interpretive Material IM-1000-4 and a clarifying amendment to the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries ("Delegation Plan") regarding NASD Regulation's authority to inspect the books and records of The Nasdaq Stock Market, Inc. ("Nasdaq"). Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

IM-1000-4. [Appointment of Executive Representative] *Branch Offices and Offices of Supervisory Jurisdiction*

[The term "executive representative" as found in Section 3 of Article III of the By-Laws means that person designated by the member to represent, vote and act for the member in all the affairs of the Association. Pursuant to the provisions of Section 8 of Article III of the By-Laws, every member who maintains a registered branch office in a district of the Association other than the one in which its main office is located, is entitled to one vote on all matters pertaining solely to the district in which such registered branch office is located, including the election of members of the Board of Governors from such district. Should a member maintain more than one branch office in a district, it is entitled to only one vote in that district. Therefore, each member shall designate one executive representative and shall designate one "district executive representative" for each district other than the one in which the main office is located in which the member maintains a registered branch office.]

Each member is under a duty to insure that its membership application with the Association is kept current at all times by supplementary amendments to its original application and that any offices other than the main office are properly designated and registered, if required, with the Association.

Each member must designate to the Association those offices of supervisory jurisdiction, including the main office, and must register those offices which are deemed to be branch offices in accordance with the standards set forth in Rule 3010.

Plan of Allocation and Delegation of Functions by NASD to Subsidiaries

I. NASD, Inc.

* * * * *

D. Access to and Status of Offices, Directors, Employees, Books, Records, and Premises of Subsidiaries

Notwithstanding the delegation of authority to the Subsidiaries, as set forth in Sections II.A. and III.A. below, the staff, books, records, and premises of the Subsidiaries are the staff, books, records, and premises of the NASD subject to oversight pursuant to the Act, and all officers, directors, employees, and agents of the Subsidiaries are officers, directors, employees, and agents of the NASD for purposes of the Act. *The books and records of Nasdaq shall be subject at all times to inspection and copying by NASD Regulation.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation 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. NASD Regulation has prepared summaries, set forth in Section 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 proposed rule change makes a technical correction to Interpretive Material 1000-4 by removing an obsolete provision regarding election procedures and district executive representatives. All regional nomination and district election procedures are now set forth in Articles VI and VIII of the NASD Regulation By-Laws, which permit only the Executive Representative of a member firm to cast a vote for a nomination or election.

The proposed rule change also adds a clarifying provision to the Delegation Plan specifically authorizing NASD Regulation to inspect and copy Nasdaq records. Nasdaq has always provided NASD Regulation with full access to its records. The clarification to the Delegation Plan was recommended by the Independent Consultant retained by the NASD in accordance with Securities Exchange Act Release No. 37538

(August 8, 1996), SEC's Order Instituting Public Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, *In the Matter of National Association of Securities Dealers, Inc.*, Administrative Proceeding File No. 3-9056 ("Order"). Undertaking No. 2 of the Order requires that NASD Regulation have full access to the records of Nasdaq.

(2) Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,³ which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the technical and clarifying corrections set forth in the proposed rule change are consistent with the provisions of the Section 15A(b)(6).⁴

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

NASD Regulation 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act⁵ and subparagraph (e)(1) of Rule 19b-4 thereunder⁶ in that it constitutes a stated policy, practice, or interpretation with respect to the meaning of an existing rule. At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act,⁷ the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

³ 15 U.S.C. 78o-3(b)(6).

⁴ *Id.*

⁵ 15 U.S.C. 78s(b)(3)(A)(i).

⁶ 17 CFR 240.19b-4(e)(1).

⁷ 15 U.S.C. 78s(b)(3)(A).

or otherwise in furtherance of the purposes of the Act.⁸

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 File No. SR-NASD-98-46 and should be submitted by August 20, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-20363 Filed 7-29-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40261; File No. SR-NASD-98-48]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Selection of Arbitrators in Arbitrations Involving Public Customers

July 24, 1998.

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 July 10, 1998,¹ the

⁸In reviewing this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 17 CFR 200.30-3(a)(12).

¹ The NASD filed Amendment Nos. 1 and 2 to the proposed rule change on July 14, 1998 and July 23, 1998, respectively, the substance of which is incorporated into this notice. See letters from Alden S. Adkins, Senior Vice-President and General

National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary NASDA Regulation, 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 10308 to set forth new procedures to be used to select arbitrators for arbitrations involving public customers.² Under the new procedures, NASD Regulation will allow the parties to an arbitration to rank arbitrators from lists generated primarily using an automated process, providing parties with a substantial role in determining the composition of their arbitration panels. NASD Regulation is proposing conforming changes to Rules 10104, 10309, 10310, 10311, 10312, and 10313. In addition, NASD Regulation proposes to amend Rule 10315 concerning the scheduling of the first meeting of the parties and the arbitration panel to reflect that such meetings usually occur prior to the first hearing of an arbitration proceeding. Finally, NASD Regulation proposes to correctly state in the Rule 10000 Series and any other Rules the name of the NASD Regulation committee that addresses arbitration and related matters, the National Arbitration and Mediation Committee.

Below is the text of the proposed rule change. Proposed new language is in italics proposed deletions are in brackets.

* * * * *

10104. Composition and Appointment of Panels

Except as otherwise specifically provided in Rule 10308, t[T]he Director [of Arbitration] shall compose and appoint panels of arbitrators from the existing pool of arbitrators of the Association to conduct the arbitration of any matter which shall be eligible for submission under this Code. [The Director of Arbitration may request that

Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated July 14, 1998 ("Amendment No. 1") and July 23, 1998 ("Amendment No. 2").

² NASD Regulation also intends to file a proposed rule change to use a similar list selection process for intra-industry arbitrations.

the Executive Committee of the National Arbitration Committee undertake the composition and appointment of a panel or undertake consultation with the Executive Committee regarding the composition and appointment of a panel in any circumstance where he determines such action to be appropriate.]

* * * * *

10308. [Designation of Number of Arbitrators] *Selection of Arbitrators in Customer Disputes*

[(a) Except as otherwise provided in Rule 10302, in all arbitration matters involving public customers and where the amount in controversy does not exceed \$30,000, the Director of Arbitration shall appoint a single public arbitrator knowledgeable in but who is not from the securities industry to decide the dispute, claim or controversy. Upon the request of a party in its initial filing or the arbitrator, the Director of Arbitration shall appoint a panel of three (3) arbitrators which shall decide the matter in controversy. At least a majority of the arbitrators appointed shall not be from the securities industry, unless the public customer requests a panel consisting of at least a majority from the securities industry.

(b) In arbitration matters involving public customers and where the amount in controversy exceeds \$50,000, exclusive of attendant costs and interest, or where the matter in controversy does not involve or disclose a money claim, the Director of Arbitration shall appoint a panel of three (3) arbitrators, at least a majority of whom shall not be from the securities industry, unless the public customer requests a panel consisting of at least a majority from the securities industry.

(c) An arbitrator will be deemed as being from the securities industry if he or she:

(1) Is a person associated with a member or other broker/dealer, municipal securities dealer, government securities broker, or government securities dealer, or

(2) Has been associated with any of the above within the past three (3) years, or

(3) Is retired from any of the above, or

(4) Is an attorney, accountant, or other professional who has devoted twenty (20) percent or more of his or her professional work effort to securities industry clients within the last two years, or

(5) Is an individual who is registered under the Commodity Exchange Act or is a member of a registered futures association or any commodities