

that the Exchange's provision for a single mediation session and incentive payment of the mediator's fee, up to \$500, is helpful in encouraging their clients to agree to try mediation. The average mediation settles or reaches an impasse after approximately two sessions.

The Exchange is also proposing to allow parties to mediate without first filing for arbitration. The current pilot only applies to cases already filed with the NYSE for arbitration. Allowing the parties to mediate prior to filing an arbitration may save the parties some costs of arbitration. The party requesting mediation will be required to pay a non-refundable filing fee. This fee will be based upon the filing fee required for arbitration under Rule 629 for claims of the same amount. If the case does not settle after mediation, the Exchange will apply the fee to the non-refundable filing fee for arbitration. The parties are also required to pay the mediator's fee and agree on how the fee will be shared. The parties' agreement to mediate will not toll the time limitation for submission of a claim to arbitration.

As under the original pilot, cases with claims for less than \$250,000 may also be mediated when the parties agree. However, in these cases the parties are responsible for payment of the entire mediator's fee. During the pilot program, where the parties have agreed to mediate claims below \$500,000, 76 percent (16 of 21) have settled.

#### *Administrative Conferences*

Since November of 1998, the pilot program has provided for an administrative conference with the parties and arbitrators in cases over \$500,000. The conference allows the arbitrators to set deadlines early in the case and resolve preliminary issues with the aim of expediting the arbitration. To date, 124 administrative conferences have been conducted. Most commentators supported the administrative conference with certain changes. The Exchange is proposing to amend and extend the pilot for two years.

In order to expedite a greater number of claims, the Exchange is proposing to lower the threshold for administrative conferences from \$500,000 to \$250,000. The Exchange is also proposing that, by default, the chairperson of the panel conduct the conference by telephone. This will allow the staff to schedule the conference earlier because it will involve coordinating the schedules of fewer persons. In cases involving public customers, a public arbitrator will conduct the administrative conference unless the public customer requests, in

writing, a securities arbitrator. The Chairperson shall have discretion to conduct the conference in-person and may request that all of the arbitrators attend the conference. Under the amended pilot, the Director of Arbitration will schedule the conference 90 days after service of the Statement of Claim, rather than 30 days after the answer is filed. The additional period of time is intended to permit the parties to frame the issues for the administrative conference. The administrative conference pilot does not affect the parties' right to request a pre-hearing conference to resolve discovery disputes and other preliminary matters under Rule 619.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>4</sup> in that it promotes just and equitable principles of trade by ensuring that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *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**

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, 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 20549-0609. 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 NYSE. All submissions should refer to File No. SR-NYSE-00-39 and should be submitted by December 8, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF STATE

#### **[Public Notice 3476]**

#### **Determination; Assistance to the National Democratic Alliance (NDA)**

Pursuant to section 451 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. sec. 2261) (the "Act"), and section 1-201 of Executive Order 12163, as amended, I hereby authorize, notwithstanding any other provision of law, the use of up to \$3.0 million in FY 2000 funds made available under Chapter IV of Part II of the Act for assistance to the civilian wing of the Sudanese National Democratic Alliance.

This authorization shall be reported to Congress immediately and published in the **Federal Register**.

Dated: October 31, 2000.

**Madeline Albright,**

*Secretary of State.*

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<sup>4</sup> 15 U.S.C. 78f(b)(6).

<sup>5</sup> 17 CFR 200.30-3(a)(12).