

with various note purchasers (together, "Creditors"). In the Prior Order, the Commission imposed limits on certain fees and rates applicable to borrowings under these agreements that were incorporated in the payments made under the Existing Lease.

On March 1, 1999, the Creditors informed DCC of their election to terminate their loan commitment obligations effective March 1, 2001 or an earlier date that is mutually acceptable to the parties. I&M now proposes to enter into a new financing arrangement with Bank of America and certain other financial institutions for the lease of Nuclear Fuel.

I&M proposes to enter into a new nuclear fuel lease with DCC ("New Lease"), which will be substantially the same as the Existing Lease. Under the terms of the New Lease, DCC would be required to provide up to \$140 million of financing to pay the suppliers, processors and manufacturers of Nuclear Fuel for the Cook Plant. Correspondingly, I&M would be unconditionally obligated to make monthly lease payments to DCC in amounts sufficient to cover the cost of the Nuclear Fuel, operational and financing costs and other associated fees and expenses, including taxes. In addition to the monthly lease payments to DCC, I&M would be obligated to pay a quarterly program fee to certain financial institutions providing DCC with back-up funding, discussed below. The fee will be from .175% to .4% of the total loan commitments of those institutions depending on I&M's debt rating.

DCC will finance the acquisition of the Nuclear Fuel to be leased to I&M through borrowings under a revolving loan agreement with Hatteras Funding Corporation, a special purpose commercial paper funding entity administered by Bank of America ("Primary Purchaser"), and one or more financial institutions ("Liquidity Purchasers") ("Agreement"). Under the Agreement, notes issued by DCC to the Primary Purchaser will bear interest at the commercial paper rate quoted by the Primary Purchaser, including dealer fees. Notes issued to Liquidity Purchasers will bear interest at LIBOR, plus a margin of between .585% and 1.7% depending upon I&M's debt rating at the time of issuance.

All outstanding notes will mature no later than the termination date of the Agreement. The Agreement will have a term of five years, unless otherwise terminated or extended under the terms of the Agreement.

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

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 00-18492 Filed 7-20-00; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 24, 2000.

An open meeting will be held on Tuesday, July 25, 2000 at 10:00 a.m., in Room 1C30.

The subject matter of the open meeting scheduled for Tuesday, July 25, 2000 will be:

(1) The Commission will consider two actions regarding the options markets. First, the Commission will consider approving an intermarket linkage plan for options exchanges. Second, the Commission will consider a rule proposal regarding the quotation obligations of options exchanges and market makers, and disclosure by broker-dealers of executions of customer options orders at prices inferior to the quote. For further information contact: Heather Traeger, Attorney, at (202) 942-0763, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth St, N.W., Washington, DC 20549-1001; and

(2) Consideration will be given to a rule proposal arising from its request for comments on issues of fragmentation and internalization in the securities markets. The rule proposal would require greater disclosure of order routing and order execution practices by brokers and market centers. For further information, contact: Susie Cho, Attorney, at (202) 942-0748, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth St, N.W., Washington, DC 20549-1001.

Hearings will be held on Tuesday, July 26, 2000 at 9:00 a.m., in Room 1C30.

The Commission will hold public hearings on its proposed rule amendments concerning auditor independence. The purpose of the hearings is to give the Commission the benefit of the views of interested members of the public regarding the issues raised and questions posed in the Proposing Release (33-7870). For further information, contact: John M. Morrissey, Deputy Chief Accountant or W. Scott Bayless, Associate Chief Accountant, Office of the Chief Accountant at (202) 942-4400.

A closed meeting will be held on Thursday, July 27, 2000 at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled Thursday, July 27, 2000 will be:

Institution and settlement of injunctive actions; and  
Institution and settlement of administrative proceedings of an enforcement nature

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: July 18, 2000.

**Jonathan G. Katz,**  
*Secretary.*

[FR Doc. 00-18586 Filed 7-18-00; 4:31 pm]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43030; File No. SR-NASD-99-42]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Performance Fee Arrangements

July 12, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 2, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Regulation, Inc. ("NASD" or "Association"), through its wholly owned subsidiary NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Commission is publishing this notice to

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 NASD Rule 2330(f)(2), in order to make it consistent with recent amendments by the Commission to Rule 205-3 under the Investment Advisers Act of 1940 ("Advisers Act"). Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

### **Rules of the Association**

\* \* \* \* \*

### **2300. Transactions With Customers**

#### **2330. Customers' Securities or Funds**

(a) through (e) (No change).

(f) Sharing in Accounts; Extent Permissible.

(1)(A) and (B) (No change).

(2) Notwithstanding the prohibition of paragraph (f)(1), a member or person associated with a member may receive compensation based on a share in profits or gains in an account if [all of] the following conditions are satisfied:\*

(A) The member or person associated with a member seeking such compensation obtains prior written authorization from the member carrying the account; *and*

(B) *The compensation arrangement complies with the conditions set forth in any applicable rule promulgated by the Commission.*

[(B) The customer has at the time the account is opened either a net worth which the member or person associated with a member reasonably believes to be not less than \$1,000,000, or the minimum amount invested in the account is not less than \$500,000;

(C) The member or person associated with a member reasonably believes the customer is able to understand the proposed method of compensation and its risks prior to entering into the arrangement;

\* It is the position of the Division of Investment Management of the Commission that compensation received by a member or person associated with a member under this Rule would constitute "special compensation" for purposes of the broker/dealer exception to the definition of "investment adviser" in Section 202(a)(1)(C) of the Investment Advisers Act of 1940 (Advisers Act). Any member or person associated with a member, required to be registered under the Advisers Act, or state law, who receives compensation based on a share of profits or capital appreciation of a customer's account must comply with Section 205(1) and Rule 205-3 under the Advisers Act, or applicable state law, with respect to such compensation. (SEC Release 34-24355, 52 FR 13778, April 24, 1987).

(D) The compensation arrangement is set forth in a written agreement executed by the customer and the member;

(E) The member or person associated with a member reasonably believes, immediately prior to entering into the arrangement, that the agreement represents an arm's-length arrangement between the parties;

(F) The compensation formula takes into account both gains and losses realized or accrued in the account over a period of at least one year; and

(G) The member has disclosed to the customer all material information relating to the arrangement including the method of compensation and potential conflicts of interest which may result from the compensation formula.]

\* \* \* \* \*

### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis of, 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 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*

##### **I. Purpose**

##### *Description of Proposed Rule Change.*

NASD Rule 2330(f) prohibits members and persons associated with members from sharing in customer account profits and gains except under certain conditions. Subparagraph (f)(1)(A) permits sharing in customer account profits and gains where the firm has authorized it and the sharing is proportionate to the member's or associated person's contributions to the account. Subparagraph (f)(2) permits, under certain conditions, members or registered representatives to charge a performance fee (an advisory fee based on a percentage of the capital gains or capital appreciation of an account). Currently, NASD Rule 2330(f)(2) permits the receipt of a performance fee only if: (1) The member or associated person reasonably believes that the customer account meets certain minimum net worth (\$1,000,000) or amount invested (\$500,000)

requirements; (ii) the member or associated person obtains the prior written authorization of the arrangement from the member carrying the account; (iii) the member or associated person reasonably believes that the customer is able to understand the compensation arrangement and its risks; (iv) the compensation agreement is in writing; (v) the member or associated person reasonably believes that the agreement is an arm's length agreement; (vi) the compensation formula takes into account realized and accrued gains and losses over a period of at least one year; and (vii) the member discloses all material information relating to the agreement, including method of compensation and potential conflicts of interest.

The requirements of NASD Rule 2330(f)(2) have always closely tracked the requirements of Rule 205-3 under the Advisers Act. However, effective August 20, 1998, the Commission amended Rule 205-3 to provide greater flexibility in structuring performance fee arrangements with clients who are financially sophisticated or have the resources to obtain sophisticated financial advice regarding these arrangements.<sup>3</sup> The amendments to Rule 205-3 changed and eliminated many of the requirements tracked in NASD Rule 2330(f)(2). As a result of these changes, NASD Rule 2330(f)(2) is now inconsistent with Rule 205-3 under the Advisers Act. In order to restore consistency, the proposed rule change will permit members and their associated persons to share in customer account profits and gains subject to the provisions of Rule 205-3 under the Advisers Act. Thus, in the future, the proposed rule will conform to any subsequent amendments by the Commission to Rule 205-3.

##### **2. Statutory Basis**

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>4</sup> which requires, among other things, that the Association's rules 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 proposed rule change will protect investors and the public interest by ensuring that performance fee arrangements are consistent with Commission rules and are structured with clients who are

<sup>3</sup> See Investment Advisers Act Release No. 1731 (July 15, 1998), 63 FR 39022 (July 21, 1998).

<sup>4</sup> 15 U.S.C. 78o-3(b)(6).

financially sophisticated or have the resources to obtain sophisticated financial advice regarding the terms of these arrangements.

*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.

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

No written comments were solicited or received with respect to 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 NASD Regulation 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. In particular, the Commission seeks comment on how a broker-dealer can best meet its fiduciary obligation to ensure that its customers fully understand the performance fee arrangement. In formulating comments on this proposal, commenters are advised to refer to Advisors Act Release No. 1731.<sup>5</sup> Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., 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 NASD. All submissions should refer to the File No. SR-NASD-99-42 and should be submitted by August 11, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 00-18493 Filed 7-20-00; 8:45 am]

**BILLING CODE 8010-01-M**

**SOCIAL SECURITY ADMINISTRATION**

**Ticket to Work and Work Incentives Advisory Panel Meeting**

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of meeting (Emergency Location Change).

**DATES:** July 24, 2000, 1:30 p.m.-5:00 p.m. and July 25, 2000, 9:00 a.m.-4:30 p.m.

**ADDRESSES:** Sheraton Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

**SUPPLEMENTARY INFORMATION:**

*Type of meeting:* The meeting is open to the public.

*Purpose:* In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces the first meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), Public Law 106-170, establishes the Panel to advise the Commissioner of Social Security, the President, and the Congress on issues related to work incentives programs, planning, and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

This is the first deliberative meeting of the Panel. No public testimony will be heard at this meeting. However,

interested parties are invited to attend the meeting. The Panel will meet to hear presentations on the status of TWWIIA implementation, review their charter, and discuss their organization and upcoming agenda.

*Agenda:* The Panel will meet commencing Monday, July 24, 2000 at 1:30 p.m.-5:00 p.m. and Tuesday, July 25, 2000, at 9:00 a.m.-4:30 p.m. At this meeting, the Panel will use this time to hear presentations on the Status of TWWIIA implementation, review their charter, and discuss their organization and upcoming agenda. Since seating may be limited, persons interested in attending this meeting should contact the Panel staff by E-mailing Reggie Sajauskas, Designated Federal Officer, at "reggie.sajauskas@ssa.gov" or calling (410) 965-5381 by July 21, 2000.

The agenda for the meeting is posted on the Internet at the web site of SSA' Office of Employment Support Programs at "<http://www.ssa.gov/work>." A copy of the agenda also may be obtained in advance of the meeting by contacting the Panel staff at the mailing address, Email address, telephone or FAX number shown below. Requests for materials in alternate formats, *i.e.*, large print, Braille, computer disc, etc. may be made to the Panel staff at the addresses and numbers shown below.

Records are being kept of all Panel proceedings and will be available for public inspection at the Office of Employment Support Programs' web site at "<http://www.ssa.gov/work>" or by appointment at the office of the Ticket to Work and Work Incentives Advisory Panel staff, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235. Anyone requiring information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235;
- Telephone at (410) 965-5381;
- FAX at (410) 966-8597; or
- Email to Reggie Sajauskas, Designated Federal Officer, at "reggie.sajauskas@ssa.gov."

**Michael S. Greenberg,**

*Acting Deputy Associate Commissioner, Office of Employment Support Programs, Social Security Administration.*

[FR Doc. 00-18601 Filed 7-20-00; 8:45 am]

**BILLING CODE 4191-02-U**

<sup>5</sup> 63 FR 39022 (July 21, 1998).

<sup>6</sup> 17 CFR 200.30-3(a)(12)