

at the opening of business on April 14, 1983, and concurrently the Security was suspended from trading on the Amex.

The Company has complied with the rules of the PCX by filing with the Exchange a certified copy of resolutions adopted by the Company's Board of Directors authorizing withdrawal of its Security from listing on the Exchange and by setting forth in detail to the Exchange the reasons for such proposed withdrawal, and the facts in support thereof. In making the decision to withdraw its Security from listing on the Exchange, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its Security on the NTSE and the PCX. The Company does not see any particular advantage in the dual trading of its Security and believes that dual listing would fragment the market for its Security.

The Exchange has informed the Company that it has no objection to the withdrawal of the Company's Security from listing on the Exchange.

This Application relates solely to the withdrawal from listing of the Company's Security from the Exchange and shall have no effect upon the continued listing of such Security on the NYSE.

By reason of Section 12(b) of the Act and the rules and regulations of the Commission, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before January 28, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 99-222 Filed 1-5-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40854; File No. SR-NASD-98-58]

### Self-Regulatory Organization; Order Approving Proposed Change by National Association of Securities Dealers, Inc. Relating to The Elimination of the Requirement for Personal Service of Decisions in Cases Involving Bars and Expulsions

December 28, 1998.

On August 7, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change 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> The filing was thereafter amended on August 18 and 20, 1998, October 29, 1998 and December 8 and 21, 1998.<sup>3</sup> The proposal seeks to eliminate the requirement contained in the Rules of the Association directing the NASD to use best efforts to personally serve a respondent who faces a bar or expulsion from NASD membership. Notice of the proposal was published in the **Federal Register** on September 3, 1998 ("Notice").<sup>4</sup> The Commission did not receive comment letters on the filing.

#### I. Introduction and Background

In its filing with the Commission, the NASD proposed amendment to the Rules of the Association to eliminate the current requirement that the Association

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

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

<sup>3</sup> See Letter from Joan C. Conley, Secretary, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated August 18, 1998; E-mail from Eric Moss, Office of General Counsel ("OGC"), NASD Regulation, to Mandy Cohen, Division, Commission, dated August 20, 1998; letter from Eric Moss, OGC, NASD Regulation to Katherine A. England, Assistant Director, Division, Commission, dated September 24, 1998; and letter from Eric Moss, OGC, NASD Regulation to Katherine A. England, Assistant Director, Division, Commission, dated December 8, 1998. The Association also consented to an extension until December 31, 1998 for Commission action. See letter from Eric Moss, OGC, NASD Regulation to Katherine A. England, Assistant Director, Division, Commission, dated December 8, 1998. Finally, the Association extended the effective date of the filing to thirty days after publication in a *Notice to Members* following Commission approval. See letter from Alden Adkins, General Counsel, NASD Regulation to Katherine A. England, Assistant Director, Division, Commission, dated December 8, 1998. All of the amendments filed after the Notice were technical in nature and therefore do not require publication for notice and comment.

<sup>4</sup> See Securities Exchange Act Release No. 40379 (August 27, 1998), 63 FR 47058 (September 3, 1998) (File No. SR-NASD-98-58).

make reasonable efforts to provide personal service of decisions in cases involving bars and expulsions.<sup>5</sup> Originally, personal service was required because decisions imposing bars or expulsions become effective immediately. As discussed in greater detail below, the Association now argues that service by overnight courier, facsimile or other means is as effective as personal service, and equally likely to obtain prompt service. For this and other reasons, the Commission has decided to approve the Association's proposal.

#### II. Description of the Proposal

The proposed changes to Rules 9269 and 9360, as approved today, permit service of decisions in cases involving bars or expulsions from the NASD to be done by overnight courier, facsimile or other means likely to obtain prompt service. Rule 9360 currently requires that the chief Hearing Officer serve all final disciplinary decisions, and that reasonable efforts be made to personally serve (hand deliver) all final decisions imposing a bar or expulsion. The service provisions in Rule 9269 are presented for the first time in this rule filing.<sup>6</sup>

#### III. Discussion

As discussed below, the Commission has determined at this time to approve the Association's proposal. The standard by which the Commission must evaluate a proposed rule change is set forth in Section 19(b) of the Act. The Commission must approve a proposed NASD rule change if it finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that govern the NASD.<sup>7</sup> In addition, Section 15A of the Act establishes specific standards for NASD rules against which the Commission must measure the proposal.<sup>8</sup>

The proposed changes to Rules 9269 and 9360 would establish that in cases involving bars or expulsions, service of decisions should be done by overnight courier, facsimile or other means likely to obtain prompt service. Rule 9269 does not presently contain service requirements. Rule 9360 currently requires that the Chief Hearing Officer serve all final disciplinary decisions, and that reasonable efforts be made to

<sup>5</sup> See Rules 9269 and 9360.

<sup>6</sup> NASD Regulation has also filed a related rule change with the Commission in Exchange Act Release No. 40378 (August 27, 1998) (File No. SR-NASD-98-57). The text of the proposed rule change contained herein treats SR-NASD-98-57 as already approved.

<sup>7</sup> 15 U.S.C. 78s(b).

<sup>8</sup> 15 U.S.C. 78o-3.

personally serve (hand deliver) all final decisions imposing a bar or expulsion. Rule 9360's personal service provision for final decisions imposing bars or expulsions was created because these decisions become effective immediately and personal service was believed to be the best means of achieving prompt service.

The Association argues that the proposed rule change, eliminating the personal service requirement in the case of a bar or expulsion, is consistent with Section 15A(b)(7) in that it provides a reasonable means for notifying respondents of final disciplinary actions. In the proposal, the Association represented that other methods of prompt service, such as facsimile and commercial courier, are as effective in providing prompt service to a respondent as personal service. The NASD argues that reasonable efforts at personal service (hand delivery) in final default decisions imposing bars or expulsions are generally not successful. Moreover, with respect to litigated decisions, the most effective type of service is a commercial courier or facsimile, not personal service. In addition, the staff of NASD Regulation has told the Commission that these alternative types of service are less costly than personal service.<sup>9</sup>

The Commission believes that personal service is the best means of ensuring actual service. Notwithstanding this, however, the Act requires *reasonable means*. Given the Association's representations concerning the costs and effectiveness of the different types of alternative service, the Commission has decided to approve the Association's proposal. Moreover, the protection afforded respondents against whom default decisions have been entered—specifically, the provisions permitting set aside of a default decision in Rule 9269(c)—further supports use of the less costly methods of service. Finally, the Commission notes that all persons subject to bar or expulsion by the Association are NASD members, and as such, have agreed to such alternative service upon association with the NASD.<sup>10</sup>

**IV. Conclusion**

The Commission believes that the proposed rule change is consistent with

<sup>9</sup> Conversation between Eric Moss, Office of General Counsel, NASD Regulation and Mandy Cohen, Division of Market Regulation on November 24, 1998.

<sup>10</sup> See *Uniform Application for Securities Industry Registration or Transfer (Form U-4)*, at page 4, paragraph 7 (version effective November 1995).

Act, and, particularly, with Section 15A thereof.<sup>11</sup> In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation.<sup>12</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-NASD-98-58), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-166 Filed 1-5-99; 8:45 am]

BILLING CODE 8010-01-M

**SMALL BUSINESS ADMINISTRATION**

[Declaration of Disaster #3150]

**State of Florida**

Sumter County and the contiguous Counties of Citrus, Hernando, Lake, Marion, Pasco, and Polk in the State of Florida constitute a disaster area as a result of damages caused by a fire at the Bushnell Flea Market in Bushnell, Florida that occurred on December 6, 1998. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on February 19, 1999 and for economic injury until the close of business on September 21, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	<i>Percent</i>
For Physical Damage:	
Homeowners With Credit Available Elsewhere .....	6.750
Homeowners Without Credit Available Elsewhere .....	3.375
Businesses With Credit Available Elsewhere .....	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere .....	7.000
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere ....	4.000

The number assigned to this disaster for physical damage is 315005 and for economic injury the number is 9A6000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

<sup>11</sup> 15 U.S.C. § 78o-3.

<sup>12</sup> 15 U.S.C. § 78c(f).

<sup>13</sup> 15 U.S.C. § 78(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

Dated: December 21, 1998.

**Aida Alvarez,**

*Administrator.*

[FR Doc. 99-224 Filed 1-5-99; 8:45 am]

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**SMALL BUSINESS ADMINISTRATION**

**(Declaration of Disaster #3145); State of Texas, (Amendment #5)**

In accordance with information received from the Federal Emergency Management Agency dated December 17 and 18, 1998, the above-numbered Declaration is hereby amended to include Jim Wells, Kendall, Lavaca, and Walker Counties in the State of Texas as a disaster area due to damages caused by severe storms, flooding, and tornadoes beginning on October 17 and continuing through November 15, 1998, and to extend the deadline for filing applications for physical damage to January 21, 1999 in the above-named counties.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Brooks, Duval, and Kerr in the State of Texas may be filed until the specified date at the previously designated location. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for economic injury is July 21, 1999.

Dated: December 28, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 99-223 Filed 1-5-99; 8:45 am]

BILLING CODE 8025-01-P

**DEPARTMENT OF STATE**

[Public Notice 2954]

**International Joint Commission; Boundary Waters Treaty of 1909**

An invitation for public comment on two proposed projects in the Niagara River.

The International Joint Commission (IJC) has been asked by the Governments of Canada and the United States to address two projects in the Niagara River pursuant to the terms of the Boundary Waters Treaty of 1909.