

Proposed Rule Change by National Association of Securities Dealers
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed Rule Change Relating to Amendments to Certain NASD Rules and Repeal of NASD Short Sale Rules in Light of Amendments to SEC Rule 10a-1 and Regulation SHO

Contact Information
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Andrea"/>	Last Name	<input type="text" value="Orr"/>
Title	<input type="text" value="Assistant General Counsel"/>		
E-mail	<input type="text" value="andrea.orr@nasd.com"/>		
Telephone	<input type="text" value="(202) 728-8156"/>	Fax	<input type="text" value="(202) 728-8972"/>

Signature
Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date	<input type="text" value="07/05/2007"/>
By	<input type="text" value="Stephanie M. Dumont"/>
	(Name)
	<input type="text" value="Vice President, Associate General Counsel"/>
	(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ the National Association of Securities Dealers, Inc. (“NASD”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend certain NASD rules and repeal Rule 5100 and IM-5100 in light of the elimination of SEC Rule 10a-1 of the Act and the amendments to Regulation SHO under the Act.

The text of the proposed rule change is attached as Exhibit 5 to this rule filing.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Governors of NASD (“Board”) and authorized for filing with the SEC pursuant to a delegation of authority granted by the Board at its meeting on January 23, 2003, to the General Counsel of NASD Regulatory Policy and Oversight (or his officer designee) (“Delegation of Authority”) to file, without further specific Board authorization, administrative, technical, conforming, and non-substantive changes to NASD rules. The staff will advise the Board of any action taken pursuant to the Delegation of Authority. No other action by NASD is necessary for the filing of this proposed rule change. Sections 1(a)(ii) and 1(a)(iii) of Article VII of the NASD By-Laws permits the NASD Board of Governors to

¹ 15 U.S.C. 78s(b)(1).

adopt amendments to NASD Rules and interpretations of Rules without recourse to the membership for approval.

NASD has filed the proposed rule change for immediate effectiveness. NASD proposes July 6, 2007 as the compliance date of the proposed rule change, to coincide with the compliance date of the amendments to SEC Rule 10a-1 and Regulation SHO. However, with respect to the repeal of the short sale exempt marking requirements, firms are permitted to continue to mark transactions as “short exempt” for a ninety-day transitional period after the July 6, 2007 compliance date in accordance with the SEC No-Action relief relating to the short exempt marking requirement of Rule 200(g) of Regulation SHO.²

3. **Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

(a) Purpose

Background and Discussion

On June 13, 2007, the SEC voted to adopt certain amendments to SEC Rule 10a-1 and Regulation SHO under the Act. The amendments, among other things: (1) eliminate the short sale price test contained in SEC Rule 10a-1; (2) add Rule 201(a) of Regulation SHO to provide that no price test, including any price test of any self-regulatory organization (“SRO”), shall apply to short sales in any security; (3) add Rule 201(b) of Regulation SHO to prohibit any SRO from having a price test; and (4) amend Rule

² See Securities Industry and Financial Markets Association, SEC No-Action Letter (July 2, 2007). See also American Stock Exchange LLC, SEC No-Action Letter (July 2, 2007).

200(g) of Regulation SHO to remove the requirement that a broker-dealer mark a sell order of an equity security as “short exempt” if the seller is relying on an exception from the price test of Rule 10a-1, or any price test of any exchange or national securities association. The amendments to SEC Rule 10a-1 and Regulation SHO became effective on July 3, 2007.³ However, the compliance date of the amendments is July 6, 2007.

The purpose of this proposed rule change is to make conforming changes to NASD rules to reflect the elimination of SEC Rule 10a-1 and other amendments to Regulation SHO by: (1) eliminating references to SEC Rule 10a-1 in NASD rules; (2) repealing NASD’s short sale rule contained in Rule 5100 and IM-5100, as well as amending NASD rules that reference Rule 5100 or IM-5100; and (3) removing any “short exempt” marking requirements in NASD rules.

Elimination of References to SEC Rule 10a-1 in NASD Rules

Currently, Rule 3360 (Short-Interest Reporting) requires members to record and report short interest information to NASD. Reportable short positions are those resulting from “short sales” as the term is defined in SEC Rule 200 of Regulation SHO, with the exception of positions that meet the requirements of subsections (e)(1), (6), (7), (8), and (10) of Rule 10a-1 of the Act.⁴ As a result of the repeal of SEC Rule 10a-1, these subsections will no longer exist. Therefore, NASD is proposing a technical change to Rule 3360 to replace the references to these exceptions to SEC Rule 10a-1 with the

³ See Securities Exchange Act Release No. 55970 (June 28, 2007).

⁴ See NASD Rule 3360(b)(1).

underlying rule text of each provision.⁵ NASD also is proposing to make conforming amendments to IM-6130, IM-6130C, IM-6130D, IM-6130E to remove references to SEC Rule 10a-1.

Repeal of NASD's Short Sale Rule

As noted above, the SEC has removed the restrictions on the execution prices of short sales and prohibited SROs from having price tests. NASD Rule 5100 governs short sales of over-the-counter (OTC) transactions reported to the Alternative Display Facility or a Trade Reporting Facility. More specifically, Rule 5100 generally prohibits a member from effecting short sales in NASDAQ Global Market securities otherwise than on an exchange for a customer account, or the member's own account, at or below the current national best (inside) bid, when the current national best (inside) bid is below the preceding national best (inside) bid. As an SRO, NASD now is prohibited from having such a short sale price test under newly adopted SEC Rule 201.

⁵ As part of the SEC's approval of amendments to expand Rule 3360 to OTC equity securities, the SEC urged NASD to review the exceptions to short interest reporting to determine whether further rulemaking is appropriate. See Securities Exchange Act Release No. 53224 (February 3, 2006), 71 FR 7101 (February 10, 2006) (order approving SR-NASD-2005-112). Additionally, as part of the SEC's approval of rule changes by NASD, Amex, and the NYSE to increase the frequency of short interest reporting to twice per month, the SEC instructed NASD, among other SROs, to review the exceptions to short interest reporting to determine whether further rulemaking is appropriate. NASD, together with the other SROs, is currently conducting such a review. If, based on this review, a determination is made that further rulemaking is warranted, NASD will file a separate rule change with the SEC. See Securities Exchange Act Release No. 55406 (March 6, 2007), 72 FR 11071 (March 12, 2007) (order approving SR-NASD-2006-131; SR-NYSE-2006-111; SR-Amex-2007-05).

Accordingly, NASD is proposing to repeal its short sale rule contained in Rule 5100 and the related interpretive material in IM-5100 and is proposing conforming changes to IM-6130, IM-6130C, IM-6130D, IM-6130E and Rule 9610 to delete references to Rule 5100 in such rules.

Removal of Short Exempt Marking Requirements

Currently, Rule 200(g)(2) of Regulation SHO provides that a short sale order must be marked short exempt if relying on an exception from the short sale price test in SEC Rule 10a-1 or any short sale price test of an exchange or national securities association. Likewise, certain NASD rules require members to indicate on their transaction reports whether a transaction is a short exempt transaction, in conformance with SEC Rule 200(g)(2). In light of the SEC's recent amendments to delete the short exempt marking requirement from its rule, NASD is proposing conforming changes to delete any references to that requirement in its rules. As such, NASD proposes to amend Rules 4632, 4632A, 4632C, 4632D, 4632E, 6130, 6130C, 6130D, 6130E, and IM-6130, IM-6130C, IM-6130D, IM-6130E to remove the short exempt marking requirements.

Technical Changes

NASD also is proposing to make certain technical changes to the text of Rule 3360. Specifically, Rule 3360(b) provides that, subject to certain limited exceptions, short positions required to be reported under the rule are those resulting from short sales as the term is defined in Rule 200 of Regulation SHO. The term "short sale" is actually defined in Rule 200(a) of Regulation SHO. Therefore, NASD is proposing to amend the

text of Rule 3360 to reference Rule 200(a) of Regulation, not Rule 200 of Regulation SHO to eliminate any confusion.

Additionally, NASD is proposing to amend the definition of “OTC equity security” in Rule 3360 to delete the specific reference to The Nasdaq Stock Market, Inc. as it is now covered under the term “national securities exchange.”

Implementation

As noted above, NASD has filed the proposed rule change for immediate effectiveness. NASD proposes July 6, 2007 as the compliance date of the proposed rule change, to coincide with the compliance date of the amendments to SEC Rule 10a-1 and Regulation SHO. However, with respect to the repeal of the short sale exempt marking requirements, firms are permitted to continue to mark transactions as “short exempt” for a ninety-day transitional period after the July 6, 2007 compliance date in accordance with the SEC No-Action relief relating to the “short exempt” marking requirement of Rule 200(g) of Regulation SHO.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁶ which requires, among other things, that NASD 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 believes that the proposed rule change is necessary and appropriate to comply with the amendments to SEC Rule 10a-1 and Regulation SHO.

⁶ 15 U.S.C. 78o-3(b)(6).

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

NASD 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.

5. 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.

6. Extension of Time Period for Commission Action

NASD does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.⁷

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder,⁸ in that the proposed rule change does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and does not become operative for 30 days after filing (subject to waiver). NASD requests that the Commission waive the five-day pre-filing notice requirement specified in Rule 19b-4(f)(6)(iii) under the Act.⁹ NASD also requests that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 240.19b-4.

⁹ 17 CFR 240.19b-4(f)(6)(iii).

19b-4(f)(6)(iii).¹⁰ NASD believes that such waivers are appropriate so that the amendments in the proposed rule change can go in effect contemporaneously with the amendments to SEC Rule 10a-1 and Regulation SHO.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based on the amendments to SEC Rule 10a-1 and Regulation SHO under the Act.¹¹

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

Exhibit 5. Text of proposed rule change marked to show additions to and deletions from the current rule language.

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

¹¹ See Securities Exchange Act Release No. 55970 (June 28, 2007).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2007-047)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to Certain NASD Rules and Repeal of NASD Short Sale Rules in Light of Amendments to SEC Rule 10a-1 and Regulation SHO

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on , the National Association of Securities Dealers, Inc. (“NASD”) 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 NASD. NASD has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. 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 is proposing to amend certain NASD rules and repeal Rule 5100 and IM-5100 in light of the elimination of SEC Rule 10a-1 of the Act and the amendments to Regulation SHO under the Act.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4.

The text of the proposed rule change is attached as Exhibit 5 to this rule filing.

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 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 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

Background and Discussion

On June 13, 2007, the SEC voted to adopt certain amendments to SEC Rule 10a-1 and Regulation SHO under the Act. The amendments, among other things: (1) eliminate the short sale price test contained in SEC Rule 10a-1; (2) add Rule 201(a) of Regulation SHO to provide that no price test, including any price test of any self-regulatory organization ("SRO"), shall apply to short sales in any security; (3) add Rule 201(b) of Regulation SHO to prohibit any SRO from having a price test; and (4) amend Rule 200(g) of Regulation SHO to remove the requirement that a broker-dealer mark a sell order of an equity security as "short exempt" if the seller is relying on an exception from the price test of Rule 10a-1, or any price test of any exchange or national securities

association. The amendments to SEC Rule 10a-1 and Regulation SHO became effective on July 3, 2007.⁴ However, the compliance date of the amendments is July 6, 2007.

The purpose of this proposed rule change is to make conforming changes to NASD rules to reflect the elimination of SEC Rule 10a-1 and other amendments to Regulation SHO by: (1) eliminating references to SEC Rule 10a-1 in NASD rules; (2) repealing NASD's short sale rule contained in Rule 5100 and IM-5100, as well as amending NASD rules that reference Rule 5100 or IM-5100; and (3) removing any "short exempt" marking requirements in NASD rules.

Elimination of References to SEC Rule 10a-1 in NASD Rules

Currently, Rule 3360 (Short-Interest Reporting) requires members to record and report short interest information to NASD. Reportable short positions are those resulting from "short sales" as the term is defined in SEC Rule 200 of Regulation SHO, with the exception of positions that meet the requirements of subsections (e)(1), (6), (7), (8), and (10) of Rule 10a-1 of the Act.⁵ As a result of the repeal of SEC Rule 10a-1, these subsections will no longer exist. Therefore, NASD is proposing a technical change to Rule 3360 to replace the references to these exceptions to SEC Rule 10a-1 with the underlying rule text of each provision.⁶ NASD also is proposing to make conforming

⁴ See Securities Exchange Act Release No. 55970 (June 28, 2007).

⁵ See NASD Rule 3360(b)(1).

⁶ As part of the SEC's approval of amendments to expand Rule 3360 to OTC equity securities, the SEC urged NASD to review the exceptions to short interest reporting to determine whether further rulemaking is appropriate. See Securities Exchange Act Release No. 53224 (February 3, 2006), 71 FR 7101 (February 10, 2006) (order approving SR-NASD-2005-112). Additionally, as part of the SEC's approval of rule changes by NASD, Amex, and the NYSE to increase the frequency of short interest reporting to twice per month, the SEC instructed

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SEC Rule 10a-1 or any short sale price test of an exchange or national securities association. Likewise, certain NASD rules require members to indicate on their transaction reports whether a transaction is a short exempt transaction, in conformance with SEC Rule 200(g)(2). In light of the SEC's recent amendments to delete the short exempt marking requirement from its rule, NASD is proposing conforming changes to delete any references to that requirement in its rules. As such, NASD proposes to amend Rules 4632, 4632A, 4632C, 4632D, 4632E, 6130, 6130C, 6130D, 6130E, and IM-6130, IM-6130C, IM-6130D, IM-6130E to remove the short exempt marking requirements.

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Regulation SHO. However, with respect to the repeal of the short sale exempt marking requirements, firms are permitted to continue to mark transactions as “short exempt” for a ninety-day transitional period after the July 6, 2007 compliance date in accordance with the SEC No-Action relief relating to the “short exempt” marking requirement of Rule 200(g) of Regulation SHO.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁷ which requires, among other things, that NASD 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 believes that the proposed rule change is necessary and appropriate to comply with the amendments to SEC Rule 10a-1 and Regulation SHO.

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

NASD 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

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed,

⁷ 15 U.S.C. 78o-3(b)(6).

or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.⁸

At any time within 60 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, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2007-047 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2007-047. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The

⁸ 17 CFR 240.19b-4(f)(6).

Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2007-047 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Nancy M. Morris
Secretary

⁹ 17 CFR 200.30-3(a)(12).

Exhibit 5. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

3360. Short-Interest Reporting

(a) No change.

(b) For purposes of this Rule:

(1) “short” positions to be reported are those resulting from “short sales” as that term is defined in SEC Rule 200(a) of Regulation SHO, with the exception of positions that meet the following requirements [of Subsections (e)(1), (6), (7), (8), and (10) of SEC Rule 10a-1 adopted under the Act];

(A) any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as is possible without undue inconvenience or expense;

(B) any sale of a security (except a sale to a stabilizing bid complying with Rule 104 of Regulation M) effected with the approval of an exchange which is necessary to equalize the price of such security thereon with the current price of such security on another national securities exchange which is the principal exchange market for such security;

(C) any sale of a security for a special arbitrage account by a person who then owns another security by virtue of which he is, or presently will be, entitled to acquire an equivalent number of securities of the same class as the securities sold; provided such sale, or the purchase which such sale

offsets, is effected for the bona fide purpose of profiting from a current difference between the price of security sold and the security owned and that such right of acquisition was originally attached to or represented by another security or was issued to all the holders of any such class of securities of the issuer;

(D) any sale of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange effected for a special international arbitrage account for the bona fide purpose of profiting from a current difference between the price of such security on a securities market not within or subject to the jurisdiction of the United States and on a securities market subject to the jurisdiction of the United States; provided the seller at the time of such sale knows or, by virtue of information currently received, has reasonable grounds to believe that an offer enabling him to cover such sale is then available to him such foreign securities market and intends to accept such offer immediately; and

(E) any sale by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an over-allotment of securities, or any lay-off sale by such a person in connection with a distribution of securities through rights or a standby underwriting commitment.

(2) No change.

(3) the term “OTC Equity Securities” shall mean any equity security that is not listed on [The Nasdaq Stock Market or] a national securities exchange.

* * * * *

4632. Transaction Reporting

(a) through (b) No change.

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) through (3) No change.

(4) A symbol indicating whether the transaction is a buy, sell, sell short, [sell short exempt] or cross;

(5) through (6) No change.

(d) through (h) No change.

* * * * *

4632A. Transactions Reported by Members to TRACS

(a) through (b) No change.

(c) Information To Be Reported — Two Party Trade Reports

(1) No change.

(2) Each two party last sale report submitted by a reporting NASD Member should contain:

(A) through (C) No change.

(D) A designated symbol denoting whether the transaction, from the Reporting NASD Member's perspective, is a buy, sell, sell short, [sell short exempt,] or cross;

(E) If known, a designated symbol denoting whether the transaction, from the perspective of the Non-Reporting Member, is a buy, sell, or sell short[, or sell short exempt];

(F) through (T) No Change.

(3) No change.

(d) Information To Be Reported — Three Party Trade Reports

(1) No change.

(2) Each Three Party Trade Report Submitted by a Reporting Member shall contain the following information:

Transaction Information

(A) through (H) No change.

(I) All three party trade reports from Non-ECNs must be denoted as riskless principal trade reports and shall include a designated symbol denoting whether the trade between the non-ECN and the buy-side OEID is a sell[,], or sell short[, or sell short exempt] transaction;

(J) through (V) No change.

(W) If known, a symbol denoting whether the trade, from the Sell Side OEID's perspective, is a sell[,], or sell short[, or sell short exempt] transaction;

(X) through (BB) No change.

(3) No change.

(e) through (j) No change.

* * * * *

4632C. Transaction Reporting

(a) through (b) No change.

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) through (3) No change.

(4) A symbol indicating whether the transaction is a buy, sell, sell short, [sell short exempt] or cross;

(5) through (6) No change.

(d) through (h) No change.

* * * * *

4632D. Transaction Reporting

(a) through (b) No change.

(c) Information To Be Reported—Two Party Trade Reports

(1) No change.

(2) Each two party last sale report submitted by a Reporting Member shall contain the following information:

(A) through (C) No change.

(D) A symbol indicating whether the transaction, from the perspective of the Reporting Member, is a buy, sell, sell short, [sell short exempt] or cross;

(E) If known, a designated symbol indicating whether the transaction, from the perspective of the Non-Reporting Member (or other contra party), is a buy, sell, or sell short[, or sell short exempt];

(F) through (Q) No change.

(d) Information To Be Reported—Three Party Trade Reports

(1) No change.

(2) Each three party trade report submitted by a Reporting Member shall contain the following information:

(A) through (H) No change.

(I) All three party trade reports from non-ECNs must be denoted as riskless principal trade reports and shall include a designated symbol indicating whether the trade between the non-ECN and the buy-side OEID is a sell[,] or sell short[, or sell short exempt] transaction;

(J) through (T) No change.

(U) If known, a symbol indicating whether the trade, from the Sell Side OEID's perspective, is a sell[,] or sell short[, or sell short exempt] transaction;

(V) through (X) No change.

(e) through (i) No change.

* * * * *

4632E. Transaction Reporting

(a) through (b) No change.

(c) Information To Be Reported—Two Party Trade Reports

(1) No change.

(2) Each two party last sale report submitted by a Reporting Member shall contain the following information:

(A) through (C) No change.

(D) A symbol indicating whether the transaction, from the perspective of the Reporting Member, is a buy, sell, sell short, [sell short exempt] or cross;

(E) If known, a designated symbol indicating whether the transaction, from the perspective of the Non-Reporting Member (or other contra party), is a buy, sell, or sell short[, or sell short exempt];

(F) through (Q) No change.

(d) Information To Be Reported—Three Party Trade Reports

(1) No change.

(2) Each three party trade report submitted by a Reporting Member shall contain the following information:

(A) through (H) No change.

(I) All three party trade reports from non-ECNs must be denoted as riskless principal trade reports and shall include a designated symbol indicating whether the trade between the non-ECN and the buy-side OEID is a sell[,] or sell short[, or sell short exempt] transaction;

(J) through (T) No change.

(U) If known, a symbol indicating whether the trade, from the Sell Side OEID's perspective, is a sell[,] or sell short[, or sell short exempt] transaction;

(V) through (X) No change.

(e) through (i) No change.

* * * * *

5100. [Short Sale Rule]Reserved.

[(a) With respect to trades reported to the ADF or a Trade Reporting Facility, no member shall effect a short sale in a Nasdaq Global Market Security (as that term is defined in Rule 4200) otherwise than on an exchange for the account of a customer or for its own account at or below the current national best (inside) bid when the current national best (inside) bid is below the preceding national best (inside) bid in the security. In addition, for a transitional period ending on November 3, 2006, members may use the Nasdaq Exchange best (inside) bid rather than the national best (inside) bid for purposes of the application of this rule, provided that the member has submitted prior written notification to NASD of this selection. Members are required to use the same bid tick test on a firm-wide basis. A member using the Nasdaq Exchange best (inside) bid may not use the national best (inside) bid prior to the end of the transitional period unless the member submits prior written notification to NASD of this change. For the purposes of this rule, the term "customer" includes a non-member broker-dealer.]

[(b) In determining the price at which a short sale may be effected after a security goes ex-dividend, ex-right, or ex-any other distribution, all quotation prices prior to the “ex” date may be reduced by the value of such distribution.]

[(c) The provisions of paragraph (a) shall not apply to:]

[(1) Sales by a registered market maker registered in the security in connection with bona fide market making activity. For purposes of this paragraph, transactions unrelated to normal market making activity, such as index arbitrage and risk arbitrage that are independent from a member’s market making functions, will not be considered bona fide market making activity.]

[(2) Any sale by any person, for an account in which he has an interest, if such person owns the security sold and intends to deliver such security as soon as possible without undue inconvenience or expense.]

[(3) Sales by a member, for an account in which the member has no interest, pursuant to an order to sell that is marked “long.”]

[(4) Sales by a member to offset odd-lot orders of customers.]

[(5) Sales by a member to liquidate a long position which is less than a round lot, provided that such sale does not change the position of the member by more than one unit of trading.]

[(6) Sales by a person of a security for a special arbitrage account if the person then owns another security by virtue of which the person is, or presently will be, entitled to acquire an equivalent number of securities of the same class of securities sold; provided such a sale, or the purchase which such sale offsets, is effected for the bona fide purpose of profiting from a current difference between the price of the security sold and the

security owned and that such right of acquisition was originally attached to or represented by another security or was issued to all the holders of any such class of securities of the issuer.]

[(7) Sales by a person of a security effected for a special international arbitrage account for the bona fide purpose of profiting from a current difference between the price of such security on a securities market not within or subject to the jurisdiction of the United States and on such a securities market subject to the jurisdiction of the United States; provided the person at the time of such sale knows or, by virtue of information currently received, has reasonable grounds to believe that an offer enabling the person to cover such sale is then available to the person in such foreign securities market and intends to accept such offer immediately.]

[(8) Sales by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an over-allotment of securities, or any layoff sale by such a person in connection with a distribution of securities through rights or a standby underwriting commitment.]

[(9) Sales of securities as to which all short sale price tests have been suspended by operation of a Pilot Order issued by the Commission pursuant to SEC Rule 202T.]

[(10) Sales of securities included in the Nasdaq-100 Index.]

[(d) No member shall effect a short sale for the account of a customer or for its own account indirectly or through the offices of a third party to avoid the application of this Rule.]

[(e) No member shall knowingly, or with reason to know, effect sales for the account of a customer or for its own account to avoid the application of this Rule.]

[(f) A member that is not currently registered as a market maker in a security and that has acquired a security while acting in the capacity of a block positioner shall be deemed to own such security for the purposes of this Rule notwithstanding that such member may not have a net long position in such security if and to the extent that such member's short position in such security is the subject of one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.]

[(g) For purposes of this Rule, a depositary receipt of a security shall be deemed to be the same security as the security represented by such receipt.]

[(h)(1) A member shall be permitted, consistent with its quotation obligations, to execute a short sale for the account of an options market maker that would otherwise be in contravention of this Rule, if:]

[(A) the options market maker is registered with a qualified options exchange as a qualified options market maker in a stock options class on a Nasdaq Global Market Security or an options class on a qualified stock index; and]

[(B) the short sale is an exempt hedge transaction.]

[(2) For purposes of this paragraph:]

[(A)(i) An "exempt hedge transaction," in the context of qualified options market makers in stock options classes, shall mean a short sale in a Nasdaq Global Market Security that was effected to hedge, and in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in a transaction(s) contemporaneous with the short sale,* provided that when establishing the short position the options market maker is eligible to receive(s) good faith margin pursuant to Section 220.12 of Regulation T under the Act for that transaction.]

[(ii) An “exempt hedge transaction,” in the context of qualified options market makers in stock index options classes, shall mean a short sale in a Nasdaq Global Market Security that was effected to hedge, and in fact serves to hedge, an existing offsetting stock index options position or an offsetting stock index options position that was created in a transaction(s) contemporaneous with the short sale, provided that:]

[a. the security sold short is a component security of the index underlying such offsetting index options position;]

[b. the index underlying such offsetting index options position is a “qualified stock index;” and]

[c. the dollar value of all exempt short sales effected to hedge the offsetting stock index options position does not exceed the aggregate current index value of the offsetting options position.]

[(iii) Notwithstanding any other provision of this paragraph (h), any transaction unrelated to normal options market making activity, such as index arbitrage or risk arbitrage that in either case is independent of an options market maker’s market making functions, will not be considered an “exempt hedge transaction.”]

[(B) A “qualified options market maker” shall mean an options market maker who has received an appointment as a “qualified options market maker” for certain classes of stock options on Nasdaq Global Market securities and/or index options on qualified stock indexes pursuant to the rules of a qualified options exchange.]

[(C) A “qualified options exchange” shall mean a national securities exchange that has approved rules and procedures providing for:]

[(i) designating market makers as qualified options market makers, which standards shall be designed to identify options market makers who regularly engage in market making activities in the particular options class(es);]

[(ii) the surveillance of its market maker’s utilization of the exemption set forth in paragraph (h)(1) to assure that short sales effected by qualified options market makers are exempt hedge transactions and that other non-qualified market makers are not utilizing the exemption; and]

[(iii) authorization of the Association to withdraw, suspend or modify the designation of a qualified options market maker but only if a qualified options exchange has determined that the qualified options market maker has failed to comply with the terms of the exemption, and that such a withdrawal, suspension or modification of the market maker’s exemption is warranted in light of the substantial, willful, or continuing nature of the violation.]

[(D) A “qualified stock index” shall mean any stock index that includes one or more Nasdaq Global Market securities, provided that more than 10% of the weight of the index is accounted for by Nasdaq Global Market securities and provided further that the qualification of an index as a qualified stock index shall be reviewed as of the end of each calendar quarter, and the index shall cease to qualify if the value of the index represented by one or more Nasdaq Global Market securities is less than 8% at the end of any subsequent calendar quarter.]

[(E) “Aggregate current index value” shall mean the current index value times the index multiplier.]

[(F) A member will not be in violation of paragraph (a) above if the member executes a short sale for the account of an options market maker that is in contravention of this paragraph (h), provided that the member did not know or have reason to know that the options market maker’s short sale was in contravention of this paragraph (h).]

[(i)(1) A member shall be permitted, consistent with its quotation obligations, to execute a short sale for the account of a warrant market maker that would otherwise be in contravention of this Rule, if:]

[(A) the warrant market maker is a registered market maker for the warrant; and]

[(B) the short sale is an exempt hedge transaction that results in a fully hedged position.]

[(2) For purposes of this paragraph, an “exempt hedge transaction” shall mean a short sale in a Nasdaq Global Market Security that was effected to hedge, and in fact serves to hedge, an existing offsetting warrant position or an offsetting warrant position that was created in a transaction(s) contemporaneous with the short sale.*

Notwithstanding any other provision of this paragraph, any transaction unrelated to normal warrant market making activity, such as index arbitrage or risk arbitrage that in either case is independent of a warrant market maker’s market making functions, will not be considered an “exempt hedge transaction.”]

[(3) The Association may withdraw, suspend or modify the exemption for a warrant market maker upon determination that the market maker has failed to comply with the terms of the exemption, and that such a withdrawal, suspension or modification

of the market maker's exemption is warranted in light of the substantial, willful, or continuing nature of the violation.]

[(4) A member will not be in violation of paragraph (a) above if the member executes a short sale for the account of a warrant market maker that is in contravention of this paragraph (i), provided that the member did not know or have reason to know that the warrant market maker's short sale was in contravention of paragraph (i).]

[(j) Pursuant to the Rule 9600 Series or on the Association's own motion, the Association may exempt either unconditionally, or on specified terms and conditions, any transaction or class of transactions from the provisions of this Rule.]

[(k) Definitions:]

[(1) The term "short sale" shall have the same meaning as contained in SEC Rule 200, adopted pursuant to the Act.]

[(2) The term "block positioner" shall have the same meaning as contained in SEC Rule 3b-8(c) for "Qualified Block Positioner" adopted pursuant to the Act.]

[(l) This section shall be in effect until December 15, 2007.]

[IM-5100. Short Sale Rule]

[(a)(1) In developing a Short Sale Rule for Nasdaq Global Market securities effected otherwise than on an exchange, NASD has adopted an exemption to the Rule for certain market making activity. This exemption is an essential component of the Rule because bona fide market making activity is necessary and appropriate to maintain continuous, liquid markets in Nasdaq Global Market securities. Rule 5100(c)(1) states that short selling prohibitions shall not apply to sales by registered market makers in

connection with bona fide market making activity and specifies that transactions unrelated to normal market making activity, such as index arbitrage and risk arbitrage that are independent from a member's market making functions, will not be considered as bona fide market making. Thus, two standards are to be applied: one must be a registered market maker and one must engage in "bona fide" market making activity to take advantage of this exemption. With this interpretation, NASD wishes to clarify for members some of the factors that will be taken into consideration when reviewing market making activity that may not be deemed to be bona fide market making activity and therefore would not be exempted from the Rule's application.]

[(2) First, as the Rule indicates, bona fide market making activity does not include activity that is unrelated to market making functions, such as index arbitrage and risk arbitrage that is independent from a member's market making functions. While these types of arbitrage activity appear to be suitable for the firm's overall hedging or risk management concerns, they do not warrant an exemption from the Rule. However, short sales of a security of a company involved in a merger or acquisition will be deemed bona fide market-making activity if made to hedge the purchase or prospective purchase (based on communicated indications of interest) of another security of a company involved in the merger or acquisition, which purchase was made, or is to be made, in the course of bona fide market making activity. The purchase of a security of a company involved in a merger or acquisition made to hedge a short sale of another security involved in the merger or acquisition, which sale was made in the course of bona fide market making activity, will not cause the sale to be deemed unrelated to normal market-making activity. Short sales made to hedge any such purchases or prospective purchases must be

reasonably consistent with the exchange ratio (or exchange ratio formula) specified by the terms of the merger or acquisition.]

[(3) Similarly, bona fide market making would exclude activity that is related to speculative selling strategies of the member or investment decisions of the firm and is disproportionate to the usual market making patterns or practices of the member in that security. The Association does not anticipate that a firm could properly take advantage of its market maker exemption to effectuate such speculative or investment short selling decisions. Disproportionate short selling in a market making account to effectuate such strategies will be viewed by the Association as inappropriate activity that does not represent bona fide market making and would therefore be in violation of Rule 5100.]

[(b) With respect to trades reported to the ADF or a Trade Reporting Facility, Rule 5100 requires that no member shall effect a short sale in a Nasdaq Global Market Security (as that term is defined in Rule 4200) otherwise than on an exchange for the account of a customer or for its own account at or below the current national best (inside) bid when the current national best (inside) bid is below the preceding national best (inside) bid in the security. For purposes of this rule, the term “customer” includes a non-member broker-dealer. NASD has determined that in order to effect a “legal” short sale when the current best bid is lower than the preceding best bid the short sale must be executed at a price of at least \$0.01 above the current inside bid when the current inside spread is \$0.01 or greater. The last sale report for such a trade would, therefore, be above the inside bid by at least \$0.01.]

[(c)(1) Rule 5100 prohibits a member from effecting a short sale for the account of a customer or for its own account directly or through the offices of a third party for the

purpose of avoiding the application of the Short Sale Rule. Further, the Rule prohibits a member from knowingly, or with reason to know, effecting sales for the account of a customer or for its own account for the purpose of avoiding the Rule. With this interpretation, the Association wishes to clarify some of the circumstances under which a member would be deemed to be in violation of Rule 5100.]

[(2) For example, in instances where the current best bid is below the preceding best bid, if a market maker alone at the inside best bid were to lower its bid and then raise it to create an “up bid” for the purpose of facilitating a short sale, NASD would consider such activity to be a manipulative act and a violation of NASD’s Short Sale Rule. NASD also would consider it a manipulative act and a violation of the Rule if a market maker with a long stock position were to raise its bid above the inside bid and then lower it to create a “down bid” for the purpose of precluding market participants from selling short. In addition, if a market maker agrees to an arrangement proposed by a member or a customer whereby the market maker raises its bid in order to effect a short sale for the other party and is protected against any loss on the trade or on any other executions effected at its new bid price, the market maker would be deemed to be in violation of Rule 5100. Similarly, a market maker would be deemed in violation of the Rule if it entered into an arrangement with a member or a customer whereby it used its exemption from the rule to sell short at the bid at successively lower prices, accumulating a short position, and subsequently offsetting those sales through a transaction at a prearranged price, for the purpose of avoiding compliance with the Rule, and with the understanding that the market maker would be guaranteed by the member or customer against losses on the trades.]

[(3) The Association believes that members' activities to circumvent the Rule through indirect actions such as executions with other members or through facilitation of customer orders while being protected from loss are antithetical to the purposes of the Rule. Accordingly, the Association will consider any such activity as a violation of Rule 5100.]

* * * * *

6130. Trade Report Input

(a) through (c) No change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (5) No change.

(6) A symbol indicating whether the transaction is a buy, sell, sell short, [sell short exempt] or cross;

(7) through (13) No change.

(e) through (i) No change.

IM-6130. Trade Reporting of Short Sales

[The NASD's short sale rule (Short Sale Rule or Rule 5100) generally prohibits members from effecting short sales in NGM securities at or below the inside bid when the current inside bid is below the previous inside bid.] Rule 6130(d)(6) requires that members indicate on System reports whether a transaction is a short sale[or a short sale exempt] transaction ("short sale reporting requirements"). Rule 6130 explicitly requires

members to file reports [not just for NGM securities transactions, but] for [other securities] transactions in all Reportable Securities, including transactions in exchange-listed, [Capital Market,] convertible debt, OTC Bulletin Board, and OTC equity securities. Thus, all short sale transactions in these securities reported to the System must carry a “short sale” indicator [(or a “short sale exempt” indicator if it is a short sale transaction in an NGM or exchange-listed security that qualifies for an exemption from Rule 5100 or SEC Rule 10a-1)].

* * * * *

6130C. Trade Report Input

(a) through (c) No change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (5) No change.

(6) A symbol indicating whether the transaction is a buy, sell, sell short, [sell short exempt] or cross;

(7) through (13) No change.

(e) through (h) No change.

IM-6130C. Trade Reporting of Short Sales

[NASD’s short sale rule (Short Sale Rule or Rule 5100) generally prohibits members from effecting short sales in Nasdaq Global Market (“NGM”) securities at or below the inside bid when the current inside bid is below the previous inside bid.] Rule

6130C(d)(6) requires that members indicate on System reports whether a transaction is a short sale [or a short sale exempt] transaction (“short sale reporting requirements”). Rule 6130C applies to members that submit reports to the NASD/NSX Trade Reporting Facility [not just for NGM securities transactions, but] for transactions in all exchange-listed securities. Thus, all short sale transactions in these securities reported to the System must carry a “short sale” indicator [(or a “short sale exempt” indicator if it is a short sale transaction in any exchange-listed security that qualifies for an exemption from Rule 5100 or SEC Rule 10a-1)].

* * * * *

6130D. Trade Report Input

(a) through (c) No change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (5) No change.

(6) A symbol indicating whether the transaction is a buy, sell, sell short, [sell short exempt] or cross;

(7) through (13) No change.

(e) through (h) No change.

IM-6130D. Trade Reporting of Short Sales

[NASD’s short sale rule (Short Sale Rule or Rule 5100) generally prohibits members from effecting short sales in Nasdaq Global Market (“NGM”) securities at or

below the inside bid when the current inside bid is below the previous inside bid.] Rule 6130D(d)(6) requires that members indicate on System reports whether a transaction is a short sale [or a short sale exempt] transaction (“short sale reporting requirements”). Rule 6130D applies to members that submit reports to the NASD/BSE Trade Reporting Facility [not just for NGM securities transactions, but] for transactions in all exchange-listed securities. Thus, all short sale transactions in these securities reported to the System must carry a “short sale” indicator [(or a “short sale exempt” indicator if it is a short sale transaction in any exchange-listed security that qualifies for an exemption from Rule 5100 or SEC Rule 10a-1)].

* * * * *

6130E. Trade Report Input

(a) through (c) No change.

(d) Trade Information To Be Input

Each report to the System shall contain the following information:

(1) through (5) No change.

(6) A symbol indicating whether the transaction is a buy, sell, sell short, [sell short exempt] or cross;

(7) through (13) No change.

(e) through (h) No change.

IM-6130E. Trade Reporting of Short Sales

[NASD’s short sale rule (Short Sale Rule or Rule 5100) generally prohibits members from effecting short sales in Nasdaq Global Market (“NGM”) securities at or below the inside bid when the current inside bid is below the previous inside bid.] Rule 6130E(d)(6) requires that members indicate on System reports whether a transaction is a short sale [or a short sale exempt] transaction (“short sale reporting requirements”). Rule 6130E applies to members that submit reports to the NASD/NYSE Trade Reporting Facility not just for NGM securities transactions, but for transactions in all exchange-listed securities. Thus, all short sale transactions in these securities reported to the System must carry a “short sale” indicator [(or a “short sale exempt” indicator if it is a short sale transaction in any exchange-listed security that qualifies for an exemption from Rule 5100 or SEC Rule 10a-1)].

* * * * *

9610. Application

(a) Where to File

A member seeking exemptive relief as permitted under Rules 1021, 1050, 1070, 2210, 2315, 2320, 2340, 2520, 2710, 2720, 2790, 2810, 2850, 2851, 2860, Interpretive Material 2860-1, 3010(b)(2), 3020, 3150, 3230, [5100,] 6958, 8211, 8213, 11870, or 11900, or Municipal Securities Rulemaking Board Rule G-37 shall file a written application with the appropriate department or staff of NASD and provide a copy of the application to the Office of General Counsel of NASD.

(b) through (c) No change.