

December 18, 2000

Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549
Mail Stop 10-1

Re: File No. SR-NASD-00-75 - Extension of Effectiveness of Pilot Injunctive
Relief Rule

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed herewith is the above-numbered rule filing. Also enclosed is a 3-1/2" disk containing the rule filing in Microsoft Word to facilitate production of the Federal Register release.

If you have any questions, please contact Laura Leedy Gansler, Counsel, NASD Dispute Resolution, Inc., at (202) 728-8275; e-mail laura.gansler@nasd.com. The fax number of NASD Dispute Resolution, Inc. is (202) 728-8833.

Very truly yours,

Joan C. Conley
Senior Vice President and
Corporate Secretary

Attachment

File No. SR-NASD-00-75
Consists of 10 Pages

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C.

Form 19b-4

Proposed Rule Change

by

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

1. Text of Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"), NASD Dispute Resolution, Inc. ("NASD Dispute Resolution") is filing with the Securities and Exchange Commission ("SEC") a proposed rule change to Rule 10335 of the Code of Arbitration Procedure ("Code") of the National Association of Securities Dealers, Inc. ("NASD" or "Association") to extend the effectiveness of the rule for one year, pending Commission action on a pending rule filing, SR-NASD-00-02, to amend the rule and make it a permanent part of the Code. Below is the text of the proposed rule change, as amended.

Proposed new language is underlined; proposed deletions are in brackets.

10335. Injunctions

(a) – (h) Unchanged.

(i) Effective Date

This Rule shall apply to arbitration claims filed on or after January 3, 1996. Except as otherwise provided in this Rule, the remaining provisions of the Code shall apply to proceedings instituted under this Rule. This Rule shall expire on [January 5, 2001] January 4, 2002, unless extended by the Association's Board of Governors.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of NASD Dispute Resolution at its meeting on December 6, 2000, when it authorized the filing of the rule change with the SEC. The Nasdaq Stock Market, Inc. and NASD Regulation, Inc. have been provided an opportunity to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by the NASD to Subsidiaries. The NASD Board of Governors had an opportunity to review the proposed rule change at its meeting on

December 7, 2000. No other action by the NASD is necessary for the filing of the proposed rule change. Section 1(a)(2) of Article VI of the By-Laws permits the NASD Board of Governors to adopt NASD amendments to NASD Rules without recourse to the membership for approval.

The NASD will make the proposed rule change effective upon Commission approval.

Questions regarding this rule filing may be directed to Laura Gansler, NASD Dispute Resolution, Inc., at (202) 728-8275.

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

(a) Purpose

Rule 10335, the NASD's pilot injunctive relief rule, provides procedures for obtaining interim injunctive relief in controversies involving member firms and associated persons in arbitration. The rule has primarily been used in "raiding cases," or cases involving the transfer of an employee from one firm to another firm. Rule 10335 took effect on January 3, 1996, for a one-year pilot period. The SEC has periodically extended the initial pilot period in order to permit the NASD to assess the effectiveness of the rule. The pilot rule is currently due to expire on January 5, 2001.

In December 1999, the Board of Directors of NASD Regulation, Inc.¹ approved a proposed rule change to amend Rule 10335 and to make it a permanent part of the Code. The proposed rule change was filed with the Commission as SR-NASD-00-02 on January 12,

¹ Prior to July 9, 2000, the Office of Dispute Resolution ("ODR") was part of NASD Regulation, Inc., and proposed rule changes were approved by the Board of Directors of NASD Regulation. On July 9, 2000, ODR became a wholly-owned subsidiary of the NASD parent, known as NASD Dispute Resolution, Inc.

2000, and was published for comment in April 2000.² The Commission received seven comment letters regarding the proposed rule change. Simultaneously with this rule filing, the NASD has filed a Response to Comments and Amendment No. 3 to SR-NASD-00-02.

NASD Dispute Resolution believes it is in the interest of members and associated persons that the effectiveness of the pilot rule remain uninterrupted pending final Commission action on SR-NASD-00-02. Therefore, NASD Dispute Resolution believes that the pilot rule should be extended to January 4, 2002, or such earlier time as permitted by Commission action on the permanent rule filing, which makes clear that, if approved, the amended rule would supercede the pilot rule in its entirety.

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

NASD Dispute Resolution does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

NASD Dispute Resolution requests the Commission to find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after its

² See Exchange Act Release No. 42606 (April 3, 2000) (File No. SR-NASD-00-02), 65 Federal Register

publication in the Federal Register. Rule 10335 expires by its terms on January 5, 2001. As discussed above, NASD Dispute Resolution has filed a Response to Comments and Amendment No. 3 to a pending rule filing, SR-NASD-00-02, that would amend Rule 10335 and make it a permanent part of the Code. Upon approval of the permanent rule filing, the amended Rule 10335 would supersede the pilot rule in its entirety. Pending the Commission's approval or disapproval of the permanent rule filing, NASD Dispute Resolution believes it is in the interest of users of Rule 10335 for the procedures to remain in effect without interruption. Therefore, NASD Dispute Resolution requests the Commission to accelerate the effectiveness of the proposed rule change prior to the 30th day after its publication in the Federal Register.

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

Not applicable.

9. Exhibits

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

Pursuant to the requirements of the Securities Exchange Act of 1934, NASD Dispute Resolution has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

NASD DISPUTE RESOLUTION, INC.

BY: _____
Joan C. Conley, Senior Vice President and
Corporate Secretary

Date: December 18, 2000

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-00-75)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Extension of Effectiveness of Pilot Injunctive Relief Rule

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19-b4 thereunder,² notice is hereby given that on _____, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. ("NASD Dispute Resolution") 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 Dispute Resolution. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. SELF-REGULATORY ORGANIZATION'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

NASD Dispute Resolution is proposing to amend Rule 10335 of the Code of Arbitration ("Code") of the National Association of Securities Dealers, Inc. ("NASD" or "Association"), to extend the pilot injunctive relief rule for one year, pending Commission action on a pending rule filing, SR-NASD-00-02, to amend Rule 10335 and make it a permanent part of the Code. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

¹ 15 U.S.C. 78(b)(1).

² 17 C.F.R. 240.19b-4.

10335. Injunctions

(a) – (h) Unchanged.

(i) Effective Date

This Rule shall apply to arbitration claims filed on or after January 3, 1996. Except as otherwise provided in this Rule, the remaining provisions of the Code shall apply to proceedings instituted under this Rule. This Rule shall expire on [January 5, 2001] January 4, 2002, unless extended by the Association's Board of Governors.

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 Dispute Resolution 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 Dispute Resolution 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

(a) Purpose

Rule 10335, the NASD's pilot injunctive relief rule, provides procedures for obtaining interim injunctive relief in controversies involving member firms and associated persons in arbitration. The rule has primarily been used in "raiding cases," or cases involving the transfer of an employee from one firm to another firm. Rule 10335 took effect on January 3, 1996, for a one-year pilot period. The SEC has periodically extended the initial pilot period in order to

permit the NASD to assess the effectiveness of the rule. The pilot rule is currently due to expire on January 5, 2001.

In December 1999, the Board of Directors of NASD Regulation, Inc.³ approved a proposed rule change to amend Rule 10335 and to make it a permanent part of the Code. The proposed rule change was filed with the Commission as SR-NASD-00-02 on January 12, 2000 and published for comment in April, 2000.⁴ The Commission received seven comment letters regarding the proposed rule change. Simultaneously with this rule filing, the NASD has filed a Response to Comments and Amendment No. 3 to SR-NASD-00-02.

NASD Dispute Resolution believes that it is in the interest of members and associated persons that the effectiveness of the pilot rule remain uninterrupted pending final Commission action on SR-NASD-00-02. Therefore, NASD Dispute Resolution believes that the pilot rule should be extended to January 4, 2002, or such earlier time as permitted by Commission action on the permanent rule filing, which makes clear that, if approved, the amended rule would supersede the pilot rule in its entirety.

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

NASD Dispute Resolution does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

³ Prior to July 9, 2000, the Office of Dispute Resolution (“ODR”) was part of NASD Regulation, Inc., and proposed rule changes were approved by the Board of Directors of NASD Dispute Resolution. On July 9, 2000, ODR became a wholly-owned subsidiary of the NASD parent, known as NASD Dispute Resolution, Inc.

⁴ See Exchange Act Release No. 42606 (April 3, 2000) (File No. NASD-00-02), 65 Federal Register 18405 (April 7, 2000).

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

NASD Dispute Resolution has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the Federal Register. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in that accelerated approval will permit members to have the benefit of injunctive relief in arbitration pending Commission action on the pending rule filing, SR-NASD-00-02, that would amend Rule 10335 and make it a permanent part of the Code.

IV. SOLICITATION OF COMMENTS

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number

in the caption above and should be submitted by [insert date 21 days from the date of publication].

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz
Secretary