



NASD Regulation, Inc.
Corporate Financing Department
1801 K Street, NW
Washington, DC 20006
(202) 974-2700

March 22, 1999

Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-1001
Room 10507

**Re: File No. SR-NASD-99-01, Amendment No. 2
Simplification of Corporate Financing Filing Fees**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed herewith is Amendment No. 2 to the above-numbered rule filing, which is intended to supersede the original rule filing in its entirety. Also enclosed is a 3-1/2" disk containing the rule filing in Microsoft Word 7.0 to facilitate production of the Federal Register release.

This rule filing is being submitted pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). In the event that comments are not received on the proposed rule change, we would appreciate your consideration of accelerating effectiveness of the proposed rule change under Section 19(b)(2) of the Act, as the proposed rule change will, in certain cases, relieve members from paying a fee with respect to additional securities included on an amendment to an original filing.

If you have any questions, please contact Suzanne E. Rothwell, Chief Counsel, Corporate Financing, NASD Regulation, Inc., at (202) 974-2747; e-mail rothwels@nasd.com. The fax number of the Corporate Financing Department is (202) 974-2732.

Very truly yours,

Joan C. Conley
Secretary

Attachment

File No. SR-NASD-99-01
Amendment No. 2
Consists of 20 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 Regulation, Inc. ("NASD Regulation") is filing with the Securities and Exchange Commission ("SEC") a proposed rule change to Schedule A to the NASD By-Laws and Conduct Rule 2710 of the National Association of Securities Dealers, Inc. ("NASD" or "Association") to simplify the fee structure for public offerings filed under Rules 2710, 2720, and 2810. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

SCHEDULE A TO THE NASD BY-LAWS

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of the Corporation, shall be determined on the following basis.

Section 1 - Section 5 No change.

Section 6-Fees for Filing Documents Pursuant to the Corporate Financing Rule

(a) [The] There shall be a fee imposed for the filing of initial documents relating to any offering filed with the NASD pursuant to the Corporate Financing Rule [shall be accompanied by a filing fee] equal to \$500 plus .01% of the [gross dollar amount of the offering,] proposed maximum aggregate offering price or other applicable value of all securities registered on an SEC registration statement or included on any other type of offering document (where not filed with the SEC), but shall not [to] exceed [a fee of] \$30,500. The amount of filing fee may be rounded to the nearest dollar.

(b) [Amendments] There shall be an additional fee imposed for the filing of any amendment or other change to the [initially filed documents which increase the number of

securities being offered] documents initially filed with the NASD pursuant to the Corporate Financing Rule [shall be accompanied by an additional amount of filing fee] equal to .01% of the [per share offering price of the new or additional securities, multiplied by the number of new or additional securities being offered,] net increase in the maximum aggregate offering price or other applicable value of all securities registered on an SEC registration statement, or any related Rule 462(b) registration statement, or reflected on any Rule 430A prospectus, or included on any other type of offering document. However, the aggregate of all filing fees paid in connection with an SEC registration statement or other type of offering document shall not [to] exceed \$30,500 [when aggregated with all fees previously paid].

[(c) The provisions of Rule 457 adopted under the Securities Act of 1933, as amended, shall govern the computation of filing fees for all offerings filed pursuant to this Section, including intrastate offerings, to the extent the terms of Rule 457 are not inconsistent with this Section.]

Section 7 - Section 15 No change.

* * *

2710. Corporate Financing Rule - Underwriting Terms and Arrangements

(a) Definitions

For purposes of this Rule, the following terms shall have the meanings stated below. The definitions in Rule 2720 are incorporated herein by reference.

[(l) Gross Dollar Amount of the Offering]

[Public offering price of all securities offered to the public and securities included in any overallotment option, the registration price of securities to be paid to the underwriter and related persons, and the registration price of any securities underlying other securities;]

(2) - (6) renumbered (1) - (5)

(b) Filing Requirements

(1) - (9) No change.

[(10) Filing Fees]

[(A) The initial documents relating to any offering filed with the Association pursuant to this Rule shall be accompanied by a filing fee equal to \$500 plus .01% of the gross dollar amount of the offering, not to exceed a fee of \$30,500. The amount of filing fee may be rounded to the nearest dollar.]

[(B) Amendments to the initially filed documents which increase the number of securities being offered shall be accompanied by an additional amount of filing fee equal to .01% of the per share offering price of the new or additional securities, multiplied by the number of new or additional securities being offered, not to exceed \$30,500 when aggregated with all fees previously paid.]

[(C) The provisions of SEC Rule 457 adopted under the Securities Act of 1933, as amended, shall govern the computation of filing fees for all offerings filed pursuant to this Rule, including intrastate offerings, to the extent the terms of Rule 457 are not inconsistent with subparagraph (A), (B) or (C) above.]

(11) - (13) renumbered (10) - (12)

(c) No change.

* * *

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of NASD Regulation and by the Board of Governors of the NASD at their meetings on August 6.

1998, at which the Boards also authorized the filing of the rule change with the SEC. The Nasdaq Stock Market has 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 its Subsidiaries. No other action by the NASD is necessary for the filing of the proposed rule change. Section 1(a)(ii) of Article VII of the By-Laws permits the NASD Board of Governors to adopt amendments to NASD Rules without recourse to the membership for approval.

Questions regarding this rule filing may be directed to Suzanne E. Rothwell, Chief Counsel, Corporate Financing, at (202) 974-2747.

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

(a) NASD Conduct Rule 2710 (the "Corporate Financing Rule") requires that NASD members file most proposed public offerings with the Corporate Financing Department ("Department") of NASD Regulation. The Corporate Financing Department reviews these filings in order to determine whether the underwriting terms and arrangements are fair and reasonable pursuant to standards set forth in Rules 2710, 2720, and 2810 prior to the commencement of the offering.

Certain aspects of the existing process by which Corporate Financing filing fees are calculated create unnecessary inefficiencies in the handling of such fees by NASD Regulation. NASD Regulation is proposing to amend its rules, as discussed below, to address these problems with respect to the Corporate Financing filing fees.

Elimination of Duplicate Provision – Section 6 of Schedule A to the NASD By-Laws ("Schedule A") and Paragraph (b)(10) of Conduct Rule 2710 include identical provisions that

impose a fee on each filing, in the amount of \$500 plus .01% of the value of securities, with a maximum filing fee limit of \$30,500 (the “Corporate Financing filing fee”). NASD Regulation is proposing to eliminate paragraph (b)(10) of Conduct Rule 2710 in its entirety because it duplicates Section 6 of Schedule A to the NASD By-Laws, and Schedule A is the more appropriate location for provisions that impose fees on NASD members.

Method for Submission of Filing Fees – The language of Sections 6(a) and 6(b) of Schedule A currently specify that a filing fee shall accompany an initial filing and amendments, in certain cases. NASD Regulation is proposing to eliminate this language so that it can have greater flexibility with respect to the manner in which filing fees are paid.¹

Application of Fee to All Securities on Offering Document – Currently, offerings filed with the Department are charged a fee equal to \$500, plus .01% of the gross dollar amount of the offering, not to exceed \$30,500. The definition of the term “gross dollar amount of the offering” in Paragraph (a)(1) of Conduct Rule 2710 only allows NASD Regulation to collect a fee on “all securities offered to the public.” This language is often interpreted by NASD members to impose a fee only with respect to those specific securities currently offered by the member filing a proposed offering, even when the issuer has included other securities on the same offering document for later public sale by the same or another member. Further, in the case of securities registered with the SEC pursuant to Rule 415, NASD members have argued that the Department should recalculate the filing fee each time a shelf takedown is made so that the member is only responsible for the Corporate Financing fee that relates to the

¹ The NASD recently deleted Subsection (6)(c) of Schedule A to the NASD By-Laws and Subparagraph (b)(10)(C) of Conduct Rule 2710, which mandated that Corporate Financing filing fees be paid in the form of a check or money order. See SEC Release No. 34-40706 (November 24, 1998); 63 F.R. 66618 (December 2, 1998).

member's specific shelf takedown. Such a piecemeal calculation of filing fees would be time-consuming and cause accounting difficulties.

NASD Regulation proposes to amend Section 6(a) to Schedule A to clarify that the Corporate Financing filing fee will be calculated on the proposed maximum aggregate offering price (or other applicable value) of all securities included on an SEC registration statement or any other type of offering document – regardless of whether the securities are to be currently “offered to the public.” The term “proposed maximum aggregate offering price” is the same term used in the fourth column of the fee table on the cover of SEC registration statement forms to identify the total of the proposed public offering price of all securities to be registered on that registration statement. The inclusion of the words “other applicable value” is intended to cover debt securities or a situation in which the company only registers a dollar amount of securities without specifying the type of security. This is the same value that would also be included under the fourth column of the fee table titled “proposed maximum aggregate offering price” on the cover of SEC registration forms in the case where a debt issue or a dollar amount of securities is being registered with the SEC.

It is believed that this clarification will facilitate the calculation of Corporate Financing filing fees and remove issues of dispute that currently occur over whether securities included on an offering document are being currently “offered to the public.” Since the calculation of the Corporate Financing filing fee will no longer be based on the “gross dollar amount of the offering,” this definition is proposed to be eliminated in Paragraph (a)(1) of Rule 2710.

Calculation of Fee on Amendments – The current filing fee provisions in Section 6(b) of Schedule A require that NASD Regulation collect an additional filing fee when an amendment to the offering document increases the number of securities being registered,

regardless of whether there is any increase in the aggregate value of the securities that were included on the original offering document. This additional fee is calculated by multiplying the number of additional securities times their new offering price, and charging a fee of .01% of this product (with a limitation of \$30,500 in total fees with respect to any offering filed). When such an amendment decreases *the maximum aggregate offering price* for the whole offering (as well as increasing the number of securities offered), the collection of an additional fee by the Department is not always warranted. Conversely, the Department is currently prohibited from collecting an additional fee when the amendment increases the maximum aggregate offering price of the securities offered, but does not increase the number of securities.

NASD Regulation is proposing to amend Section 6(b) to Schedule A to the NASD By-Laws to impose an additional fee for amendments only when there is an increase in the maximum aggregate offering price or other applicable value of all securities included on the offering document. Thus, an additional filing fee would be imposed in the amount of .01% of the net increase in the maximum aggregate offering price or other applicable value of all securities registered on an SEC registration statement or included on any other type of offering document, with a maximum of \$30,500 charged for any offering. However, no refund will be made as a result of a net decrease in the proposed maximum aggregate offering price or other applicable value.

The proposed rule change to Section 6(b) of Schedule A clarifies that NASD Regulation recognizes that there can be a net increase in the maximum aggregate offering price or other applicable value of an offering registered with the SEC through an amendment to the registration statement or through “any other change.” The language also treats as an

amendment a net increase in the maximum aggregate offering price or other applicable value that is reflected in a Rule 430A prospectus² or filed on a related registration statement filed pursuant to SEC Rule 462(b).³

SEC Rule 457 – Section 6(c) of Schedule A requires that Corporate Financing filing fees be computed according to SEC Rule 457, to the extent that Rule 457 is not inconsistent with Section 6. Originally, the Corporate Financing filing fee rule referenced SEC Rule 457 in order to calculate the Corporate Financing filing fees in certain situations. The amendments proposed herein to the Corporate Financing filing fee rule would incorporate all necessary concepts for the calculation of such filing fees. Therefore, NASD Regulation proposes to eliminate Section 6(c), as the reference to SEC Rule 457 is no longer necessary.

(b) NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires that the rules of the Association provide for the equitable allocation of reasonable dues, fee, and other charges among NASD members. The Association believes that the proposed rule change provides for the equitable allocation of the fees paid by NASD members in connection with the submission of proposed public offerings to the Corporate Financing Department for review.

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

² Rule 430A permits a certain information to be omitted in the prospectus of a registration statement declared effective by the SEC, so long as the omitted information is subsequently submitted within 15 business days in a prospectus filed with the SEC under Rule 424(b) or Rule 497(h). The instructions to Rule 430A permits a Rule 424(b) or Rule 497(h) prospectus to reflect a change in the volume of securities and the public offering price that represent no more than a 20 percent change in the maximum aggregate offering price set forth in the fee table in the effective registration statement.

³ SEC Rule 462(b) permits a registrant to file a registration statement that is effective upon filing if, among other things, the registration statement registers “. . . additional securities of the same class(es) as were included in an earlier registration statement for the same offering and declared effective with the Commission.”

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, 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 Regulation 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)

Not applicable.

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

NASD REGULATION, INC.

BY: _____
Joan C. Conley
Secretary

Date: March 22, 1999

EXHIBIT 1

**SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-99-01)**

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Filing Fees Under the Corporate Financing Rule

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"), through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") and amended on -----³ the 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 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 Schedule A to the NASD By-Laws and NASD Conduct Rule 2710 to simplify the fee structure for public offerings filed under Rules 2710, 2720, and 2810. 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. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendments Nos. 1 and 2 replaced and superseded the original rule filing and made technical changes to the original rule filing.

SCHEDULE A TO THE NASD BY-LAWS

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of the Corporation, shall be determined on the following basis.

Section 1 - Section 5 No change.

Section 6-Fees for Filing Documents Pursuant to the Corporate Financing Rule

(a) [The] There shall be a fee imposed for the filing of initial documents relating to any offering filed with the NASD pursuant to the Corporate Financing Rule [shall be accompanied by a filing fee] equal to \$500 plus .01% of the [gross dollar amount of the offering,] proposed maximum aggregate offering price or other applicable value of all securities registered on an SEC registration statement or included on any other type of offering document (where not filed with the SEC), but shall not [to] exceed [a fee of] \$30,500. The amount of filing fee may be rounded to the nearest dollar.

(b) [Amendments] There shall be an additional fee imposed for the filing of any amendment or other change to the [initially filed documents which increase the number of securities being offered] documents initially filed with the NASD pursuant to the Corporate Financing Rule [shall be accompanied by an additional amount of filing fee] equal to .01% of the [per share offering price of the new or additional securities, multiplied by the number of new or additional securities being offered,] net increase in the maximum aggregate offering price or other applicable value of all securities registered on an SEC registration statement, or any related Rule 462(b) registration statement, or reflected on any Rule 430A prospectus, or included on any other type of offering document. However, the aggregate of all filing fees paid in connection with an SEC registration statement or other type of offering document shall not [to] exceed \$30,500 [when aggregated with all fees previously paid].

[(c) The provisions of Rule 457 adopted under the Securities Act of 1933, as amended, shall govern the computation of filing fees for all offerings filed pursuant to this Section, including intrastate offerings, to the extent the terms of Rule 457 are not inconsistent with this Section.]

Section 7 - Section 15 No change.

* * *

2710. Corporate Financing Rule - Underwriting Terms and Arrangements

(a) Definitions

For purposes of this Rule, the following terms shall have the meanings stated below. The definitions in Rule 2720 are incorporated herein by reference.

[(l) Gross Dollar Amount of the Offering]

[Public offering price of all securities offered to the public and securities included in any overallotment option, the registration price of securities to be paid to the underwriter and related persons, and the registration price of any securities underlying other securities;]

(2) - (6) renumbered (1) - (5)

(b) Filing Requirements

(1) - (9) No change.

[(10) Filing Fees]

[(A) The initial documents relating to any offering filed with the Association pursuant to this Rule shall be accompanied by a filing fee equal to \$500 plus .01% of the gross dollar amount of the offering, not to exceed a fee of \$30,500. The amount of filing fee may be rounded to the nearest dollar.]

[(B) Amendments to the initially filed documents which increase the number of securities being offered shall be accompanied by an additional amount of filing fee equal to .01% of the per share offering price of the new or additional securities, multiplied by the number of new or additional securities being offered, not to exceed \$30,500 when aggregated with all fees previously paid.]

[(C) The provisions of SEC Rule 457 adopted under the Securities Act of 1933, as amended, shall govern the computation of filing fees for all offerings filed pursuant to this Rule, including intrastate offerings, to the extent the terms of Rule 457 are not inconsistent with subparagraph (A), (B) or (C) above.]

(11) - (13) renumbered **(10) - (12)**

(c) No change.

* * *

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 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

1. Purpose

NASD Conduct Rule 2710 (the "Corporate Financing Rule") requires that NASD members file most proposed public offerings with the Corporate Financing Department

(“Department”) of NASD Regulation. The Corporate Financing Department reviews these filings in order to determine whether the underwriting terms and arrangements are fair and reasonable pursuant to standards set forth in Rules 2710, 2720, and 2810 prior to the commencement of the offering.

Certain aspects of the existing process by which Corporate Financing filing fees are calculated create unnecessary inefficiencies in the handling of such fees by NASD Regulation. NASD Regulation is proposing to amend its rules, as discussed below, to address these problems with respect to the Corporate Financing filing fees.

Elimination of Duplicate Provision – Section 6 of Schedule A to the NASD By-Laws (“Schedule A”) and Paragraph (b)(10) of Conduct Rule 2710 include identical provisions that impose a fee on each filing, in the amount of \$500 plus .01% of the value of securities, with a maximum filing fee limit of \$30,500 (the “Corporate Financing filing fee”). NASD Regulation is proposing to eliminate paragraph (b)(10) of Conduct Rule 2710 in its entirety because it duplicates Section 6 of Schedule A to the NASD By-Laws, and Schedule A is the more appropriate location for provisions that impose fees on NASD members.

Method for Submission of Filing Fees – The language of Sections 6(a) and 6(b) of Schedule A currently specify that a filing fee shall accompany an initial filing and amendments, in certain cases. NASD Regulation is proposing to eliminate this language so that it can have greater flexibility with respect to the manner in which filing fees are paid.⁴

Application of Fee to All Securities on Offering Document – Currently, offerings filed

⁴ The NASD recently deleted Subsection (6)(c) of Schedule A to the NASD By-Laws and Subparagraph (b)(10)(C) of Conduct Rule 2710, which mandated that Corporate Financing filing fees be paid in the form of a check or money order. See SEC Release No. 34-40706 (November 24, 1998); 63 F.R. 66618 (December 2, 1998).

with the Department are charged a fee equal to \$500, plus .01% of the gross dollar amount of the offering, not to exceed \$30,500. The definition of the term “gross dollar amount of the offering” in Paragraph (a)(1) of Conduct Rule 2710 only allows NASD Regulation to collect a fee on “all securities offered to the public.” This language is often interpreted by NASD members to impose a fee only with respect to those specific securities currently offered by the member filing a proposed offering, even when the issuer has included other securities on the same offering document for later public sale by the same or another member. Further, in the case of securities registered with the SEC pursuant to Rule 415, NASD members have argued that the Department should recalculate the filing fee each time a shelf takedown is made so that the member is only responsible for the Corporate Financing fee that relates to the member’s specific shelf takedown. Such a piecemeal calculation of filing fees would be time-consuming and cause accounting difficulties.

NASD Regulation proposes to amend Section 6(a) to Schedule A to clarify that the Corporate Financing filing fee will be calculated on the proposed maximum aggregate offering price (or other applicable value) of all securities included on an SEC registration statement or any other type of offering document – regardless of whether the securities are to be currently “offered to the public.” The term “proposed maximum aggregate offering price” is the same term used in the fourth column of the fee table on the cover of SEC registration statement forms to identify the total of the proposed public offering price of all securities to be registered on that registration statement. The inclusion of the words “other applicable value” is intended to cover debt securities or a situation in which the company only registers a dollar amount of securities without specifying the type of security. This is the same value that would also be included under the fourth column of the fee table titled “proposed maximum aggregate

offering price” on the cover of SEC registration forms in the case where a debt issue or a dollar amount of securities is being registered with the SEC.

It is believed that this clarification will facilitate the calculation of Corporate Financing filing fees and remove issues of dispute that currently occur over whether securities included on an offering document are being currently “offered to the public.” Since the calculation of the Corporate Financing filing fee will no longer be based on the “gross dollar amount of the offering,” this definition is proposed to be eliminated in Paragraph (a)(1) of Rule 2710.

Calculation of Fee on Amendments – The current filing fee provisions in Section 6(b) of Schedule A require that NASD Regulation collect an additional filing fee when an amendment to the offering document increases the number of securities being registered, regardless of whether there is any increase in the aggregate value of the securities that were included on the original offering document. This additional fee is calculated by multiplying the number of additional securities times their new offering price, and charging a fee of .01% of this product (with a limitation of \$30,500 in total fees with respect to any offering filed). When such an amendment decreases *the maximum aggregate offering price* for the whole offering (as well as increasing the number of securities offered), the collection of an additional fee by the Department is not always warranted. Conversely, the Department is currently prohibited from collecting an additional fee when the amendment increases the maximum aggregate offering price of the securities offered, but does not increase the number of securities.

NASD Regulation is proposing to amend Section 6(b) to Schedule A to the NASD By-Laws to impose an additional fee for amendments only when there is an increase in the maximum aggregate offering price or other applicable value of all securities included on the

offering document. Thus, an additional filing fee would be imposed in the amount of .01% of the net increase in the maximum aggregate offering price or other applicable value of all securities registered on an SEC registration statement or included on any other type of offering document, with a maximum of \$30,500 charged for any offering. However, no refund will be made as a result of a net decrease in the proposed maximum aggregate offering price or other applicable value.

The proposed rule change to Section 6(b) of Schedule A clarifies that NASD Regulation recognizes that there can be a net increase in the maximum aggregate offering price or other applicable value of an offering registered with the SEC through an amendment to the registration statement or through “any other change.” The language also treats as an amendment a net increase in the maximum aggregate offering price or other applicable value that is reflected in a Rule 430A prospectus⁵ or filed on a related registration statement filed pursuant to SEC Rule 462(b).⁶

SEC Rule 457 – Section 6(c) of Schedule A requires that Corporate Financing filing fees be computed according to SEC Rule 457, to the extent that Rule 457 is not inconsistent with Section 6. Originally, the Corporate Financing filing fee rule referenced SEC Rule 457 in order to calculate the Corporate Financing filing fees in certain situations. The amendments proposed herein to the Corporate Financing filing fee rule would incorporate all necessary

⁵ Rule 430A permits a certain information to be omitted in the prospectus of a registration statement declared effective by the SEC, so long as the omitted information is subsequently submitted within 15 business days in a prospectus filed with the SEC under Rule 424(b) or Rule 497(h). The instructions to Rule 430A permits a Rule 424(b) or Rule 497(h) prospectus to reflect a change in the volume of securities and the public offering price that represent no more than a 20 percent change in the maximum aggregate offering price set forth in the fee table in the effective registration statement.

⁶ SEC Rule 462(b) permits a registrant to file a registration statement that is effective upon filing if, among other things, the registration statement registers “. . . additional securities of the same class(es) as were

concepts for the calculation of such filing fees. Therefore, NASD Regulation proposes to eliminate Section 6(c), as the reference to SEC Rule 457 is no longer necessary.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)⁷ of the Act, which requires that the rules of the Association provide for the equitable allocation of reasonable dues, fee, and other charges among members. The Association believes that the proposed rule change provides for the equitable allocation of the fees paid by members in connection with the submission of proposed public offerings to the Corporate Financing Department for review.

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, as amended.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

by order approve such proposed rule change, or

included in an earlier registration statement for the same offering and declared effective with the Commission.”

⁷ 15 U.S.C. § 78q-3.

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 proposal is consistent with the Act. 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 file No. SR-NASD-99-01 and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz
Secretary

⁸ 17 CFR 200.30-3(a)(12).