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March 18, 2004

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

Re: **File No. SR-NASD-2004-049 – Series 86/87 Examination and Development Fees**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed please find the above-numbered rule filing. 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.

If you have any questions, please contact Philip Shaikun, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8451; e-mail: philip.shaikun@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Barbara Z. Sweeney
Senior Vice President
and Corporate Secretary

Enclosures

File No. SR-NASD-2004-049
Consists of 16 Pages
March 18, 2004

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

(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 Section 4 of Schedule A of the NASD By-Laws to establish the examination fee for the new Research Analyst Qualification Examination (“Series 86/87”) program.² The proposed rule change also sets forth a pass-through development fee for the Series 86 and Series 87 examinations, which is to be paid to the New York Stock Exchange (“NYSE”). Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are bracketed.

* * * * *

Schedule A to NASD By-Laws

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

¹ 15 U.S.C. 78s(b)(1).

² On January 28, 2004, NASD filed with the SEC for immediate effectiveness the Series 86/87 examination program. See Securities Exchange Act Release No. 49253 (February 13, 2004), 69 FR 8257 (February 23, 2004) (notice of filing and immediate effectiveness of File No. SR-NASD-2004-17). NASD previously filed with the SEC on January 16, 2004, a proposed rule change for immediate effectiveness that delayed the effective date of NASD Rule 1050 to “not later than March 30, 2004.” See Securities Exchange Act Release No. 49119 (January 23, 2004), 69 FR 4337 (January 29, 2004) (notice of filing and immediate effectiveness of File No. SR-NASD-2004-10). NASD Rule 1050 will become effective on March 30, 2004.

Section 1 through 3 – No Change.

Section 4 – Fees

(a) through (b) No Change.

(c) There shall be an examination fee of \$60.00 assessed as to each individual who is required to take an examination for registration as a registered representative pursuant to the provisions of the Rule 1030 Series, except that the examination fee for general securities representatives shall be \$110.00. This fee is in addition to the registration fee described in Item (b). Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph [(j)] (l) of this Section.

(d) No Change.

(e) There shall be an examination fee of \$105.00 assessed as to each individual who takes a Series 86 examination for registration as a research analyst pursuant to Rule 1050. There shall be an examination fee of \$55.00 assessed as to each individual who takes a Series 87 examination for registration as a research analyst pursuant to Rule 1050. This fee is in addition to the registration fee described in paragraph (b). Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph (l) of this Section.

(f) There shall be a New York Stock Exchange examination development fee of \$45.00 assessed as to each individual who takes a Series 86 or Series 87 examination for registration as a research analyst pursuant to Rule 1050. This fee is in addition to the registration and examination fees described in paragraphs (b) and (e) respectively.

[(e)] (g) There shall be an examination fee of \$110.00 assessed as to each individual taking the General Securities-Sales Supervisor Examination. There shall be an examination fee of \$75.00 assessed as to each individual who is required to take any other examination for principals pursuant to the provisions of the Rule 1020 Series. Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph [(j)] (l) of this Section.

[(f)] (h) There shall be a service charge fee of \$15.00 in addition to those fees specified in (b), (c), [and] (d), (e), and (f) above for any examination taken in a foreign test center located outside the territorial limits of the United States.

(g) through (i) Renumbered as (i) through (k)

[(j)] (l) Each individual who is granted a waiver(s) for any qualification examination specified in paragraphs (c), [or] (e), or (g) of this section shall be assessed as an application fee the examination fee as set forth in paragraph (c), [or] (e), (f), or (g) for each qualification examination so waived.

(k) through (l) Renumbered as (m) through (n)

Section 5 through 13 – No Change.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The proposed rule change was approved by the Board of Directors of NASD Regulation, Inc. at its meeting on September 25, 2002, which authorized the filing of the

proposed rule change with the SEC. The NASD Board of Governors had an opportunity to review the proposed rule change at its meeting on September 26, 2002. Further, counsel for The Nasdaq Stock Market, Inc. and NASD Dispute Resolution, Inc. were provided an opportunity to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by 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 NASD By-Laws permits the NASD Board of Governors to adopt NASD Rules without recourse to the membership for approval.

As further discussed below, NASD is filing the proposed rule change for immediate effectiveness. NASD will announce the proposed rule change and the implementation date in a Notice to Members to be published no later than 30 days after SEC Notice of this filing.

(b) Questions regarding this rule filing may be directed to Philip Shaikun, Associate General Counsel, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8451.

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

(a) Purpose

Pursuant to NASD Rule 1050, an associated person who functions as a research analyst must be registered and pass a qualification examination. To that end, NASD and the NYSE jointly have developed a Research Analyst Examination program, a two-part examination that tests competency of fundamental analytical skills (Series 86) and applicable

laws, rules, and regulations (Series 87).³ NASD Rule 1050 will become effective on March 30, 2004. The proposed rule change would amend Section 4 of Schedule A of the NASD By-Laws to establish a fee of \$105.00 and \$55.00 for an associated person to take the Series 86 and Series 87 examinations, respectively. These fees are based on the costs to NASD to administer the examinations, including printing, delivery, and systems charges.

In addition, the proposed rule change authorizes a pass-through examination development fee of \$45.00, to be collected by NASD on behalf of the NYSE, each time an individual takes one of the examinations. The amount of the development fee was determined by the NYSE, and NASD understands that a proposal to establish this fee is being filed with the Commission contemporaneously by the NYSE for immediate effectiveness.

Accordingly, the total examination and development fees assessed on each individual who takes a Series 86 examination for registration as a research analyst will be \$150.00. The total examination and development fees assessed on each individual who takes a Series 87 examination for registration as a research analyst will be \$100.00. NASD proposes to implement the proposed rule change on March 30, 2004.

³ On February 2, 2004, NASD filed with the Commission a proposed rule change to amend NASD Rule 1050 to set forth certain prerequisites and exemptions for the requirement that all associated persons who function as research analysts be registered with NASD and pass a qualification examination. Specifically, the proposed rule change would (1) establish as a prerequisite to be registered as a research analyst the requirement that an applicant first be registered pursuant to NASD Rule 1032 as a General Securities Representative and (2) provide for an exemption from the Series 86 portion of the Research Analyst Examination for certain applicants who have passed both Levels I and II of the Chartered Financial Analyst Examination. See Securities Exchange Act Release No. 49314 (February 24, 2004), 69 FR 9888 (March 2, 2004) (notice of filing of File No. SR-NASD-2004-20).

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5) of the Act,⁴ which requires, among other things, that NASD rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that NASD operates or controls. The Series 86/87 examination and development fees are equitably allocated to NASD members, and NASD believes the fee levels are reasonable because they seek only the recovery of the costs associated with developing and administering the examination program.

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, 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

Not applicable.

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)(A)(ii) of the Act⁵ and Rule 19b-4(f)(2) thereunder,⁶ in that the proposed rule change establishes or

⁴ 15 U.S.C. 78o-3(b)(5).

⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

changes a due, fee, or other charge imposed by NASD. NASD proposes to implement the proposed rule change on March 30, 2004.

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

NASD understands that a proposal to establish an examination development fee of \$45.00 for the Series 86 and Series 87 examinations is being filed with the Commission contemporaneously by the NYSE for immediate effectiveness.

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

NASD

BY: _____
Barbara Z. Sweeney, Senior Vice President and
Corporate Secretary

Date: March 18, 2004

⁶ 17 CFR 240.19b-4(f)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-2004-049)

March , 2004

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Series 86/87 Examination and Development Fees

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 one establishing a fee under Section 19(b)(3)(A)(ii) of the Act,³ which renders the proposed rule change 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 filing with the SEC a proposed rule change to amend Section 4 of Schedule A of the NASD By-Laws to establish the examination fee for the new Research

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

Analyst Qualification Examination (“Series 86/87”) program.⁴ The proposed rule change also sets forth a pass-through development fee for the Series 86 and Series 87 examinations, which is to be paid to the New York Stock Exchange (“NYSE”). Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are bracketed.

* * * * *

Schedule A to NASD By-Laws

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

Section 1 through **3** – No Change.

Section 4 – Fees

(a) through (b) No Change.

(c) There shall be an examination fee of \$60.00 assessed as to each individual who is required to take an examination for registration as a registered representative pursuant to the provisions of the Rule 1030 Series, except that the examination fee for general securities representatives shall be \$110.00. This fee is in addition to the registration fee

⁴ On January 28, 2004, NASD filed with the SEC for immediate effectiveness the Series 86/87 examination program. See Securities Exchange Act Release No. 49253 (February 13, 2004), 69 FR 8257 (February 23, 2004) (notice of filing and immediate effectiveness of File No. SR-NASD-2004-17). NASD previously filed with the SEC on January 16, 2004, a proposed rule change for immediate effectiveness that delayed the effective date of NASD Rule 1050 to “not later than March 30, 2004.” See Securities Exchange Act Release No. 49119 (January 23, 2004), 69 FR 4337 (January 29, 2004) (notice of filing and immediate effectiveness of File No. SR-NASD-2004-10). NASD Rule 1050 will become effective on March 30, 2004.

described in Item (b). Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph [(j)] (l) of this Section.

(d) No Change.

(e) There shall be an examination fee of \$105.00 assessed as to each individual who takes a Series 86 examination for registration as a research analyst pursuant to Rule 1050. There shall be an examination fee of \$55.00 assessed as to each individual who takes a Series 87 examination for registration as a research analyst pursuant to Rule 1050. This fee is in addition to the registration fee described in paragraph (b). Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph (l) of this Section.

(f) There shall be a New York Stock Exchange examination development fee of \$45.00 assessed as to each individual who takes a Series 86 or Series 87 examination for registration as a research analyst pursuant to Rule 1050. This fee is in addition to the registration and examination fees described in paragraphs (b) and (e) respectively.

[(e)] (g) There shall be an examination fee of \$110.00 assessed as to each individual taking the General Securities-Sales Supervisor Examination. There shall be an examination fee of \$75.00 assessed as to each individual who is required to take any other examination for principals pursuant to the provisions of the Rule 1020 Series. Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph [(j)] (l) of this Section.

[(f)] (h) There shall be a service charge fee of \$15.00 in addition to those fees specified in (b), (c), ~~[and] (d), (e), and (f)~~ above for any examination taken in a foreign test center located outside the territorial limits of the United States.

(g) through (i) Renumbered as (i) through (k)

[(j)] (l) Each individual who is granted a waiver(s) for any qualification examination specified in paragraphs (c), ~~[or] (e), or (g)~~ of this section shall be assessed as an application fee the examination fee as set forth in paragraph (c), ~~[or] (e), (f), or (g)~~ for each qualification examination so waived.

(k) through (l) Renumbered as (m) through (n)

Section 5 through 13 – No Change.

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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

Pursuant to NASD Rule 1050, an associated person who functions as a research analyst must be registered and pass a qualification examination. To that end, NASD and

the NYSE jointly have developed a Research Analyst Examination program, a two-part examination that tests competency of fundamental analytical skills (Series 86) and applicable laws, rules, and regulations (Series 87).⁵ NASD Rule 1050 will become effective on March 30, 2004. The proposed rule change would amend Section 4 of Schedule A of the NASD By-Laws to establish a fee of \$105.00 and \$55.00 for an associated person to take the Series 86 and Series 87 examinations, respectively. These fees are based on the costs to NASD to administer the examinations, including printing, delivery, and systems charges.

In addition, the proposed rule change authorizes a pass-through examination development fee of \$45.00, to be collected by NASD on behalf of the NYSE, each time an individual takes one of the examinations. The amount of the development fee was determined by the NYSE, and NASD understands that a proposal to establish this fee is being filed with the Commission contemporaneously by the NYSE for immediate effectiveness.

Accordingly, the total examination and development fees assessed on each individual who takes a Series 86 examination for registration as a research analyst will be

⁵ On February 2, 2004, NASD filed with the Commission a proposed rule change to amend NASD Rule 1050 to set forth certain prerequisites and exemptions for the requirement that all associated persons who function as research analysts be registered with NASD and pass a qualification examination. Specifically, the proposed rule change would (1) establish as a prerequisite to be registered as a research analyst the requirement that an applicant first be registered pursuant to NASD Rule 1032 as a General Securities Representative and (2) provide for an exemption from the Series 86 portion of the Research Analyst Examination for certain applicants who have passed both Levels I and II of the Chartered Financial Analyst Examination. See Securities Exchange Act Release No. 49314 (February 24, 2004), 69 FR 9888 (March 2, 2004) (notice of filing of File No. SR-NASD-2004-20).

\$150.00. The total examination and development fees assessed on each individual who takes a Series 87 examination for registration as a research analyst will be \$100.00.

NASD proposes to implement the proposed rule change on March 30, 2004.

(2) Statutory Basis

NASD believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5) of the Act,⁶ which requires, among other things, that NASD rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that NASD operates or controls. The Series 86/87 examination and development fees are equitably allocated to NASD members, and NASD believes the fee levels are reasonable because they seek only the recovery of the costs associated with developing and administering the examination program.

(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, 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.

⁶ 15 U.S.C. 78o-3(b)(5).

III. DATE OF EFFECTIVENESS OF THE PROPOSED RULE CHANGE AND TIMING FOR COMMISSION ACTION

The proposed rule change has been filed by NASD for immediate effectiveness pursuant to Section 19(b)(3)(A)(ii) of the Act⁷ and Rule 19b-4(f)(2) thereunder,⁸ in that the proposed rule change establishes or changes a due, fee, or other charge imposed by NASD. NASD proposes to implement the proposed rule change on March 30, 2004.

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. 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. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-NASD-2004-049. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240.19b-4(f)(2).

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 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].

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

Margaret H. McFarland
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).