

December 19, 2003

Ms. 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-2003-192 - Proposed Rule Change to Section 4 of Schedule A to the NASD By-Laws

Dear Ms. England:

Pursuant to Section 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 Shirley H. Weiss, Office of General Counsel, NASD Regulatory Policy and Oversight Division, at (202) 728-8844; e-mail Shirley.Weiss@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-2003-192
Consists of 209 Pages
December 19, 2003

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 ("Exchange Act" or "Act"), 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 to the NASD By-Laws (hereinafter referred to as "Section 4") by establishing a late fee to be assessed against NASD members that fail timely to report on an initial Form U5, an amendment to a Form U5, or an amendment to a Form U4 a new disclosure event or a change in the status of a previously reported disclosure event. Below is the text of the proposed rule change. Proposed new language is underlined.

* * * * *

Schedule A to the 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 4 - Fees

(a) through (l) No change.

(m) NASD shall assess each member a fee of \$10 per day, up to a maximum of \$300, for each day that a new disclosure event or a change in the status of a previously reported disclosure event is not timely filed as required by NASD on an initial Form U5, an amendment to a Form U5, or an amendment to a Form U4, with such fee to be assessed starting on the day following the last date on which the event was required to be reported.

* * * * *

2. Procedures of the Self-Regulatory Organization

(a) The proposed rule change was approved by the Board of Governors of NASD at its meeting on July 31, 2003, which authorized the filing of the rule change with the Commission. No other action by 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 amendments to NASD Rules without recourse to the membership for approval.

(b) Questions regarding this rule filing may be directed to Shirley H. Weiss, Associate General Counsel, Office of General Counsel, Regulatory Policy and Oversight, NASD, at (202) 728-8844.

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

(a) Purpose

The purpose of the proposed rule change is to amend Section 4(b) of Schedule A to the NASD By-Laws to establish a late fee of \$10 per day, up to a maximum of \$300, to be assessed against members that fail timely to report a new disclosure event or a change in the status of a disclosure event that was previously reported on an initial Form U5, an amendment to a Form U5, or an amendment to a Form U4. This fee would be assessed starting on the day following the last day on which the event was required to be reported. As further detailed below, the proposed rule change is effective immediately upon filing and becomes operative on March 8, 2004. As more fully explained below, NASD proposes to provide a six-month transition period starting on March 8, 2004, and ending on September 10, 2004, during which time NASD will waive the late fee for the first 10 days the filing is late, provided the filing is made during those 10 days. Disclosure

events, in this context, generally refer to events that require affirmative answers to the questions on Forms U4 ("Uniform Application for Securities Industry Registration or Transfer") and U5 ("Uniform Termination Notice for Securities Industry Registration") that elicit information about criminal actions, regulatory disciplinary actions, civil judicial actions, customer complaints, terminations, and financial matters (currently, Questions 14A-M on Form U4 and Questions 7A-F on Form U5). Disclosure events must be reported either 30 days or 10 days after the member learns of the triggering event, depending on the type of information to be reported. With respect to the Form U4, Article 5, Section 2(c) of the NASD By-Laws requires all Forms U4 filed with NASD to be kept current at all times by supplementary amendments that must be filed with NASD not later than 30 days after learning of the facts or circumstances giving rise to a reporting obligation. If such filing involves a statutory disqualification as defined in Section 3(a)(39) and Section 15(b)(4) of the Securities Exchange Act of 1934, such amendment shall be filed not later than 10 days after such disqualification occurs.

With respect to the Form U5, a member is required under Article V, Section 3(a) of the By-Laws to give notice of the termination of a registered person not later than 30 days following the termination of the person's association with the member. Article V, Section 3(b) requires members to file an amendment to the Form U5 in the event that the member learns of facts or circumstances causing any information in the Form U5 to become inaccurate or incomplete, not later than 30 days after the member learns of the facts or circumstances giving rise to the amendment.¹

¹ Examples of events that trigger a reporting requirement include: notice of an NASD decision or order containing findings that a registered person violated NASD rules or receipt of a customer complaint or arbitration claim that meets the reporting criteria on Forms U4 or U5.

NASD is proposing this late fee as an additional mechanism to help ensure that members make required disclosures on Forms U4 and U5 in a timely manner. Upon submission of a late disclosure filing, the Central Registration Depository ("CRD®" or "Web CRD") will calculate the late fee and debit the firm's CRD account \$10 per day, up to a maximum charge of \$300.²

NASD proposes to assess late fees against members that fail timely to report a new disclosure event or a change in the status of a previously reported disclosure event on initial Forms U5 and amendments to Forms U4 and U5. With respect to amendments to Forms U4 and U5, NASD will determine whether a disclosure event (or update to a previously reported event) is being reported late by identifying the date on which the disclosure event should have been reported and comparing it to the day on which it was reported. If the event is being reported after the 10-day or 30-day period established under NASD rules, the late fee will be assessed. In addition, NASD will assess a late fee if a member fails to report timely a new disclosure event or a change in the status of a previously reported disclosure event on an initial Form U5.³ Moreover, with respect to Forms U5, a failure to file the initial Form U5 within 30 days after the date of termination will continue to subject members to an \$80 late filing fee under Section 4(b)(2) of Schedule A, in addition to a late fee based on any late reporting of a disclosure event.⁴

² NASD recognizes that members may be prevented from filing timely disclosures if their registered persons fail to advise them of certain reportable information to which the registered persons, and not the members, are privy, such as criminal charges or bankruptcies. In such cases, NASD will consider the facts and circumstances in determining whether imposition of a late fee is appropriate.

³ For example, NASD will assess a late fee if a member reports on an initial Form U5 a customer complaint that was received by the member three months before the registered person was terminated. In this scenario, the member should have reported the customer complaint via an amended Form U4 within 30 days of receiving the customer complaint while the individual was still associated with the member (rather than reporting it for the first time on the Form U5 giving notice of the person's termination).

⁴ Timely notice of the termination of a registered person and the reason for that termination is important information for NASD and other regulators. Accordingly, NASD will continue to assess a late fee for full Forms U5 (i.e., Forms U5 giving notice of termination in all capacities with a member) that are filed more

NASD currently may bring disciplinary actions for failure to timely file amendments to Forms U4 and U5, and would continue to exercise discretion to bring such actions based on the facts and circumstances of individual cases notwithstanding the establishment of the late fee. Timely and complete reporting of such information is critical to regulators for registration, investigation and examination purposes, as well as to investors who are or who may be interested in doing business with a registered person and are seeking information through NASD's BrokerCheck Program. The establishment of the late fee is intended to act as a disincentive to late filing and to encourage members to timely update Forms U4 and U5.

NASD proposes to provide a six-month transition period starting on March 8, 2004 and ending on September 10, 2004. During this time, NASD will waive the late fee for the first 10 days the filing is late, provided the filing is made during those 10 days. Accordingly, NASD will not assess the first \$100 (at \$10 per day) if the filing is made during those 10 days. Instead, during the six-month transition period, the member's CRD account will indicate that NASD has waived the late fee, thereby alerting the member it has an issue with timely reporting.

NASD will not waive any portion of the late fee for members making filings that are between 11 and 30 days late during this transition period. Such members will be charged \$10 for each late day, up to \$300. For example, a member reporting a disclosure event eight days late during the transition period will receive a report showing the number of days late, but will not be assessed a late fee. Conversely, a member reporting a disclosure event 11 days late during these six months will be charged \$10 per late day, for a total of \$110. Starting on September 13, 2004,

than 30 days after the member terminates the registered person). If a full Form U5 is filed late and also reports disclosure information late, NASD also will assess a late disclosure reporting fee.

the end of the six-month transition period, members will be charged the \$10 fee beginning each day the filing is late, up to a maximum of \$300.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(5) and 15A(b)(6) of the Act, which require, among other things, the equitable allocation of reasonable dues, fees, and other charges among members and other persons using any facility or system that NASD operates or controls, and 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 late filing fee will provide an additional incentive to NASD members to file new disclosure events or changes in the status of previously reported disclosure events on or before the date on which the event or status change is required to be reported under NASD rules.

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

NASD requested comment on, among other things, a late disclosure filing fee in *Notice to Members 02-74* (November 2002). Specifically, NASD advised members that it was considering imposing a late disclosure filing fee as an additional safeguard to ensure data integrity, reduce or eliminate reporting gaps, and ensure that information is timely reported. Of the 58 members and individuals who filed comments, 34 commenters commented on the proposed late fee. The

Association of Registration Management ("ARM") found the proposal to be reasonable, but suggested that any late fee be assessed against the responsible party (and further suggested that the registered person may be the responsible party in some cases). The North American Securities Administrators Association ("NASAA") agreed that late fees would provide an incentive to filers that do not make timely reports, and the Public Investors Arbitration Bar Association ("PIABA") supported implementation of additional safeguards to ensure timely reporting of disclosure information. A majority of these commenters believed that members, not individual brokers, should be responsible for any late fees. One commenter viewed the proposed late fee as a punitive tool that should be considered for more egregious offenses, such as failures timely to report customer complaints or regulatory actions. Three commenters expressed concern about NASD's establishing the correct "trigger" date for the reporting requirement.

NASD has considered these comments and agrees with the commenters who believe that a late fee can be an effective deterrent to late filing. NASD has also determined that since it is the members' responsibility to file initial Forms U4 and U5 and amendments to those Forms, they should also be responsible for paying late fees when the filings are late. The proposed rule does not alter the date on which disclosure filings are currently required to be made. This rule merely serves as a further disincentive to late filing. Further, it is NASD's view that all disclosures that are subject to the proposed rule are important, since they involve an individual's financial, regulatory, and criminal history.

6. Extension of Time Period for Commission Action

Not applicable.

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act and paragraph (f)(2) of Rule 19b-4 thereunder,⁵ in that the proposed rule change establishes or changes a due, fee, or other charge. The fee becomes operative on March 8, 2004.

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.
2. *Notice to Members 02-74*.
3. Comments received in response to *Notice to Members 02-74*.

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.

National Association of Securities Dealers, Inc.

BY:

Barbara Z. Sweeney
Senior Vice President and Corporate Secretary

Date: December 19, 2003

⁵ 17 CFR 240.19b-4(f)(4).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2003-192)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to a Proposed Rule Change to Section 4 of Schedule A to the NASD By-Laws

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 December 19, 2003, 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. 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 Section 4(b) of Schedule A to the NASD By-Laws by establishing a late fee to be assessed against NASD members that fail timely to pay their yearly renewal fees to the Central Registration Depository ("CRD[®]" or "Web CRDSM"). The proposed late fee would be operative March 8, 2004. Below is the text of the proposed rule change.

Proposed new language is underlined.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

* * * * *

Schedule A to the 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 4 - Fees

(a) through (l) No change.

(m) NASD shall assess each member a fee of \$10 per day, up to a maximum of \$300, for each day that a new disclosure event or a change in the status of a previously reported disclosure event is not timely filed as required by NASD on an initial Form U5, an amendment to a Form U5, or an amendment to a Form U4, with such fee to be assessed starting on the day following the last date on which the event was required to be reported.

* * * * *

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

(a) Purpose

The purpose of the proposed rule change is to amend Section 4(b) of Schedule A to the NASD By-Laws to establish a late fee of \$10 per day, up to a maximum of \$300, to be assessed against members that fail timely to report a new disclosure event or a change in the status of a disclosure event that was previously reported on an initial Form U5, an amendment to a Form U5, or an amendment to a Form U4. This fee would be assessed starting on the day following the last day on which the event was required to be reported. As further detailed below, the proposed rule change is effective immediately upon filing and becomes operative on March 8, 2004. As more fully explained below, NASD proposes to provide a six-month transition period starting on March 8, 2004, and ending on September 10, 2004, during which time NASD will waive the late fee for the first 10 days the filing is late, provided the filing is made during those 10 days. Disclosure events, in this context, generally refer to events that require affirmative answers to the questions on Forms U4 ("Uniform Application for Securities Industry Registration or Transfer") and U5 ("Uniform Termination Notice for Securities Industry Registration") that elicit information about criminal actions, regulatory disciplinary actions, civil judicial actions, customer complaints, terminations, and financial matters (currently, Questions 14A-M on Form U4 and Questions 7A-F on Form U5). Disclosure events must be reported either 30 days or 10 days after the member learns of the triggering event, depending on the type of information to be reported. With respect to the Form U4, Article 5, Section 2(c) of the NASD By-Laws requires all Forms U4 filed with NASD to be kept current at all times by supplementary amendments that must be filed with

NASD not later than 30 days after learning of the facts or circumstances giving rise to a reporting obligation. If such filing involves a statutory disqualification as defined in Section 3(a)(39) and Section 15(b)(4) of the Securities Exchange Act of 1934, such amendment shall be filed not later than 10 days after such disqualification occurs.

With respect to the Form U5, a member is required under Article V, Section 3(a) of the By-Laws to give notice of the termination of a registered person not later than 30 days following the termination of the person's association with the member. Article V, Section 3(b) requires members to file an amendment to the Form U5 in the event that the member learns of facts or circumstances causing any information in the Form U5 to become inaccurate or incomplete, not later than 30 days after the member learns of the facts or circumstances giving rise to the amendment.³

NASD is proposing this late fee as an additional mechanism to help ensure that members make required disclosures on Forms U4 and U5 in a timely manner. Upon submission of a late disclosure filing, the Central Registration Depository ("CRD®" or "Web CRD") will calculate the late fee and debit the firm's CRD account \$10 per day, up to a maximum charge of \$300.⁴

NASD proposes to assess late fees against members that fail timely to report a new disclosure event or a change in the status of a previously reported disclosure event on initial

³ Examples of events that trigger a reporting requirement include: notice of an NASD decision or order containing findings that a registered person violated NASD rules or receipt of a customer complaint or arbitration claim that meets the reporting criteria on Forms U4 or U5.

⁴ NASD recognizes that members may be prevented from filing timely disclosures if their registered persons fail to advise them of certain reportable information to which the registered persons, and not the members, are privy, such as criminal charges or bankruptcies. In such cases, NASD will consider the facts and circumstances in determining whether imposition of a late fee is appropriate.

Forms U5 and amendments to Forms U4 and U5. With respect to amendments to Forms U4 and U5, NASD will determine whether a disclosure event (or update to a previously reported event) is being reported late by identifying the date on which the disclosure event should have been reported and comparing it to the day on which it was reported. If the event is being reported after the 10-day or 30-day period established under NASD rules, the late fee will be assessed. In addition, NASD will assess a late fee if a member fails to report timely a new disclosure event or a change in the status of a previously reported disclosure event on an initial Form U5.⁵ Moreover, with respect to Forms U5, a failure to file the initial Form U5 within 30 days after the date of termination will continue to subject members to an \$80 late filing fee under Section 4(b)(2) of Schedule A, in addition to a late fee based on any late reporting of a disclosure event.⁶

NASD currently may bring disciplinary actions for failure to timely file amendments to Forms U4 and U5, and would continue to exercise discretion to bring such actions based on the facts and circumstances of individual cases notwithstanding the establishment of the late fee. Timely and complete reporting of such information is critical to regulators for registration, investigation and examination purposes, as well as to investors who are or who may be interested in doing business with a registered person and are seeking information through NASD's

⁵ For example, NASD will assess a late fee if a member reports on an initial Form U5 a customer complaint that was received by the member three months before the registered person was terminated. In this scenario, the member should have reported the customer complaint via an amended Form U4 within 30 days of receiving the customer complaint while the individual was still associated with the member (rather than reporting it for the first time on the Form U5 giving notice of the person's termination).

⁶ Timely notice of the termination of a registered person and the reason for that termination is important information for NASD and other regulators. Accordingly, NASD will continue to assess a late fee for full Forms U5 (i.e., Forms U5 giving notice of termination in all capacities with a member) that are filed more than 30 days after the member terminates the registered person). If a full Form U5 is filed late and also reports disclosure information late, NASD also will assess a late disclosure reporting fee.

BrokerCheck Program. The establishment of the late fee is intended to act as a disincentive to late filing and to encourage members to timely update Forms U4 and U5.

NASD proposes to provide a six-month transition period starting on March 8, 2004 and ending on September 10, 2004. During this time, NASD will waive the late fee for the first 10 days the filing is late, provided the filing is made during those 10 days. Accordingly, NASD will not assess the first \$100 (at \$10 per day) if the filing is made during those 10 days. Instead, during the six-month transition period, the member's CRD account will indicate that NASD has waived the late fee, thereby alerting the member it has an issue with timely reporting.

NASD will not waive any portion of the late fee for members making filings that are between 11 and 30 days late during this transition period. Such members will be charged \$10 for each late day, up to \$300. For example, a member reporting a disclosure event eight days late during the transition period will receive a report showing the number of days late, but will not be assessed a late fee. Conversely, a member reporting a disclosure event 11 days late during these six months will be charged \$10 per late day, for a total of \$110. Starting on September 13, 2004, the end of the six-month transition period, members will be charged the \$10 fee beginning each day the filing is late, up to a maximum of \$300.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(5) and 15A(b)(6) of the Act, which require, among other things, the equitable allocation of reasonable dues, fees, and other charges among members and other persons using any facility or system that NASD operates or controls, and 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 late filing fee will provide an additional incentive to NASD members to file new disclosure events or changes in the status of previously reported disclosure events on or before the date on which the event or status change is required to be reported under NASD rules.

(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

NASD requested comment on, among other things, a late disclosure filing fee in *Notice to Members 02-74* (November 2002). Specifically, NASD advised members that it was considering imposing a late disclosure filing fee as an additional safeguard to ensure data integrity, reduce or eliminate reporting gaps, and ensure that information is timely reported. Of the 58 members and individuals who filed comments, 34 commenters commented on the proposed late fee. The Association of Registration Management ("ARM") found the proposal to be reasonable, but suggested that any late fee be assessed against the responsible party (and further suggested that the registered person may be the responsible party in some cases). The North American Securities Administrators Association ("NASAA") agreed that late fees would provide an incentive to filers that do not make timely reports, and the Public Investors Arbitration Bar Association ("PIABA") supported implementation of additional safeguards to ensure timely

reporting of disclosure information. A majority of these commenters believed that members, not individual brokers, should be responsible for any late fees. One commenter viewed the proposed late fee as a punitive tool that should be considered for more egregious offenses, such as failures timely to report customer complaints or regulatory actions. Three commenters expressed concern about NASD's establishing the correct "trigger" date for the reporting requirement.

NASD has considered these comments and agrees with the commenters who believe that a late fee can be an effective deterrent to late filing. NASD has also determined that since it is the members' responsibility to file initial Forms U4 and U5 and amendments to those Forms, they should also be responsible for paying late fees when the filings are late. The proposed rule does not alter the date on which disclosure filings are currently required to be made. This rule merely serves as a further disincentive to late filing. Further, it is NASD's view that all disclosures that are subject to the proposed rule are important, since they involve an individual's financial, regulatory, and criminal history.

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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act and paragraph (f)(2) of Rule 19b-4 thereunder,⁷ in that the proposed rule change establishes or changes a due, fee, or other charge. The fee becomes operative on March 8, 2004. At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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.

⁷ 17 CFR 240.19b-4(f)(4).

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.

Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-NASD-2003-192. 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 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, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz
Secretary