

countries that are not subject to the comprehensive surveillance agreements do not represent 33% or more of the weight of the Basket. Further, if the surveillance coverage should fall below certain levels, as discussed above, no new SUNS will be listed. The Commission believes that this should help to ensure that adequate surveillance mechanisms exist in the future.

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. In Amendment No. 2, the Exchange indicates that: (1) either the Amex or an independent calculation agent will calculate the value of the Basket; (2) the calculation agent will, if necessary, determine the changes in the multipliers of the securities in the Basket; (3) the calculation agent will only use the Bridge/Telesphere source for currency conversion rates if it is able to obtain the bid and offer prices from two or more contributing banks for each currency; and (4) the Exchange will notify the Commission once Lehman Brothers determines which securities will be included in the Basket. The Commission does not believe that Amendment No. 2 raises any regulatory issues that were not addressed by the Term Notes Approval Orders. In addition, to the extent that the Basket has certain characteristics that differ from the previous Term Notes Approval Orders, the Commission believes that the Amex has adequately addressed those issues. In this regard, as to the use of Bridge/Telesphere for currency conversion rates, the Amendment will help to ensure that such source will only be used when there are a minimum number of bids and offers available. The Commission notes that this proposal was published for the full notice and comment period during which no comments were received. Accordingly, the Commission believes that good cause exists, consistent with Section 6(b)(5)²¹ and Section 19(b)(2)²² of the Act, to grant accelerated approval to the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-Amex-98-25 and should be submitted by January 4, 1999.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (SR-Amex-98-25) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-33072 Filed 12-11-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40755; File No. SR-NASD-98-90]

Self-Regulatory Organizations, Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Proposed Amendments to the Code of Procedure to Provide for the Office of Disciplinary Affairs of NASD Regulation, Inc. to Authorize all Enforcement Actions

December 7, 1998.

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 4, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary NASD Regulation ("NASDR"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been

prepared by NASDR.³ 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

NASDR proposes to amend Rules 9120 and 9211 of the NASD's Code of Procedure to enable the Office of Disciplinary Affairs of NASDR to authorize all disciplinary actions. Below is the text of the proposed rule change. Proposed new language is italicized, proposed deletions are in brackets.

* * * * *

9120. Definitions.

(a) through (d).

No change.

(e) "Department of Enforcement"

The term "Department of Enforcement" means the Department of Enforcement or its delegatee, the Department of Market Regulation[, except that the term excludes the Department of Market Regulation with respect to the action of:

(1) authorizing a complaint under Rule 9211;

(2) determining the terms of a letter of acceptance, waiver, and consent or the terms of a minor rule violation plan letter under Rule 9216;

(3) determining whether to contest an offer of settlement under Rule 9270; and

(4) authorizing the filing of an appeal under Rule 9311]. (f) through (u).

No change.

(v) "Office of Disciplinary Affairs"

The term "Office of Disciplinary Affairs" means the Office of Disciplinary Affairs for NASD Regulation.

(w) [v] "Panelist"

No change.

(x) [w] "Party"

No change.

(v)[x] "Primary District Committee"

No change.

(z)[y] "Respondent"

No change.

(aa)[z] "Review Subcommittee"

No change.

(bb)[aa] "Statutory Disqualification Committee"

No change.

(cc)[bb] "Subcommittee"

No change.

* * * * *

9200. DISCIPLINARY PROCEEDINGS

9210. Complaint and Answer

³ Several non-substantive changes were provided by the NASDR in a telephone conversation between Eric Moss, Office of General Counsel, NASDR, and Joseph Corcoran, Division of Market Regulation, Commission, on December 7, 1998.

²¹ 15 U.S.C. 78f(b)(5).

²² 15 U.S.C. 78s(b)(2).

²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

9211. Issuance of Complaint

(a) Complaint

(1) If the Department of Enforcement believes that any NASD member or associated person is violating or has violated any rule, regulation, or statutory provision, including the federal securities laws and the regulations thereunder, which the Association has jurisdiction to enforce, the Department of Enforcement may request authorization from the Office of Disciplinary Affairs to issue a complaint.

(2) The NASD Regulation Board and the NASD Board each shall have the authority to direct the Office of Disciplinary Affairs [Department of Enforcement] to authorize and the Department of Enforcement to issue a complaint when, on the basis of information and belief, either of such boards is of the opinion that any NASD member or associated person is violating or has violated any rule, regulation, or statutory provision, including the federal securities laws and the regulations thereunder, which the Association has jurisdiction to enforce.

(b) 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, NASDR included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it receive on the proposed rule change. The text of these statements may be examined at the place specified in Item IV below. NASDR 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

Currently, the Case Authorization Unit ("CAU"), located in the Department of Enforcement ("Enforcement") of NASDR, authorized all disciplinary actions. The Office of Disciplinary Policy ("ODP"), which reports to the Office of the President of NASDR, is the primary reviewer of cases developed in the Washington, D.C. office and those involving "quality-of-market" issues. ODP also review and comments on all cases involving policy issues. The NASD is proposing amendment so that the Code of Procedure ("Code") that would provide

for ODP to authorize all disciplinary actions. ODP would be renamed Office of Disciplinary Affairs ("ODA") to reflect its additional role as a case authorizer.

Under the existing structure, CAU and ODP have coordinated efforts, minimized areas of potential duplication, and worked well together during the first year of staff authorization of cases. There is, however, an overlap of functions between these two offices. To increase overall operating efficiency and to maintain the consistency and independence of the case authorization function, NASDR proposes to place the functions performed by ODP and CAU in one office. Under the proposed rule changes, all cases would be authorized by ODA, which would review the legal, policy and consistency issues presented by each case.

2. Statutory Basis

NASDR believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁴ which requires, among other things, that the Association's rules 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. The NASD believes that the proposed rule change is consistent with Sections 15A(b) (7) and (8) of the Act,⁵ which mandate that the Association maintain a fair disciplinary process. The proposed rule change would provide for the same review of all Enforcement cases—whether developed in the districts or the Washington office.

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

NASDR 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)

⁴ U.S.C. 78o-3(b)(6).

⁵ U.S.C. 78o-3 (b)(7), (b)(8).

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:

(A) By order approve such proposed rule change, or

(B) 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 proposed rule 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-98-90 and should be submitted by December 29, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-33071 Filed 12-11-98; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Edelweiss Holdings, Inc.; d/b/a Edelweiss Air d/b/a Rio Grande Air

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 98-12-5, Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should

⁶ 17 CFR 200.30-3(a)(12).