

of the primary market's MOC order imbalance will simplify MOC procedures for market participants and specialists, and will eliminate possible mix-ups that might have occurred due to the dissemination of multiple MOC order imbalances for the same securities. Finally Amendment No. 2 revises the proposal to establish identical procedures for MOC orders entered on expiration and non-expiration days. The Commission believes the adoption of uniform MOC procedures that do not vary from day-to-day will create certainty among market participants and will eliminate the confusion that may have arisen from procedural requirements that differed for expiration and non-expiration days. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b) of the Act,²⁶ to approve Amendment Nos. 1 and 2 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1 and 2 to the proposed rule change, including whether the proposed rule change, as modified by Amendment Nos. 1 and 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 submissions, 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 persons, 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-97-19 and should be submitted by December 21, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁷ that the

proposed rule change (SR-CHX-97-19), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40676; File No. SR-NASD-98-81]

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

November 12, 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 October 29, 1998, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") a 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 Rule 2710 of the National Association of Securities Dealers, Inc. ("NASD" or "Association") to exempt certain offerings by charitable organizations from the pre-offering review requirements of the Corporate Financing Rule. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in *brackets*.

* * * * *

2710. Corporate Financing Rule—Underwriting Terms and Arrangements

(a) No change.
 (b) Filing Requirements
 (1)–(6) No change.
 (7) Offerings Exempt from Filing
 Notwithstanding the provisions of subparagraph (1) above, documents and information related to the following

public offerings need not be filed with the Association for review, unless subject to the provisions of Rule 2720. However, it shall be deemed a violation of this Rule or Rule 2810, for a member to participate in any way in such public offerings if the underwriting or other arrangements in connection with the offering are not in compliance with this Rule or Rule 2810, as applicable:

(A)–(C) No change.
 (D) securities offered pursuant to a redemption standby "firm commitment" underwriting arrangement registered with the Commission on Forms S-3, F-3 or F-10 (only with respect to Canadian issuers); [and]

(E) financing instrument-backed securities which are rated by a nationally recognized statistical rating organization in one of its four (4) highest generic rating categories; and
 (F) offerings of securities by a church or other charitable institution that is exempt from SEC registration pursuant to Section 3(a)(4) of the Securities Act.

(8) No change.
 (9) Offerings Required to be Filed
 Documents and information relating to all other public offerings including, but not limited to, the following must be filed with the Association for review:

(A)–(E) No change.
 (F) securities offered by a bank, savings and loan association, [church or other charitable institution,] or common carrier even though such offering may be exempt from registration with the Commission;
 (G)–(H) 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

(a) Purpose

When the Act was amended in the early 1980s to require that most SEC-registered broker/dealers be members of the NASD, the NASD regulated for the

²⁶ 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

first time broker/dealers that assist churches and other non-profit charitable organizations that raise money through the issuance of securities. Certain church bond and similar offerings by religious and charitable organizations are exempt from SEC registration under Section 3(a)(4) of the Securities Act of 1933 ("Securities Act"),³ but generally are subject to review by state regulatory authorities. NASD Rule 2710 (the "Corporate Financing Rule") subjects "church bond" offerings to a filing requirement with the Corporate Financing Department of NASD Regulation ("Department") so that the Department has an opportunity to determine whether compensation terms and arrangements are fair and reasonable for purposes of the rule.

Department staff have found that the aggregate underwriting compensation received by church bond broker/dealers has been significantly below the maximum amount of underwriting compensation that is permitted under Rule 2710. Although initially there was an issue in some cases of appropriate compliance with SEC Rule 15c2-4,⁴ the staff has not recently identified any problems in this area.

In order to more appropriately focus the review efforts of Department staff on the types of offerings that present significant regulatory issues, NASD Regulation proposes to amend the Corporate Financing Rule to exempt certain church bond offerings from the filing requirements, but not the substantive requirements, of the Corporate Financing Rule. NASD Regulation proposes to implement the proposed rule change on the date of SEC approval.

(b) Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)⁵ of the Act, which requires, among other things, that the Association's 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. The

elimination of the requirement in Rule 2710 to file certain church bond offerings will allow NASD Regulation to better allocate its Department staff resources.

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 Association 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 change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Security and Exchange Commission, 450 Fifth Street, NW, Washington, DC 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-98-81 and should be submitted by December 10, 1998.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40679; File No. SR-NYSE-98-32]

November 13, 1998.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Shareholder Approval of Stock Option Plans

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 13, 1998, the New York Stock Exchange, Inc. (the "Exchange" or the "NYSE") filed with the Securities and Exchange Commission (the "Commission" or the "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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

The Exchange is proposing to amend Paragraphs 312.01, 312.03 and 312.04 of its Listed Company Manual (the "Manual"). The proposed rule change amends the Exchange's shareholder approval policy (the "Policy") with respect to stock option and similar plans ("Plans"). The text of the proposed rule change is as follows:

Text of the Proposed Rule Change

Italics indicates additions; [brackets] indicate deletions.

312.00 Shareholder Approval Policy

312.01 Shareholders' interest and participation in corporate affairs has greatly increased. Management has responded by providing more extensive and frequent reports on matters of interest to investors. In addition, an increasing number of important corporate decisions are being referred to shareholders for their approval. This is

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 77c(a)(4). The Commission notes that in order for the proposed exemption to apply the offering must qualify under Section 3(a)(4) of the Securities Act, which requires that the offering not be for pecuniary profit, and no part of the net earnings can inure to the benefit of any person, private stockholder, or individual.

⁴ 17 CFR 240.15c2-4. Rule 15c2-4 under the Act requires that investor funds forwarded to a broker/dealer in a contingent offering be held in an escrow or special account, depending on whether the broker/dealer can carry customer funds or accounts, until the contingency is reached before the funds can be released to the issuer.

⁵ 15 U.S.C. 78o-3(b)(6).