

December 24, 2003

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-2003-197 - To Further Delay Implementation Date of Amendments to Article VIII (District Committees and District Nominating Committees) of the By-Laws of NASD Regulation, Inc.**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed please find the above-numbered rule filing. Also enclosed is a 3/12" disk containing the rule filing in Microsoft Word 7.0 to facilitate production of the Federal Register release.

If you have any questions or comments, please contact Kosha K. Dalal, Office of General Counsel, NASD Regulatory Policy and Oversight, at (202) 728-6903; e-mail [kosha.dalal@nasd.com](mailto:kosha.dalal@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-2003-197  
Consists of 12 Pages  
December 24, 2003

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C.

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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”), the National Association of Securities Dealers, Inc. (“NASD”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to delay, until February 1, 2004, the implementation date of amendments to Article VIII (District Committees and District Nominating Committees) of the By-Laws of NASD Regulation, Inc. that were established by SR-NASD-2003-55.<sup>1</sup> On March 21, 2003, NASD filed SR-NASD-2003-55 to streamline the nomination and election processes governing NASD District Committees and District Nominating Committees (“Committees”), modernize communication procedures, and improve the consistency among the Committees across all districts. On June 11, 2003, the SEC published a notice of filing and immediate effectiveness of the proposed rule change.<sup>2</sup> NASD submitted a subsequent rule filing to extend the implementation date of the amendments to January 1, 2004.<sup>3</sup> There is no change to the rule text associated with this rule filing.

(b) Not applicable.

(c) Not applicable.

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<sup>1</sup> SR-NASD-2003-55 (March 21, 2003); Amendment No. 1 (April 17, 2003), Amendment No. 2 (April 25, 2003), and Amendment No. 3 (June 6, 2003).

<sup>2</sup> 68 FR 60750 (October 23, 2003), Securities Exchange Act Release No. 48651 (October 17, 2003); SR-NASD-2003-55.

<sup>3</sup> 68 FR 46673 (August 6, 2003), Securities Exchange Act Release No. 48259 (July 30, 2003); SR-NASD-2003-107.

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 January 22, 2003, which authorized the filing of the rule change with the SEC. Counsel for The Nasdaq Stock Market and NASD Dispute Resolution have been 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. The NASD Board of Governors had an opportunity to review the proposed rule change at its meeting on January 23, 2003. 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. As further discussed below, NASD is filing the proposed rule change for immediate effectiveness.

(b) Questions regarding this rule filing may be directed to Kosha K. Dalal, Assistant General Counsel, Office of General Counsel, Regulatory Policy and Oversight, NASD, at (202) 728-6903.

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 notify the Commission and other interested parties of the delay in implementation of amendments to Article VIII of the By-Laws of NASD Regulation, Inc. ("Article VIII") established by SR-NASD-2003-55 until February 1, 2004. On March 21, 2003, NASD filed a proposed rule change to streamline the nomination and election processes governing District Committees and District

Nominating Committees, modernize communication procedures, and improve the consistency among the Committees across all districts.<sup>4</sup> On June 11, 2003, the SEC published a notice of filing and immediate effectiveness of the proposed rule change.<sup>5</sup> The amendments were to become effective 30 days later. NASD submitted a subsequent rule filing to extend the implementation date of the amendments to January 1, 2004 because NASD's election cycle for District Committees and District Nominating Committees for 2004 was already underway and NASD did not want new rules to become effective in the middle of such election cycle.<sup>6</sup>

In this rule filing, NASD is proposing to extend the implementation date of the amendments to February 1, 2004. As the amendments to Article VIII were not effective prior to the start of the 2004 election cycle, NASD is conducting these elections in accordance with the existing provisions of Article VIII. NASD believed that the 2004 election cycle would be completed by December 2003. However, a contested election in one of the Districts has resulted in a delay in the 2004 election cycle. NASD expects to have the 2004 District Committee and District Nominating Committee elections completed and certified by the end of January 2004 and, therefore, proposes to delay the implementation date of the amendments to Article VIII until February 1, 2004 in order to avoid any confusion among participants and to prevent any disruption in the election procedures by adopting amendments in the middle of the election cycle.

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<sup>4</sup> SR-NASD-2003-55 (March 21, 2003); Amendment No. 1 (April 17, 2003), Amendment No. 2 (April 25, 2003), and Amendment No. 3 (June 6, 2003).

<sup>5</sup> 68 FR 35926 (June 17, 2003); Securities Exchange Act Release No. 48015 (June 11, 2003); SR-NASD-2003-55.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, 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. In addition, the proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(1) of Rule 19b-4 thereunder, in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. NASD believes that delaying the implementation date of the amendments to Article VIII of the By-Laws of NASD Regulation, Inc. until February 1, 2004 will permit this year's Committee elections to proceed in an orderly fashion under existing procedures. Any change to existing procedures in the middle of the current Committee election cycle may cause unnecessary confusion to participants and disrupt the election process.

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

No applicable.

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.

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<sup>6</sup> 68 FR 46673 (August 6, 2003), Securities Exchange Act Release No. 48259 (July 30, 2003); SR-NASD-2003-107.

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 Act and paragraph (f)(1) of Rule 19b-4 thereunder, in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

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 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: December 24, 2003

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- [leave space] ; File No. SR-NASD-2003-197)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness to Delay Implementation Date of Amendments to Article VIII (District Committees and District Nominating Committees) of the By-Laws of NASD Regulation, Inc.

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December \_\_, 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. NASD has designated the proposed rule change as “constituting a stated policy, practice or interpretation” rule change under paragraph (f)(1) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal 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 Commission a proposed rule change to delay, until February 1, 2004, the implementation date of amendments to Article VIII (District Committees and District Nominating Committees) of the By-Laws of NASD Regulation,

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<sup>1</sup> 15 U.S.C. § 78s(b)(1).

<sup>2</sup> 17 CFR § 240.19b-4.

<sup>3</sup> 17 CFR § 240.19b-4.

Inc. that were established by SR-NASD-2003-55.<sup>4</sup> NASD filed SR-NASD-2003-55 to streamline the nomination and election processes governing NASD District Committees and District Nominating Committees (“Committees”), modernize communication procedures, and improve the consistency among the Committees across all districts.

There is no change to the rule text associated with this rule filing. NASD subsequently filed SR-NASD-2003-107 to delay the implementation date of the amendments to January 1, 2004 because the 2004 election cycle was already underway.<sup>5</sup>

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 notify the Commission and other interested parties of the delay in implementation of amendments to Article VIII of the By-Laws of NASD Regulation, Inc. (“Article VIII”) established by SR-NASD-2003-55 until

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<sup>4</sup> SR-NASD-2003-55 (March 21, 2003); Amendment No. 1 (April 17, 2003), Amendment No. 2 (April 25, 2003), and Amendment No. 3 (June 6, 2003).

February 1, 2004. On March 21, 2003, NASD filed a proposed rule change to streamline the nomination and election processes governing District Committees and District Nominating Committees, modernize communication procedures, and improve the consistency among the Committees across all districts.<sup>6</sup> On June 11, 2003, the SEC published a notice of filing and immediate effectiveness of the proposed rule change.<sup>7</sup> The amendments were to become effective 30 days later. NASD submitted a subsequent rule filing to extend the implementation date of the amendments to January 1, 2004 because NASD's election cycle for District Committees and District Nominating Committees for 2004 was already underway and NASD did not want new rules to become effective in the middle of such election cycle.<sup>8</sup>

In this rule filing, NASD is proposing to extend the implementation date of the amendments to February 1, 2004. As the amendments to Article VIII were not effective prior to the start of the 2004 election cycle, NASD is conducting these elections in accordance with the existing provisions of Article VIII. NASD believed that the 2004 election cycle would be completed by December 2003. However, a contested election in one of the Districts has resulted in a delay in the 2004 election cycle. NASD expects to have the 2004 District Committee and District Nominating Committee elections completed and certified by the end of January 2004 and, therefore, proposes to delay the

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<sup>5</sup> 68 FR 46673 (August 6, 2003), Securities Exchange Act Release No. 48259 (July 30, 2003); SR-NASD-2003-107.

<sup>6</sup> SR-NASD-2003-55 (March 21, 2003); Amendment No. 1 (April 17, 2003), Amendment No. 2 (April 25, 2003), and Amendment No. 3 (June 6, 2003).

<sup>7</sup> 68 FR 35926 (June 17, 2003); Securities Exchange Act Release No. 48015 (June 11, 2003); SR-NASD-2003-55.

implementation date of the amendments to Article VIII until February 1, 2004 in order to avoid any confusion among participants and to prevent any disruption in the election procedures by adopting amendments in the middle of the election cycle.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, 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. In addition, the proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(1) of Rule 19b-4 thereunder, in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. NASD believes that delaying the implementation date of the amendments to Article VIII of the By-Laws of NASD Regulation, Inc. until February 1, 2004 will permit this year's Committee elections to proceed in an orderly fashion under existing procedures. Any change to existing procedures in the middle of the current Committee election cycle may cause unnecessary confusion to participants and disrupt the election process.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Not applicable.

(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

The proposed rule change has been filed by NASD as a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under the Act<sup>9</sup> and Rule 19b-4(f)(1) thereunder,<sup>10</sup> which renders the proposal effective upon receipt of this filing by the Commission.

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.

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 may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-NASD-2003-XXX. 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

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NASD-2003-107.

9 15 U.S.C. 78s(b)(3)(A)(iii).

10 17 CFR 240.19b-4(f)(1).

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).

Margaret H. McFarland  
Deputy Secretary