

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48259; File No. SR-NASD-2003-107]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers Delaying the Implementation Date of Amendments to Article VIII (District Committees and District Nominating Committees) of the By-Laws of NASD Regulation, Inc.

July 30, 2003.

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 July 8, 2003, the National Association of Securities Dealers, Inc. ("NASD") 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 NASD. NASD has designated the proposed rule change as "constituting a stated policy, practice or interpretation" under subparagraph (f)(1) of Rule 19b-4 under the Act,<sup>3</sup> which renders the proposal effective upon filing with 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 proposes to delay until January 1, 2004, the implementation date of recent amendments to Article VIII (District Committees and District Nominating Committees) of the By-Laws of NASD Regulation, Inc.<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. The proposed rule change would not involve changes to the rule text.

<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(f)(1).

<sup>4</sup> See Securities Exchange Act Release No. 48015 (June 11, 2003), 68 FR 35926 (June 17, 2003) (SR-NASD-2003-55) ("SR-NASD-2003-55"). The operative date under SR-NASD-2003-55 was July 6, 2003. NASD proposes that the implementation date be delayed to January 1, 2004, notwithstanding that this proposal inadvertently was filed after the operative date under SR-NASD-2003-55.

#### 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

The purpose of the proposed rule change is to notify the Commission and other interested parties of the delay in implementation of recent amendments to Article VIII of the By-Laws of NASD Regulation, Inc. ("Article VIII") established by SR-NASD-2003-55 until January 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. On June 11, 2003, the SEC published a notice of filing and immediate effectiveness of the proposed rule change. The proposed rule change was subject to a 30-day delayed operative period beginning on June 6, 2003, the date NASD filed Amendment No. 3 to the File No. SR-NASD-2003-55, and ending on July 6, 2003.

However, NASD's election cycle for District Committees and District Nominating Committees for this year is already underway. As the amendments to Article VIII were not effective prior to the start of this year's election cycle, NASD is conducting these elections in accordance with the provisions of Article VIII effective prior to the filing of SR-NASD-2003-55. 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, NASD proposes to delay the implementation date of the amendments to Article VIII until January 1, 2004.

###### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions

of Section 15A(b)(6) of the Act,<sup>5</sup> 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. NASD believes that delaying the implementation date of the amendments to Article VIII of the By-Laws of NASD Regulation, Inc. until January 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

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.

##### 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 with respect to the proposed rule change.

#### 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 Rule 19b-4(f)(1) under the Act,<sup>6</sup> which renders the proposal effective upon receipt of this filing by the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate this proposed 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

<sup>5</sup> 15 U.S.C. 78o-3(b)(6).

<sup>6</sup> 17 CFR 240.19b-4(f)(1).

Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 number SR-NASD-2003-107 and should be submitted by August 27, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 03-20026 Filed 8-5-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 344-48258; File No. SR-Amex-2003-06]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to Mandatory Continuing Education for All floor Members and Mandatory Continuing Education and Initial Test Requirements for Floor Clerks of Members and Member Firms

July 30, 2003.

On February 3, 2003, the American Stock Exchange LLC ("Amex" or "Exchange"), filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to revise its performance evaluation and allocations procedures. On May 21, 2003, the Amex amended the proposed rule change.<sup>3</sup>

Under the proposed rule, Amex proposes to adopt Amex rule 359 titled the Mandatory Continuing Education for all Floor Members and Mandatory Continuing Education and Initial Test Requirements for Floor Clerks of Members and Member Firms. Specifically, newly hired floor clerks with no previous floor experience will be tested within a three-month on-the-job training period. Additionally, newly-hired specialist clerks with no previous experience as specialists or specialist clerks will be subject to the training and exam requirement of a floor clerk. Furthermore, a specialist clerk will be required to complete the on-the-job and classroom training related to the job of specialist clerk. The proposed rule change also institutes an annual, mandatory continuing education program for members and their employees. Failure to attend a mandatory continuing education session may result in a fine being imposed under the General Rule Violations Section of the Exchange's Minor rule Violation Fine System. Finally, the continuing education program will be financed by levying an annual fee of \$50 for each participant.

The proposed rule change, as amended, was published for comment in the **Federal Register** on June 25, 2003.<sup>4</sup> The Commission received no comments on the proposal.

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> Specifically, the Commission finds that the proposed rule change promotes the objectives of Section 6(b)(5) of the Act,<sup>6</sup> which requires among other things, that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, to protect investors and the public interest. In addition, the Commission finds that the

proposed Rule 359 within eight months of approval by the Commission.

<sup>4</sup> See Securities Exchange Act Release No. 48041 (June 17, 2003), 68 FR 37882 (June 25, 2003).

<sup>5</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

proposed rule change is consistent with Section 6(b)(6) because it provides a sanction under Amex's Minor Rule Violation Fine System for failure to comply with the continuing education requirement.

The Commission also finds that the proposed rule change is consistent with the requirements of Section 6(c)(3)(B) because it provides the Exchange with a means to measure a newly hired floor clerk or specialist clerk's ability and qualifications as well as to ensure that Amex members and persons associated with members meet standards of training, experience, and competence. By requiring all current members and their employees to attend annual mandatory continuing education training, the Exchange assists the members and their employees admitted to the Exchange's trading floor to understand critical regulatory and operational issues affecting the exchange and the securities industry. The Commission believes that Amex's proposal to require members and their employees to participate in an education program before being permitted to act as members is appropriate and consistent with Section 6(c)(3)(B).

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (SR-Amex-2003-06), as amended, be, and hereby is, approved.

For the Commissions, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 03-20027 Filed 8-5-03; 8:45 am]

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## DEPARTMENT OF STATE

[Public Notice 4433]

### Culturally Significant Objects Imported for Exhibition Determinations: "Fragments From the Temple Mount of Herod the Great: Archaeology News From the Holy Land"

AGENCY: Department of State.

ACTION: Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat.

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Letter from Ivonne L. Natal, Associate General Counsel, Amex, to Katherine A. England, Assistant Director, Division of Market Regulation Commission, dated May 20, 2003 ("Amendment No. 1"). In Amendment No. 1, the Exchange replaced the original filing in its entirety. The exchange stated it anticipates implementing