

Proposed Rule Change by National Association of Securities Dealers  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

Rule change to amend NASD Rule 6740 to relieve members of the obligation to file with NASD copies of certain information that is electronically accessible through EDGAR, and exclude from Rule 6740 quotation activity for which the SEC has granted an exemption under SEC Rule 15c2-11(h).

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name  Last Name   
 Title   
 E-mail   
 Telephone  Fax

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date   
 By  Vice President and Associate General Counsel  
 (Name) (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**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 amend NASD Rule 6740 to (1) relieve members of the obligation to file with NASD copies of certain information that is electronically accessible through the SEC’s Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system; and (2) exclude from Rule 6740 quotation activity for which the SEC has granted an exemption under SEC Rule 15c2-11(h). Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

\* \* \* \* \*

**6740. Submission of Rule 15c2-11 Information on Non-Nasdaq Securities**

(a) Except as provided in SEC Rule 15c2-11(f)(1), (2), (3), and (5) and 15c2-11(h) under the Act, no member shall initiate or resume the quotation of a non-Nasdaq security in any quotation medium unless the member has demonstrated compliance with this rule and the applicable requirements for information maintenance under Rule 15c2-11. A member shall demonstrate compliance by making a filing with, and in the form required by, [the Association] NASD, which filing must be received at least three business days before the member’s quotation is published or displayed in the quotation medium.

(b) The information to be filed shall contain one copy of all information required to be maintained under SEC Rule 15c2-11(a)(1), (2), (3)(iii), (4)(ii), or (5), including any information that may be required by future amendments thereto; provided, however, that

members are not required to file with NASD copies of any information that is available through the SEC's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system. In addition, this filing shall identify the issuer, the issuer's predecessor in the event of a merger or reorganization within the previous 12 months, the type of non-Nasdaq security to be quoted (e.g., ADR, warrant, unit, or common stock), the quotation medium to be used, the member's initial or resumed quotation, and the particular subsection of Rule 15c2-11 with which the member is demonstrating compliance. Additionally, if a member is initiating or resuming quotation of a non-Nasdaq security with a priced entry, the member's filing must specify the basis upon which that priced entry was determined and the factors considered in making that determination.

(c) If a member's initial or resumed quotation does not include a priced entry, a member shall supplement its prior filing under this Rule, in the form required by [the Association] NASD, before inserting a priced entry for the affected non-Nasdaq security in a quotation medium. The supplemental filing shall specify the basis upon which the proposed priced entry was determined and the factors considered in making that determination. The supplemental filing must be received by [the Association] NASD at least three business days before the member's priced entry first appears in a quotation medium.

(d) All filings made with [the Association] NASD under this Rule must be reviewed and signed by a principal of the member firm.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Board of Directors of NASD Regulation, Inc. at its meeting on April 20, 2005, 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 Board of Governors of NASD had an opportunity to review the proposed rule change at its meeting on April 21, 2005. 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 Board of Governors of NASD to adopt amendments to NASD Rules without recourse to the membership for approval.

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

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

(a) Purpose

Rule 6740 prohibits a member from initiating or resuming the quotation of a non-Nasdaq security<sup>1</sup> in a quotation medium unless the member has demonstrated compliance with the requirements of SEC Rule 15c2-11 pertaining to the review and maintenance of

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<sup>1</sup> For purposes of this rule, “non-Nasdaq security” is defined in Rule 6710(c) as “any equity security that is neither included in The Nasdaq Stock Market nor traded on any national securities exchange.”

specified information about the security and issuer. To demonstrate compliance with both Rule 6740 and SEC Rule 15c2-11, a member must file with NASD a Form 211, together with the information required under SEC Rule 15c2-11(a), at least three business days before the quotation is published or displayed.

Much of the information required under SEC Rule 15c2-11(a), such as prospectuses, offering circulars and annual reports, is publicly available through the SEC's EDGAR system. NASD believes that there is no policy purpose served in requiring members to file with NASD copies of such information. Accordingly, NASD is proposing to relieve members of the obligation to file with NASD copies of information that is electronically accessible through the SEC's EDGAR system. NASD believes the proposed rule change will eliminate the administrative burden and cost imposed on members in furnishing such information to NASD. Although members will not be required to file the information with NASD, they will nonetheless remain obligated under Rule 6740 to review and maintain information as required by SEC Rule 15c2-11.

In addition, paragraphs (f) and (h) of SEC Rule 15c2-11 set forth the exclusions to the rule's information review and maintenance requirements. Rule 6740(a) tracks the SEC Rule 15c2-11(f) exceptions,<sup>2</sup> but does not contain an exclusion for those quotations pursuant to which the Commission has granted an exemption, upon request or its own motion, under SEC Rule 15c2-11(h). NASD believes that the terms for filing a Form 211 under Rule 6740 should conform to SEC Rule 15c2-11; members should not be required

to review, maintain and file information under the NASD rule if there is no similar obligation under the SEC rule. Accordingly, NASD is proposing to amend Rule 6740 to relieve members of their obligations under the rule in the event that the Commission has granted an exemption to any quotation under SEC Rule 15c2-11(h). To the extent that the Commission's exemptive relief applies any terms and conditions to such relief, those same terms and conditions would apply to the exclusion under Rule 6740.

Finally, NASD no longer refers to itself using its full corporate name, "the Association," or "the NASD." Instead, NASD uses the name "NASD" unless otherwise appropriate for corporate or regulatory reasons. Accordingly, the proposed rule change replaces, as a technical change, several references in Rule 6740 to "the Association" with the name "NASD."

As noted in Item 2 of this filing, NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

(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. NASD believes that harmonizing Rule 6740 and SEC Rule 15c2-11, so that

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<sup>2</sup> Because the definition of "non-Nasdaq security" under Rule 6710(c) excludes debt instruments, Rule 6740 does not refer to subsection (f)(4) of SEC Rule 15c2-

members are not required to review, maintain and file information under the NASD rule when they are not required to review and maintain such information under the SEC rule, is consistent with the Act. Moreover, SEC Rule 15c2-11 is, by its terms, “a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices,” and thus, NASD believes that conforming Rule 6740 to SEC Rule 15c2-11 is consistent with the protection of investors and the public interest.

**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**

Written comments were neither solicited nor received.

**6. Extension of Time Period for Commission Action**

NASD does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Not applicable.

**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**9. Exhibits**

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11, which relates to municipal securities.

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34- ; File No. SR-NASD-2005-098)

**SELF-REGULATORY ORGANIZATIONS**

Proposed Rule Change by National Association of Securities Dealers, Inc.  
Relating to Submission of SEC Rule 15c2-11 Information on Non-Nasdaq Securities

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 , 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 Rule 6740 to (1) relieve members of the obligation to file with NASD copies of certain information that is electronically accessible through the SEC’s Electronic Data Gathering, Analysis, and Retrieval (“EDGAR”) system; and (2) exclude from Rule 6740 quotation activity for which the SEC has granted an exemption under SEC Rule 15c2-11(h). Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

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

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

**6740. Submission of Rule 15c2-11 Information on Non-Nasdaq Securities**

(a) Except as provided in SEC Rule 15c2-11(f)(1), (2), (3), and (5) and 15c2-11(h) under the Act, no member shall initiate or resume the quotation of a non-Nasdaq security in any quotation medium unless the member has demonstrated compliance with this rule and the applicable requirements for information maintenance under Rule 15c2-11. A member shall demonstrate compliance by making a filing with, and in the form required by, [the Association] NASD, which filing must be received at least three business days before the member's quotation is published or displayed in the quotation medium.

(b) The information to be filed shall contain one copy of all information required to be maintained under SEC Rule 15c2-11(a)(1), (2), (3)(iii), (4)(ii), or (5), including any information that may be required by future amendments thereto; provided, however, that members are not required to file with NASD copies of any information that is available through the SEC's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system. In addition, this filing shall identify the issuer, the issuer's predecessor in the event of a merger or reorganization within the previous 12 months, the type of non-Nasdaq security to be quoted (e.g., ADR, warrant, unit, or common stock), the quotation medium to be used, the member's initial or resumed quotation, and the particular subsection of Rule 15c2-11 with which the member is demonstrating compliance. Additionally, if a member is initiating or resuming quotation of a non-Nasdaq security with a priced entry, the member's filing must specify the basis upon which that priced entry was determined and the factors considered in making that determination.

(c) If a member's initial or resumed quotation does not include a priced entry, a member shall supplement its prior filing under this Rule, in the form required by [the Association] NASD, before inserting a priced entry for the affected non-Nasdaq security in a quotation medium. The supplemental filing shall specify the basis upon which the proposed priced entry was determined and the factors considered in making that determination. The supplemental filing must be received by [the Association] NASD at least three business days before the member's priced entry first appears in a quotation medium.

(d) All filings made with [the Association] NASD under this Rule must be reviewed and signed by a principal of the member firm.

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**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

Rule 6740 prohibits a member from initiating or resuming the quotation of a non-

Nasdaq security<sup>3</sup> in a quotation medium unless the member has demonstrated compliance with the requirements of SEC Rule 15c2-11 pertaining to the review and maintenance of specified information about the security and issuer. To demonstrate compliance with both Rule 6740 and SEC Rule 15c2-11, a member must file with NASD a Form 211, together with the information required under SEC Rule 15c2-11(a), at least three business days before the quotation is published or displayed.

Much of the information required under SEC Rule 15c2-11(a), such as prospectuses, offering circulars and annual reports, is publicly available through the SEC's EDGAR system. NASD believes that there is no policy purpose served in requiring members to file with NASD copies of such information. Accordingly, NASD is proposing to relieve members of the obligation to file with NASD copies of information that is electronically accessible through the SEC's EDGAR system. NASD believes the proposed rule change will eliminate the administrative burden and cost imposed on members in furnishing such information to NASD. Although members will not be required to file the information with NASD, they will nonetheless remain obligated under Rule 6740 to review and maintain information as required by SEC Rule 15c2-11.

In addition, paragraphs (f) and (h) of SEC Rule 15c2-11 set forth the exclusions to the rule's information review and maintenance requirements. Rule 6740(a) tracks the

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<sup>3</sup> For purposes of this rule, "non-Nasdaq security" is defined in Rule 6710(c) as "any equity security that is neither included in The Nasdaq Stock Market nor traded on any national securities exchange."

SEC Rule 15c2-11(f) exceptions,<sup>4</sup> but does not contain an exclusion for those quotations pursuant to which the Commission has granted an exemption, upon request or its own motion, under SEC Rule 15c2-11(h). NASD believes that the terms for filing a Form 211 under Rule 6740 should conform to SEC Rule 15c2-11; members should not be required to review, maintain and file information under the NASD rule if there is no similar obligation under the SEC rule. Accordingly, NASD is proposing to amend Rule 6740 to relieve members of their obligations under the rule in the event that the Commission has granted an exemption to any quotation under SEC Rule 15c2-11(h). To the extent that the Commission's exemptive relief applies any terms and conditions to such relief, those same terms and conditions would apply to the exclusion under Rule 6740.

Finally, NASD no longer refers to itself using its full corporate name, "the Association," or "the NASD." Instead, NASD uses the name "NASD" unless otherwise appropriate for corporate or regulatory reasons. Accordingly, the proposed rule change replaces, as a technical change, several references in Rule 6740 to "the Association" with the name "NASD."

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

## 2. Statutory Basis

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

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<sup>4</sup> Because the definition of "non-Nasdaq security" under Rule 6710(c) excludes debt instruments, Rule 6740 does not refer to subsection (f)(4) of SEC Rule 15c2-11, which relates to municipal securities.

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. NASD believes that harmonizing Rule 6740 and SEC Rule 15c2-11, so that members are not required to review, maintain and file information under the NASD rule when they are not required to review and maintain such information under the SEC rule, is consistent with the Act. Moreover, SEC Rule 15c2-11 is, by its terms, “a means reasonably designed to prevent fraudulent, deceptive or manipulative acts or practices,” and thus, NASD believes that conforming Rule 6740 to SEC Rule 15c2-11 is consistent with the protection of investors and the public interest.

**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**

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 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 change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2005-098 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-NASD-2005-098. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 100 F Street, NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-NASD-2005-098 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Secretary

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<sup>5</sup> 17 CFR 200.30-3(a)(12).