

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 type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
			Rule		
			<input checked="" 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).

Amendments relating to the status of registered persons and sole proprietors serving in the Armed Forces of the United States.

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	<input type="text" value="Afshin"/>	Last Name	<input type="text" value="Atabaki"/>
Title	<input type="text" value="Counsel"/>		
E-mail	<input type="text" value="afshin.atabaki@nasd.com"/>		
Telephone	<input type="text" value="(202) 728-8902"/>	Fax	<input type="text" value="(202) 728-8264"/>

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	<input type="text" value="11/15/2005"/>	
By	<input type="text" value="Patrice Gliniecki"/>	<input type="text" value="Senior Vice President and Deputy 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”),¹ 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 IM-1000-2 to (1) clarify that the scope of the relief provided in the IM extends to any registered person of a firm who volunteers for or is called into active military duty, not just registered representatives; (2) codify the staff’s existing interpretation with respect to the receipt of transaction-related compensation by registered persons who volunteer for or are called into active military duty; (3) clarify that the relief provided to a registered person of a firm who volunteers for or is called into active military duty is available to the person during the period that such person remains registered with the firm, regardless of whether the person returns to employment at a different firm upon completion of his or her active military duty; and (4) clarify that the “inactive” status designation is available to registered persons and sole proprietors who volunteer for or are called into active duty in the Armed Forces of the United States and is available to them only while they remain on active military duty.

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

IM-1000-2. Status of [Sole Proprietors and Registered Representatives] Persons Serving in the Armed Forces of the United States

(a) Inactive Status of Currently Registered Persons

¹ 15 U.S.C. 78s(b)(1).

(1) A[ny] [R]registered [Representative] person of a member who volunteers for or is called into active duty in the Armed Forces of the United States shall be placed, after proper notification to [the Executive Office] NASD, upon inactive status and need not be re-registered by such member upon his or her return to active employment with the member. Such a person will remain eligible to receive transaction-related compensation, including continuing commissions, because he or she remains registered with a member of NASD. The employing member also may allow such a person to enter into an arrangement with another registered person of the member to take over and service the person's accounts and to share transaction-related compensation based upon the business generated by such accounts. However, since such persons are inactive, they may not perform any of the duties performed by a registered person.

[Any member (Sole Proprietor) who temporarily closes his or her business by reason of volunteering or being called into the Armed Forces of the United States, shall be placed, after proper notification to the Executive Office, on inactive status until his or her return to active participation in the investment banking and securities business.]

(2) A [R]registered [Representative] person who is placed on inactive status [as set forth above] pursuant to this paragraph (a) shall not be included within the definition of "Personnel" for purposes of the dues or assessments as provided in Article VI of the NASD By-Laws.

[Any member placed on inactive status as set forth above shall not be required to pay dues or assessments during the pendency of such inactive status and shall not be required to pay an admission fee upon return to active participation in the investment banking and securities business.]

(3) A [R]registered [Representative] person who is placed on inactive status [as set forth above] pursuant to this paragraph (a) shall not be required to complete either of the Regulatory or Firm Elements of the continuing education requirements set forth in Rule 1120 during the pendency of such inactive status.

(4) The relief provided in subparagraphs (a)(1), (a)(2), and (a)(3) shall be available to a registered person who is placed on inactive status pursuant to this paragraph (a) during the period that such a person remains registered with the member with which he or she was registered at the beginning of active duty in the Armed Forces of the United States, regardless of whether the person returns to active employment with another member upon completion of his or her active duty in the Armed Forces of the United States.

(5) The relief described in this paragraph (a) will be provided only to a person registered with a member and only while the person remains on active military duty.

(b) Inactive Status of Sole Proprietorships

(1) A member that is a sole proprietor who temporarily closes his or her business by reason of volunteering for or being called into active duty in the Armed Forces of the United States, shall be placed, after proper notification to NASD, on inactive status while the member remains on active military duty.

(2) A sole proprietor member placed on inactive status as set forth in this paragraph (b) shall not be required to pay dues or assessments during the pendency of such inactive status and shall not be required to pay an admission fee upon return to active participation in the investment banking and securities business.

(3) The relief described in this paragraph (b) will be provided only to a sole proprietor member and only while the person remains on active military duty.

* * * * *

(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 July 20, 2005, which authorized the filing of the proposed rule change with the Commission. The Nasdaq Stock Market, Inc. and NASD Dispute Resolution, Inc. were 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 July 21, 2005. No other action by NASD is necessary for the filing of this 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.

As further discussed below, NASD is filing the proposed rule change for immediate effectiveness and is proposing to implement the proposed rule change immediately upon filing with the Commission. NASD will announce the proposed rule

change in a Notice to Members (“NTM”) to be published no later than 60 days after SEC Notice of this filing.

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

(a) Purpose

Since the September 11, 2001 attacks, NASD has provided tailored regulatory relief to securities industry professionals who volunteer for or are called into active military duty. Most notably, in January 2002, NASD filed with the SEC for immediate effectiveness a rule change that amended NASD IM-1000-2 to codify the staff’s position regarding the relief from Rule 1120 (Continuing Education Requirements) for securities industry professionals who volunteer for or are called into active military duty.²

NASD IM-1000-2 currently permits a firm to place a registered representative on “inactive” status while serving in the Armed Forces of the United States. Such “inactive” status excuses a registered representative from continuing education obligations, waives dues and assessments, and ensures that he or she is not subject to the two-year expiration period for securities licenses of persons who cease to be registered with a member (“two-year licensing expiration provisions”).³

² See Securities Exchange Act Release No. 45259 (January 9, 2002), 67 FR 2256 (January 16, 2002) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Relieve Registered Representatives Serving in the Armed Forces From Continuing Education Requirements; File No. SR-NASD-2002-03).

³ NASD Rules 1021(c), 1031(c), and 1041(c) provide that if a person does not register with a member within two years of his or her last registration, his or her qualification as a principal, representative, or assistant representative will lapse and the person must then retest to function as a principal, representative, or assistant representative. In the case of a person on “inactive” status due to active

Additionally, following discussions with the SEC staff, NASD published on its Web site guidance that provides that “inactive” registered persons serving in the Armed Forces of the United States may receive transaction-related compensation, provided that they do not perform any functions of a registered person while on “inactive” status.⁴

NASD has recently received requests for further clarification on the scope of IM-1000-2 and the accompanying guidance. In particular, members have questioned whether the IM applies to registered persons other than registered representatives and whether registered persons can receive commissions on accounts that have been temporarily re-assigned in their absence. Members also have questioned the manner in which the relief applies if a registered person seeks employment with a different member upon completing active military duty.⁵

In response, NASD is proposing the following amendments to IM-1000-2 to clarify its scope and codify NASD’s existing guidance with respect to the receipt of

military duty, because he or she is considered registered for purposes of NASD Rules, the “two-year licensing expiration provisions” do not apply.

⁴ See Registered Persons on Active Military Duty (available at: http://www.nasd.com/web/idcplg?IdcService=SS_GET_PAGE&ssDocName=NASDW_014635&ssSourceNodeId=1091). The NASD staff’s interpretation with respect to the receipt of transaction-related compensation by registered persons serving in the Armed Forces of the United States is consistent with the New York Stock Exchange, Inc.’s (“NYSE”) interpretation to NYSE Rule 345(a), which the NYSE codified in June 2002.

⁵ Some members have questioned whether the return of a registered person who volunteers for or is called into active military duty to employment at a different member would negate or invalidate the relief the person has received while being deemed “inactive” at their original employing member.

transaction-related compensation by registered persons actively serving in the Armed Forces of the United States.

First, NASD is proposing to amend IM-1000-2 to clarify that the scope of the relief provided in the IM extends to any registered person of a member who volunteers for or is called into active military duty, not just registered representatives.

Second, NASD is proposing to amend IM-1000-2 to expressly state that a registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States and who is placed on “inactive” status will remain eligible to receive transaction-related compensation, including continuing commissions, because he or she remains registered with a member of NASD. In addition, NASD is proposing to amend IM-1000-2 to provide that an employing member may allow such a person to enter into an arrangement with another registered person of the member to take over and service the person’s accounts and to share transaction-related compensation based upon the business generated by such accounts. NASD also is proposing to amend IM-1000-2 to state that such “inactive” persons may not perform any of the duties performed by a registered person. As noted above, the proposed amendments are consistent with NASD’s existing interpretation with respect to the receipt of transaction-related compensation by registered persons actively serving in the Armed Forces of the United States, as well as the NYSE’s interpretation to NYSE Rule 345(a).⁶

⁶ The relief regarding the ongoing receipt of transaction-based compensation does not extend to a sole proprietor member placed on “inactive” status pursuant to IM-1000-2. Rather, consistent with current practice, NASD staff, in consultation with SEC staff, will address such issues in the context of a sole proprietor member placed on “inactive” status on a case-by-case basis.

Third, NASD is proposing to amend IM-1000-2 to clarify that the relief provided to a registered person of a member who volunteers for or is called into active military duty is available to the person during the period that such person remains registered with the member, regardless of whether the person returns to employment at a different member upon completion of his or her active military duty. Accordingly, under the proposal, NASD will not rescind the relief provided to such a person simply because he or she decides to register with another member upon completion of his or her active military duty. For instance, if a registered person of Firm Y who volunteers for or is called into active military duty and who is placed on “inactive” status with Firm Y decides to register with Firm Z upon completion of her active military duty, NASD will not invalidate the relief that was provided to the person while on “inactive” status with Firm Y.

Fourth, NASD is proposing to amend IM-1000-2 to clarify that the “inactive” status designation is available to registered persons and sole proprietors who volunteer for or are called into active duty in the Armed Forces of the United States and is available to them only while they remain on active military duty. Therefore, under the proposal, a registered person who is placed on “inactive” status pursuant to IM-1000-2 will be removed from “inactive” status if the person ceases to be registered with a member while serving in the Armed Forces of the United States.⁷ If he or she re-registers with a

⁷ In conjunction with this filing, NASD is filing a proposed rule change with the Commission to address the status of persons who terminate their registration with a member while on active military duty and persons who commence their active military duty within two years after they have ceased to be registered with a member, including the application of the “two-year licensing expiration provisions” to such persons. See SR-NASD-2005-135.

member while still serving in the Armed Forces of the United States, he or she will again be eligible for “inactive” status pursuant to the IM. Further, under the proposal, a registered person or sole proprietor who is placed on “inactive” status pursuant to IM-1000-2 will be removed from “inactive” status if the registered person or sole proprietor is no longer on active military duty.

NASD is proposing to implement the proposed rule change immediately upon filing with the Commission.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁸ which requires, among other things, that NASD’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. NASD believes that the proposed rule change provides appropriate tailored relief to persons actively serving in the Armed Forces of the United States in a manner consistent with NASD’s goals of investor protection and market integrity.

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

⁸ 15 U.S.C. 78o-3(b)(6).

Written comments were neither solicited nor received.

6. Extension of Time Period for Commission Action

Not applicable.

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)(i) of the Act⁹ and Rule 19b-4(f)(1) thereunder,¹⁰ 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 of NASD. NASD proposes to implement the rule change immediately upon filing with the Commission. NASD will announce the proposed rule change in an NTM to be published no later than 60 days after SEC Notice of this filing.

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

Not applicable.

9. Exhibits

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

⁹ 15 U.S.C. 78s(b)(3)(A)(i).

¹⁰ 17 CFR 240.19b-4(f)(1).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2005-134)

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Status of Registered Persons and Sole Proprietors Serving in the Armed Forces of the United States

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 , 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 with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization pursuant to Section 19(b)(3)(A)(i) of the Act³ and Rule 19b-4(f)(1) thereunder,⁴ 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

NASD is proposing to amend NASD IM-1000-2 to (1) clarify that the scope of the relief provided in the IM extends to any registered person of a firm who volunteers for or is called into active military duty, not just registered representatives; (2) codify the staff's existing interpretation with respect to the receipt of transaction-related compensation by registered persons who volunteer for or are called into active military duty; (3) clarify that the relief provided to a registered person of a firm who volunteers for or is called into active military duty is available to the person during the period that such person remains registered with the firm, regardless of whether the person returns to employment at a different firm upon completion of his or her active military duty; and (4) clarify that the "inactive" status designation is available to registered persons and sole proprietors who volunteer for or are called into active duty in the Armed Forces of the United States and is available to them only while they remain on active military duty.

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

IM-1000-2. Status of [Sole Proprietors and Registered Representatives] Persons Serving in the Armed Forces of the United States

(a) Inactive Status of Currently Registered Persons

(1) A[ny] [R]registered [Representative] person of a member who volunteers for or is called into active duty in the Armed Forces of the United States shall be placed, after proper notification to [the Executive Office] NASD, upon inactive status and need not be re-registered by such member upon his or her return to active employment with the member. Such a person will remain eligible to receive transaction-related compensation, including continuing commissions,

because he or she remains registered with a member of NASD. The employing member also may allow such a person to enter into an arrangement with another registered person of the member to take over and service the person's accounts and to share transaction-related compensation based upon the business generated by such accounts. However, since such persons are inactive, they may not perform any of the duties performed by a registered person.

[Any member (Sole Proprietor) who temporarily closes his or her business by reason of volunteering or being called into the Armed Forces of the United States, shall be placed, after proper notification to the Executive Office, on inactive status until his or her return to active participation in the investment banking and securities business.]

(2) A [R]registered [Representative] person who is placed on inactive status [as set forth above] pursuant to this paragraph (a) shall not be included within the definition of "Personnel" for purposes of the dues or assessments as provided in Article VI of the NASD By-Laws.

[Any member placed on inactive status as set forth above shall not be required to pay dues or assessments during the pendency of such inactive status and shall not be required to pay an admission fee upon return to active participation in the investment banking and securities business.]

(3) A [R]registered [Representative] person who is placed on inactive status [as set forth above] pursuant to this paragraph (a) shall not be required to complete either of the Regulatory or Firm Elements of the continuing education requirements set forth in Rule 1120 during the pendency of such inactive status.

(4) The relief provided in subparagraphs (a)(1), (a)(2), and (a)(3) shall be available to a registered person who is placed on inactive status pursuant to this paragraph (a) during the period that such a person remains registered with the member with which he or she was registered at the beginning of active duty in the Armed Forces of the United States, regardless of whether the person returns to active employment with another member upon completion of his or her active duty in the Armed Forces of the United States.

(5) The relief described in this paragraph (a) will be provided only to a person registered with a member and only while the person remains on active military duty.

(b) Inactive Status of Sole Proprietorships

(1) A member that is a sole proprietor who temporarily closes his or her business by reason of volunteering for or being called into active duty in the Armed Forces of the United States, shall be placed, after proper notification to NASD, on inactive status while the member remains on active military duty.

(2) A sole proprietor member placed on inactive status as set forth in this paragraph (b) shall not be required to pay dues or assessments during the pendency of such inactive status and shall not be required to pay an admission fee upon return to active participation in the investment banking and securities business.

(3) The relief described in this paragraph (b) will be provided only to a sole proprietor member and only while the person remains on active military duty.

* * * * *

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

Since the September 11, 2001 attacks, NASD has provided tailored regulatory relief to securities industry professionals who volunteer for or are called into active military duty. Most notably, in January 2002, NASD filed with the SEC for immediate effectiveness a rule change that amended NASD IM-1000-2 to codify the staff's position regarding the relief from Rule 1120 (Continuing Education Requirements) for securities industry professionals who volunteer for or are called into active military duty.⁵

NASD IM-1000-2 currently permits a firm to place a registered representative on "inactive" status while serving in the Armed Forces of the United States. Such "inactive" status excuses a registered representative from continuing education obligations, waives dues and assessments, and ensures that he or she is not subject to the two-year expiration period for securities licenses of persons who cease to be registered with a member ("two-year licensing expiration provisions").⁶

⁵ See Securities Exchange Act Release No. 45259 (January 9, 2002), 67 FR 2256 (January 16, 2002) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Relieve Registered Representatives Serving in the Armed Forces From Continuing Education Requirements; File No. SR-NASD-2002-03).

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Additionally, following discussions with the SEC staff, NASD published on its Web site guidance that provides that “inactive” registered persons serving in the Armed Forces of the United States may receive transaction-related compensation, provided that they do not perform any functions of a registered person while on “inactive” status.⁷

NASD has recently received requests for further clarification on the scope of IM-1000-2 and the accompanying guidance. In particular, members have questioned whether the IM applies to registered persons other than registered representatives and whether registered persons can receive commissions on accounts that have been temporarily re-assigned in their absence. Members also have questioned the manner in which the relief applies if a registered person seeks employment with a different member upon completing active military duty.⁸

In response, NASD is proposing the following amendments to IM-1000-2 to clarify its scope and codify NASD’s existing guidance with respect to the receipt of

register with a member within two years of his or her last registration, his or her qualification as a principal, representative, or assistant representative will lapse and the person must then retest to function as a principal, representative, or assistant representative. In the case of a person on “inactive” status due to active military duty, because he or she is considered registered for purposes of NASD Rules, the “two-year licensing expiration provisions” do not apply.

⁷ See Registered Persons on Active Military Duty (available at: http://www.nasd.com/web/idcplg?IdcService=SS_GET_PAGE&ssDocName=NASDW_014635&ssSourceNodeId=1091). The NASD staff’s interpretation with respect to the receipt of transaction-related compensation by registered persons serving in the Armed Forces of the United States is consistent with the New York Stock Exchange, Inc.’s (“NYSE”) interpretation to NYSE Rule 345(a), which the NYSE codified in June 2002.

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Second, NASD is proposing to amend IM-1000-2 to expressly state that a registered person of a member who volunteers for or is called into active duty in the Armed Forces of the United States and who is placed on “inactive” status will remain eligible to receive transaction-related compensation, including continuing commissions, because he or she remains registered with a member of NASD. In addition, NASD is proposing to amend IM-1000-2 to provide that an employing member may allow such a person to enter into an arrangement with another registered person of the member to take over and service the person’s accounts and to share transaction-related compensation based upon the business generated by such accounts. NASD also is proposing to amend IM-1000-2 to state that such “inactive” persons may not perform any of the duties performed by a registered person. As noted above, the proposed amendments are consistent with NASD’s existing interpretation with respect to the receipt of transaction-related compensation by registered persons actively serving in the Armed Forces of the United States, as well as the NYSE’s interpretation to NYSE Rule 345(a).⁹

⁹ The relief regarding the ongoing receipt of transaction-based compensation does not extend to a sole proprietor member placed on “inactive” status pursuant to IM-1000-2. Rather, consistent with current practice, NASD staff, in consultation with SEC staff, will address such issues in the context of a sole proprietor member placed on “inactive” status on a case-by-case basis.

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Fourth, NASD is proposing to amend IM-1000-2 to clarify that the “inactive” status designation is available to registered persons and sole proprietors who volunteer for or are called into active duty in the Armed Forces of the United States and is available to them only while they remain on active military duty. Therefore, under the proposal, a registered person who is placed on “inactive” status pursuant to IM-1000-2 will be removed from “inactive” status if the person ceases to be registered with a member while serving in the Armed Forces of the United States.¹⁰ If he or she re-registers with a

¹⁰ In conjunction with this filing, NASD is filing a proposed rule change with the Commission to address the status of persons who terminate their registration with a member while on active military duty and persons who commence their active military duty within two years after they have ceased to be registered with a member, including the application of the “two-year licensing expiration provisions” to such persons. See SR-NASD-2005-135.

member while still serving in the Armed Forces of the United States, he or she will again be eligible for “inactive” status pursuant to the IM. Further, under the proposal, a registered person or sole proprietor who is placed on “inactive” status pursuant to IM-1000-2 will be removed from “inactive” status if the registered person or sole proprietor is no longer on active military duty.

NASD is proposing to implement the proposed rule change immediately upon filing with the Commission.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹¹ which requires, among other things, that NASD’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. NASD believes that the proposed rule change provides appropriate tailored relief to persons actively serving in the Armed Forces of the United States in a manner consistent with NASD’s goals of investor protection and market integrity.

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.

¹¹ 15 U.S.C. 78o-3(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act¹² and Rule 19b-4(f)(1) thereunder,¹³ 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 of the self-regulatory organization. NASD has proposed to implement the rule change immediately upon filing with the Commission. NASD will announce the proposed rule change in a Notice to Members to be published no later than 60 days after SEC Notice of this filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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. 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. Please include File Number SR-NASD-2005-134 on the subject line.

¹² 15 U.S.C. 78s(b)(3)(A)(i).

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-0303.

All submissions should refer to File Number SR-NASD-2005-134. 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-2005-134 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

¹³ 17 CFR 240.19b-4(f)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Secretary

¹⁴ 17 CFR 200.30-3(a)(12).