

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange did not solicit or receive any written comments with respect to the proposal.

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> thereunder. Accordingly, the proposal is effective upon filing with the Commission. 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](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2006-70 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-ISE-2006-70. 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. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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 File Number SR-ISE-2006-70 and should be submitted on or before January 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54871; File No. SR-NASD-2006-124]

**Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Relating to Proposed Rule 2342 Requiring Members To Provide New Customers, and All Customers Annually, Specific Information About the Securities Investor Protection Corporation ("SIPC")**

December 5, 2006.

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 November 9, 2006, 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.

<sup>9</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.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

NASD is proposing Rule 2342, which would require members to advise all new customers in writing at the opening of an account, and advise all customers in writing at least once each year, that they may obtain information about SIPC, including the SIPC Brochure,<sup>3</sup> by contacting SIPC. Members would also provide customers with SIPC's telephone number and Web site address at those times. Below is the text of the proposed rule change. Proposed new language is in *italics*.

\* \* \* \* \*

**2000. Business Conduct**

\* \* \* \* \*

**2300. Transactions with Customers**

\* \* \* \* \*

*2342. SIPC Information*

*Members shall advise all new customers, in writing, at the opening of an account, that they may obtain information about the Securities Investor Protection Corporation (SIPC), including the SIPC Brochure, by contacting SIPC, and also shall provide the Web site address and telephone number of SIPC. In addition, members shall provide all customers with the same information, in writing, at least once each year. In cases where both an introducing firm and clearing firm service an account, the firms may assign these requirements to one of the firms.*

\* \* \* \* \*

**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.

<sup>3</sup> In brief, the SIPC Brochure describes such things as the role of SIPC, what SIPC covers and what it does not, and how to avoid investment fraud.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

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

1. Purpose

In May 2001, the U.S. General Accounting Office ("GAO")<sup>4</sup> issued a report in which the GAO made recommendations to the SEC and SIPC about ways to improve the information available to the public about SIPC and the Securities Investor Protection Act ("SIPA").<sup>5</sup> Among other things, the GAO recommended that self-regulatory organizations ("SROs") explore ways to encourage broader dissemination of the SIPC Brochure to customers so that they can become more aware of the scope of coverage of the SIPA.<sup>6</sup>

In response, NASD is proposing Rule 2342, which would require members to advise all new customers, in writing, at the opening of an account, that they may obtain information about SIPC, including the SIPC Brochure, by contacting SIPC, and to provide SIPC's Web site address and telephone number. In addition, proposed Rule 2342 would require members to provide all customers with the same information, in writing, at least once each year. In cases where both an introducing firm and clearing firm service an account, the firms could assign these requirements to one of the firms.

NASD is proposing an effective date of May 31, 2007, and states that it will announce this effective date for the proposed rule change in a *Notice to Members* to be published no later than 30 days following Commission approval. According to NASD, this will

<sup>4</sup> The GAO has since been renamed the Government Accountability Office.

<sup>5</sup> GAO, *Securities Investor Protection: Steps Needed to Better Disclose SIPC Policies to Investors*, GAO-01-653 (May 25, 2001). In July 2003, the GAO noted that the Commission was working with SROs to explore ways in which the GAO's recommendations could be implemented. See GAO, *Securities Investor Protection: Update on Matters Related to the Securities Investor Protection Corporation*, GAO-03-811 (July 11, 2003).

<sup>6</sup> In its report, the GAO also recommended that SROs consider requiring firms to include information on periodic statements or trade confirmations advising investors that they should document account discrepancies in writing. In response to this recommendation, NASD amended Rule 2340 to require that account statements include a statement advising each customer to report promptly any inaccuracy or discrepancy in that person's account to his or her brokerage firm and clearing firm (where these are different firms). Such statement also must advise the customer that any oral communication should be re-confirmed in writing to further protect the customer's rights, including rights under SIPA. See Securities Exchange Act Rel. No. 54411 (September 7, 2006) 71 FR 54105 (September 13, 2006) (SR-NASD-2004-171), as corrected by Securities Exchange Act Rel. No. 54411A (October 6, 2006) 71 FR 61115 (October 17, 2006).

give members time to make necessary changes to their customer documentation and systems.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>7</sup> which provides, 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 the proposed rule change is consistent with this provision of the Act because NASD members will be required to provide new customers with SIPC's telephone number and Web site address and to provide that same information to all customers, annually. This new requirement will further assist investors in obtaining information that will help them to understand SIPC and how SIPC protects investors.

*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.

**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:

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

*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-2006-124 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-124. 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-2006-124 and should be submitted on or before January 3, 2007.

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

**Florence E. Harmon,**

*Deputy Secretary.*

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