

SPECIAL NASD NOTICE TO MEMBERS 97-97

Mail Vote—NASD Solicits Member Vote On Amendments To NASD By-Laws To Require Members To Update Information Electronically And Maintain Electronic Mail Accounts; And For Other Purposes; **Last Voting Date: January 30, 1998**

Suggested Routing

- ☒ Senior Management
- ☐ Advertising
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- ☐ Variable Contracts

Executive Summary

The National Association of Securities Dealers, Inc. (NASD[®] or Association) invites members to vote to approve amendments to the NASD By-Laws to require executive representatives of members to update firm contact information electronically, to maintain electronic mail accounts, and for other purposes. The last voting date is January 30, 1998. The text of the proposed amendments follows this *Notice*.

Questions concerning this *Notice* may be directed to T. Grant Callery, Senior Vice President and General Counsel, NASD, at (202) 728-8285.

Background Amendment To Article IV, Section 3

On August 5, 1997, the Membership Committee recommended the adoption of an amendment to the NASD By-Laws to require each executive representative, beginning not later than January 1, 1999, to maintain an Internet electronic mail account for communication with the NASD and to update firm contact information via the NASD Regulation Web Site. The NASD Regulation Board approved the recommendation at its September 23, 1997 meeting. The NASD Board approved the amendment at its December 11, 1997 meeting.

The NASD must have current and accurate records of the names of members' executive representatives and other individuals who hold positions of significant responsibility within member firms. This information is used by the Corporate Secretary for member balloting, by Member Regulation for compliance purposes, and by Corporate Communications in identifying key individuals for use in target mailings. The current method for acquiring this

information is through the filing of an NASD form entitled "NASD Member Firm Contact Questionnaire" (NMFCQ).

The data requested on the NMFCQ is not required on any other form filing (e.g., Form BD or U-4). The data is available in the Central Registration Depository (CRDSM), but in a text form that renders it nearly impossible to interface to another system. Thus, members are required to file the NMFCQ with the CRD, where the information is data captured into the Member Profile System, an adjunct to the existing CRD system. The data is then viewable throughout the organization via the Member Profile System and is interfaced to regulatory and finance systems as well as the existing corporate mailing system for use in distributing publications, reports, voting ballots, and mail.

A new procedure for collecting NMFCQ information in the future is necessary for two reasons. First, the CRD Redesign effort does not include rebuilding this function, so another alternative is required. Second, members are rarely updating these filings. Because the information solicited via the form is very important to support the NASD's business, the NASD must have a more efficient means for firms to update this information, thereby encouraging them to do so more regularly.

The proposed By-Law change will improve the data collection process by requiring a firm to access its NMFCQ via the NASD Regulation Web Site and update it on a periodic basis. (A firm would be able to access only its own NMFCQ; the information would be password-protected to prevent any public access.) The information then would be interfaced to the internal NASD Regulation systems requiring this set of data. Further, the By-Law also

would require each member to maintain an Internet e-mail address on behalf of its executive representative. This e-mail address would be used proactively to send messages reminding the firm to review and update its contact information.

There are other reasons the staff is interested in member Internet access and e-mail. Once established, it opens up many options for timely communications with our members and associated cost savings. It also can assist members with timely internal distribution of NASD information, notices, and publications. Other potential initiatives include eliminating or reducing printed publications, sending more timely announcements and notices, and providing value-added services to members.

The NASD is proposing a one-year transition period to accommodate small firms that may not currently have Internet access or electronic mail accounts.

Technical Amendment To Article VII, Section 9(b)

The NASD also proposes a technical amendment to Article VII, Section 9(b). In *Special Notice to Members 97-75*, the NASD proposed a comprehensive revision to its By-Laws to provide for a more streamlined corporate structure. The membership approved these changes on November 13, 1997, and the SEC approved them on November 14, 1997. See Securities Exchange Act Release No. 39326 (Nov. 14, 1997), 62 F.R. 62385 (Nov. 21, 1997).¹ Article VII, Section 9(b) contained a typographical error that provided that the number of Industry committee members on the National Nominating Committee should equal or exceed the number of Non-Industry committee members. The terms "Industry" and "Non-Industry" were transposed. The Section should provide that the number of Non-Industry committee members should equal or exceed the number of Industry committee mem-

bers. The National Nominating Committee is required to be composed in such a manner by the Undertakings agreed to by the NASD on August 8, 1996.²

Endnotes

¹ In Securities Exchange Act Release 39470 (December 19, 1997), the SEC approved moving the effective date of these changes from the first NASD Board meeting in January 1998 to the conclusion of the annual meeting, currently scheduled for January 15, 1998.

² Securities Exchange Act Release No. 37538 (August 8, 1996) (SEC Order Instituting Public Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, In the Matter of National Association of Securities Dealers, Inc., Administrative Proceeding File No. 3-9056).

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NASD BY-LAWS*

(Note: new text is underlined; deletions are bracketed.)

Article IV**Executive Representative**

Sec. 3. Each member shall appoint and certify to the Secretary of the NASD one “executive representative” who shall represent, vote, and act for the member in all the affairs of the NASD, except that other executives of a member may also hold office in the NASD, serve on the Board or committees appointed under Article IX, Section 1 or otherwise take part in the affairs of the NASD. A member may change its executive representative upon giving notice thereof via electronic process or such other process the NASD may prescribe to the Secretary, or may, when necessary, appoint, by notice via electronic process to the Secretary, a substitute for its executive representative. An executive representative of a member or a substitute shall be a member of senior management and registered principal of the member. Not later than January 1, 1999, each executive representative shall maintain an Internet electronic mail account for communication with the NASD and shall update firm contact information via the NASD Regulation Web Site or such other means as prescribed by the NASD.

Article VII**Board of Governors**

Sec. 9. (b) The National Nominating Committee shall consist of no fewer than six and no more than nine members. The number of [Industry] Non-Industry committee members shall equal or exceed the number of [Non-Industry] Industry committee members. If the National Nominating Committee consists of six members, at least two shall be Public committee members. If the National Nominating Committee consists of seven or more members, at least three shall be Public committee members. No officer or employee of the Association shall serve as a member of the National Nominating Committee in any voting or non-voting capacity. No more than three of the National Nominating Committee members and no more than two of the Industry committee members shall be current members of the NASD Board.

* As approved in Securities Exchange Act Release No. 39326 (November 14, 1997), 62 F.R. 62385 (November 21, 1997).

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