

October 30, 1998

Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549
Mail Stop 10-1

Re: **File No. SR-NASD-98-82**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed herewith is the above-numbered rule filing. Also enclosed is a 3-1/2" disk containing the rule filing in Microsoft Word 7.0 to facilitate production of the Federal Register release.

If you have any questions, please contact Robert J. Smith, Office of General Counsel, NASD Regulation, Inc., at (202) 728-8176; e-mail Smithr@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Joan C. Conley
Secretary

Attachment

File No. SR-NASD-98-82
Consists of 11 Pages

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C.

Form 19b-4

Proposed Rule Change

by

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

1. Text of Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"), NASD Regulation, Inc. ("NASD Regulation") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to Section 13 of Schedule A of the by-laws of the National Association of Securities Dealers, Inc. ("NASD" or "Association") to change the fee rates relative to the review of advertising. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

Schedule A to the NASD By-Laws

Section 13--[Service] Review Charge for Advertisement, Sales Literature, and Other Such Material Filed or Submitted

There shall be a [service] review charge for each and every item of advertisement, sales literature, and other such material, whether in printed, video, electronic or other form, filed with or submitted to the Association, except for items that are filed or submitted in response to a written request from the Association's Advertising Regulation Department issued pursuant to the spot check procedures set forth in the Association's Rules as follows: (1) for printed material reviewed, [\$50.00] \$75.00, plus \$10.00 for each page reviewed in excess of 10 pages; and (2) for video or audio media, [\$50.00] \$75.00, plus \$10.00 per minute for each minute of tape reviewed in excess of 10 minutes.

Where a member requests expedited review of material submitted to the Advertising Regulation department there shall be a [service] review charge of \$500.00 per item plus \$25 for each page reviewed in excess of 10 pages. Expedited review shall be completed within

three business days, not including the date the item is received by the Advertising Regulation Department, unless a shorter or longer period is agreed to by the Advertising Regulation Department. The Advertising Regulation Department may, in its sole discretion, refuse requests for expedited review.

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 August 6, 1998, which authorized the filing of the rule change with the SEC. The Nasdaq Stock Market has been provided an opportunity to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by the NASD to its Subsidiaries. The NASD Board of Governors reviewed the proposed rule change at its meeting on August 6, 1998. No other action by the NASD is necessary for the filing of the proposed rule change. Article VI, Section 1 of the By-Laws permits the NASD Board of Governors to approve changes to fees, dues, assessments and other charges without recourse to the membership for approval. The NASD will make the proposed rule change effective on January 1, 1999.

Questions regarding this rule filing may be directed to Robert J. Smith, Office of General Counsel, NASD Regulation, Inc., at (202) 728-8176.

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

(a)

The Advertising/Investment Companies Regulation Department evaluates member firms' advertisements and sales literature for compliance with applicable rules of the NASD, Securities and Exchange Commission (SEC), Municipal Securities Rulemaking Board and

Securities Investors Protection Corporation. These public communications include print, television and radio advertisements, or electronic communications such as Web sites. They also include brochures, form letters, mailers and telemarketing scripts. The rules address investor protection concerns and require all communications to be accurate and to provide a sound basis for making an investment decision. The rules prohibit the use of exaggerated or misleading statements.

The Department operates three principal programs: filings, investigations and spot checks. The filings program is by far the largest in terms of communications reviewed and resources used. Approximately 1,450 member firms submitted sales material last year, either voluntarily or pursuant to a rule requirement. The Department also investigates misleading communications and provides expertise to Enforcement and the District Offices concerning the complex provisions of the SEC and NASD advertising rules. Finally, the Department conducts targeted spot checks of member communications that may not be subject to the filing requirements, but which must comply with the applicable rules.

The Department needs additional resources to enhance its operations and provide timely, high quality reviews. Significant increases in filing volume and workload have hampered the Department's operations. For example, between 1994 and 1997, the number of communications reviewed in the filings and spot check programs increased 43%, from 42,681 to 61,096. The Department expects filing volume to continue to increase in subsequent years.

NASD Regulation therefore intends to dedicate additional staff and resources to the Department, as well as to other departments whose programs are related to the regulation of

member communications with the public. The cost of the additional staff and resources will be covered from the increase in advertising fee rates.

(b)

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which require that the rules of the Association provide for the equitable allocation of reasonable dues, fees, and other charges in that the proposed rule change reasonably provides for an increase in the regular filing fees for advertising to help defray the costs associated with the significant increase in advertising activities and possible advertising rule violations anticipated to be incurred by the Department.

4. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation 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 Regulation 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)

The rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act and Section (e) of Rule 19b-4 promulgated thereunder in that it amends a provision through

which the Association imposes dues, fees, and other charges. The NASD will make the rule effective on January 1, 1999.

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

Not applicable.

9. Exhibits

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

Pursuant to the requirements of the Securities Exchange Act of 1934, NASD Regulation has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

NASD REGULATION, INC.

BY: _____
Joan C. Conley, Secretary

Date: October 30, 1998

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34 ; File No. SR-NASD-98-82)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Increase in Advertising Fee Rates

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on , NASD Regulation, Inc. ("NASD Regulation") 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 Regulation. NASD Regulation has designated this proposal as establishing or changing a fee under Section 19(b)(3)(A)(ii), which renders the proposal effective upon receipt of this filing by the Commission. The NASD, however, will make the filing effective on January 1, 1999. 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 Regulation is proposing to amend Section 13 of Schedule A of the NASD By-Laws to increase the review charge for advertisements, sales literature, and other such material filed or submitted.

Schedule A to the NASD By-Laws

Section 13--[Service] Review Charge for Advertisement, Sales Literature, and Other Such Material Filed or Submitted

There shall be a [service] review charge for each and every item of advertisement,

sales literature, and other such material, whether in printed, video, electronic or other form, filed with or submitted to the Association, except for items that are filed or submitted in response to a written request from the Association's Advertising Regulation Department issued pursuant to the spot check procedures set forth in the Association's Rules as follows: (1) for printed material reviewed, [\$50.00] \$75.00, plus \$10.00 for each page reviewed in excess of 10 pages; and (2) for video or audio media, [\$50.00] \$75.00, plus \$10.00 per minute for each minute of tape reviewed in excess of 10 minutes.

Where a member requests expedited review of material submitted to the Advertising Regulation department there shall be a [service] review charge of \$500.00 per item plus \$25 for each page reviewed in excess of 10 pages. Expedited review shall be completed within three business days, not including the date the item is received by the Advertising Regulation Department, unless a shorter or longer period is agreed to by the Advertising Regulation Department. The Advertising Regulation Department may, in its sole discretion, refuse requests for expedited review.

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 Regulation 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 Regulation 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

The Advertising/Investment Companies Regulation Department evaluates member firms' advertisements and sales literature for compliance with applicable rules of the NASD, Securities and Exchange Commission (SEC), Municipal Securities Rulemaking Board and Securities Investors Protection Corporation. These public communications include print, television and radio advertisements, or electronic communications such as Web sites. They also include brochures, form letters, mailers and telemarketing scripts. The rules address investor protection concerns and require all communications to be accurate and to provide a sound basis for making an investment decision. The rules prohibit the use of exaggerated or misleading statements.

The Department operates three principal programs: filings, investigations and spot checks. The filings program is by far the largest in terms of communications reviewed and resources used. Approximately 1,450 member firms submitted sales material last year, either voluntarily or pursuant to a rule requirement. The Department also investigates misleading communications and provides expertise to Enforcement and the District Offices concerning the complex provisions of the SEC and NASD advertising rules. Finally, the Department conducts targeted spot checks of member communications that may not be subject to the filing requirements, but which must comply with the applicable rules.

The Department needs additional resources to enhance its operations and provide timely, high quality reviews. Significant increases in filing volume and workload have hampered the Department's operations. For example, between 1994 and 1997, the number of

communications reviewed in the filings and spot check programs increased 43%, from 42,681 to 61,096. The Department expects filing volume to continue to increase in subsequent years.

NASD Regulation therefore intends to dedicate additional staff and resources to the Department, as well as to other departments whose programs are related to the regulation of member communications with the public. The cost of the additional staff and resources will be covered from the increase in advertising fee rates.

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5)¹ of the Act, which require that the rules of the Association provide for the equitable allocation of reasonable dues, fees, and other charges in the proposed rule change reasonably provides for an increase in the regular filing fees for advertising to help defray the costs associated with the significant increase in advertising activities and possible advertising rule violations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation 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.

II. DATE OF EFFECTIVENESS OF THE PROPOSED RULE CHANGE AND TIMING FOR COMMISSION ACTION

The foregoing rule change has become effective upon filing pursuant to Section

¹ 15 U.S.C. § 78d-3

19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b-4 thereunder in that it constitutes a due, fee or other charge. However, the NASD has determined to implement the rule change on January 1, 1999.

IV. SOLICITATION OF COMMENTS

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz
Secretary