The NASD believes that the proposed rule change will not 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

Comments were neither solicited or received.

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

This filing applies to the assessment of SelectNet fees to NASD members, and thus the proposed rule change is effective immediately upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act and subparagraph (e)(2) of Rule 19b-4 thereunder because the proposal is establishing or changing a due, fee or other charge. At any time within 60 days 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 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 All submissions should refer to the File No. SR-NASD-98-30 which has been withdrawn. Letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated May 14, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) and Rule 19b-4 thereunder, notice is hereby given that on May 14, 1998, the National Association of Securities Dealers, Inc. (“NASD” or “Association”), 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, Inc. (“NASD Regulation”). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

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

NASD Regulation is proposing to amend Rule 3110 (the “Books and Records Rule”) of the Conduct Rules of the NASD to: (1) amend the definition of “institutional account” to include the accounts of investment advisers that under the National Securities Markets Improvements Act of 1996 and new rules adopted by the SEC are now

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98–15078 Filed 6–5–98; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change of Proposed Rule Change by National Association of Securities Dealers, Inc, Concerning Books and Records Requirements


Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)


This proposed rule change replaces proposed rule change File No. SR–NASD–98–30 which has been withdrawn. Letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated May 7, 1998. The proposed rule change was originally filed on May 7, 1998, but required a technical amendment to clarify the effective date. Letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated May 14, 1998.


required to register with the states; and (2) exclude certain customer accounts from the requirement to obtain certain tax and employment information from the customer. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are bracketed.

3100. BOOKS AND RECORDS, AND FINANCIAL CONDITION
3110. Books and Records
(a) Requirements
Each member shall keep and preserve books, accounts, records, memoranda, and correspondence in conformity with applicable laws, rules, regulations and statements of policy promulgated thereunder and with the Rules of this Association. Customer Account Information shall mean the account of:

(A) a bank, savings and loan association, insurance company, or registered investment company;
(B) an investment adviser registered either with the Securities and Exchange Commission under Section 203 of the Investment Advisers Act of 1940 or with a state securities commission (or any agency or office performing like functions); or
(C) any other entity (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

(c) Customer Account Information
Each member shall maintain accounts opened after January 1, 1991 as follows:

(1) for each account, each member shall maintain the following information:
   (A) customer’s name and residence;
   (B) whether customer is of legal age;
   (C) signature of a registered representative introducing the account and signature of the member or partner, officer, or manager who accepts the account; and
   (D) if the customer is a corporation, partnership, or other legal entity, the names of any persons authorized to transact business on behalf of the entity;

(2) for each account, other than an institutional account, and accounts in which investments are limited to transactions in money market funds open-end investment company shares that are not recommended by the member or its associated persons, each member shall make reasonable efforts to obtain, prior to the settlement of the initial transaction in the account, the following information to the extent it is applicable to the account:
   (A) customer’s tax identification number or Social Security number;
   (B) occupation of customer and name and address of employer; and
   (C) whether customer is an associated person of another member;

(3) for discretionary accounts, in addition to compliance with subparagraphs (1) and (2) above, and Rule 2510(b) of these Rules, the member shall:
   (A) obtain the signature of each person authorized to exercise discretion in the account;
   (B) record the date such discretion is granted; and
   (C) in connection with exempted securities other than municipals, record the age or approximate age of the customer; and

(4) for purposes of this Rule and Rule 2310 the term “institutional account” shall mean the account of:
   (A) a bank, savings and loan association, insurance company, or registered investment company;
   (B) an investment adviser registered either with the Securities and Exchange Commission under Section 203 of the Investment Advisers Act of 1940 or with a state securities commission (or any agency or office performing like functions); or
   (C) any other entity (whether a natural person, corporation, partnership, trust or otherwise) with total assets of at least $50 million.

ii. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change
In its filing with the Commission, the 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 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
1. Background
The Books and Records Rule requires members to obtain certain information for all accounts. In addition, the Rule requires that for accounts other than institutional accounts and accounts limited to money market funds members must make reasonable attempts to obtain: (i) a customer’s tax identification or Social Security number; (ii) a customer’s occupation and the name and address of the employer; and (iii) information about whether the customer is an associated person of another member (“Retail Customer Information”). An “institutional account” is defined in the Rule to include the account of an investment adviser registered with the SEC.

b. Accounts Limited to Mutual Fund Shares
At its meeting on February 23, 1998, the Investment Companies Committee, a standing committee of the NASD Regulation Board of Directors, considered proposed changes to both the Books and Records Rule and NASD Conduct Rule 3130 (“Suitability Rule”), the term “institutional account” includes the account of an investment adviser registered with the SEC.
Consequently, advisory accounts that were considered to be “institutional accounts” when the Retail Customer Information provision in the Books and Records Rule was adopted now are technically excluded from the definition because they have migrated to state regulation.

3. Conclusion
The Books and Records Rule provides that for purposes of both the Books and Records Rule and NASD Conduct Rule 3130 (“Suitability Rule”), the term “institutional account” includes the account of an investment adviser registered with the SEC.
2. Purpose
   a. Institutional Account Definition. The Books and Records Rule requires members to maintain certain information for all retail and institutional customer accounts. For retail accounts that are not limited to money market funds, members also must make reasonable efforts to obtain Retail Customer Information. Members do not have to seek this information with respect to their institutional accounts.

   Similarly, the Suitability Rule requires members to make reasonable efforts to obtain certain information, such as the customer’s financial status and investment objectives, from retail customers prior to the execution of a transaction. IM-2310-3 describes members’ suitability obligation in making recommendations to institutional customers. The primary considerations under IM-2310-3 include the customer’s capability to evaluate risk independently and the extent to which individual judgment is exercised when making investment decisions.

   The proposed rule change would continue to treat the state-regulated advisory accounts as “institutional accounts” for purposes of the Books and Records Rule and the Suitability Rule. The proposed rule change also would amend the Books and Records Rule to take into account the bifurcation of investment advisers regulation between the SEC and the states by changing the definition of “institutional account” to include both investment advisers required to register with the SEC and those required to register with the states.

b. Accounts Limited to Transactions in Mutual Fund Shares. The requirement in the Books and Records Rule to obtain customer employment information was designed to assist members in making suitable recommendations. This information is unnecessary for those accounts that are limited to mutual fund transactions that are not recommended by the member or its associated persons. With regard to the requirement in the Books and Records Rule to obtain a customer’s tax identification or social security number, the tax laws already impose obligations on funds to obtain this information.\footnote{If a customer refuses to provide tax identification, IRS rules require a fund to withhold 31% of all redemptions or distributions.}

   Finally, the requirement to determine whether a customer is an associated person of another member also is unnecessary because NASD Conduct Rule 3050, which provides the obligations of executing members when the member knows that a person associated with an employing member has an interest in an account, expressly excludes accounts that are limited to transactions in mutual fund shares.

   Of course members would be free to request Retail Customer Information from their customers to meet any other regulatory obligations that may exist.

3. Basis

   NASD Regulations believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which require, among other things, that the Association’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. NASD Regulation believes the proposed amendments to the Books and Records Rule that eliminate requirements to obtain Retail Customer Information for institutional accounts and accounts that are limited to mutual fund shares and for which no recommendations are made are consistent with these principles.

   B. Self-Regulatory Organization’s Statement on Burden on Competition

   The NASD believes that the proposed rule change will not 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

   Comments were neither solicited nor received.

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

   NASD Regulation has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the Federal Register.

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.\footnote{In reviewing this proposal, the Commission has considered the proposed rule change’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).} Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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 this filing will also be available for inspection and copying at the NASD. All submissions should refer to File No. SR-NASD-98-35 and should be submitted June 29, 1998.

V. Commission’s Findings and Order Granting Accelerated Approval of the Proposed Rule Change

   The Commission finds that the proposed rule change is consistent with the requirements of Section 15A(b)(6) of the Act and the rules and regulations thereunder which require, among other things, that the Association’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change is consistent with the Act in that the proposed rule change protects investors and the public interest by preserving the current operation of the Books and Records Rule with respect to institutional accounts registered with the states. The proposed rule change also facilitates transactions in securities by eliminating requirements to obtain Retail Customer Information for institutional accounts and accounts that are limited to mutual fund shares for which no recommendations are made.

   The Commission also finds good cause for approving the proposed rule change prior to the 30th day after publication of notice of filing thereof to ensure that the proposed rule change appropriately preserves the current operation of the Books and Records Rule and the Suitability Rule with respect to institutional accounts. The Commission believes, therefore, that granting accelerated approval of the proposed
rule change is appropriate and consistent with the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR-NASD-97–35 be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.9

Margaret H. MacFarland,
Deputy Secretary.
[FR Doc. 98–15079 Filed 6–5–98; 8:45 am]
BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3078]
State of Tennessee; (Amendment #3)

In accordance with a notice from the Federal Emergency Management Agency dated May 18, 1998, the above-numbered Declaration is hereby amended to include Davidson County in the State of Tennessee as a disaster area due to damages caused by severe storms, tornadoes, and flooding beginning on April 16, 1998 and continuing through May 18, 1998.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 19, 1998 and for economic injury the termination date is January 20, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Bernard Kulik,
Associate Administrator for Disaster Assistance.
[FR Doc. 98–15169 Filed 6–5–98; 8:45 am]
BILLING CODE 8025–01–U

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending May 29, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Date Filed: May 28, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC12 Telex Mail Vote 942, Zimbabwe-US/Canada/Mexico fare adjustment, r1-First/Intermediate fares, r2-Normal economy/special fares, Intended effective date: July 1, 1998.
Date Filed: May 28, 1998.
Parties: Members of the International Air Transport Association.
Subject: COMP Telex Mail Vote 941 Reso 010L, Zimbabwe fares—(excluding US/Cana/Canada/Mexico), Intended effective date: July 1, 1998.

Dorothy W. Walker,
Federal Register Liaison.
[FR Doc. 98–15151 Filed 6–5–98; 8:45 am]
BILLING CODE 4910–62–P