

September 12, 2001

By Hand

Katherine England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: SR-NASD-2001-57 – Amendments to NASD Regulation, Inc. By-Laws

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 Word to facilitate production of the Federal Register.

If you have any questions, please contact T. Grant Callery, Office of General Counsel, National Association of Securities Dealers Inc., at (202) 728-8285. The fax number of the Office of General Counsel is (202) 728-8893.

Very truly yours,

T. Grant Callery

Attachment

File No. SR-NASD-2001-57
Consists of 12 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"), The National Association of Securities Dealers, Inc. ("NASD" or "Association"), is herewith filing a proposed rule change to make certain changes to the NASDR By-Laws in order to conform the NASD Regulation, Inc. ("NASD Regulation") By-Laws to the NASD By-Laws and to increase the maximum size of the NASD Regulation Board. As such, the proposed rule change is immediately effective pursuant to Section 19(b)(3)(A) of the Act. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

Proposed Changes to NASD Regulation By-Laws

BY-LAWS OF NASD REGULATION, INC.

ARTICLE I

DEFINITIONS

...

(i) "Director" means a member of the Board[, excluding the Chief Executive Officer of the NASD];

...

(q) "Industry Director" or "Industry member" means a Director (excluding the President_ of NASD Regulation and the Chief Executive Officer of NASD) or a National Adjudicatory Council or committee member who (1) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in

the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; or (6) has a consulting or employment relationship with or provides professional services to the NASD, NASD Regulation, Nasdaq, NASD Dispute Resolution, or Amex (and any predecessor), or has had any such relationship or provided any such services at any time within the prior three years;

...

(y) "Non-Industry Director" or "Non-Industry member" means a Director (excluding the President of NASD Regulation and the Chief Executive Officer of NASD) or a National Adjudicatory Council or committee member who is (1) a Public Director or Public member; (2) an officer or employee of an issuer of securities listed on Nasdaq or Amex, or traded in the over-the-counter market; or (3) any other individual who would not be an Industry Director or Industry member;

...

Number of Directors

Sec. 4.2 The Board shall consist of no fewer than five and no more than [ten] fifteen Directors, the exact number to be determined by resolution adopted by the stockholder of NASD Regulation from time to time. Any new Director position created as a result of an increase in the size of the Board shall be filled pursuant to Section 4.4.

Qualifications

Sec. 4.3 (a) Directors need not be stockholders of NASD Regulation. Only Governors of the NASD Board shall be eligible for election to the Board. The number of Non-Industry Directors shall equal or exceed the number of Industry Directors[plus the President]. The Board shall include the President and the National Adjudicatory Council Chair, representatives of an issuer of investment company shares or an affiliate of such an issuer, and an insurance company or an affiliated NASD member. If the Board consists of 5-7 Directors, it shall include at least one Public Director. If the Board consists of eight to nine Directors, at least two Directors shall be Public Directors. [and I]If the Board consists of ten to twelve Directors, at least three Directors shall be Public Directors, and if the Board consists of thirteen to fifteen Directors, at least four shall be Public Directors. The Chief Executive Officer of the NASD shall be an ex-officio non-voting member of the Board.

...

Committees

Sec. 4.13(f) The Board may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware law and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of NASD Regulation between meetings of the Board, and which may authorize the seal of NASD Regulation to be affixed to all papers that may require it. The Executive Committee shall consist of three or four Directors, including at least one Public Director. The President of NASD Regulation shall be a member of the Executive Committee. The number of Non-Industry committee members shall equal or exceed the number of Industry committee members[plus the President]. An Executive Committee member shall hold office for a term of one year. At all meetings of the Executive Committee, a quorum for the transaction of business shall consist of a majority of the Executive Committee, including not less than 50 percent of the Non-Industry committee members. In the absence of a quorum, a majority of the committee members present may adjourn the meeting until a quorum is present.

...

2. Procedures of the Self-Regulatory Organization

The proposed By-Law amendments were approved by the NASD Board of Governors on September 12, 2001. The staff of NASD Regulation has provided an opportunity for the staff of The Nasdaq Stock Market, Inc. to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries. No other action by the NASD is necessary for the filing of the rule change. Questions regarding this rule filing may be directed to T. Grant Callery, Senior Vice President and General Counsel, National Association of Securities Dealers, Inc. at (202) 728-8285.

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

On May 8, 2001, the Securities and Exchange Commission released order No. 34-44280 approving certain amendments to The National Association of Securities Dealers, Inc. ("NASD")

By-Laws. The NASD By-Laws were amended to reclassify the NASD Chief Executive Officer and President of NASD Regulation Governor positions as neutral Governors; that is neither Industry nor Non-Industry Governors. The reclassification of those governor positions was consistent with the neutrality classification other Self-Regulatory Organizations assign to their staff Board members and allowed the two Industry seats the staff occupied before the reclassification to be available to Industry candidates elected by the NASD membership. The proposed conforming changes to the NASD Regulation By-Laws will similarly reclassify the NASD CEO and President of NASD Regulation Director positions as neutral Director positions.

Next, the proposed NASD Regulation By-Law amendment increasing the maximum size of the Board will allow the NASD Board more flexibility in determining the size of the NASD Regulation Board.

Based on the above, the NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(4) of the Act, which requires, among other things, that the Association's rules must be designed to assure a fair representation of its members in the administration of its affairs. The NASD believes that the proposed rule change enhances the Association's ability to assure fair representation on the NASD Regulation Board.

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.

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 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)

Pursuant to Exchange Act Rule 19b-4(f)(3), NASD has designated this proposal as one that is concerned solely with the administration of the self-regulatory organization. As such, the proposed rule change is immediately effective pursuant to Section 19(b)(3)(A) of the Act.

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 has caused this filing to be signed on its behalf by the duly authorized undersigned.

THE NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

BY: _____
T. Grant Callery
Senior Vice President and General Counsel

Date: September 12, 2001

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- [leave space]; File No. SR-NASD-2001-57)

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Conforming Changes to NASD Regulation, Inc.'s By-Laws

[leave space for date]

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 September 12, 2001, 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. Pursuant to Exchange Act Rule 19b-4(f)(3), NASD has designated this proposal as one concerned solely with the administration of the self-regulatory organization that conforms the By-Laws of its subsidiary, NASD Regulation, Inc. ("NASD Regulation"), to the NASD By-Laws and increases the maximum size of the NASD Regulation Board. As such, the proposed rule change is immediately effective pursuant to Section 19(b)(3)(A) of the Act. 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

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"), The National Association of Securities Dealers, Inc. ("NASD" or "Association"), is herewith filing a proposed rule change to amend the By-Laws of its subsidiary, NASD Regulation.

Pursuant to Exchange Act Rule 19b-4(f)(3), NASD has designated this proposal as one concerned solely with the administration of the self-regulatory organization. As such, the proposed rule change is immediately effective pursuant to Section 19(b)(3)(A) of the Act. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

BY-LAWS OF NASD REGULATION, INC.

ARTICLE I

DEFINITIONS

...

(i) "Director" means a member of the Board[, excluding the Chief Executive Officer of the NASD];

...

(q) "Industry Director" or "Industry member" means a Director (excluding the President of NASD Regulation and the Chief Executive Officer of NASD) or a National Adjudicatory Council or committee member who (1) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (2) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (3) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (4) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; (5) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director's, officer's, or employee's professional capacity and constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director's or member's firm or partnership; or (6) has a consulting or employment relationship with or provides professional services to the NASD, NASD Regulation, Nasdaq, NASD Dispute Resolution, or

Amex (and any predecessor), or has had any such relationship or provided any such services at any time within the prior three years;

...

(y) "Non-Industry Director" or "Non-Industry member" means a Director (excluding the President of NASD Regulation and the Chief Executive Officer of NASD) or a National Adjudicatory Council or committee member who is (1) a Public Director or Public member; (2) an officer or employee of an issuer of securities listed on Nasdaq or Amex, or traded in the over-the-counter market; or (3) any other individual who would not be an Industry Director or Industry member;

...

Number of Directors

Sec. 4.2 The Board shall consist of no fewer than five and no more than [ten]fifteen Directors, the exact number to be determined by resolution adopted by the stockholder of NASD Regulation from time to time. Any new Director position created as a result of an increase in the size of the Board shall be filled pursuant to Section 4.4.

Qualifications

Sec. 4.3 (a) Directors need not be stockholders of NASD Regulation. Only Governors of the NASD Board shall be eligible for election to the Board. The number of Non-Industry Directors shall equal or exceed the number of Industry Directors[plus the President]. The Board shall include the President and the National Adjudicatory Council Chair, representatives of an issuer of investment company shares or an affiliate of such an issuer, and an insurance company or an affiliated NASD member. If the Board consists of 5-7 Directors, it shall include at least one Public Director. If the Board consists of eight to nine Directors, at least two Directors shall be Public Directors,] and IIf the Board consists of ten to twelve Directors, at least three Directors shall be Public Directors, and if the Board consists of thirteen to fifteen Directors, at least four shall be Public Directors. The Chief Executive Officer of the NASD shall be an ex-officio non-voting member of the Board.

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Committees

Sec. 4.13(f) The Board may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware law and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of NASD Regulation between meetings of the Board, and which may authorize the seal of NASD Regulation to be affixed to all papers that may require it. The Executive Committee shall consist of three or four Directors, including at least one Public Director. The President of NASD

Regulation shall be a member of the Executive Committee. The number of Non-Industry committee members shall equal or exceed the number of Industry committee members[plus the President]. An Executive Committee member shall hold office for a term of one year. At all meetings of the Executive Committee, a quorum for the transaction of business shall consist of a majority of the Executive Committee, including not less than 50 percent of the Non-Industry committee members. In the absence of a quorum, a majority of the committee members present may adjourn the meeting until a quorum is present.

...

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

(a) **Purpose**

On May 8, 2001, the Securities and Exchange Commission released order No. 34-44280 approving certain amendments to The National Association of Securities Dealers, Inc. ("NASD") By-Laws. The NASD By-Laws were amended to reclassify the NASD Chief Executive Officer and President of NASD Regulation Governor positions as neutral Governors; that is neither Industry nor Non-Industry Governors. The reclassification of those governor positions was consistent with the neutrality classification other Self-Regulatory Organizations assign to their staff Board members and allowed the two Industry seats the staff occupied before the reclassification to be available to Industry candidates elected by the NASD membership. The

proposed conforming changes to the NASD Regulation By-Laws will similarly reclassify the NASD CEO and President of NASD Regulation Director positions as neutral Director positions.

Next, the proposed NASD Regulation By-Law amendment increasing the maximum size of the Board will allow the NASD Board more flexibility in determining the size of the NASD Regulation Board.

(b) Statutory Basis

Based on the above, the NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(4) of the Act, which requires, among other things, that the Association's rules must be designed to assure a fair representation of its members in the administration of its affairs. The NASD believes that the proposed rule change enhances the Association's ability to assure fair representation on the NASD Regulation Board.

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

The 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.

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

Pursuant to Exchange Act Rule 19b-4(f)(3), NASD has designated this proposal as one concerned solely with the administration of the self-regulatory organization. As such, the proposed rule change is immediately effective pursuant to Section 19(b)(3)(A) of the Act.

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]**.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

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

Jonathan G. Katz
Secretary