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July 26, 2002

Katherine A. England
Assistant Director
Division of Market Regulation
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-1001

Re: **File No. SR-NASD-99-04**
Microcap Initiative - Recommendation Rule; Response to Comments and
Amendment No. 2

Dear Ms. England:

Pursuant to our conversations with the staff of the Division of Market Regulation, NASD hereby submits Amendment No. 2 to SR-NASD-99-04 (the "rule filing"). The amendments to the rule filing are as follows (new language is underlined and deleted text is bracketed):

1. NASD is amending Rule 2315(a) to include as securities subject to the rule those securities that are listed on a regional stock exchange but do not qualify for dissemination of transaction reports via facilities of the Consolidated Tape. The current rule filing does not cover those securities because it is limited to securities that are "not listed on Nasdaq or on a national securities exchange and [are] quoted in a quotation medium"

The proposed rule is intended to apply to those thinly-traded, thinly capitalized securities that are quoted in the over-the-counter market, such as the OTC Bulletin Board Service ("OTCBB") or the "pink sheets," but not Nasdaq. Pursuant to NASD Rule 6530(b)(2)(A) and (B), securities listed on a regional stock exchange that are not reported to the Consolidated Tape are eligible for quoting on the OTCBB because they are the same type of microcap securities that do not meet the more stringent requirements to be eligible for trade reporting under a national reporting plan. Since those securities are part of the same universe as those OTCBB securities that the proposed rule is intended to reach, and since there are a de minimis number of such securities, NASD believes it is appropriate to include them within the scope of the proposed rule. As such, NASD is amending the rule filing as follows:

No member or person associated with a member shall recommend that a customer purchase or sell short any equity security that is published or quoted in a quotation medium and that either (1) is not listed on Nasdaq or on a national securities exchange or (2) is listed on a regional securities exchange and does not qualify for dissemination of transaction reports via the Consolidated Tape, [and is published or quoted in a quotation medium] unless the member has reviewed the current financial statements of the issuer, current material business information about the issuer, and made a determination that such information, and any other information available, provides a reasonable basis under the circumstances for making the recommendation.

2. NASD is amending Rule 2315(e)(1)(G)(2) to substitute “NASD” for the reference to “the Association.” This is a technical change made to implement an organizational name change that reflects NASD's renewed focus on regulation. The new language is as follows:

Pursuant to the Rule 9600 Series, NASD[the Association], for good cause shown after taking into consideration all relevant factors, may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, either unconditionally or on specified terms, from any or all of the requirements of this Rule if it determines that such exemption is consistent with the purpose of this Rule, the protection of investors, and the public interest.

* * *

NASD believes the amendment does not change the substance of the rule proposal, and since it effects a de minimis number of securities, does not materially expand the scope of the rule. Furthermore, the amendment is consistent with the purposes of the rule, is in the public interest, and does not impose excessive or unnecessary burdens on members. Accordingly, NASD believes the amendment is appropriate.

If you have any questions concerning this amendment, please contact Philip A. Shaikun, Office of General Counsel, NASD, at (202) 728-8451; e-mail philip.shaikun@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

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