

June 11, 2003

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

Re: **SR-NASD-2003-94** – Technical Amendment to NASD Rule 2210

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed please find the above-numbered rule filing. Exhibit 1 to this rule filing is a completed Notice of Proposed Rule Change for publication in the Federal Register. Exhibit 4 to this rule filing shows the changes to current NASD Rule 2210(c)(3). We are also enclosing a 3-1/2" disk containing the rule filing on Microsoft Word 7.0 to facilitate production of the Federal Register release.

If you have any questions, please contact Joe Savage, Counsel, Investment Companies Regulation, NASD, at (240) 386-4534; e-mail joe.savage@nasd.com. The fax number is (240) 386-4572.

Very truly yours,

Barbara Z. Sweeney
Senior Vice President
and Corporate Secretary

Enclosures

File No. SR-NASD-2003-94
Consists of 22 Pages
June 11, 2003

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

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), the National Association of Securities Dealers, Inc. ("NASD"), is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to amend NASD Rule 2210 to reinsert certain existing rule language that was inadvertently omitted from amendments to Rule 2210 that the Commission recently approved. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

2210. Communications with the Public

(a) through (b) No change.

(c) Filing Requirements and Review Procedures

(1) through (2) No change.

(3) Sales Literature Containing Bond Fund Volatility Ratings

Sales literature concerning bond mutual funds that include or incorporate bond mutual fund volatility ratings, as defined in Rule IM-2210-5, shall be filed with the Department for review at least 10 business days prior to use (or such shorter period as the Department may allow in particular circumstances) for approval and, if changed by NASD, shall be withheld from publication or circulation until any changes specified by NASD have been made or, if expressly disapproved, until the sales literature has been refiled for, and has received, NASD approval. Members are not required to file advertising and sales literature which have previously been filed

and which are used without change. The member must provide with each filing the actual or anticipated date of first use. Any member filing sales literature pursuant to this paragraph shall provide any supplemental information requested by the Department pertaining to the rating that is possessed by the member.

[(3)](4) Requirement to File Certain Material Prior to Use

At least 10 business days prior to first use or publication (or such shorter period as the Department may allow), a member must file the following communications with the Department and withhold them from publication or circulation until any changes specified by the Department have been made:

(A) Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts, continuously offered closed-end funds and unit investment trusts) that include or incorporate performance rankings or performance comparisons of the investment company with other investment companies when the ranking or comparison category is not generally published or is the creation, either directly or indirectly, of the investment company, its underwriter or an affiliate. Such filings must include a copy of the data on which the ranking or comparison is based.

(B) Advertisements concerning collateralized mortgage obligations.

(C) Advertisements concerning security futures.

[(4)] (5) Requirement for Certain Members to File Material Prior to

Use

(A) Each member that has not previously filed advertisements with the Department (or with a registered securities exchange having standards comparable to those contained in this Rule) must file its initial advertisement with the Department at least 10 business days prior to use and shall continue to file its advertisements at least 10 business days prior to use for a period of one year.

(B) Notwithstanding the foregoing provisions, the Department, upon review of a member's advertising and/or sales literature, and after determining that the member has departed from the standards of this Rule, may require that such member file all advertising and/or sales literature, or the portion of such member's material that is related to any specific types or classes of securities or services, with the Department, at least 10 business days prior to use. The Department will notify the member in writing of the types of material to be filed and the length of time such requirement is to be in effect. Any filing requirement imposed under this paragraph will take effect 30 calendar days after the member receives the written notice, during which time the member may appeal pursuant to the hearing and appeal procedures of the Code of Procedure contained in the Rule 9510 Series.

~~[(5)]~~(6) Filing of Television or Video Advertisements

If a member has filed a draft version or "story board" of a television or video advertisement pursuant to a filing requirement, then the member also must file the final filmed version within 10 business days of first use or broadcast.

~~[(6)]~~(7) Spot-Check Procedures

In addition to the foregoing requirements, each member's written and electronic communications with the public may be subject to a spot-check procedure. Upon written request from the Department, each member must submit the material requested in a spot-check procedure within the time frame specified by the Department.

~~[(7)]~~ (8) Exclusions from Filing Requirements

The following types of material are excluded from the filing requirements and (except for the material in paragraphs (G) through (J)) the foregoing spot-check procedures:

(A) Advertisements and sales literature that previously have been filed and that are to be used without material change.

(B) Advertisements and sales literature solely related to recruitment or changes in a member's name, personnel, electronic or postal address, ownership, offices, business structure, officers or partners, telephone or teletype numbers, or concerning a merger with, or acquisition by, another member.

(C) Advertisements and sales literature that do no more than identify the Nasdaq or a national securities exchange symbol of the member or

identify a security for which the member is a Nasdaq registered market maker.

(D) Advertisements and sales literature that do no more than identify the member or offer a specific security at a stated price.

(E) Prospectuses, preliminary prospectuses, fund profiles, offering circulars and similar documents that have been filed with the Securities and Exchange Commission (the "SEC") or any state, or that is exempt from such registration, except that an investment company prospectus published pursuant to SEC Rule 482 under the Securities Act of 1933 will not be considered a prospectus for purposes of this exclusion.

(F) Advertisements prepared in accordance with Section 2(10)(b) of the Securities Act of 1933, as amended, or any rule thereunder, such as SEC Rule 134, and announcements as a matter of record that a member has participated in a private placement, unless the advertisements are related to direct participation programs or securities issued by registered investment companies.

(G) Press releases that are made available only to members of the media.

(H) Independently prepared reprints.

(I) Correspondence.

(J) Institutional sales material.

Although the material described in paragraphs (c)(7)(G) through (J) is excluded from the foregoing filing requirements, investment company communications

described in those paragraphs shall be deemed filed with NASD for purposes of Section 24(b) of the Investment Company Act of 1940 and Rule 24b-3 thereunder.

[(8)] (9) Material that refers to investment company securities, direct participation programs, or exempted securities (as defined in Section 3(a)(12) of the Act) solely as part of a listing of products or services offered by the member, is excluded from the requirements of paragraphs (c)(2) and (c)[(3)](4).

[(9)](10) Pursuant to the Rule 9600 Series, NASD may exempt a member or person associated with a member from the pre-filing requirements of this paragraph (c) for good cause shown.
(d) through (e) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The Board of Directors of NASD Regulation approved the proposed rule change and authorized the filing of proposed amendments to Rule 2210 with the Commission at its meeting on July 28, 1999. The Board of Governors of NASD had the opportunity to review the proposed rule at its meeting on July 29, 1999. The Board's approval permits the staff to file such additional changes and amendments to Rule 2210 as are necessary to carry out the Board's intent, and thus authorized the filing of this proposed rule change. Counsel for The Nasdaq Stock Market and NASD Dispute Resolution have been provided an opportunity 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 NASD is necessary for the filing of the proposed rule change.

(b) Questions regarding this rule filing may be directed to Joseph P. Savage, Counsel, Investment Companies Regulation, NASD, at (240) 386-4534.

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

(a) Purpose

On May 9, 2003, the Commission approved amendments to NASD Rule 2210 and the Interpretive Materials that follow Rule 2210, and the creation of new Rule 2211, all of which govern member communications with the public (the “Advertising Modernization Rule Change”).¹ The Advertising Modernization Rule Change becomes effective on November 3, 2003. Among other things, the Advertising Modernization Rule Change revised paragraph (c) of Rule 2210, which addresses member filing requirements and NASD review procedures for member communications with the public. However, the proposed rule filing failed to include current Rule 2210(c)(3), which sets forth the filing and NASD review procedures for member sales literature that includes bond mutual fund volatility ratings. The Advertising Modernization Rule Change (SR-NASD-00-12) was initially filed with the Commission on March 15, 2000, shortly after the Commission had approved the proposed rule change that included current Rule 2210(c)(3).² Because of the close proximity of the Commission’s approval of the bond mutual fund volatility rule and the initial filing of the Advertising Modernization Rule Change, the language of current Rule 2210(c)(3) was inadvertently omitted from the Advertising Modernization Rule Filing. This

¹ SEC Release No. 34-47820 (May 9, 2003), 68 Fed. Reg. 27116 (May 19, 2003).

² See SEC Release No. 34-42476; File No. SR-NASD-97-89 (Feb. 29, 2000), 65 Fed. Reg. 12305 (Mar. 8, 2000).

omission of current Rule 2210(c)(3) was unintentional, as NASD does not intend to rescind the Rule 2210 provisions governing bond mutual fund volatility ratings.³

The purpose of this filing is to reinsert the language of current Rule 2210(c)(3) concerning the filing and review requirements for member sales literature that contains bond mutual fund volatility ratings. The reinserted rule language is the same as the language used in current Rule 2210(c)(3), other than certain minor, non-substantive changes. In this regard, the new language adds a heading prior to the paragraph, uses “NASD” rather than “the Association” to refer to NASD,⁴ and clarifies that members must file sales literature that includes bond mutual fund volatility ratings at least 10 business days prior to the date of first use of the sales literature. These changes are consistent with changes made to other paragraphs of Rule 2210 under the Advertising Modernization Rule Change. In addition, this rule filing renumbers paragraphs (c)(3) through (c)(9) as paragraphs (c)(4) through (c)(10), and corrects certain paragraph cross-references.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest. NASD believes that reinserting the language of current Rule 2210(c)(3) that was inadvertently omitted from the Advertising Modernization Rule Change is consistent with the protection of investors and the public interest.

³ In this regard, the Advertising Modernization Rule Change does not amend NASD Interpretive Material 2210-5, which governs members’ use of bond mutual fund volatility ratings.

⁴ NASD is in the process of amending NASD Rule 0120(j) to make clear that the term “NASD” refers collectively to NASD, NASD Regulation, Nasdaq, and NASD Dispute Resolution. See Amendment No. 1 to SR-NASD-2003-75 (May 28, 2003).

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

NASD believes that the proposed rule change would not 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

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder, in that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. In accordance with Rule 19b-4(f)(6)(iii), NASD submitted written notice of its intent to file the proposed rule change along with a brief description and text of the proposed rule change prior to the date of filing and by its terms, does not become operative for 30 days after the date of filing. Therefore, the proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. However, this proposed rule change does not alter the November 3, 2003 effective date of the Advertising Modernization Proposed Rule Change that the Commission approved on May 9, 2003.

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.

4. Changes to existing NASD Rule 2210(c)(3).

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, INC.

BY: _____

Barbara Z. Sweeney
Senior Vice President
and Corporate Secretary

Date: June 11, 2003

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD-2003-94)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Technical Amendments to Rule 2210

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on _____, the National Association of Securities Dealers, Inc. (“NASD”), 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. NASD has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. 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 is proposing to amend NASD Rule 2210 to reinsert certain existing rule language that was inadvertently omitted from amendments to Rule 2210 that the Commission recently approved. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR § 240.19b-4.

* * * * *

2210. Communications with the Public

(a) through (b) No change.

(c) Filing Requirements and Review Procedures

(1) through (2) No change.

(3) Sales Literature Containing Bond Fund Volatility Ratings

Sales literature concerning bond mutual funds that include or incorporate bond mutual fund volatility ratings, as defined in Rule IM-2210-5, shall be filed with the Department for review at least 10 business days prior to use (or such shorter period as the Department may allow in particular circumstances) for approval and, if changed by NASD, shall be withheld from publication or circulation until any changes specified by NASD have been made or, if expressly disapproved, until the sales literature has been refiled for, and has received, NASD approval. Members are not required to file advertising and sales literature which have previously been filed and which are used without change. The member must provide with each filing the actual or anticipated date of first use. Any member filing sales literature pursuant to this paragraph shall provide any supplemental information requested by the Department pertaining to the rating that is possessed by the member.

[(3)](4) Requirement to File Certain Material Prior to Use

At least 10 business days prior to first use or publication (or such shorter period as the Department may allow), a member must file the following communications with the Department and withhold them from publication or circulation until any changes specified by the Department have been made:

(A) Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts, continuously offered closed-end funds and unit investment trusts) that include or incorporate performance rankings or performance comparisons of the investment company with other investment companies when the ranking or comparison category is not generally published or is the creation, either directly or indirectly, of the investment company, its underwriter or an affiliate. Such filings must include a copy of the data on which the ranking or comparison is based.

(B) Advertisements concerning collateralized mortgage obligations.

(C) Advertisements concerning security futures.

[(4)] (5) Requirement for Certain Members to File Material Prior to

Use

(A) Each member that has not previously filed advertisements with the Department (or with a registered securities exchange having standards comparable to those contained in this Rule) must file its initial advertisement with the Department at least 10 business days prior to use and shall continue to file its advertisements at least 10 business days prior to use for a period of one year.

(B) Notwithstanding the foregoing provisions, the Department, upon review of a member's advertising and/or sales literature, and after determining that the member has departed from the standards of this Rule, may require that such member file all advertising and/or sales literature, or

the portion of such member's material that is related to any specific types or classes of securities or services, with the Department, at least 10 business days prior to use. The Department will notify the member in writing of the types of material to be filed and the length of time such requirement is to be in effect. Any filing requirement imposed under this paragraph will take effect 30 calendar days after the member receives the written notice, during which time the member may appeal pursuant to the hearing and appeal procedures of the Code of Procedure contained in the Rule 9510 Series.

~~[(5)]~~(6) Filing of Television or Video Advertisements

If a member has filed a draft version or "story board" of a television or video advertisement pursuant to a filing requirement, then the member also must file the final filmed version within 10 business days of first use or broadcast.

~~[(6)]~~(7) Spot-Check Procedures

In addition to the foregoing requirements, each member's written and electronic communications with the public may be subject to a spot-check procedure. Upon written request from the Department, each member must submit the material requested in a spot-check procedure within the time frame specified by the Department.

~~[(7)]~~ (8) Exclusions from Filing Requirements

The following types of material are excluded from the filing requirements and (except for the material in paragraphs (G) through (J)) the foregoing spot-check procedures:

(A) Advertisements and sales literature that previously have been filed and that are to be used without material change.

(B) Advertisements and sales literature solely related to recruitment or changes in a member's name, personnel, electronic or postal address, ownership, offices, business structure, officers or partners, telephone or teletype numbers, or concerning a merger with, or acquisition by, another member.

(C) Advertisements and sales literature that do no more than identify the Nasdaq or a national securities exchange symbol of the member or identify a security for which the member is a Nasdaq registered market maker.

(D) Advertisements and sales literature that do no more than identify the member or offer a specific security at a stated price.

(E) Prospectuses, preliminary prospectuses, fund profiles, offering circulars and similar documents that have been filed with the Securities and Exchange Commission (the "SEC") or any state, or that is exempt from such registration, except that an investment company prospectus published pursuant to SEC Rule 482 under the Securities Act of 1933 will not be considered a prospectus for purposes of this exclusion.

(F) Advertisements prepared in accordance with Section 2(10)(b) of the Securities Act of 1933, as amended, or any rule thereunder, such as SEC Rule 134, and announcements as a matter of record that a member has participated in a private placement, unless the advertisements are related to

direct participation programs or securities issued by registered investment companies.

(G) Press releases that are made available only to members of the media.

(H) Independently prepared reprints.

(I) Correspondence.

(J) Institutional sales material.

Although the material described in paragraphs (c)[(7)](8)(G) through (J) is excluded from the foregoing filing requirements, investment company communications described in those paragraphs shall be deemed filed with NASD for purposes of Section 24(b) of the Investment Company Act of 1940 and Rule 24b-3 thereunder.

[(8)] (9) Material that refers to investment company securities, direct participation programs, or exempted securities (as defined in Section 3(a)(12) of the Act) solely as part of a listing of products or services offered by the member, is excluded from the requirements of paragraphs (c)(2) and (c)[(3)](4).

[(9)](10) Pursuant to the Rule 9600 Series, NASD may exempt a member or person associated with a member from the pre-filing requirements of this paragraph (c) for good cause shown.
(d) through (e) No change.

* * * * *

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

(1) Purpose

On May 9, 2003, the Commission approved amendments to NASD Rule 2210 and the Interpretive Materials that follow Rule 2210, and the creation of new Rule 2211, all of which govern member communications with the public (the “Advertising Modernization Rule Change”).⁴ The Advertising Modernization Rule Change becomes effective on November 3, 2003. Among other things, the Advertising Modernization Rule Change revised paragraph (c) of Rule 2210, which addresses member filing requirements and NASD review procedures for member communications with the public. However, the proposed rule filing failed to include current Rule 2210(c)(3), which sets forth the filing and NASD review procedures for member sales literature that includes bond mutual fund volatility ratings. The Advertising Modernization Rule Change (SR-NASD-00-12) was initially filed with the Commission on March 15, 2000, shortly after the Commission had approved the proposed rule change that included current Rule 2210(c)(3).⁵ Because of the close proximity of the Commission’s approval of the bond mutual fund volatility rule and the initial filing of the Advertising Modernization Rule Change, the language of current Rule 2210(c)(3) was inadvertently omitted from the Advertising Modernization Rule Filing. This

⁴ SEC Release No. 34-47820 (May 9, 2003), 68 Fed. Reg. 27116 (May 19, 2003).

⁵ See SEC Release No. 34-42476; File No. SR-NASD-97-89 (Feb. 29, 2000), 65 Fed. Reg. 12305 (Mar. 8, 2000).

omission of current Rule 2210(c)(3) was unintentional, as NASD does not intend to rescind the Rule 2210 provisions governing bond mutual fund volatility ratings.⁶

The purpose of this filing is to reinsert the language of current Rule 2210(c)(3) concerning the filing and review requirements for member sales literature that contains bond mutual fund volatility ratings. The reinserted rule language is the same as the language used in current Rule 2210(c)(3), other than certain minor, non-substantive changes. In this regard, the new language adds a heading prior to the paragraph, uses “NASD” rather than “the Association” to refer to NASD,⁷ and clarifies that members must file sales literature that includes bond mutual fund volatility ratings at least 10 business days prior to the date of first use of the sales literature. These changes are consistent with changes made to other paragraphs of Rule 2210 under the Advertising Modernization Rule Change. In addition, this rule filing renumbers paragraphs (c)(3) through (c)(9) as paragraphs (c)(4) through (c)(10), and corrects certain paragraph cross-references.

(2) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general to protect investors and the public interest. NASD believes that reinserting the language of current Rule 2210(c)(3) that was inadvertently omitted from the Advertising Modernization Rule Change is consistent with the protection of investors and the public interest.

⁶ In this regard, the Advertising Modernization Rule Change does not amend NASD Interpretive Material 2210-5, which governs members’ use of bond mutual fund volatility ratings.

⁷ NASD is in the process of amending NASD Rule 0120(j) to make clear that the term “NASD” refers collectively to NASD, NASD Regulation, Nasdaq, and NASD Dispute Resolution. See Amendment No. 1 to SR-NASD-2003-75 (May 28, 2003).

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

NASD Regulation believes that the proposed rule change would not 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

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder, in that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. In accordance with Rule 19b-4(f)(6)(iii), NASD submitted written notice of its intent to file the proposed rule change along with a brief description and text of the proposed rule change prior to the date of filing and by its terms, does not become operative for 30 days after the date of filing. Therefore, the proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder. However, this proposed rule change does not alter the November 3, 2003 effective date of the Advertising Modernization Proposed Rule Change that the Commission approved on May 9, 2003. At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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, 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).

Margaret H. McFarland
Deputy Secretary

Changes to Existing NASD Rule 2210(c)(3)

New text is underlined; deleted text is bracketed.

(3) Sales Literature Containing Bond Fund Volatility Ratings

Sales literature concerning bond mutual funds that include or incorporate bond mutual fund volatility ratings, as defined in Rule IM-2210-5, shall be filed with the Department for review at least 10 business days prior to use (or such shorter period as the Department may allow in particular circumstances) for approval and, if changed by NASD [the Association], shall be withheld from publication or circulation until any changes specified by NASD [the Association] have been made or, if expressly disapproved, until the sales literature has been refiled for, and has received, NASD [Association] approval. Members are not required to file advertising and sales literature which have previously been filed and which are used without change. The member must provide with each filing the actual or anticipated date of first use. Any member filing sales literature pursuant to this paragraph shall provide any supplemental information requested by the Department pertaining to the rating that is possessed by the member.