

October 21, 2002

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

**Re: File No. SR-NASD-2002-146 – Proposed Amendments to Rule 3011 to Require
Members to Identify an Anti-Money Laundering Compliance Person**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed please find 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 Grace Yeh, Assistant General Counsel, Office of General Counsel, NASD Regulatory Policy and Oversight, at (202) 728-6939; e-mail: grace.yeh@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Barbara Z. Sweeney
Senior Vice President
and Corporate Secretary

Enclosures

cc: Theodore R. Lazo

File No. SR-NASD-2002-146
Consists of 14 Pages
October 21, 2002

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 3011 to require each member to provide to NASD contact information for the individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the member’s anti-money laundering (“AML”) compliance program (“AML Program”). Below is the text of the proposed rule change.

Proposed new language is underlined.

* * * * *

3011. Anti-Money Laundering Compliance Program

On or before April 24, 2002, each member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management. The anti-money laundering programs required by this Rule shall, at a minimum,

(a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

- (b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;
- (c) Provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party;
- (d) Designate, and identify to NASD (by name, title, mailing address, e-mail address, telephone number, and facsimile number) an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program and provide prompt notification to NASD regarding any change in such designation(s); and
- (e) Provide ongoing training for appropriate personnel.

* * * * *

- (b) Not applicable.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization

- (a) The proposed rule change was approved by the Board of Directors of NASD Regulation, Inc. at its meeting on September 25, 2002, which authorized the filing of the rule change with the SEC. 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 its Subsidiaries. The NASD Board of Governors had the opportunity to review the proposed rule change at its meeting on September 26, 2002. No other action by NASD is necessary for the filing of the proposed rule change. Section 1(a)(ii) of Article VII of the NASD By-Laws permits the NASD Board of Governors to adopt amendments to NASD Rules without recourse to the

membership for approval.

(b) Questions regarding this rule filing may be directed to Grace Yeh, Assistant General Counsel, Office of General Counsel, Division of Regulatory Policy and Oversight, NASD at (202) 728-6939.

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

(a) Purpose

The USA PATRIOT Act of 2001 (“PATRIOT Act”),¹ which was signed into law on October 26, 2001, recognizes that effective identification of money laundering and terrorist activities requires the expedited sharing and reporting of information among governmental and law enforcement authorities and financial institutions. In furtherance of this goal, Section 314(a) of the PATRIOT Act requires the Department of Treasury (“Treasury”) to adopt regulations to encourage cooperation and information sharing among financial institutions, their regulatory authorities, and law enforcement authorities. In particular, the regulations should be designed to facilitate law enforcement authorities’ ability to share information with financial institutions and to request information from financial institutions about persons suspected of engaging in money laundering or terrorist activities. Section 314(a) further provides that the regulations adopted by Treasury may require that each financial institution designate one or more contact persons to receive information concerning, and to monitor accounts of, identified individuals or entities.

On September 18, 2002, Treasury issued a final rule implementing Section 314 of the PATRIOT Act. Consistent with Section 314(a), the rule creates a system for the efficient

¹ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

communication of potential money laundering and terrorist information. Upon receiving a request for information by the Financial Crimes Enforcement Network (“FinCEN”), a bureau of Treasury, the rule requires financial institutions to identify a contact person to handle the request and to receive future information requests. When requested by FinCEN, the financial institution is required to provide the name, title, mailing address, e-mail address, telephone number, and facsimile number of the designated contact person. The financial institution must also promptly notify FinCEN of any changes to the contact information.

Rule 3011, NASD’s AML Compliance Program Rule, requires each member to designate an individual or individuals responsible for implementing and monitoring the daily operations of the firm’s AML Program. To facilitate Treasury’s efforts in collecting the AML contact information set forth in Treasury’s final rule, NASD is proposing to amend Rule 3011 to require that members provide to NASD contact information concerning the members’ designated AML compliance person(s). The information will be used by Treasury in connection with its regulatory obligations set forth in Section 314(a) of the PATRIOT Act and the implementing regulations promulgated thereunder. Consistent with Treasury’s final rule, members would be required to provide to NASD the name, title, mailing address, e-mail address, telephone number, and facsimile number of the contact person. Members would also be required to promptly notify NASD of any changes to the information.²

NASD intends to initially collect the contact information through the Member Firm Contact Questionnaire on the NASD Web site. NASD anticipates that form and system

² The proposed amendments to Rule 3011 are consistent with NYSE Rule 445 (AML Compliance Program) requirements that NYSE member organizations provide to the NYSE contact information identifying the member organization’s designated AML compliance person and promptly notify the NYSE of any changes to the information.

changes necessary to collect the contact information will be completed by November 15, 2002. Members will have until December 31, 2002 to provide NASD with the necessary contact information.³

(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 the proposed rule change is designed to accomplish these ends by expediting the information sharing process necessary to help combat money laundering and terrorism.

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, 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.

³ New member applicants will be required to provide the contact information during the application process.

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; does not impose any significant burden on competition; and does not become operative for 30 days after filing. In accordance with Rule 19b-4, 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, at least five business days prior to the date of filing. NASD proposes to make the proposed rule change operative on December 31, 2002.

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 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: October 21, 2002

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34- ; File No. SR-NASD- 2002-146)
[date]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. to Amend NASD Rule 3011 to Require Members to Identify an Anti-Money Laundering Compliance Person to NASD

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 3011 to require each member to provide to NASD contact information for the individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the member’s anti-money

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR § 240.19b-4(f)(6).

laundering (“AML”) compliance program (“AML Program”). Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

3011. Anti-Money Laundering Compliance Program

On or before April 24, 2002, each member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, et seq.), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management. The anti-money laundering programs required by this Rule shall, at a minimum,

- (a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;
- (b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;
- (c) Provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party;
- (d) Designate, and identify to NASD (by name, title, mailing address, e-mail address, telephone number, and facsimile number) an individual or individuals responsible for

implementing and monitoring the day-to-day operations and internal controls of the program and provide prompt notification to NASD regarding any change in such designation(s); and

- (e) Provide ongoing training for appropriate personnel.

* * * * *

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

The USA PATRIOT Act of 2001 (“PATRIOT Act”),⁴ which was signed into law on October 26, 2001, recognizes that effective identification of money laundering and terrorist activities requires the expedited sharing and reporting of information among governmental and law enforcement authorities and financial institutions. In furtherance of this goal, Section 314(a) of the PATRIOT Act requires the Department of Treasury (“Treasury”) to adopt regulations to encourage cooperation and information sharing among financial institutions, their regulatory authorities, and law enforcement authorities. In particular, the regulations should be designed to facilitate law enforcement authorities’ ability to share

⁴ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

information with financial institutions and to request information from financial institutions about persons suspected of engaging in money laundering or terrorist activities. Section 314(a) further provides that the regulations adopted by Treasury may require that each financial institution designate one or more contact persons to receive information concerning, and to monitor accounts of, identified individuals or entities.

On September 18, 2002, Treasury issued a final rule implementing Section 314 of the PATRIOT Act. Consistent with Section 314(a), the rule creates a system for the efficient communication of potential money laundering and terrorist information. Upon receiving a request for information by the Financial Crimes Enforcement Network (“FinCEN”), a bureau of Treasury, the rule requires financial institutions to identify a contact person to handle the request and to receive future information requests. When requested by FinCEN, the financial institution is required to provide the name, title, mailing address, e-mail address, telephone number, and facsimile number of the designated contact person. The financial institution must also promptly notify FinCEN of any changes to the contact information.

Rule 3011, NASD’s AML Compliance Program Rule, requires each member to designate an individual or individuals responsible for implementing and monitoring the daily operations of the firm’s AML Program. To facilitate Treasury’s efforts in collecting the AML contact information set forth in Treasury’s final rule, NASD is proposing to amend Rule 3011 to require that members provide to NASD contact information concerning the members’ designated AML compliance person(s). The information will be used by Treasury in connection with its regulatory obligations set forth in Section 314(a) of the PATRIOT Act and the implementing regulations promulgated thereunder. Consistent with Treasury’s final rule, members would be required to provide to NASD the name, title, mailing address, e-mail

address, telephone number, and facsimile number of the contact person. Members would also be required to promptly notify NASD of any changes to the information.⁵

NASD intends to initially collect the contact information through the Member Firm Contact Questionnaire on the NASD Web site. NASD anticipates that form and system changes necessary to collect the contact information will be completed by November 15, 2002. Members will have until December 31, 2002 to provide NASD with the necessary contact information.⁶

(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 the proposed rule change is designed to accomplish these ends by expediting the information sharing process necessary to help combat money laundering and terrorism.

(B) 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, as amended.

⁵ The proposed amendments to Rule 3011 are consistent with NYSE Rule 445 (AML Compliance Program) requirements that NYSE member organizations provide to the NYSE contact information identifying the member organization's designated AML compliance person and promptly notify the NYSE of any changes to the information.

⁶ New member applicants will be required to provide the contact information during the application process.

(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 has been filed by NASD as a “non-controversial” rule change under Rule 19b-4(f)(6) under the Act.⁷ Consequently, because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative until December 31, 2002, more than 30 days from October 21, 2002, the date on which it was filed, and NASD provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

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. 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

⁷ 17 CFR § 240.19b-4(f)(6)

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 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