

August 10, 2004

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-2004-123 – Proposal to Delete Rule Series 3400 and IM-2210-4(b) as Obsolete

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 Patricia Albrecht, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8026; e-mail [Address]@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Marc Menchel
Executive Vice President
and General Counsel

Enclosures

File No. SR-NASD-2004-123

Consists of 15 Pages

August 10, 2004

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)(3) 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 delete as obsolete IM-2210-4(b) (Certification of Membership) and Rule 3420 (Mandatory Decimal Pricing Testing). NASD has designated this proposal as non-controversial, 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. NASD requests that the Commission waive the 30-day pre-operative waiting period contained in Exchange Act Rule 19b-4(f)(6)(iii), since the provisions of Rule 3420 and IM-2210-4(b) are no longer applicable.¹ If such waiver is granted by the Commission, this rule proposal, which is effective upon filing with the Commission, shall become immediately operative pursuant to SEC Rule 19b-4(f)(6) with an effective date of August 10, 2004. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

IM-2210-4. Limitations on Use of NASD's Name

[(a) Statements of Membership]

Members may indicate NASD membership in conformity with Article XV, Section 2 of the NASD By-Laws in one or more of the following ways:

(1) in any communication with the public, provided that the communication complies with the applicable standards of Rule 2210 and neither states nor implies that

¹ 17 CFR 240.19b-4(f)(6)(iii).

NASD or any other regulatory organization endorses, indemnifies, or guarantees the member's business practices, selling methods, the class or type of securities offered, or any specific security;

(2) in a confirmation statement for an over-the-counter transaction that states:

"This transaction has been executed in conformity with the NASD Uniform Practice Code."

[(b) Certification of Membership]

Upon request to NASD, a member will be entitled to receive an appropriate certification of membership, which may be displayed in the principal office or a registered branch office of the member. The certification shall remain the property of NASD and must be returned by the member upon request of the NASD Board or its Chief Executive Officer.]

* * * * *

[3400. COMPUTER SYSTEMS]

[3420. Mandatory Decimal Pricing Testing]

[(a) Clearing firms and market makers of the Association must conduct or participate in the testing of their computer systems to ascertain decimal pricing conversion compatibility of such systems in such manner and frequency as the Association may prescribe.]

[(b) Every clearing firm and market maker required by the Association to conduct or participate in testing of computer systems shall provide to the Association such reports relating to the testing as the Association may prescribe.]

[(c) Clearing firms and market makers shall maintain adequate documentation of tests required pursuant to this Rule and the results of such testing for examination by the Association.]

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The proposed rule change has been approved by the Board of Governors of NASD (“Board”) and authorized for filing with the SEC pursuant to a delegation of authority granted by the Board at its meeting on January 23, 2003, to the General Counsel of NASD Regulatory Policy and Oversight (or his officer designee) to file, without further specific Board authorization, administrative, technical, conforming, and non-substantive changes to NASD rules (“Delegation of Authority”). Counsel for The Nasdaq Stock Market and NASD Dispute Resolution were provided an opportunity to consult with respect to the general Delegation of Authority, pursuant to the Plan of Allocation and Delegation of Functions by NASD to its Subsidiaries. The staff will advise the Board of any action taken pursuant to the Delegation of Authority. 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.

The proposed rule change is effective and operative immediately upon filing. NASD will announce the rule change in a Notice to Members to be published no later than 30 days following the SEC’s publication of the notice of filing for immediate effectiveness of the proposed rule change in the Federal Register.

(b) Questions regarding this rule filing may be directed to Patricia Albrecht, Assistant General Counsel, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8026.

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

(a) Purpose

NASD is filing the proposed rule change to make administrative and conforming changes to its rules. As described further below, NASD is proposing to delete IM-2110-4(b) and Rule 3420 as obsolete.

IM-2210-4(b)

IM-2210-4(b) provides that, upon request to NASD, a member may receive an appropriate certification of membership. NASD, however, no longer issues Membership Certifications. NASD, therefore, proposes deleting IM-2210-4(b) as obsolete and amending IM-2210-4(b) to reflect subparagraph (a) as its only text.

Rule 3420

On June 27, 2000, NASD adopted Rule 3420 (Mandatory Decimal Pricing Testing).² The purpose of the rule was to require clearing firms and market makers that are NASD members to conduct or participate in the securities industry's decimalization pricing tests. Such testing was required by NASD in compliance with the SEC's order for certain securities industry participants to develop plans for conversion to decimal pricing.³ NASD intended for the testing to ascertain the decimal pricing conversion compatibility of members' systems. NASD wanted to ensure that conversion to decimal pricing would occur successfully with minimal disruption of the markets and minimal impact on investors. The conversion to decimal pricing has occurred,

² Securities Exchange Act Rel. No. 43003 (June 30, 2000), 65 FR 43067 (July 12, 2000) (Notice of Filing and Immediate Effectiveness of SR-NASD-00-40).

³ *Order Directing the Exchanges and NASD to Submit a Decimalization Implementation Plan*, Securities Exchange Act Rel. No. 42360 (Jan. 28, 2000).

and NASD members are no longer required to test their computer systems for any such conversion to decimal pricing; therefore, NASD is proposing to delete Rule 3420 from the NASD Manual.

NASD is also proposing to delete the heading in the NASD Manual to the Rule 3400 (Computer Systems) Series. The only other rule in the series, Rule 3410 (Mandatory Year 2000 Testing), automatically expired by its own terms on January 1, 2001, and has already been deleted from the Rule 3400 Series. Upon the deletion of Rule 3420, a heading for the Rule 3400 Series will no longer be necessary.

The proposed rule change is effective and operative immediately upon filing. NASD will announce the rule change in a Notice to Members to be published no later than 30 days following the SEC's publication of the notice of filing for immediate effectiveness of the proposed rule change in the Federal Register.

(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 rules must 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. In conjunction with its efforts to modernize and streamline its rules, NASD has determined that the provisions of Rule 3420 and IM-2210-4(b) are no longer applicable, and therefore, should be deleted as obsolete.

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.

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) 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. NASD has requested that the Commission waive the requirement that the rule change not become operative for 30 days after the date of the filing, as set forth in Rule 19b-4(f)(6)(iii), since the provisions of Rule 3420 and IM-2210-4(b) are no longer applicable. If such waiver is granted by the Commission, the proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Exchange Act and Rule 19b-4(f)(6) thereunder and will be operative immediately, with an effective date of August 10, 2004.

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.

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

BY: _____
Marc Menchel
Executive Vice President and General Counsel

Date: August 10, 2004

[IF THE FORM 19B-4 AND THE FEDERAL REGISTER EXHIBIT BOTH CONTAIN FOOTNOTES, PLEASE NUMBER THE FEDERAL REGISTER FOOTNOTES SEPARATELY BEGINNING WITH "1".]

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- **[leave space]** ; File No. SR-NASD-2004-123)
[leave space for date]

Self-Regulatory Organizations; Notice of Filing and Order Granting Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Deletion of Rule Series 3400 and IM-2210-4(b) as Obsolete

Pursuant to Section 19(b)(3) 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 delete as obsolete IM-2210-4(b) (Certification of Membership) and Rule 3420 (Mandatory Decimal Pricing Testing). NASD has designated this proposal as

¹ 15 U.S.C. 78s(b)(1) [or: 78s(b)(3) if filed for immediate effectiveness].

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4.

“non-controversial” and requests that the Commission waive the 30-day pre-operative waiting period contained in Exchange Act Rule 19b-4(f)(6)(iii).⁴ If such waiver is granted by the Commission, this rule proposal, which is effective upon filing with the Commission, shall become immediately operative pursuant to SEC Rule 19b-4(f)(6) with an effective date of August 10, 2004. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

IM-2210-4. Limitations on Use of NASD's Name

[(a) Statements of Membership]

Members may indicate NASD membership in conformity with Article XV, Section 2 of the NASD By-Laws in one or more of the following ways:

(1) in any communication with the public, provided that the communication complies with the applicable standards of Rule 2210 and neither states nor implies that NASD or any other regulatory organization endorses, indemnifies, or guarantees the member's business practices, selling methods, the class or type of securities offered, or any specific security;

(2) in a confirmation statement for an over-the-counter transaction that states: "This transaction has been executed in conformity with the NASD Uniform Practice Code."

[(b) Certification of Membership]

⁴ 17 CFR 240.19b-4(f)(6)(iii).

Upon request to NASD, a member will be entitled to receive an appropriate certification of membership, which may be displayed in the principal office or a registered branch office of the member. The certification shall remain the property of NASD and must be returned by the member upon request of the NASD Board or its Chief Executive Officer.]

* * * * *

[3400. COMPUTER SYSTEMS]

[3420. Mandatory Decimal Pricing Testing]

[(a) Clearing firms and market makers of the Association must conduct or participate in the testing of their computer systems to ascertain decimal pricing conversion compatibility of such systems in such manner and frequency as the Association may prescribe.]

[(b) Every clearing firm and market maker required by the Association to conduct or participate in testing of computer systems shall provide to the Association such reports relating to the testing as the Association may prescribe.]

[(c) Clearing firms and market makers shall maintain adequate documentation of tests required pursuant to this Rule and the results of such testing for examination by the Association.]

* * * * *

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

NASD is filing the proposed rule change to make administrative and conforming changes to its rules. As described further below, NASD is proposing to delete IM-2110-4(b) and Rule 3420 as obsolete.

IM-2210-4(b)

IM-2210-4(b) provides that, upon request to NASD, a member may receive an appropriate certification of membership. NASD, however, no longer issues Membership Certifications. NASD, therefore, proposes deleting IM-2210-4(b) as obsolete and amending IM-2210-4(b) to reflect subparagraph (a) as its only text.

Rule 3420

On June 27, 2000, NASD adopted Rule 3420 (Mandatory Decimal Pricing Testing).⁵ The purpose of the rule was to require clearing firms and market makers that are NASD members to conduct or participate in the securities industry's decimalization pricing tests. Such testing was required by NASD in compliance with the SEC's order for certain securities industry participants to develop plans for conversion to decimal pricing.⁶ NASD intended for the testing to ascertain the decimal pricing conversion compatibility of members' systems. NASD wanted to ensure that conversion to decimal pricing would occur successfully with minimal disruption of the markets and minimal impact on investors. The conversion to decimal pricing has occurred,

⁵ Securities Exchange Act Rel. No. 43003 (June 30, 2000), 65 FR 43067 (July 12, 2000) (Notice of Filing and Immediate Effectiveness of SR-NASD-00-40).

⁶ *Order Directing the Exchanges and NASD to Submit a Decimalization Implementation Plan*, Securities Exchange Act Rel. No. 42360 (Jan. 28, 2000).

and NASD members are no longer required to test their computer systems for any such conversion to decimal pricing; therefore, NASD is proposing to delete Rule 3420 from the NASD Manual.

NASD is also proposing to delete the heading in the NASD Manual to the Rule 3400 (Computer Systems) Series. The only other rule in the series, Rule 3410 (Mandatory Year 2000 Testing), automatically expired by its own terms on January 1, 2001, and has already been deleted from the Rule 3400 Series. Upon the deletion of Rule 3420, a heading for the Rule 3400 Series will no longer be necessary.

The proposed rule change is effective and operative immediately upon filing. NASD will announce the rule change in a Notice to Members to be published no later than 30 days following the SEC's publication of the notice of filing for immediate effectiveness of the proposed rule change in the Federal Register.

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 rules must 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. In conjunction with its efforts to modernize and streamline its rules, NASD has determined that the provisions of Rule 3420 and IM-2210-4(b) are no longer applicable, and therefore, should be deleted as obsolete.

(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.

(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 and is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b-4 thereunder,⁷ 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. Additionally, 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. NASD has requested that the Commission waive the requirement that the rule change not become operative for 30 days after the date of the filing, as set forth in Rule 19b-4(f)(6)(iii), since the provisions of Rule 3420 and IM-2210-4(b) are no longer applicable. The Commission finds good cause for the proposed rule change to become operative prior to the 30th day after the date of publication of notice of filing thereof because the proposed rule change deletes obsolete rules.

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 proposed rule change is consistent with the Act. Persons

⁷ 17 CFR § 240.19b-4(f)(6).

making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments also may be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-NASD-2004-123. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 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