

OMB APPROVAL

OMB Number: 3235-0045
Expires: June 30, 2007
Estimated average burden
hours per response.....38

Page 1 of 19

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - 2005 - 045

Amendment No.

Proposed Rule Change by National Association of Securities Dealers

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial ☒ Amendment ☐ Withdrawal ☐

Section 19(b)(2) ☒Section 19(b)(3)(A) ☐Section 19(b)(3)(B) ☐

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Pilot ☐ Extension of Time Period
for Commission Action ☐ Date Expires

Exhibit 2 Sent As Paper Document
☐

Exhibit 3 Sent As Paper Document
☐

Description

Provide a brief description of the proposed rule change (limit 250 characters).

The proposed rule change amends NASD Rule 3110(f)(2)(B) to conform to the Commission's recordkeeping rules by extending the time period for delivery of a copy of certain customer account agreements and extends the compliance date of recent amendments to NASD Rule 3110(f)(1) to June 1, 2005.

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Last Name
Title
E-mail
Telephone Fax

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

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

Date

By
(Name)

(Title)

NOTE: Clicking the button at right will digitally sign and lock
this form. A digital signature is as legally binding as a physical
signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information

Add

Remove

View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

Add

Remove

View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add

Remove

View

Exhibit Sent As Paper Document

☐

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

Add

Remove

View

Exhibit Sent As Paper Document

☐

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

Add

Remove

View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add

Remove

View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

Add

Remove

View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

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: (1) amend NASD Rule 3110(f)(2)(B) to conform to the SEC’s recordkeeping rules by extending the time period for delivery of a copy of a customer account agreement containing a predispute arbitration clause from the time of signing to within 30 days of signing; (2) extend the compliance date of the recent amendments to NASD Rule 3110(f)(1) to June 1, 2005; and (3) make technical corrections to the numbering in NASD Rule 3110(f)(4), as recently amended, to conform to existing NASD rule format. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

3110. Books and Records

(a) through (e) No change.

(f) (1) No change.

(2) (A) No Change.

(B) [At the time] Within thirty days of signing, a copy of the agreement containing any such clause shall be given to the customer who shall acknowledge receipt thereof on the agreement or on a separate document.

(3) (A) A member shall provide a customer with a copy of any predispute arbitration clause or customer agreement executed between the

customer and the member, or inform the customer that the member does not have a copy thereof, within ten business days of receipt of the customer's request. If a customer requests such a copy before the member has provided the customer with a copy pursuant to subparagraph (2)(B) of this Rule, the member must provide a copy to the customer by the earlier date required by this subparagraph (3)(A) or by subparagraph (2)(B).

(B) No change.

(4) No predispute arbitration agreement shall include any condition that:

(A) [(i)] limits or contradicts the rules of any self-regulatory organization;

(B) [(ii)] limits the ability of a party to file any claim in arbitration;

(C) [(iii)] limits the ability of a party to file any claim in court permitted to be filed in court under the rules of the forums in which a claim may be filed under the agreement;

(D) [(iv)] limits the ability of arbitrators to make any award.

(5) through (7) No Change.

(g) through (h) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Governors of NASD and

authorized for filing with the SEC pursuant to Action of March 14, 2005. Counsel for The Nasdaq Stock Market and NASD Dispute Resolution were 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. 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 Board of Governors of NASD to adopt amendments to NASD rules without recourse to the membership for approval.

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

(a) Purpose

(1) Delivery of Customer Agreements

The purpose of the proposed rule change regarding the delivery of customer agreements is to conform the time period for the delivery of copies of any customer agreement containing a predispute arbitration clause to customers in NASD Rule 3110(f) with the SEC recordkeeping rules.

On November 22, 2004, the Commission approved changes (the "Rule 3110 Changes") to NASD Rule 3110(f), which governs the use of predispute arbitration agreements with customers.¹ The primary purposes of the Rule 3110 Changes were to require enhanced disclosure to customers about the arbitration process and to clarify the use of certain clauses in predispute arbitration agreements. The Rule 3110 Changes also

¹ Exchange Act Release No. 50713 (Nov. 22, 2004), 69 Fed. Reg. 70293 (Dec. 3, 2004) (Order Granting Approval to Proposed Rule Change as Amended and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 5 by the National Association of Securities Dealers, Inc., Regarding NASD Rule 3110(f) Governing Predispute Arbitration Agreements With Customers) (SR-NASD-98-74).

require that firms provide a copy of any customer agreement containing a predispute arbitration clause to the customer, who must acknowledge receipt thereof on the agreement or on a separate document, at the time of signing.² The proposed rule change would amend the time requirement for delivery of a copy of the customer agreement from the time of signing to within 30 days of signing.³ This change would conform the delivery requirement in NASD Rule 3110(f)(2)(B) to that in the SEC's recordkeeping rules.⁴

(2) Extension of Compliance Date

The Rule 3110 Changes are scheduled to become effective on May 1, 2005.⁵ To

² Prior to the Rule 3110 Changes, firms were required to provide copies of predispute arbitration agreements to customers; however, the rule did not specify when they must do so.

³ The changes made to NASD Rule 3110(f)(3)(A) by the Rule 3110 Changes require firms to provide customers who request a copy of any predispute arbitration clause or client agreement with a copy within ten business days of the request. Thus, customers wishing to have a copy of the customer agreement sooner than the specified 30 days can request one. For example, if a customer requests a copy of the agreement on the date of signing, the firm must provide the copy to the customer within ten business days of receiving that request. In addition, firms may not extend the 30-day time period for compliance with the delivery requirement in NASD Rule 3110(f)(2)(B), even though the Rule 3110 Changes allow a firm ten business days in which to provide a copy of the agreement to a customer upon request. For example, if a customer requested a copy of the customer agreement 25 days after signing, the firm still would be required to provide the customer with the copy within 30 days of the signing date (rather than within ten business days of the date the firm received the request). Proposed language has been added to NASD Rule 3110(f)(3)(A) to address this situation.

⁴ See SEC Rule 17a-3(a)(17)(i)(B)(1); Exchange Act Release No. 44992 (Oct. 26, 2001), 66 Fed. Reg. 55817 (Nov. 2, 2001). The Rule 3110 Changes were first filed in 1998, prior to the adoption of the SEC rule. See 69 Fed. Reg. at 70293.

⁵ The Notice announcing the Commission's approval of the Rule 3110 Changes noted that "the proposed rule change would take effect 90 days after NASD publishes a Notice to Members within 60 days of publication of the Commission's approval" 63

give firms more time to amend their customer agreements to comply with the changes to NASD Rule 3110(f)(1), the proposed rule change will extend the compliance date by which firms must begin using the disclosure required by the changes to NASD Rule 3110(f)(1) from May 1, 2005 until June 1, 2005.⁶ This will give firms six months (rather than five) to implement the changes required by the amendments to NASD Rule 3110(f)(1).⁷ However, the other requirements of the Rule 3110 Changes (*i.e.*, subparagraphs (f)(2) through (f)(7)) as well as the amendments set forth in this proposed rule change will apply to all predispute arbitration agreements signed on or after May 1, 2005.

(3) Technical Amendments

The purpose of the proposed rule change renumbering the four subparagraphs in NASD Rule 3110(f)(4) is to conform the numbering in those subparagraphs to existing

Fed. Reg. at 70295. Notice to Members 05-09, which announced the approval, was published on January 31, 2005.

⁶ The effective date of the Rule 3110 Changes was originally linked to the effective date of amendments to NASD Rule 10304, governing time limits on filing claims in arbitration, which will also take effect on May 1, 2005. See Exchange Act Release No. 50714 (Nov. 22, 2004), 69 Fed. Reg. 69971 (Dec. 1, 2004) (Order Granting Approval to Proposed Rule Change, and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 1 and 2 Thereto Relating to Time Limits for Submission of Claims in Arbitration) (SR-NASD-2003-101). The two rule filings are related because both include provisions restricting the ability of member firms to bifurcate customer claims between court and arbitration and because the enhanced disclosure in NASD Rule 3110(f)(1) states that some firms have time limits for the filing of claims in arbitration. Extension of the compliance date for NASD Rule 3110(f)(1) would not extend the effective date of the bifurcation provision in NASD Rule 3110(f)(5), which would remain the same (May 1, 2005) as the amendments to NASD Rule 10304, or the applicability of any provision in NASD Rule 10304.

⁷ Firms would be permitted to use customer agreements containing the new disclosure language required by the Rule 3110 Changes before June 1, 2005.

NASD rule format.

(4) Effective Dates and Compliance Dates

The proposed rule change will become effective upon approval by the Commission, and the compliance date of the proposed rule change will be May 1, 2005, except that firms will not be required to use the disclosure required by the changes to NASD Rule 3110(f)(1) until June 1, 2005. NASD will announce the proposed rule change in a Notice to Members to be published no later than 30 days following Commission approval.

(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. NASD believes that the proposed rule change will continue to ensure that customers receive certain information regarding arbitration and predispute arbitration agreements in a timely fashion; however, the proposed rule change will conform the delivery requirements of NASD Rule 3110(f) with the requirements in the SEC's recordkeeping rules.

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

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) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

NASD requests the Commission to find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the 30th day after its publication in the Federal Register. As noted above, the Commission recently approved changes to NASD Rule 3110(f) on November 22, 2004. That proposed rule change, in part, imposed an obligation on NASD members to provide customers who sign a customer agreement containing a predispute arbitration clause with a copy of the agreement at the time the agreement is signed. The proposed rule change would change this obligation from the time of signing to within 30 days of signing, thus conforming the delivery requirement in NASD Rule 3110(f) to that in the SEC's recordkeeping rules.

Accelerated approval of the proposed rule change will allow NASD to announce promptly the change to NASD Rule 3110(f)(2)(B) and provide members with sufficient notice of the change prior to May 1, 2005. The proposed rule change will not require changes to the customer agreements used by member firms or any other systemic changes beyond those required pursuant to the previously approved Rule 3110 Changes; it will merely change the time period member firms have to meet the delivery requirement. The proposed rule change also will extend the compliance date of the recently approved

amendments to NASD Rule 3110(f)(1) from May 1, 2005 until June 1, 2005.

Because NASD believes that the proposed rule change is in the best interests of its members and the investing public, NASD requests the Commission to accelerate the effectiveness of the proposed rule change prior to the 30th day after its publication in the Federal Register so that members can have sufficient notice of these changes.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2005-045)
SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by National Association of Securities Dealers, Inc.
Relating to the Delivery of Customer Agreements Containing Predispute Arbitration
Clauses

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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend NASD Rule 3110(f) to: (1) amend NASD Rule 3110(f)(2)(B) to conform to the SEC's recordkeeping rules by extending the time period for delivery of a copy of a customer account agreement containing a predispute

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

arbitration clause from the time of signing to within 30 days of signing; (2) extend the compliance date of the recent amendments to NASD Rule 3110(f)(1) to June 1, 2005; and (3) make technical corrections to the numbering in NASD Rule 3110(f)(4), as recently amended, to conform to existing NASD rule format. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

3110. Books and Records

(a) through (e) No change.

(f) (1) No change.

(2) (A) No Change.

(B) [At the time] Within thirty days of signing, a copy of the agreement containing any such clause shall be given to the customer who shall acknowledge receipt thereof on the agreement or on a separate document.

(3) (A) A member shall provide a customer with a copy of any predispute arbitration clause or customer agreement executed between the customer and the member, or inform the customer that the member does not have a copy thereof, within ten business days of receipt of the customer's request. If a customer requests such a copy before the member has provided the customer with a copy pursuant to subparagraph (2)(B) of this Rule, the member must provide a copy to the customer by the earlier date required by this subparagraph (3)(A) or by subparagraph (2)(B).

(B) No change.

(4) No predispute arbitration agreement shall include any condition that:

(A) [(i)] limits or contradicts the rules of any self-regulatory organization;

(B) [(ii)] limits the ability of a party to file any claim in arbitration;

(C) [(iii)] limits the ability of a party to file any claim in court permitted to be filed in court under the rules of the forums in which a claim may be filed under the agreement;

(D) [(iv)] limits the ability of arbitrators to make any award.

(5) through (7) No Change.

(g) through (h) 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

(a) Delivery of Customer Agreements

The purpose of the proposed rule change regarding the delivery of customer

agreements is to conform the time period for the delivery of copies of any customer agreement containing a predispute arbitration clause to customers in NASD Rule 3110(f) with the SEC recordkeeping rules.

On November 22, 2004, the Commission approved changes (the "Rule 3110 Changes") to NASD Rule 3110(f), which governs the use of predispute arbitration agreements with customers.³ The primary purposes of the Rule 3110 Changes were to require enhanced disclosure to customers about the arbitration process and to clarify the use of certain clauses in predispute arbitration agreements. The Rule 3110 Changes also require that firms provide a copy of any customer agreement containing a predispute arbitration clause to the customer, who must acknowledge receipt thereof on the agreement or on a separate document, at the time of signing.⁴ The proposed rule change would amend the time requirement for delivery of a copy of the customer agreement from the time of signing to within 30 days of signing.⁵ This change would conform the

³ Exchange Act Release No. 50713 (Nov. 22, 2004), 69 Fed. Reg. 70293 (Dec. 3, 2004) (Order Granting Approval to Proposed Rule Change as Amended and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 5 by the National Association of Securities Dealers, Inc., Regarding NASD Rule 3110(f) Governing Predispute Arbitration Agreements With Customers) (SR-NASD-98-74).

⁴ Prior to the Rule 3110 Changes, firms were required to provide copies of predispute arbitration agreements to customers; however, the rule did not specify when they must do so.

⁵ The changes made to NASD Rule 3110(f)(3)(A) by the Rule 3110 Changes require firms to provide customers who request a copy of any predispute arbitration clause or client agreement with a copy within ten business days of the request. Thus, customers wishing to have a copy of the customer agreement sooner than the specified 30 days can request one. For example, if a customer requests a copy of the agreement on the date of signing, the firm must provide the copy to the customer within ten business days of receiving that request. In addition, firms may not extend the 30-day time period for compliance with the delivery requirement in NASD Rule 3110(f)(2)(B), even though the Rule 3110 Changes allow a firm ten business days in which to provide a copy of the

delivery requirement in NASD Rule 3110(f)(2)(B) to that in the SEC's recordkeeping rules.⁶

(b) Extension of Compliance Date

The Rule 3110 Changes are scheduled to become effective on May 1, 2005.⁷ To give firms more time to amend their customer agreements to comply with the changes to NASD Rule 3110(f)(1), the proposed rule change will extend the compliance date by which firms must begin using the disclosure required by the changes to NASD Rule 3110(f)(1) from May 1, 2005 until June 1, 2005.⁸ This will give firms six months (rather

agreement to a customer upon request. For example, if a customer requested a copy of the customer agreement 25 days after signing, the firm still would be required to provide the customer with the copy within 30 days of the signing date (rather than within ten business days of the date the firm received the request). Proposed language has been added to NASD Rule 3110(f)(3)(A) to address this situation.

⁶ See SEC Rule 17a-3(a)(17)(i)(B)(1); Exchange Act Release No. 44992 (Oct. 26, 2001), 66 Fed. Reg. 55817 (Nov. 2, 2001). The Rule 3110 Changes were first filed in 1998, prior to the adoption of the SEC rule. See 69 Fed. Reg. at 70293.

⁷ The Notice announcing the Commission's approval of the Rule 3110 Changes noted that "the proposed rule change would take effect 90 days after NASD publishes a Notice to Members within 60 days of publication of the Commission's approval" 63 Fed. Reg. at 70295. Notice to Members 05-09, which announced the approval, was published on January 31, 2005.

⁸ The effective date of the Rule 3110 Changes was originally linked to the effective date of amendments to NASD Rule 10304, governing time limits on filing claims in arbitration, which will also take effect on May 1, 2005. See Exchange Act Release No. 50714 (Nov. 22, 2004), 69 Fed. Reg. 69971 (Dec. 1, 2004) (Order Granting Approval to Proposed Rule Change, and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 1 and 2 Thereto Relating to Time Limits for Submission of Claims in Arbitration) (SR-NASD-2003-101). The two rule filings are related because both include provisions restricting the ability of member firms to bifurcate customer claims between court and arbitration and because the enhanced disclosure in NASD Rule 3110(f)(1) states that some firms have time limits for the filing of claims in arbitration. Extension of the compliance date for NASD Rule 3110(f)(1) would not extend the effective date of the bifurcation provision in NASD Rule 3110(f)(5), which would remain the same (May 1,

than five) to implement the changes required by the amendments to NASD Rule 3110(f)(1).⁹ However, the other requirements of the Rule 3110 Changes (*i.e.*, subparagraphs (f)(2) through (f)(7)) as well as the amendments set forth in this proposed rule change will apply to all predispute arbitration agreements signed on or after May 1, 2005.

(c) Technical Amendments

The purpose of the proposed rule change renumbering the four subparagraphs in NASD Rule 3110(f)(4) is to conform the numbering in those subparagraphs to existing NASD rule format.

(d) Effective Dates and Compliance Dates

The proposed rule change will become effective upon approval by the Commission, and the compliance date of the proposed rule change will be May 1, 2005, except that firms will not be required to use the disclosure required by the changes to NASD Rule 3110(f)(1) until June 1, 2005. NASD will announce the proposed rule change in a Notice to Members to be published no later than 30 days following Commission approval.

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

2005) as the amendments to NASD Rule 10304, or the applicability of any provision in NASD Rule 10304.

⁹ Firms would be permitted to use customer agreements containing the new disclosure language required by the Rule 3110 Changes before June 1, 2005.

and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will continue to ensure that customers receive certain information regarding arbitration and predispute arbitration agreements in a timely fashion; however, the proposed rule change will conform the delivery requirements of NASD Rule 3110(f) with the requirements in the SEC's recordkeeping rules.

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

NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the 30th day after publication in the Federal Register. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NASD and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in that accelerated approval will benefit NASD members and the investing

public.

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. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2005-045 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2005-045. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-NASD-2005-045 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Secretary

¹⁰ 17 CFR 200.30-3(a)(12).