

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information

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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

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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

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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

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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

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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

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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

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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 amend NASD Rules 3150 and 3230 governing the reporting of data to clearing firms by correspondent firms. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

3150. Reporting Requirements for Clearing Firms

(a) No change.

(b) Each member that is a clearing firm is required to report prescribed data to NASD under this Rule in such a manner as to enable NASD to distinguish between data pertaining to all proprietary and customer accounts being held by a correspondent member broker-dealer and data pertaining to all proprietary and customer accounts held by any member broker-dealer for which the correspondent firm is acting as an intermediary in obtaining clearing services from a clearing firm. The requirements of this paragraph (b) shall only apply to customer accounts that were established on or after [insert effective date of this paragraph (b)].

[(b)](c) Pursuant to the Rule 9600 Series, NASD may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member or class of members unconditionally or on specified terms from any or all of the provisions of this Rule that it deems appropriate.

* * * * *

3230. Clearing Agreements

(a) through (g) No change.

(h) All clearing agreements shall require each correspondent member broker-dealer to maintain its proprietary and customer accounts and the proprietary and customer accounts of any member broker-dealer for which it is acting as an intermediary in obtaining clearing services from the clearing firm in such a manner as to enable the clearing firm and NASD to identify data belonging to the proprietary and customer accounts of each member. The requirements of this paragraph (h) shall only apply to customer accounts that were established on or after [insert effective date of this paragraph (h)].

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of NASD Regulation, Inc. at its meeting on November 17, 2004, 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 Board of Governors of NASD had an opportunity to review the proposed rule change at its meeting on November 18, 2004. 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.

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 30 days following Commission approval. NASD is proposing an effective date of 180 days following Commission approval. This will give members time to make necessary changes to their systems.

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

(a) Purpose

By way of background, some NASD members choose not to contract for clearing services directly with a clearing firm. The reasons vary. For example, the member may not do a sufficient business to satisfy clearing firm financial and other requirements to support a separate clearing agreement. In such cases, a member may contract for clearing services with a correspondent firm (hereinafter also referred to as "intermediary" firm) that, in turn, contracts directly with a clearing firm for clearing services. Members that contract for clearing services with an intermediary firm are often referred to as "piggybacking" firms, or "piggybackers." Under this arrangement, only the intermediary firm has a contractual arrangement with the clearing firm, which clears for both the intermediary and the intermediary's piggybacking firms. Under current practice, the intermediary firm may assign account numbers to the piggybacker's accounts (both proprietary and customer accounts) that do not identify them to the clearing firm as belonging to a piggybacking firm. For example, the intermediary firm may assign

account numbers that identify these accounts as branch offices.

Although these piggybacking arrangements may satisfy the business needs of the parties -- the clearing firm, the intermediary firm, and the piggybacking firm -- they impede NASD regulatory programs and may cause problems for the clearing firm. For example, under Rule 3150, clearing firms are required to report certain data to NASD for purposes of the surveillance component of its National Examination Program ("NEP"). In fulfilling its reporting obligation under Rule 3150, a clearing firm whose clients include correspondent firms that have contracted with piggybackers may be reporting the combined data of the correspondent firm and its piggybackers as only belonging to the correspondent firm. In such cases, NASD staff is not able to distinguish between data belonging to the correspondent firm and data belonging to the contracting, or piggybacking, firm(s) for purposes of conducting surveillance.

This inability to separate out the data can, and already has, become a serious issue where the intermediary firm goes into SIPC ("Securities Investor Protection Corporation") liquidation. If the data from the intermediary and piggybacking firms are not distinguishable, the clearing firm will be unable to facilitate the orderly transfer of accounts without doing time-intensive research and creating a special program to separate accounts belonging to the intermediary firm and its piggybacker(s).

To resolve these issues, NASD is proposing to adopt amendments to Rule 3150 (governing reporting requirements for clearing firms) and Rule 3230 (governing clearing agreements) that would permit regulators and clearing firms to distinguish between data belonging to a correspondent firm and data belonging to its piggybackers. The proposed

amendments to Rule 3150 would require clearing firms to report data to NASD about each piggybacking firm separately from the correspondent firm's data. The proposed amendments to Rule 3230 would require intermediary firms to maintain data in such a way as to enable NASD and the clearing firm to be able to identify the data pertaining to the proprietary and customer accounts of the intermediary firm and the data pertaining to the proprietary and customer accounts of any piggybacking firm. These proposed rule changes will enable NASD staff to surveil data reported by contracting firms as part of its NEP Surveillance program and facilitate any future SIPC liquidations. With respect to customer accounts at firms for which a correspondent firm is acting as an intermediary for clearing services prior to the effective date of the proposed rule change, the requirements of the proposed rule change would apply only to those customer accounts that were established on or after the effective date of the proposed rule change.¹

As noted in Item 2 of this filing, NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 30 days following Commission approval. NASD is proposing an effective date of 180 days following Commission approval. This will give members time to make necessary changes to their systems.

¹

NASD understands that requiring firms to convert existing accounts would potentially burden customers as the clearing firm may need to issue new account numbers and, as applicable, new debit cards, checking accounts, and passwords issued in connection with the accounts. Accordingly, the piggybacking firms would have to advise these customers in writing that they would be getting new account numbers, and why, and would need to change their records to reflect new customer account numbers. Further, NASD understands that some clearing firms would have to convert such existing accounts to accounts under the customers' names manually, entry by entry. Other data, such as cost basis information, also might have to be manually transferred to the new accounts. Accordingly, while NASD recognizes that there is some risk in not being able to surveil piggybacking data for existing accounts, it does not believe that the regulatory benefit in requiring such conversion would outweigh the expense and inconvenience to

(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 is designed to accomplish these ends by giving regulators and clearing firms the ability to determine whether data being reported to clearing firms belongs to a correspondent firm or a piggybacking firm. This will more clearly identify data being reported to NASD for purposes of NASD's NEP Surveillance and, in those instances where a correspondent firm enters a SIPC liquidation, will help to facilitate an orderly liquidation.

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

customers and firms.

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

Not applicable.

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-2005-058)
SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by National Association of Securities Dealers, Inc.
Relating to the Reporting of Data to Clearing Firms by Correspondent Firms

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.

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

NASD is proposing to amend NASD Rule 3150 and Rule 3230 governing the reporting of data to clearing firms by correspondent firms. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

3150. Reporting Requirements for Clearing Firms

(a) No change.

(b) Each member that is a clearing firm is required to report prescribed data to NASD under this Rule in such a manner as to enable NASD to distinguish between data pertaining to all proprietary and customer accounts being held by a correspondent member broker-dealer and data pertaining to all proprietary and customer accounts held by any member broker-dealer for which the correspondent firm is acting as an intermediary in obtaining clearing services from a clearing firm. The requirements of this paragraph (b) shall only apply to customer accounts that were established on or after [insert effective date of this paragraph (b)].

[(b)](c) Pursuant to the Rule 9600 Series, NASD may in exceptional and unusual circumstances, taking into consideration all relevant factors, exempt a member or class of members unconditionally or on specified terms from any or all of the provisions of this Rule that it deems appropriate.

* * * * *

3230. Clearing Agreements

(a) through (g) No change.

(h) All clearing agreements shall require each correspondent member broker-dealer to maintain its proprietary and customer accounts and the proprietary and customer accounts of any member broker-dealer for which it is acting as an intermediary in obtaining clearing services from the clearing firm in such a manner as to enable the clearing firm and NASD to identify data belonging to the proprietary and customer

accounts of each member. The requirements of this paragraph (h) shall only apply to customer accounts that were established on or after [insert effective date of this paragraph (h)].

* * * * *

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

By way of background, some NASD members choose not to contract for clearing services directly with a clearing firm. The reasons vary. For example, the member may not do a sufficient business to satisfy clearing firm financial and other requirements to support a separate clearing agreement. In such cases, a member may contract for clearing services with a correspondent firm (hereinafter also referred to as "intermediary" firm) that, in turn, contracts directly with a clearing firm for clearing services. Members that contract for clearing services with an intermediary firm are often referred to as "piggybacking" firms, or "piggybackers." Under this arrangement, only the intermediary firm has a contractual arrangement with the clearing firm, which clears for both the

intermediary and the intermediary's piggybacking firms. Under current practice, the intermediary firm may assign account numbers to the piggybacker's accounts (both proprietary and customer accounts) that do not identify them to the clearing firm as belonging to a piggybacking firm. For example, the intermediary firm may assign account numbers that identify these accounts as branch offices.

Although these piggybacking arrangements may satisfy the business needs of the parties -- the clearing firm, the intermediary firm, and the piggybacking firm -- they impede NASD regulatory programs and may cause problems for the clearing firm. For example, under Rule 3150, clearing firms are required to report certain data to NASD for purposes of the surveillance component of its National Examination Program ("NEP"). In fulfilling its reporting obligation under Rule 3150, a clearing firm whose clients include correspondent firms that have contracted with piggybackers may be reporting the combined data of the correspondent firm and its piggybackers as only belonging to the correspondent firm. In such cases, NASD staff is not able to distinguish between data belonging to the correspondent firm and data belonging to the contracting, or piggybacking, firm(s) for purposes of conducting surveillance.

This inability to separate out the data can, and already has, become a serious issue where the intermediary firm goes into SIPC ("Securities Investor Protection Corporation") liquidation. If the data from the intermediary and piggybacking firms are not distinguishable, the clearing firm will be unable to facilitate the orderly transfer of accounts without doing time-intensive research and creating a special program to separate accounts belonging to the intermediary firm and its piggybacker(s).

To resolve these issues, NASD is proposing to adopt amendments to Rule 3150 (governing reporting requirements for clearing firms) and Rule 3230 (governing clearing agreements) that would permit regulators and clearing firms to distinguish between data belonging to a correspondent firm and data belonging to its piggybackers. The proposed amendments to Rule 3150 would require clearing firms to report data to NASD about each piggybacking firm separately from the correspondent firm's data. The proposed amendments to Rule 3230 would require intermediary firms to maintain data in such a way as to enable NASD and the clearing firm to be able to identify the data pertaining to the proprietary and customer accounts of the intermediary firm and the data pertaining to the proprietary and customer accounts of any piggybacking firm. These proposed rule changes will enable NASD staff to surveil data reported by contracting firms as part of its NEP Surveillance program and facilitate any future SIPC liquidations. With respect to customer accounts at firms for which a correspondent firm is acting as an intermediary for clearing services prior to the effective date of the proposed rule change, the requirements of the proposed rule change would apply only to those customer accounts that were established on or after the effective date of the proposed rule change.³

³ NASD understands that requiring firms to convert existing accounts would potentially burden customers as the clearing firm may need to issue new account numbers and, as applicable, new debit cards, checking accounts, and passwords issued in connection with the accounts. Accordingly, the piggybacking firms would have to advise these customers in writing that they would be getting new account numbers, and why, and would need to change their records to reflect new customer account numbers. Further, NASD understands that some clearing firms would have to convert such existing accounts to accounts under the customers' names manually, entry by entry. Other data, such as cost basis information, also might have to be manually transferred to the new accounts. Accordingly, while NASD recognizes that there is some risk in not being able to surveil piggybacking data for existing accounts, it does not believe that the regulatory benefit in requiring such conversion would outweigh the expense and inconvenience to customers and firms.

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 30 days following Commission approval. NASD is proposing an effective date of 180 days following Commission approval. This will give members time to make necessary changes to their systems.

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. NASD believes that the proposed rule change is designed to accomplish these ends by giving regulators and clearing firms the ability to determine whether data being reported to clearing firms belongs to a correspondent firm or a piggybacking firm. This will more clearly identify data being reported to NASD for purposes of NASD's NEP Surveillance and, in those instances where a correspondent firm enters a SIPC liquidation, will help to facilitate an orderly liquidation.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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-2005-058 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-2005-058. 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 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-2005-058 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.⁴

Secretary

⁴ 17 CFR 200.30-3(a)(12).