

Proposed Rule Change by National Association of Securities Dealers  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed rule change to amend NASD Rule 3110 to re-label paragraph (d) (Changes in Account Name or Designation) as paragraph (j), and relocate the Interpretive Material 3110 ("IM-3110") to the end of Rule 3110.

**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  Senior Vice President and Deputy General Counsel  
 (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 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 Rule 3110 to re-label paragraph (d) (Changes in Account Name or Designation) as paragraph (j), and relocate the Interpretive Material 3110 ("IM-3110") to the end of Rule 3110. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

\* \* \* \* \*

**3100. BOOKS AND RECORDS, AND FINANCIAL CONDITION**

**3110. Books and Records**

(a) through (c) No change.

**[(d) Changes in Account Name or Designation]**

[Before any customer order is executed, there must be placed upon the memorandum for each transaction, the name or designation of the account (or accounts) for which such order is to be executed. No change in such account name(s) (including related accounts) or designation(s) (including error accounts) shall be made unless the change has been authorized by a member or a person(s) designated under the provisions of NASD rules. Such person must, prior to giving his or her approval of the account designation change, be personally informed of the essential facts relative thereto and indicate his or her approval of such change in writing on the order or other similar record of the member. The essential facts relied upon by the person approving the change must be documented in writing and preserved for a period of not less than three years, the first

two years in an easily accessible place, as the term "easily accessible place" is used in SEC Rule 17a-4.]

[For purposes of this paragraph (d), a person(s) designated under the provisions of NASD rules to approve account name or designation changes must pass a qualifying principal examination appropriate to the business of the firm.]

[\* \* \*]

**[IM-3110. Customer Account Information]**

[(a) Members should be aware that, effective January 1, 1990, any transaction which involves a non-Nasdaq, non-exchange equity security trading for less than five dollars per share may be subject to the provisions of SEC Rules 15g-1 through 15g-9, and those rules should be reviewed to determine if an executed customer suitability agreement is required.]

[(b) Additional information is required to be obtained prior to making recommendations to customers (see Rule 2310) and in connection with discretionary accounts (see Rule 2510).]

[(c) Accounts opened, and recommendations made prior to January 1, 1991 remain subject to former Article III, Sections 2 and 21(c) as previously in effect as set forth in Notice to Members 90-52 (August 1990).]

[\* \* \*]

(d) through (i) No change.

**(j) Changes in Account Name or Designation**

Before any customer order is executed, there must be placed upon the memorandum for each transaction, the name or designation of the account (or accounts).

for which such order is to be executed. No change in such account name(s) (including related accounts) or designation(s) (including error accounts) shall be made unless the change has been authorized by a member or a person(s) designated under the provisions of NASD rules. Such person must, prior to giving his or her approval of the account designation change, be personally informed of the essential facts relative thereto and indicate his or her approval of such change in writing on the order or other similar record of the member. The essential facts relied upon by the person approving the change must be documented in writing and preserved for a period of not less than three years, the first two years in an easily accessible place, as the term "easily accessible place" is used in SEC Rule 17a-4.

For purposes of this paragraph (j), a person(s) designated under the provisions of NASD rules to approve account name or designation changes must pass a qualifying principal examination appropriate to the business of the firm.

**IM-3110. Customer Account Information**

(a) Members should be aware that, effective January 1, 1990, any transaction which involves a non-Nasdaq, non-exchange equity security trading for less than five dollars per share may be subject to the provisions of SEC Rules 15g-1 through 15g-9, and those rules should be reviewed to determine if an executed customer suitability agreement is required.

(b) Additional information is required to be obtained prior to making recommendations to customers (see Rule 2310) and in connection with discretionary accounts (see Rule 2510).

(c) Accounts opened, and recommendations made prior to January 1, 1991

remain subject to former Article III, Sections 2 and 21(c) as previously in effect as set forth in Notice to Members 90-52 (August 1990).

\* \* \* \* \*

(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 ("Board") and authorized for filing with the SEC pursuant to a delegation of authority granted by the Board at the NASD's Board 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 rule changes to amend NASD rules and to file, without further specific Board authorization, proposed rule changes to amend NASD rules to provide for exemptive relief (the "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. Section 1(a)(ii) of Article VII of NASD's By-Laws permits the Board of Governors of NASD to adopt amendments to NASD Rules without recourse to the membership for approval. No other action by NASD is necessary for the filing of the proposed rule change.

As further discussed below, NASD is filing the proposed rule change for immediate effectiveness.

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

(a) Purpose

The SEC previously approved amendments to NASD Rule 3110 (Books and Records) to create new paragraphs (d) and (i) concerning Changes in Account Name or Designation, and Holding of Customer Mail, respectively.<sup>1</sup>

In reviewing Rule 3110, NASD staff noticed that certain provisions in Rule 3110 were inadvertently labeled as being part of the Interpretive Material, IM-3110 (Customer Account Information). In seeking to re-label these provisions as part of Rule 3110, NASD staff noticed that two paragraphs of Rule 3110 are now labeled as paragraph (d). To avoid confusion, NASD proposes to re-label paragraph (d) (Changes in Account Name or Designation) as paragraph (j). In addition, NASD proposes to move the Interpretive Material, IM-3110, which consists only of paragraphs (a)-(c), and is currently contained in the middle of Rule 3110, to the end of the rule. This change conforms IM-3110 to NASD's general practice of placing Interpretive Material after the rule to which it relates.

As noted in Item 2 of this filing, NASD is filing the proposed rule change for immediate effectiveness.

(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

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<sup>1</sup> See Securities Exchange Act Release No. 49883 (June 17, 2004), 69 FR 35092 (June 23, 2004) (approval order for File No. SR-NASD-2002-162).

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 this technical change is consistent with the protection of investors and the public interest in that it will avoid any confusion when reading the provisions of Rule 3110.

**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)(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 (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of this filing. NASD requests that the Commission waive the five-day pre-filing notice requirement and waive the 30-day operative delay set forth in Rule 19b-4(f)(6)(iii), so that the technical

corrections can become effective immediately.

**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-2005-103)  
**SELF-REGULATORY ORGANIZATIONS**

Proposed Rule Change by National Association of Securities Dealers, Inc.  
Relating to Technical Changes to NASD Rule 3110 and IM-3110

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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,<sup>3</sup> 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 3110 to re-label paragraph (d) (Changes in Account Name or Designation) as paragraph (j), and relocate the Interpretive Material 3110 ("IM-3110") to the end of Rule 3110. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4.

\* \* \* \* \*

**3100. BOOKS AND RECORDS, AND FINANCIAL CONDITION**

**3110. Books and Records**

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**[(d) Changes in Account Name or Designation]**

[Before any customer order is executed, there must be placed upon the memorandum for each transaction, the name or designation of the account (or accounts) for which such order is to be executed. No change in such account name(s) (including related accounts) or designation(s) (including error accounts) shall be made unless the change has been authorized by a member or a person(s) designated under the provisions of NASD rules. Such person must, prior to giving his or her approval of the account designation change, be personally informed of the essential facts relative thereto and indicate his or her approval of such change in writing on the order or other similar record of the member. The essential facts relied upon by the person approving the change must be documented in writing and preserved for a period of not less than three years, the first two years in an easily accessible place, as the term "easily accessible place" is used in SEC Rule 17a-4.]

[For purposes of this paragraph (d), a person(s) designated under the provisions of NASD rules to approve account name or designation changes must pass a qualifying principal examination appropriate to the business of the firm.]

[\* \* \*]

**[IM-3110. Customer Account Information]**

[(a) Members should be aware that, effective January 1, 1990, any transaction

which involves a non-Nasdaq, non-exchange equity security trading for less than five dollars per share may be subject to the provisions of SEC Rules 15g-1 through 15g-9, and those rules should be reviewed to determine if an executed customer suitability agreement is required.]

[(b) Additional information is required to be obtained prior to making recommendations to customers (see Rule 2310) and in connection with discretionary accounts (see Rule 2510).]

[(c) Accounts opened, and recommendations made prior to January 1, 1991 remain subject to former Article III, Sections 2 and 21(c) as previously in effect as set forth in Notice to Members 90-52 (August 1990).]

[\* \* \*]

(d) through (i) No change.

**(j) Changes in Account Name or Designation**

Before any customer order is executed, there must be placed upon the memorandum for each transaction, the name or designation of the account (or accounts) for which such order is to be executed. No change in such account name(s) (including related accounts) or designation(s) (including error accounts) shall be made unless the change has been authorized by a member or a person(s) designated under the provisions of NASD rules. Such person must, prior to giving his or her approval of the account designation change, be personally informed of the essential facts relative thereto and indicate his or her approval of such change in writing on the order or other similar record of the member. The essential facts relied upon by the person approving the change must be documented in writing and preserved for a period of not less than three years, the first

two years in an easily accessible place, as the term "easily accessible place" is used in SEC Rule 17a-4.

For purposes of this paragraph (j), a person(s) designated under the provisions of NASD rules to approve account name or designation changes must pass a qualifying principal examination appropriate to the business of the firm.

**IM-3110. Customer Account Information**

(a) Members should be aware that, effective January 1, 1990, any transaction which involves a non-Nasdaq, non-exchange equity security trading for less than five dollars per share may be subject to the provisions of SEC Rules 15g-1 through 15g-9, and those rules should be reviewed to determine if an executed customer suitability agreement is required.

(b) Additional information is required to be obtained prior to making recommendations to customers (see Rule 2310) and in connection with discretionary accounts (see Rule 2510).

(c) Accounts opened, and recommendations made prior to January 1, 1991 remain subject to former Article III, Sections 2 and 21(c) as previously in effect as set forth in Notice to Members 90-52 (August 1990).

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**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

The SEC previously approved amendments to NASD Rule 3110 (Books and Records) to create new paragraphs (d) and (i) concerning Changes in Account Name or Designation, and Holding of Customer Mail, respectively.<sup>4</sup>

In reviewing Rule 3110, NASD staff noticed that certain provisions in Rule 3110 were inadvertently labeled as being part of the Interpretive Material, IM-3110 (Customer Account Information). In seeking to re-label these provisions as part of Rule 3110, NASD staff noticed that two paragraphs of Rule 3110 are now labeled as paragraph (d). To avoid confusion, NASD proposes to re-label paragraph (d) (Changes in Account Name or Designation) as paragraph (j). In addition, NASD proposes to move the Interpretive Material, IM-3110, which consists only of paragraphs (a)-(c), and is currently contained in the middle of Rule 3110, to the end of the rule. This change conforms IM-3110 to NASD's general practice of placing Interpretive Material after the rule to which it relates.

As noted in Item 2 of this filing, NASD is filing the proposed rule change for immediate effectiveness.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of

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<sup>4</sup> See Securities Exchange Act Release No. 49883 (June 17, 2004), 69 FR 35092 (June 23, 2004) (approval order for File No. SR-NASD-2002-162).

Section 15A(b)(6) of the Act,<sup>5</sup> 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 this technical change is consistent with the protection of investors and the public interest in that it will avoid any confusion when reading the provisions of Rule 3110.

**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**

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

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<sup>5</sup> 15 U.S.C. 78o-3(b)(6).

Rule 19b-4(f)(6)(iii) under the Act<sup>6</sup> requires the self-regulatory organization to provide the Commission written notice of its intent to file the proposed rule change at least five business days (or such shorter time as designated by the Commission) before doing so. NASD has requested that the Commission waive the five-day pre-filing notice requirement. The Commission has decided, consistent with the protection of investors and the public interest, to waive the five-day pre-filing requirement.

In addition, NASD has requested that the Commission waive the 30-day pre-operative waiting period, which would make the proposed rule operative immediately. The Commission finds that it is consistent with the protection of investors and the public interest to waive the 30-day pre-operative period in this case because the proposed rule change is solely technical in nature. For these reasons, the Commission waives the 30-day pre-operative period and designates that the proposal become operative immediately.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change 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. Comments may be submitted by any of the following methods:

Electronic Comments:

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<sup>6</sup> 17 CFR 240.19b-4(f)(6)(iii).

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2005-103 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-0303.

All submissions should refer to File Number SR-NASD-2005-103. 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, 100 F Street, NE, 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-2005-103 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.<sup>7</sup>

Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(12).