

OMB APPROVAL

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Page 1 of 16

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

File No. SR - 2005 - 064
Amendment No. 1

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		
Pilot ☐	Extension of Time Period for Commission Action ☐	Date Expires 	☐ 19b-4(f)(1) ☐ 19b-4(f)(2) ☐ 19b-4(f)(3)	☐ 19b-4(f)(4) ☐ 19b-4(f)(5) ☐ 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document
☐

Exhibit 3 Sent As Paper Document
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Description

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

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.

PATRICE GLINIECKI,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

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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

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Exhibit Sent As Paper Document

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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") Amendment No. 1 to a proposed rule change to amend NASD Interpretative Material 8310-2 ("IM-8310-2") to give NASD authority to release to the public, in the form issued by the National Adjudicatory Council ("NAC"), information with respect to any decision issued by the NAC pursuant to Rule 1015. Below is the text of the proposed rule change. Proposed new language is underlined.

* * * * *

IM-8310-2. Release of Disciplinary and Other Information Through the Public Disclosure Program

(a) through (l) No change.

(m) NASD shall release to the public, in the form issued by the National Adjudicatory Council, information with respect to any decision issued by the National Adjudicatory Council pursuant to Rule 1015. In its discretion, the National Adjudicatory Council may have redacted certain information from such decisions prior to their issuance.

* * * * *

(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 April 20, 2005, 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 rule change at its meeting on April 21, 2005. No other action by NASD is necessary for the filing of the proposed rule change. Section 1(a)(iii) of Article VII of the NASD By-Laws permits the Board of Governors of NASD to issue interpretations of NASD Rules.

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval. NASD will publish only those NAC decisions issued pursuant to Rule 1015 in which the appeal has been filed on or after the effective date of this proposed rule change.

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

(a) Purpose

On May 12, 2005, NASD filed SR-NASD-2005-064 to amend IM-8310-2 to give NASD authority to release to the public, in unredacted form, information with respect to any decision issued by the NAC pursuant to Rule 1015, including decisions pertaining to new membership applications (Rule 1014) or continuing membership applications

(applications for approval of a change in ownership, control, or business operations) (Rule 1017). Rule 1015 is part of the Rule 1010 Series governing membership proceedings.

On June 13, 2005, the *Notice of Filing of Proposed Rule Change Relating to the Publication of Any Decision Issued by the National Adjudicatory Council Pursuant to Rule 1015* was published for comment in the Federal Register.¹ On July 26, 2005, NASD filed its response to comments.

This Amendment No. 1 clarifies that the NAC, in its discretion, may redact certain information from its decisions issued pursuant to Rule 1015 prior to their issuance. For example, the NAC's decisions would not routinely name shareholders of a closely held broker-dealer that is being sold insofar as the decision serves to evaluate the qualifications of the proposed buyers. Such redactions would be made to accommodate the interests of persons who are not themselves under consideration or review as part of the membership application process. NASD proposes to release the decisions issued by the NAC pursuant to Rule 1015 in the form issued by the NAC.

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval. NASD will publish only those NAC decisions issued

¹ See Exchange Act Rel. No. 51786 (June 6, 2005), 70 FR 34170 (June 13, 2005) (SR-NASD-2005-064).

pursuant to Rule 1015 in which the appeal has been filed on or after the effective date of this proposed rule change.

(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 amending IM-8310-2 to release to the public information with respect to any decision issued by the NAC under Rule 1015 is consistent with Section 15A(b)(6) of the Act because it is in the interest of both member firms and the general public to be able to read these decisions to become better informed about NASD's membership process and standards and the manner in which such standards are applied. The redaction of certain information by the NAC, at the NAC's discretion, prior to the issuance of these decisions would be made to accommodate the interests of persons who are not themselves under consideration or review as part of the membership application process.

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 that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after its publication in the Federal Register. Because the changes to the rule language made by Amendment No. 1 merely clarify, rather than change or modify the substance of proposed IM-8310-2(m) as previously proposed and noticed for comment,² and NASD believes that accelerated approval will benefit both member firms and the general public by giving them the opportunity to read the decisions issued by the NAC pursuant to Rule 1015, 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.

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.

² See Exchange Act Rel. No. 51786 (June 6, 2005), 70 FR 34170 (June 13, 2005) (SR-NASD-2005-064).

Exhibit 4. Revised test of the proposed rule change marked to show the additions to and deletions from the original rule filing of May 12, 2005.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2005-064)
SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change by National Association of Securities Dealers, Inc.
Relating to the authority to release to the public, in the form issued by the National
Adjudicatory Council (“NAC”), information with respect to any decision issued by the
NAC pursuant to NASD Rule 1015

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 [leave space] , the
National Association of Securities Dealers, Inc. (“NASD”) filed with the Securities and
Exchange Commission (“SEC” or “Commission”) [and amended on -----] 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 Amendment No. 1 to 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 Interpretative Material 8310-2 (“IM-8310-
2”) to give NASD authority to release to the public, in the form issued by the NAC,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

information with respect to any decision issued by the NAC pursuant to NASD Rule 1015. Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

IM-8310-2. Release of Disciplinary and Other Information Through the Public Disclosure Program

(a) through (l) No change.

(m) NASD shall release to the public, in the form issued by the National Adjudicatory Council, information with respect to any decision issued by the National Adjudicatory Council pursuant to Rule 1015. In its discretion, the National Adjudicatory Council may have redacted certain information from such decisions prior to their issuance.

* * * * *

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

On May 12, 2005, NASD filed SR-NASD-2005-064 to amend IM-8310-2 to give NASD authority to release to the public, in unredacted form, information with respect to

any decision issued by the NAC pursuant to Rule 1015, including decisions pertaining to new membership applications (Rule 1014) or continuing membership applications (applications for approval of a change in ownership, control, or business operations) (Rule 1017). Rule 1015 is part of the Rule 1010 Series governing membership proceedings.

On June 13, 2005, the *Notice of Filing of Proposed Rule Change Relating to the Publication of Any Decision Issued by the National Adjudicatory Council Pursuant to Rule 1015* was published for comment in the Federal Register.³ On July 26, 2005, NASD filed its response to comments.

This Amendment No. 1 clarifies that the NAC, in its discretion, may redact certain information from its decisions issued pursuant to Rule 1015 prior to their issuance. For example, the NAC's decisions would not routinely name shareholders of a closely held broker-dealer that is being sold insofar as the decision serves to evaluate the qualifications of the proposed buyers. Such redactions would be made to accommodate the interests of persons who are not themselves under consideration or review as part of the membership application process. NASD proposes to release the decisions issued by the NAC pursuant to Rule 1015 in the form issued by the NAC.

NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members

³ See Exchange Act Rel. No. 51786 (June 6, 2005), 70 FR 34170 (June 13, 2005) (SR-NASD-2005-064).

announcing Commission approval. NASD will publish only those NAC decisions issued pursuant to Rule 1015 in which the appeal has been filed on or after the effective date of this proposed rule change.

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 amending IM-8310-2 to release to the public information with respect to any decision issued by the NAC under Rule 1015 is consistent with Section 15A(b)(6) of the Act because it is in the interest of both member firms and the general public to be able to read these decisions to become better informed about NASD's membership process and standards and the manner in which such standards are applied. The redaction of certain information by the NAC, at the NAC's discretion, prior to the issuance of these decisions would be made to accommodate the interests of persons who are not themselves under consideration or review as part of the membership application

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.

NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving Amendment No. 1 to the proposed rule change prior to the 30th day after its 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 the changes to the rule language made by Amendment No. 1 merely clarify, rather than change or modify the substance of proposed IM-8310-2(m)

as previously proposed and noticed for comment,⁴ and accelerated approval will benefit both member firms and the general public by giving them the opportunity to read the decisions issued by the NAC pursuant to Rule 1015.

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-2005-064 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Mail Stop 9303, Room # 9404, Washington, DC 20549-9303.

All submissions should refer to File Number SR-NASD-2005-064. 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

⁴ See Exchange Act Rel. No. 51786 (June 6, 2005), 70 FR 34170 (June 13, 2005) (SR-NASD-2005-064).

(<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-2005-064 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.⁵

Secretary

⁵ 17 CFR 200.30-3(a)(12).

EXHIBIT 4

As filed on May 12, 2005, proposed new language is underlined. New language proposed in Amendment No. 1 is double underlined; proposed deletions in Amendment No. 1 are [[double bracketed.]]

* * * * *

IM-8310-2. Release of Disciplinary and Other Information Through the Public Disclosure Program

(a) through (l) No change.

(m) NASD shall release to the public, in [[unredacted]] the form[[,]] issued by the National Adjudicatory Council, information with respect to any decision issued by the National Adjudicatory Council pursuant to Rule 1015. In its discretion, the National Adjudicatory Council may have redacted certain information from such decisions prior to their issuance.

* * * * *