

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 checked="" type="checkbox"/>	Section 19(b)(3)(A) <input 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"/>			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
Date Expires <input type="text"/>			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input 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).

Proposal to amend Rule 2340 to relieve members from the requirement to send quarterly account statements to customer accounts that are carried on a DVP/RVP basis, provided certain conditions are met

**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 2340 to relieve members from the requirement to send quarterly account statements to customer accounts that are carried solely for the purpose of delivery versus payment and receive versus payment (“DVP/RVP”) transactions, provided certain conditions are met. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.<sup>1</sup>

\* \* \* \* \*

**2300. TRANSACTIONS WITH CUSTOMERS**

\* \* \* \* \*

**2340. Customer Account Statements**

**(a) General**

Except as otherwise provided by paragraph (b), [E]each general securities member shall, with a frequency of not less than once every calendar quarter, send a statement of account (“account statement”) containing a description of any securities positions, money balances, or account activity to each customer whose account had a

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<sup>1</sup> Proposed changes to Rule 2340 in this rule filing, SR-NASD-2006-066, are marked to the current version of the rule text. NASD has proposed additional changes to Rule 2340 in SR-NASD-2004-171, which is pending at the Commission. In the event the Commission approves SR-NASD-2004-171 prior to acting on this filing, NASD will amend the proposed rule text set forth in this filing, as needed, to reflect such approval. Alternatively, if necessary, NASD will amend SR-NASD-2004-171 to conform the rule text therein to the rule text proposed in this filing.

security position, money balance, or account activity during the period since the last such statement was sent to the customer.

**(b) Delivery Versus Payment/Receive Versus Payment (DVP/RVP) Accounts**

Quarterly account statements need not be sent to a customer pursuant to paragraph (a) of this Rule if:

(1) the customer's account is carried solely for the purpose of execution on a DVP/RVP basis;

(2) all transactions effected for the account are done on a DVP/RVP basis in conformity with Rule 11860;

(3) the account does not show security or money positions at the end of the quarter;

(4) the customer consents to the suspension of such statements in writing. The member must maintain such consents in a manner consistent with Rule 3110 and SEC Rule 17a-4;

(5) the member undertakes to provide any particular statement or statements to the customer promptly upon request; and

(6) the member undertakes to promptly reinstate the delivery of such statements to the customer upon request.

Nothing in this Rule shall be seen to qualify or condition the obligations of a member under SEC Rule 15c3-2 concerning quarterly notices of free credit balances on statements.

[(b)] (c) No change in text.

[(c)] **(d) Definitions**

For purposes of this Rule, the following terms will have the stated meanings:

(1) – (5) No change in text.

(6) a “DVP/RVP account” is an arrangement whereby payment for securities purchased is made to the selling customer’s agent and/or delivery of securities sold is made to the buying customer’s agent in exchange for payment at time of settlement, usually in the form of cash.

[(d)] **(e) Exemptions**

Pursuant to this Rule 9600 Series, [the Association] NASD may exempt any member from the provisions of this Rule for good cause shown.

\* \* \* \* \*

(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 July 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 proposed rule change at its meeting on July 21, 2005. 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 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

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

(a) Purpose

Rule 2340 requires any member that conducts a general securities business and also carries customer accounts or holds customer funds or securities, at least once each calendar quarter, to send a statement of account containing a description of any securities positions, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the time since the last statement was sent.

In a DVP/RVP arrangement, payment for securities purchased is made to the selling customer's agent and/or delivery of securities sold is made to the buying customer's agent in exchange for payment at time of settlement, usually in the form of cash. Because transactions in DVP/RVP accounts (chiefly institutions) are settled directly with the agent on a transaction-by-transaction basis, account statements sent by general securities firms to customers with DVP/RVP accounts generally do not reflect any cash balance or security position at the end of a quarter. Rather than using the information provided in quarterly statements, DVP/RVP customers generally rely on

trade runs or customer confirmations issued pursuant to Rule 10b-10 under the Act for transaction-related information.<sup>2</sup>

The proposed rule change to Rule 2340 would relieve members from the obligation to send quarterly statements to customers with DVP/RVP accounts if: (1) the customer's account is carried solely for the purpose of execution on a DVP/RVP basis; (2) all transactions in the account are handled on a DVP/RVP basis in conformity with Rule 11860;<sup>3</sup> (3) there are no securities or cash positions in the account at the end of the quarter; (4) the customer affirmatively consents to the arrangement in writing; (5) the member undertakes to provide any particular statement or statements to the customer promptly upon request; and (6) the member undertakes to promptly reinstate the delivery of such statements to the customer upon request. The proposed rule change does not qualify or condition the obligations of a member under SEC Rule 15c3-2 concerning quarterly notices of free credit balances on statements.

By requiring the customer's affirmative consent, the customer's ability to receive quarterly statements is preserved, and the member is precluded from unilaterally terminating delivery of customer statements. In addition, the proposed rule change would specifically require members to undertake that they will provide any particular customer account statement(s) to the customer promptly upon request and, upon a

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<sup>2</sup> See SEC Rule 10b-10 (Confirmation of Transactions) and NASD Rule 11860 (Acceptance and Settlement of COD Orders). Notably, under the proposed rule change, DVP/RVP customers would be required to consent to the suspension of customer account statements under Rule 2340 in writing and would retain the right to reinstate the delivery of customer account statements at any time.

<sup>3</sup> Prior to accepting an order in a DVP/RVP account, a member must comply with Rule 11860, which requires, among other things, that the member obtain certain

customer's request, promptly reinstate the delivery of such statements. The customer also would retain the right to reinstate the delivery of statements at any time upon request.

The proposed rule change also makes a technical change by replacing the reference to "the Association" in paragraph (e) of Rule 2340 with "NASD," since NASD no longer refers to itself using its full corporate name, "the Association," or "the NASD." Instead, NASD uses "NASD" unless otherwise appropriate for corporate or regulatory reasons.

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 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing 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, to foster cooperation and coordination with persons engaged in regulating clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 customers doing business solely on a DVP/RVP basis the opportunity to elect not to receive quarterly customer account statements, provided all conditions of the

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information from the customer, including the name and address of the agent and

proposed rule change are met.

**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)**

Not applicable.

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

The NYSE has proposed similar amendments to NYSE Rule 409 in SR-NYSE-2005-90.

**9. Exhibits**

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

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the account number of the customer on file with the agent.

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34- ; File No. SR-NASD-2006-066)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change to Amend NASD Rule 2340 to Relieve Members From the Requirement to Send Quarterly Account Statements to Customer Accounts That Are Carried Solely For the Purpose of Delivery Versus Payment and Receive Versus Payment (“DVP/RVP”) Transactions

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. 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 2340 to relieve members from the requirement to send quarterly account statements to customer accounts that are carried solely for the purpose of delivery versus payment and receive versus payment (“DVP/RVP”) transactions, provided certain conditions are met. 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.

\* \* \* \* \*

**2300. TRANSACTIONS WITH CUSTOMERS**

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**2340. Customer Account Statements**

**(a) General**

Except as otherwise provided by paragraph (b), [E]each general securities member shall, with a frequency of not less than once every calendar quarter, send a statement of account (“account statement”) containing a description of any securities positions, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the period since the last such statement was sent to the customer.

**(b) Delivery Versus Payment/Receive Versus Payment (DVP/RVP) Accounts**

Quarterly account statements need not be sent to a customer pursuant to paragraph (a) of this Rule if:

(1) the customer’s account is carried solely for the purpose of execution on a DVP/RVP basis;

(2) all transactions effected for the account are done on a DVP/RVP basis in conformity with Rule 11860;

(3) the account does not show security or money positions at the end of the quarter;

(4) the customer consents to the suspension of such statements in writing.

The member must maintain such consents in a manner consistent with Rule 3110 and SEC Rule 17a-4;

(5) the member undertakes to provide any particular statement or statements to the customer promptly upon request; and

(6) the member undertakes to promptly reinstate the delivery of such statements to the customer upon request.

Nothing in this Rule shall be seen to qualify or condition the obligations of a member under SEC Rule 15c3-2 concerning quarterly notices of free credit balances on statements.

[(b)] **(c)** No change in text.

[(c)] **(d) Definitions**

For purposes of this Rule, the following terms will have the stated meanings:

(1) – (5) No change in text.

(6) a “DVP/RVP account” is an arrangement whereby payment for securities purchased is made to the selling customer’s agent and/or delivery of securities sold is made to the buying customer’s agent in exchange for payment at time of settlement, usually in the form of cash.

[(d)] **(e) Exemptions**

Pursuant to this Rule 9600 Series, [the Association] NASD may exempt any member from the provisions of this Rule for good cause shown.

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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

Rule 2340 requires any member that conducts a general securities business and also carries customer accounts or holds customer funds or securities, at least once each calendar quarter, to send a statement of account containing a description of any securities positions, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the time since the last statement was sent.

In a DVP/RVP arrangement, payment for securities purchased is made to the selling customer's agent and/or delivery of securities sold is made to the buying customer's agent in exchange for payment at time of settlement, usually in the form of cash. Because transactions in DVP/RVP accounts (chiefly institutions) are settled directly with the agent on a transaction-by-transaction basis, account statements sent by general securities firms to customers with DVP/RVP accounts generally do not reflect any cash balance or security position at the end of a quarter. Rather than using the information provided in quarterly statements, DVP/RVP customers generally rely on trade runs or customer confirmations issued pursuant to Rule 10b-10 under the Act for transaction-related information.<sup>3</sup>

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<sup>3</sup> See SEC Rule 10b-10 (Confirmation of Transactions) and NASD Rule 11860 (Acceptance and Settlement of COD Orders). Notably, under the proposed rule change, DVP/RVP customers would be required to consent to the suspension of

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The proposed rule change also makes a technical change by replacing the reference to "the Association" in paragraph (e) of Rule 2340 with "NASD," since NASD

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customer account statements under Rule 2340 in writing and would retain the right to reinstate the delivery of customer account statements at any time.

<sup>4</sup> Prior to accepting an order in a DVP/RVP account, a member must comply with Rule 11860, which requires, among other things, that the member obtain certain information from the customer, including the name and address of the agent and the account number of the customer on file with the agent.

no longer refers to itself using its full corporate name, “the Association,” or “the NASD.” Instead, NASD uses “NASD” unless otherwise appropriate for corporate or regulatory reasons.

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.

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, to foster cooperation and coordination with persons engaged in regulating clearing, settling, processing information with respect to, and facilitating transactions in securities, 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 customers doing business solely on a DVP/RVP basis the opportunity to elect not to receive quarterly customer account statements, provided all conditions of the proposed rule change are met.

**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](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2006-066 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-066. 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-2006-066 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>5</sup>

Nancy M. Morris

Secretary

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<sup>5</sup> 17 CFR 200.30-3(a)(12).