

OMB APPROVAL

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

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

File No. SR - 2006 - 073
Amendment No. 2

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
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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 James Last Name Eastman
Title Assistant General Counsel
E-mail james.eastman@nasd.com
Telephone (202) 728-6961 Fax (202) 728-8264

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 08/30/2006

By Patrice Gliniecki
(Name)

Senior Vice President and Deputy General Counsel

(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 EFFF 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

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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.

On June 8, 2006, NASD filed SR-NASD-2006-073 to amend Interpretive Material 2210-4 to require a member firm or a person associated with a member firm that refers, on its internet Web site, to the firm's membership in NASD to provide a hyperlink to NASD's Web site in close proximity to the most prominent indication of the firm's membership in NASD.¹ The proposed rule change would not create an independent obligation requiring a firm to refer to the firm's NASD membership on an internet Web site. Rather, it would apply only to the extent that a member or a person associated with a member chose to represent on its Web site that the firm is a member of NASD. The proposed rule change is intended to help investors understand the significance of a firm being an NASD member and also is designed to facilitate access to the information on www.nasd.com.

The SEC published the proposed rule change for comment on June 28, 2006.² NASD is filing this Partial Amendment No. 2 in response to the three comments submitted to the SEC discussing the proposed rule change.³ As further discussed below, NASD is amending the proposed rule text in response to these comments.

The Commenters generally were supportive of the proposed rule change, though they raised a few concerns. Hawkins expressed concern that the proposed rule change would be "overkill" insofar as it would apply to each instance a member refers to its membership in NASD.⁴ Hawkins appears to misunderstand the requirements of the proposed rule change. As SR-NASD-2006-073 makes clear, a member would not be required to provide more than one hyperlink to NASD's Web site.⁵ Thus, the proposed rule change does not implicate the concerns Hawkins raises.

¹ NASD filed Amendment No.1 to SR-NASD-2006-073 on June 26, 2006 in response to comments from the SEC staff.

² Securities Exchange Act Release No. 54058 (June 28, 2006), 71 Fed. Reg. 38439 (July 6, 2006). The comment period closed on July 27, 2006.

³ Letter from Phyllis Hawkins, Affiliation: Compliance Advisor, Lincoln Investment Planning, Inc. ("Hawkins") to rule-comments@sec.gov, SEC, dated July 27, 2006; Letter from Dale E. Brown, CAE, Executive Director & CEO, Financial Services Institute ("FSI") to Nancy M. Morris, Secretary, SEC (letter dated July 27, 2006); Letter from Aimee R. Blinder, Vice President, Compliance, National Planning Holdings, Inc. ("NPH") to Ms. Nancy Morris, Secretary, SEC (letter dated July 27, 2006) (collectively "Commenters").

⁴ Hawkins letter at 1.

⁵ 71 Fed. Reg. at 38440 (proposed rule text states that, "A member is not required to provide more than one such hyperlink on its Web site"; footnote 3 and accompanying text reiterates the scope of the proposed requirement).

FSI raised concerns regarding the proposed requirement that the hyperlink be in close proximity to the “most prominent” indication of the firm’s NASD membership. FSI requests that NASD clarify how it interprets the phrase “most prominent,” suggesting that it may merely be a function of font size or might include other elements such as the color and style of text used as well as the location of the text on a particular Web page and relative to other pages of a firm’s Web site.⁶ In response to this concern, NASD has removed the requirement to place the hyperlink at the “most prominent indication of NASD membership,” and instead will allow a member to place the hyperlink at any reference that is reasonably designed to draw the public’s attention to NASD membership.⁷ This change is designed to make clear that a firm subject to the proposed rule change would be able to choose where to place a hyperlink to NASD’s Web site provided that the hyperlink is in close proximity to a reference to NASD membership that is reasonably designed to draw the public’s attention to the fact that the firm is a member of NASD. For example, a firm may wish to provide the hyperlink to a reference to NASD membership in an “about us” section of its Web site.⁸ This would remain the case even if the firm also referred to its NASD membership elsewhere on its Web site.

NPH asks for clarification of whether the hyperlink requirement applies only to a reference to NASD membership that appears in the “body” of the Web site or also to a legend on the Web site such as “Registered Representatives offer securities through the Firm Name, Member NASD.”⁹ NASD believes that a legend that denotes that a firm is a member of NASD, such as the prior example, would impose an obligation to provide a hyperlink. We note, however, that a firm only is required to provide a hyperlink to one reference to NASD membership, and could, therefore, choose to provide the hyperlink in close proximity to the legend or any other reference to NASD that is reasonably designed to draw the public’s attention to its membership in NASD. On the other hand, the hyperlink requirement would not apply to references to NASD membership appearing in a disclosure document or other offering document that is linked to the member firm’s Web site.

Finally, NPH requests that NASD extend the time period prior to the proposed rule change’s effective date to 360 days from the currently proposed 180 days. NASD has considered this request, but believes, based on feedback it received from several member committees, that 180 days should provide sufficient time for implementation of the proposed rule change if it is adopted.

⁶ FSI letter at 1.

⁷ Exhibit 4 to this Amendment #2 is marked to show changes to the proposed rule text.

⁸ Generally, firm references to NASD membership in an “about us” section of a Web site are “reasonably designed to draw the public’s attention to NASD membership.” See 71 Fed. Reg. at 38440 (discusses firm references to NASD membership in the “about us” sections of Web sites).

⁹ NPH letter at 1.

**Exhibit 4
Amendment No. 2 to
SR-NASD-2006-073**

Exhibit 4 shows the full text of the proposed rule change marked to show changes from the text of IM-2210-4 as proposed on June 26, 2006, in Amendment # 1 to the original rule filing, SR-NASD-2006-073, with the proposed text shown as if adopted, and the new text marked to show additions and deletions.

Proposed new language is underlined, and proposed deletions are in [brackets].

* * * * *

IM-2210-4. Limitations on Use of NASD's Name

Members may indicate NASD membership in conformity with Article XV, Section 2 of the NASD By-Laws in one or more of the following ways:

(1) through (2). No change.

(3) on a member's internet Web site provided that the member provides a hyperlink to NASD's internet home page, www.nasd.com, in close proximity to the member's [most prominent]indication of NASD membership. A member is not required to provide more than one such hyperlink on its Web site. If the member's Web site contains more than one indication of NASD membership, the member may elect to provide any one hyperlink in close proximity to any reference reasonably designed to draw the public's attention to NASD membership. This provision also shall apply to an internet Web site relating to the member's investment banking or securities business maintained by or on behalf of any person associated with a member.