

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

NASD proposes to raise the fee for panel member training from \$100 to \$125 for all applicants who register for the training after the proposed rule change becomes effective. This increase is intended to offset increased costs of providing the panel member training program, due primarily to increased room rental and staff travel costs. The proposed increase of \$25 per trainee also will allow NASD to increase the honorarium provided to arbitrators who serve as co-trainers for the programs.

Dispute Resolution staff plans to extend the length of the current four-hour training program to cover additional subject matter. Following approval of the proposed rule change, the usual panel member training program will consist of a four-hour morning session, followed by a two-hour afternoon session.⁴ During the afternoon session, staff and the designated co-trainer, who is an arbitrator on the roster, will facilitate a videotaped training on civility. In light of the increased length of the training session, NASD plans to raise the honorarium of each co-trainer from \$300 for a four-hour program to \$400 for a six-hour program.

NASD believes the increase in the training fee will enable it to provide in-depth arbitrator training, which will improve the quality of the arbitrator roster. Moreover, NASD believes this nominal increase is an equitable allocation of reasonable fees among persons using an NASD system or facility.

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 the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the minimal increase in the in-person panel member training fee will help NASD improve the knowledge and experience of arbitrators and thus, improve the quality of the NASD arbitration forum.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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

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

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an E-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2004-001 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-001. 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 Section, 450 Fifth Street, NW., 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 File Number SR-NASD-2004-001 and should be submitted on or before June 4, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04-10952 Filed 5-13-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49673; File No. SR-NASD-2004-016]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Implementation of a Web-based Arbitration Claim Notification and Filing Procedure

May 10, 2004.

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 January 29, 2004, the National Association of

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁴ NASD room rental expenses will not increase, because rates quoted are for the entire business day.

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. On February 25, 2004, NASD filed Amendment No. 1 to the proposed rule change.³ On April 16, 2004, NASD filed Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

Below is the text of the proposed rule change. Proposed new language is in *italics*.

* * * * *

10314. Initiation of Proceedings

Except as otherwise provided herein, an arbitration proceeding under this Code shall be instituted as follows:

(a) Statement of Claim

(1) The Claimant shall file with the Director of Arbitration an executed Submission Agreement, a Statement of Claim of the controversy in dispute, together with the documents in support of the Claim, and the required deposit. Sufficient additional copies of the Submission Agreement and the Statement of Claim and supporting documents shall be provided to the Director of Arbitration for each party and each arbitrator. The Statement of Claim shall specify the relevant facts and the remedies sought. The Director of Arbitration shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim.

(2) A Claimant or counsel (referred to herein collectively as "Claimant") may use the online claim notification and filing procedure to complete part of the arbitration claim filing process through the Internet. To commence this process, a Claimant may complete a Claim Information Form that can be accessed through an NASD Web site. In completing the Claim Information Form, the Claimant may attach an electronic version of the Statement of Claim to the form, provided it does not exceed 50

pages. Once this online form has been completed, an NASD Dispute Resolution Tracking Form will be generated and displayed for the Claimant to reproduce as necessary. The Claimant shall then file with the Director of Arbitration the rest of the materials required in subparagraph (1), above, along with a hard copy of the NASD Dispute Resolution Tracking Form.

(Remainder of rule unchanged.)

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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

NASD Dispute Resolution proposes to amend NASD Rule 10314(a) to allow parties to complete part of the arbitration claim filing process through the Internet.

Background

NASD Dispute Resolution is upgrading its computer technology platform, in what is known as the MATRICS⁵ Computer Project, which will replace its two legacy case management systems: CRAFTIS⁶ and NLSS.⁷ Before the upgrade is complete, the MATRICS Computer Project will be implemented in a series of overlapping releases between the second quarter of 2003 and the fourth quarter of 2005. A significant component of this upgrade includes the development of an online, Web-based arbitration claim notification and filing system. The release to implement this component of the upgrade was originally scheduled for deployment in 2005, but has taken less time than anticipated to design and

develop. Once this component of the release had been tested, NASD decided to accelerate the implementation of the online claim notification and filing procedure, to the first quarter of 2004.

Current Procedures for Filing and Processing an Arbitration Claim

Currently, if a party wants to file an arbitration claim, a package of materials is sent to the party to complete.⁸ The materials contain a Claim Information Sheet that NASD Dispute Resolution asks the party to complete on a voluntary basis. The Claim Information Sheet gathers key data about the claim and the parties and serves as a reliable source of background information for intake staff.⁹ Once the party has completed the materials, the party then completes the claim filing process by submitting the Statement of Claim, executed Uniform Submission Agreement, and filing fee and hearing session deposit through the mail.¹⁰

When the intake staff in New York receives the Claimant's materials, they enter this new claim information into NASD's CRAFTIS computer system. This process requires manual entry of data by at least two staff members in different offices. For example, when a new claim is received, a staff member in New York opens a case file by reviewing either the Statement of Claim or the Claim Information Sheet, if it is submitted, and by inputting the claim information in a new CRAFTIS file. Once this process is complete, the case is assigned to the appropriate NASD Dispute Resolution regional office, where another staff member performs an analysis of the claim documents and then manually enters more data (*i.e.*, party information, type of dispute, fees, and relief requested) into this CRAFTIS file. This process requires the staff member to analyze the case to determine what information must be entered into CRAFTIS and to input the data into the system. This stage of the process usually takes an average of 30 minutes per case.

The Effects of the Online Claim Notification Procedure

The proposed rule change would modify how an arbitration claim is filed in several ways. In the package of information sent to the Claimant or

³ See letter from Mignon McLemore, Counsel, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated February 24, 2004.

⁴ See letter from Mignon McLemore, Counsel, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated April 16, 2004.

⁵ MATRICS stands for Mediation and Arbitration Tracking Retrieval Interactive Case System.

⁶ CRAFTIS is the legacy software application that NASD Dispute Resolution uses to support its case administration function. It uses an old technology platform and is not Web-based.

⁷ NLSS stands for the Neutral List Selection System, which is the computer program NASD uses to appoint arbitrators on a rotational basis.

⁸ Parties may also download this information from NASD Dispute Resolution's Web site.

⁹ NASD Dispute Resolution estimates that the sheet is submitted in approximately 75% of the arbitration cases filed.

¹⁰ Pursuant to the Code, "mailing" can be accomplished by first-class postage pre-paid, overnight mail service, method of delivery acceptable to the parties and the Director.

counsel (referred to herein collectively as "Claimant"), in addition to a Claim Information Sheet, there will be instructions on how to submit a Claim Information Form online, including procedures for accessing the system. Prior to submitting a claim for the first time, a Claimant will obtain a User Identification name ("User ID") and password through a self-registration process on the NASD Web site. Repeat Claimants, and attorneys who are submitting new claims on behalf of different Claimants, may continue to use their User ID and password to enter data for new cases.

The proposed rule change would allow a Claimant to commence the arbitration claim filing process by completing a Claim Information Form online that can be accessed through an NASD Web site.¹¹ The Claim Information Form has been upgraded to allow the Claimant to attach an electronic version of the Statement of Claim to the form, provided it does not exceed 50 pages. Once this online form has been completed, the Claimant will be prompted to print the NASD Dispute Resolution Tracking Form ("Tracking Form"). The Claimant would then complete the claim filing process by filing a copy of the Tracking Form, the Statement of Claim (if it has not been submitted electronically), an executed Uniform Submission Agreement, and the filing fee and hearing session deposit through the mail, as is current practice.¹²

Benefits of the Online Claim Notification Procedure

The online version of the Claim Information Form would gather information similar to the paper version currently in use, but the format would be upgraded to provide:

- A "look up" tool, that will be used to provide the exact name of the member or associated person for automatic insertion into the Claim Information Form;
- A link to the fee calculators, which will calculate the amount that should be remitted with the Statement of Claim; and
- "Tool tips" to help the Claimant navigate the Claim Information Form.

These enhancements will enable Claimants to enter the required information more quickly and accurately. For example, the Claim

Information Form will require that the Claimant list those members or associated persons who would be parties to the claim. The Claim Information Form "look up" tool will provide the exact name of the member or associated person. Once the Claimant has found the requisite information, the system will allow the Claimant to load the information automatically into the form fields, thus minimizing transcription errors. If, after a search using the "look up" tool, the Claimant is unable to find the requisite information, the Claimant may type whatever information the Claimant has into a text box on the form for intake staff to analyze.

The Claim Information Form will also provide a link to the existing online fee calculator, to assist the Claimant in determining the correct amount of fees and deposits associated with the claim.

Further, the Claim Information Form will provide on-screen guidance to Claimants through "tool tips," which are small help screens that can be displayed in order to assist the Claimant in completing certain data elements.

Once the Claimant has completed the Claim Information Form, the system will generate a Tracking Form that will summarize the Claimant's entries for review and provide a tracking number for the claim. Prior to submission, the Claimant will be prompted to print a hard copy of the Tracking Form to file with the other documentation to NASD Dispute Resolution. The system will also encourage the Claimant to print a copy as a receipt. The remaining aspects of the claim filing procedure remain unchanged from the Claimant's perspective.

The intake staff in New York will be notified that a claim has been electronically submitted when it receives the Claimant's materials in hard copy with the Tracking Form attached. The intake staff will access the system and, using the tracking number or some other identifying information, locate the Claimant's data. The data will be stored in a secure "holding area" in the system, where an intake staff member will verify it, and then upload it into the CRAFTIS system. The uploaded data will instantly be transferred to the screens currently completed manually by applicable staff. Once this process is completed, the Claimant's file will be transferred to the appropriate NASD Dispute Resolution regional office, where the staff member will be able to analyze the case without having to input data into CRAFTIS.

Conclusion

NASD Dispute Resolution believes that the online claim notification procedure will expedite the case intake process, provide better data accuracy, reduce manual data entry, and provide for more efficient claims intake and administration. Moreover, NASD Dispute Resolution believes that the implementation of a Web-based arbitration claim notification and filing system is a positive step toward streamlining the claim filing process and providing global access to potential filers.¹³

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,¹⁴ which require, among other things, that the Association's 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. In light of recent regulatory developments in the securities markets, NASD believes the proposed rule change will enhance the efficiency of the NASD arbitration forum, by providing a better mechanism to process new claims expeditiously.

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:

¹³ NASD believes that most potential filers have access to the Internet. During the transition from paper filing to the online claim notification and filing procedure, NASD staff will work with any Claimants who have technological problems with using this system.

¹⁴ 15 U.S.C. 78o-3(b)(6).

¹¹ The current Web site address for the online claim filing system is http://www.nasdaq.com/uniform_forms_guide.asp.

¹² Submission of documents through this online notification system does not alter the date a claim is filed; rather, filing a claim requires submission of documentation pursuant to Rule 10314(a).

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

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

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an E-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2004-016 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-016. 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 Section, 450 Fifth Street, NW., 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 File Number and should be submitted on or before June 4, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04-10953 Filed 5-13-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49667; File No. SR-NASD-2004-073]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the National Association of Securities Dealers, Inc. To Change the Minimum Term for Selected Equity-Linked Debt Securities

May 7, 2004.

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 April 27, 2004, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated the proposed rule change as constituting a "non-controversial" rule change under subparagraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission.⁴ 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 the Substance of the Proposed Rule Change

Nasdaq proposes to modify NASD Rule 4420(g) to reduce the minimum term of Selected Equity-linked Debt

Securities ("SEEDS") from two years to one year.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in [brackets].⁵

* * * * *

4420. Quantitative Designation Criteria

(a) through (f) No change
(g) Nasdaq will consider designating as Nasdaq National Market securities Selected Equity-linked Debt Securities (SEEDS) that generally meet the criteria of this paragraph (g). SEEDS are limited-term, non-convertible debt securities of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or non-convertible preferred stock (or sponsored American Depositary Receipts (ADRs) underlying such equity securities).

(1) No change
(2) Equity-Linked Debt Security Listing Standards

The issue must have:

(A) through (C) No change
(D) a term of *one* [two] to seven years; provided that if the issuer of the underlying security is a non-U.S. company, or if the underlying security is a sponsored ADR, the issue may not have a term of more than three years.

(3) through (5) No change
(h) through (l) No change

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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, Nasdaq 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. Nasdaq 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 proposed rule change reduces from two years to one the minimum term of SEEDS that may qualify for Nasdaq National Market designation

⁵ The proposed rule change is marked to show changes to NASD Rule 4420(g) as currently reflected in the NASD Manual available at www.nasd.com. No other pending or approved rule filings would affect the text of Rule 4420(g).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ As required by 17 CFR 240.19b-4(f)(6), Nasdaq has represented that the proposed rule change will not significantly affect the protection of investors or the public interest, nor will it impose any significant burden on competition. Nasdaq also fulfilled its obligation to provide at least five business days notice to the Commission of its intent to file this proposed rule change by notice on April 16, 2004. The NASD's proposed rule change is similar to the rules regarding the minimum term of equity-linked debt securities for the American Stock Exchange LLC ("Amex"), the Chicago Stock Exchange, Inc. ("CHX"), and the New York Stock Exchange, Inc. ("NYSE").