

After careful consideration, the Commission believes that NASD's reduction in the reporting period for transactions in TRACE-eligible securities will enable it to implement TRACE more effectively, thus enhancing investor protection by improving the immediacy of information reported to TRACE for both regulatory and transparency purposes. For the reasons discussed above, the Commission finds that the amended proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰ that the proposed rule change, as amended, (SR-NASD-2004-057), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49875; File No. SR-NASD-2004-001]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Arbitrator Training Fees

June 16, 2004.

I. Introduction

On January 7, 2004, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Dispute Resolution, filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to revise the fees that are charged to its panel member arbitrators. On April 2, 2004, NASD filed Amendment No. 1 to the proposed rule change.³ Notice of the proposed rule change, as amended, was published for comment in the **Federal Register** on May 14, 2004.⁴ No comments were

received on the proposed rule change. This order approves the proposed rule change.

II. Description of Proposed Rule Change

The proposed rule change would amend the fees that are charged to its panel member arbitrators. Specifically, the proposal would 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.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁵ Specifically, the Commission believes that the increased fee that NASD proposes to charge for arbitrator training is consistent with Sections 15A(b)(5) and 15A(b)(6) of the Act. Section 15A(b)(5) requires that the rules of a registered national securities association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or controls. Section 15A(b)(6) requires, among other things, that the rules of a national securities association 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.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-NASD-2004-001) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49876; File No. SR-NASD-2004-016]

Self-Regulatory Organizations; Order Granting Approval 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

June 16, 2004.

I. Introduction

On January 29, 2004, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change amending NASD Rule 10314(a) to allow parties to complete part of the arbitration claim filing process through the Internet. 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 Notice of the proposed rule change, as amended, was published for comment in the **Federal Register** on May 14, 2004.⁵ No comments were received on the proposed rule change. This order approves the proposed rule change.

II. Description of Proposed Rule Change

Currently, to file an arbitration claim, NASD requests that the party voluntarily complete and remit, along with other documents, a Claim Information Sheet containing data about the claim and the parties. Upon receipt, NASD staff manually enters the claim data into its CRAFTIS computer system.⁶

The proposed rule change would permit, but not require, a claimant to file an arbitration claim by completing an online version of the Claim Information Form. The online version of

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 See Securities Exchange Act Release No. 49673 (May 10, 2004), 69 FR 26910.

⁶ CRAFTIS is the legacy software application that NASD Dispute Resolution uses to support its case administration function. It uses a non-Web-based technology platform.

¹⁰ *Id.*

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Mignon McLemore, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated April 2, 2004.

⁴ See Securities Exchange Act Release No. 49674 (May 10, 2004), 69 FR 26909.

⁵ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

the Claim Information Form would gather information similar to the paper Claim Information Sheet currently in use. Once the claimant has completed the Claim Information Form, the system would generate a Tracking Form that summarizes the claimant's entries for review and provides a tracking number for the claim. The claimant would then file a copy of the Tracking Form, the Statement of Claim (if it has not been submitted electronically with the Claim Information Form), an executed Uniform Submission Agreement, and the filing fee and hearing session deposit through the mail, as is the current practice.

Using the tracking number, NASD staff could locate the claimant's data, verify it, and then upload it into CRAFTIS. NASD staff would be able to analyze the claimant's file without having to manually input the data into CRAFTIS.

III. Discussion

For the following reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁷ Specifically, the Commission believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act, which requires, among other things, that NASD's rules 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. The Commission believes that the proposed rule change should enhance the efficiency of the NASD arbitration forum by providing a mechanism to process new claims expeditiously. The proposed implementation of the voluntary online claim notification procedure should expedite the case intake process, reduce manual data entry, and provide for more efficient claims intake and administration. Moreover, the implementation of a Web-based arbitration claim notification and filing system should streamline the claim filing process and provide global access to potential filers.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR–NASD–2004–016) be, and hereby is, approved.

⁷ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49872; File No. SR–NASD–2004–075]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Eliminate Certain Transaction Charges for ITS Securities

June 16, 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 29, 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 filed this proposed rule change pursuant to section 19(b)(3)(A)(ii) of the Act³ and Rule 19b–4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. On June 4, 2004, Nasdaq filed Amendment No. 1 to the proposed rule change.⁵ 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

Nasdaq proposes to amend NASD Rule 7010(d)(2) (“Computer Assisted Execution Service”) to eliminate certain transaction charges for the use of SuperMontage to trade Intermarket Trading System (“ITS”) securities.

⁹ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 C.F.R. 240.19b–4(f)(2).

⁵ See letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated June 3, 2004. Amendment No. 1 clarifies the proposed rule text and replaces the proposed rule change in its entirety.

Nasdaq will implement the proposed rule change on May 3, 2004.

The text of the proposed rule change appears below. New language is in *italics*.

* * * * *

7010. System Services

(a) through (c) No change.

(d) Computer Assisted Execution Service

The charges to be paid by members receiving the Computer Assisted Execution Service (CAES) shall consist of a fixed service charge and a per transaction charge plus equipment related charges.

(1) No change.

(2) Transaction Charges and Credits

(A) No change.

(B) No change.

(C) *There shall be no charge for an order entered by a member that accesses its own Quote/Order submitted under the same or a different market participant identifier of the member.*

(e) through (u) No change.

* * * * *

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 Commission recently approved Nasdaq's proposal to replace the Computer Assisted Execution System (“CAES”) with SuperMontage for the trading of all ITS securities.⁶ The purpose of this proposed rule change is to modify certain transaction charges under NASD Rule 7010(d) for the trading of ITS securities to conform with similar transaction charges under NASD Rule 7010(i) for Nasdaq-listed securities. Currently, under NASD Rule 7010(d)(2)(B), Nasdaq charges for orders to buy or sell ITS securities not listed on the New York Stock Exchange.

⁶ See Securities Exchange Act Release No. 49349 (March 2, 2004), 69 FR 10775 (March 8, 2004).