

### Application of Rules to All Member Firms

NASD Rules 3130 and 3131 generally provide that NASD may direct a member not to expand its business or to reduce its business if certain conditions are present for a period of 15 consecutive business days or more. NASD Rule 3130 exempts member firms with net capital requirements of \$50,000 or less; NASD Rule 3131 exempts government securities member firms with liquid capital requirements of \$50,000 or less.

NASD believes that these provisions should apply to all member firms regardless of their minimum capital requirements. NASD believes that, because capital compliance is fundamental to operating a broker-dealer, every firm that operates with inadequate capital poses a risk to other members and the investing public, and NASD believes that it should be able to take prompt action against any member that operates with inadequate capital. Accordingly, NASD proposes amendments to expand the scope of Rules 3130 and 3131 to include members with capital requirements of \$50,000 or less.

### Suspension of Members for Net Capital Violations

As described above, NASD Rules 3130 and 3131 allow NASD to require a member to take certain remedial actions if it is experiencing certain financial and/or operational deficiencies. The remedial actions could impose limitations on a member's business operations such that the member complies with net capital requirements applicable to the member's reduced business operations. However, in certain instances, NASD notes that a member may be operating with capital that is so inadequate that no limitation on its business activities could be imposed that would bring the firm into capital compliance. Alternatively, a member firm that is not in compliance with capital requirements may have such minimal operations that NASD could impose no meaningful limitation on the member's operations. As a result, NASD is proposing to expand the remedies available to it to address capital violations. Specifically, NASD proposes amendments that would require a member to suspend its business operations for any period of time during which it is not in compliance with applicable net capital requirements.

#### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions

of Section 15A(b)(6) of the Act,<sup>8</sup> which requires, among other things, that NASD 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. Specifically, NASD believes that the proposed rule change is intended to ensure that investors, the securities industry and the general public are not put at risk by members operating securities businesses without appropriate levels of capital.

#### 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.

#### 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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. Copies of such filing will also be available for inspection and copying at the principal office of NASD. All submissions should refer to File No. SR-NASD-2003-74 and should be submitted by August 21, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

**DATES:** Submit comments on or before September 29, 2003.

**ADDRESSES:** Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Sandra Johnston, Program Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street SW., Suite 8300, Washington, DC 20416

**FOR FURTHER INFORMATION CONTACT:** Sandra Johnston, Program Analyst, 202-205-7528 or Curtis B. Rich, Management Analyst, 202-205-7030.

#### SUPPLEMENTARY INFORMATION:

*Title:* "Statement of Personal History".

*Form No:* 1081.

*Description of Respondents:* Certified Development Companies.

*Annual Responses:* 300.

*Annual Burden:* 75.

*Title:* "Reports to SBA; Provisions of 13 CFR 120.472".

*Form No:* N/A.

*Description of Respondents:* Small Business Lending Companies.

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

<sup>9</sup> 17 CFR 200.30-3(a)(12).