

changes a due, fee, or other charge imposed by the self-regulatory organization. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### 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. 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 the NASD. All submissions should refer to File No. SR-NASD-2003-117 and should be submitted by September 17, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48379; File No. SR-NASD-2003-109]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Changes in Fingerprint Processing Fees Contained in Schedule A of the NASD By-Laws

August 20, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 10, 2003, 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. On August 7, 2003, NASD filed an amendment to the proposal.<sup>3</sup> 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 Section (4)(b) of Schedule A of NASD's By-Laws to: (1) Increase the \$10.00 charge for each set of fingerprints submitted by a member to NASD for processing to \$13.00; (2) establish a \$13.00 charge to be paid to NASD for posting each set of fingerprint results and identifying information that have been processed through another self-regulatory organization ("SRO") and submitted by a member to NASD; and (3) substitute the term "fingerprints" for "fingerprint cards." NASD intends for the fees to become operative on July 15, 2003. Below is the text of the proposed rule change. Proposed new language is in

italics; proposed deletions are in brackets.<sup>4</sup>

\* \* \* \* \*

#### Schedule A to NASD By-Laws

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of NASD shall be determined on the following basis.

Sections 1 through 3 No change.

#### Section 4—Fees

(a) No change.  
(b) NASD shall assess each member a fee of:

(1) through (3) No change.  
(4) [\$10.00] *\$13.00 for processing and posting to the CRD system each set of fingerprints* [each fingerprint card] submitted by the member to NASD, plus any other charge that may be imposed by the United States Department of Justice for processing [such] *each set of fingerprints* [card; and].

*(5) \$13.00 for processing and posting to the CRD system each set of fingerprint results and identifying information that have been processed through another self-regulatory organization and submitted by a member to NASD.*

[(5)] (6) \$30.00 annually for each of the member's registered representatives and principals for system processing.

[(6)] (7) 10% of a member's final annual renewal assessment or \$100, whichever is greater, with a maximum charge of \$5,000, if the member fails timely to pay the amount indicated on its preliminary renewal statement.

(c) 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, NASD included statements concerning the purpose of and the 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.

<sup>4</sup> At the NASD's request, the Commission made certain non-substantive, typographical changes to the proposed rule text to make it consistent with the current NASD rule text. Telephone conference between Shirley H. Weiss, Associate General Counsel, Office of General Counsel, Regulatory Policy and Oversight, NASD, and Christopher B. Stone, Special Counsel, Division of Market Regulation, Commission (July 22, 2003).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from Shirley H. Weiss, Associate General Counsel, Office of General Counsel, Regulatory Policy and Oversight, NASD, to Jonathan G. Katz, Secretary, Commission, dated August 6, 2003. ("Amendment No. 1"). In Amendment No. 1, NASD substituted in the first paragraph of Section I of Exhibit 1 of the filing the word "fingerprints" for the phrase "fingerprint images and identifying information" to make the introductory language of Section I consistent with the proposed rule text. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on August 7, 2003.

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