

approves the loan in writing. The five types of permissible lending arrangements are: (1) The customer is a member of the registered person's immediate family (as defined in the proposed rule); (2) the customer is in the business of lending money; (3) the customer and the registered person are both registered persons of the same firm; (4) the lending arrangements is based on a personal relationship outside of the broker-customer relationship; or (5) the lending arrangement is based on a business relationship outside of the broker-customer relationship.

III. Summary of Comments

As noted above, the Commission received two comment letters on the proposed rule change.⁶ CFP supported the proposal because it would more closely regulate lending arrangements between registered persons and customers.⁷ NASAA did not explicitly support or oppose the proposed rule change. However, NASAA endorsed further restrictions on loans between registered persons and customers.⁸ According to NASAA, lending arrangements that occur outside standard commercial channels can be problematic. Further, the potential for conflict is particularly great when business associates enter into loan arrangements outside the normal business relationship. NASAA referred to its Statement of Policy that prohibits "the practice of lending or borrowing money or securities from a customer."⁹

In its response letter, NASD stated that proposed NASD Rule 2370 would give its members the ability to prohibit all lending arrangements between their registered persons and customers.¹⁰ However, if permitted, proposed NASD Rule 2370 would establish strict conditions under which such lending arrangements could take place. Firms would be required to have written procedures in place evidencing their customer loan policy and loans would be limited to five permissible types of arrangements, which NASD staff identified as arrangements that might not be problematic because of the relationship between the registered person and the customer. In addition, according to NASD, proposed NASD Rule 2370 provides additional safeguards by establishing a notice and approval requirement. Thus, under proposed NASD Rule 2370, registered persons would be required to give their

firms prior notice of a loan, and firms would be required to pre-approve each loan in writing. These requirements would enable a member, to the extent it permitted these loan arrangements, to assess the nature of each proposed arrangement and decide whether to approve it. They also would enhance NASD's ability to review these arrangements during the examination process.

IV. Discussion

After careful consideration of the proposed rule change, the comment letters, and NASD's response, 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 association¹¹ and, in particular, the requirements of Section 15A of the Act¹² and the rules and regulations thereunder. Specifically, the Commission believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,¹³ which, among other things, requires 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.

While the Commission appreciates the concern raised by NASAA, the Commission believes that NASD has proposed sufficient safeguards that would enable members to proscribe customer-broker loans and to monitor and control lending arrangements, if permitted, through the notice and approval process. To the extent that a member decides to permit lending arrangements with customers in the limited circumstances allowed by the proposed rule, the rule would also require members to have written procedures to monitor such arrangements. As a result, the Commission also believes that the proposed rule change should enhance NASD's ability to monitor loans, when permitted, between registered persons and their customers.

The Commission notes that the safeguards provided under the rule, including bringing disciplinary actions for violations of the rule, are in addition to the general powers that NASD has to bring a disciplinary action against a registered person who has entered into an unethical lending arrangement with

a customer under NASD Rule 2110. For example, the notice requirement would place an affirmative obligation on registered persons that could be separately charged in a disciplinary action if not followed. Lastly, the Commission notes that this proposal has no effect on the application of Regulation T to such lending arrangements.¹⁴

V. Conclusion

For the foregoing reasons, the Commission finds that the proposal is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (File No. SR–NASD–2003–92) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–22656 Filed 9–4–03; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed

⁶ See *supra* note 4.

⁷ See CFP Letter.

⁸ See NASAA Letter.

⁹ *Id.*

¹⁰ See NASD Letter.

¹¹ In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78o–3.

¹³ 15 U.S.C. 78o–3(b)(6).

¹⁴ See 12 CFR 220.

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30–3(a)(12).