

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

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Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48965; File No. SR-NASD-2003-166]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. To Correct Inaccurate Descriptions of the Territorial Boundaries of Two NASD District Offices

December 19, 2003.

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 November 12, 2003, the National Association of Securities Dealers, Inc. ("NASD") 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 NASD. NASD amended the proposed rule change on December 18, 2003.³ NASD filed the proposed rule change pursuant to section 19(b)(3)(A)(i) of the Act,⁴ and Rule 19b-4(f)(1) thereunder,⁵ as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, which renders the proposed rule change effective upon filing with the Commission. 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

NASD proposes to amend Schedule B to the NASD By-Laws to correct the inaccurate descriptions of the territorial boundaries of two NASD District Offices. The text of the proposed rule change is available at NASD and at the Commission.

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. 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

The proposed rule change would amend Schedule B to the NASD By-Laws to correct inaccurate descriptions of Districts 9 and 10. Before 1997, the New York counties of Orange, Rockland, Putnam, and Westchester were assigned to NASD's District 10 office. In late 1997, during a reorganization of the District Offices, District 11 assumed responsibility for Orange, Rockland, Putnam, and Westchester counties. However, NASD failed to amend Schedule B to reflect this change.

In 2003, NASD conducted its most recent reorganization of the District Offices and, among other things, transferred responsibility for the New York counties of Orange, Rockland, Putnam, and Westchester from District 11 to District 9. After filing a rule change to Schedule B to the NASD By-Laws to reflect the Districts' new descriptions,⁶ NASD became aware that the 1997 change was never reflected in Schedule B, and that Schedule B still lists District 10 as being responsible for the New York counties of Orange, Rockland, Putnam, and Westchester. Accordingly, NASD is filing the proposed rule change to amend Schedule B to the NASD By-Laws to accurately align these counties within District 9.

⁶ See Securities Exchange Act Release No. 48488 (September 3, 2003), 68 FR 54762 (September 12, 2003) (SR-NASD-2003-138).

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,⁷ which requires, among other things, that NASD'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.

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

The foregoing proposal has become effective pursuant to section 19(b)(3)(A)(i) of the Act,⁸ and Rule 19b-4(f)(1)⁹ thereunder, in that it constitutes a stated policy and interpretation with respect to the meaning of an existing rule. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such 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. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-NASD-2003-166. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

⁷ 15 U.S.C. 78o-3(b)(6).

⁸ 15 U.S.C. 78s(b)(3)(A)(i).

⁹ 17 CFR 240.19b-4(f)(1).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See December 17, 2003 letter from Patricia M. Albrecht, Assistant General Counsel, Regulatory Policy and Oversight, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission ("Amendment No. 1"). In Amendment No. 1, NASD corrected a typographical error in the proposed rule text, and added language to clarify the reason for the proposed rule change. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have begun on December 18, 2003, the day NASD filed Amendment No. 1.

⁴ 15 U.S.C. 78s(b)(3)(A)(i).

⁵ 17 CFR 240.19b-4(f)(1).