

same schedule of fees that have been adopted by the NYSE and Amex. The proposed amendments to IM-2260 will also permit members to request reimbursement of expenses at less than the rates set forth in IM-2260, but it will require members to notify and obtain consent from the person soliciting proxies or the company for reimbursement at rates higher than the approved rates or for items or services not specifically referenced in IM-2260. The proposed rule change also advises members that they are not required to transmit more than one annual report, interim report, proxy statement or other material to beneficial owners with more than one account (including trust accounts), and that they may eliminate multiple transmissions of reports, statements or other materials to beneficial owners having the same address, provided they comply with applicable SEC rules. The proposed rule change will continue to provide that a member providing materials under NASD rule 2260 may not charge for envelopes that are furnished by the issuer, the trustee, or a person soliciting proxies. By conforming its proxy reimbursement guidelines to those adopted by the NYSE and Amex, NASD proposes to adopt reimbursement rates that it believes the Commission has already determined are reasonable and fairly allocated, do not discriminate among issuers, and do not impose any unnecessary burdens on competition.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A of the Act,⁸ in general and with section 15A(b)(6) of the Act,⁹ in particular, in that it is 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. NASD believes that the proposed rule change to IM-2260 is designed to accomplish these ends by providing NASD members with rates of reimbursement for expenses incurred in forwarding proxy and other materials that are fair and reasonable and consistent with fees charged by the NYSE and Amex.

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 and 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 with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A)¹⁰ of the Act and rule 19b-4(f)(6)¹¹ thereunder because the proposal: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.¹²

A proposed rule change filed under rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, pursuant to rule 19b-4(f)(6)(iii),¹³ the Commission may designate a shorter time if such action is consistent with the protection of investors and public interest. NASD has requested that the Commission waive the 30-day pre-operative waiting period because it believes that doing so will be consistent with the protection of investors and public interest.

The Commission, consistent with the protection of investors and the public interest, has waived the 30-day operative date requirement for this proposed rule change, and has determined to designate the proposed rule change as operative as of the date of filing to allow NASD to implement its revised proxy fee schedule immediately.¹⁴ The Commission notes that it has already considered and addressed issues that may be raised by this proposal when it approved a similar proposal by the NYSE, and designated a similar proposal by the Amex as

immediately effective upon filing.¹⁵ The Commission further notes that this proposal will allow for consistency in proxy fees between NASD, the NYSE, and, Amex. 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, 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 the Amex. All submissions should refer to File No. SR-NASD-2003-19 and should be submitted by March 21, 2003.

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

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3479]

Commonwealth of the Northern Mariana Islands (Amendment #2)

In accordance with information received from the Federal Emergency Management Agency effective February

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² As required under rule 19b-4(f)(6)(iii), NASD provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

¹³ 17 CFR 240.19b-4(f)(6)(iii).

¹⁴ For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

¹⁵ See NYSE Proposal, *supra* note 4 and Amex Proposal, *supra* note 7. The Commission notes that the NYSE Proposal was published for the full comment period and that the comments received were considered by the Commission and the NYSE.

¹⁶ 17 CFR 200.30-3(a)(12).

⁸ 15 U.S.C. 78o-3.

⁹ 15 U.S.C. 78o-3(b)(6).