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 in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–98–49 and should be submitted by May 31, 2000.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[46] that the proposed rule change (SR–Amex–98–49), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[47]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11611 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–M

[46] 15 U.S.C. 78s(b)(2).

[47] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42751; File No. SR–NASD–99–76]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. Relating to Amendments to the Code of Procedure and Other Provisions

May 3, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 28, 1999, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), 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 Regulation. On April 17, 2000, NASD Regulation amended its proposal.[3] 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 Regulation is proposing amendments to the NASD Code of Procedure and other provisions of the NASD Rules, that include: (1) Clarifying the Department of Market Regulation's role in disciplinary proceedings; (2) requiring members to designate, as the custodian of the record of the Form BDW, persons who are associated with the firm at the time the forms are filed; (3) clarifying the authority of hearing officers and making some limited changes to that authority; (4) clarifying the scope of the Association's document production requirements; (5) providing for hearing panel review of staff determinations to impose limitations on member firm's business activities because of financial and/or operational difficulties; (6) providing for changes to the process for appeals of disciplinary actions, statutory disqualification proceedings, and certain other accelerated proceedings; (7) providing for a streamlined process to impose bars or expulsions for the failure to provide information to the Association; and (8) providing for a process by which the Association can more expeditiously cancel memberships of firms that fail to meet the Association's eligibility and qualification standards. The text of the proposed rule change is available at the Office of the Secretary, the 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 Regulation included statements concerning the purpose of, and 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 Regulation 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 NASD Code of Procedure (the ''Code''), implemented on August 7, 1997, provides detailed requirements governing NASD Regulation's process for:

(1) Authorizing, litigating, and issuing disciplinary decisions;

(2) Providing for appeals of those decisions;

(3) Taking certain actions through categories of accelerated proceedings; and

(4) Determining requests for relief from statutory disqualifications.

Since August 7, 1997, the Association staff has had significant experience under the Code, and has noted certain areas that need to be clarified or changed. The Association is proposing a series of clarifying and substantive amendments to the Code and other provisions as described below.

Custodian of the Record. Firms often list persons not associated with the firms as custodians of records on the SEC Form BDW, and then the Association may have difficulty obtaining records when firms no longer conduct business. The Association is proposing to establish NASD Rule 3121 that would require members to designate, as the custodians of the record on the Form BDW, persons who are associated with the firms at the time the forms are filed.

Eligibility of Panel Members. In certain circumstances, the National Adjudicatory Council (NAC) or the Review Subcommittee of the NAC (Review Subcommittee) may appoint panels to conduct hearings. Under NASD Rule 1015, only one panel member can be from the NAC, unless a panel member is also a former NASD Regulation Director or NASD Governor. The Association believes that this unnecessarily limits the pool of potential panelists. The Association believes that members of the NAC possess specialized expertise that may not be fully utilized under the current rule language. Accordingly, the Association is proposing to eliminate this restriction.

Market Regulation's Role in Disciplinary Process. Both the Department of Market Regulation and the Department of Enforcement represent NASD Regulation in formal disciplinary matters under the Code. However, the disciplinary rules only refer to the Department of Enforcement as the representative of the Association

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 17, 2000 (''Amendment No. 1''). Amendment No. 1 made substantive changes to the proposed rule language, including the deletion of certain provisions in the 9300 Series, Review of Disciplinary Proceeding by National Adjudicatory Council and NASD Board; Application for Commission Review.

in these matters. The Department of Market Regulation also represents NASD Regulation under a delegation of authority from the Department of Enforcement, as stated in NASD Rule 9120(e). The Association is proposing amending the Code to clarify the Department of Market Regulation's role in the disciplinary process.

Investigations. The NASD Rule 8220 Series permits the Department of Enforcement to initiate proceedings to suspend or cancel membership from the Association or suspend the association of a person with a member based upon the failure to provide information. These proceedings may be initiated for the failure to provide information pursuant to an Association request or the failure to make required filings with the Association, such as FOCUS reports, or to keep membership applications or supporting documents current. Since the Rule 8220 Series proceedings are brought on an accelerated basis, the Association is proposing to amend the Rule 8220 Series to:

(1) As discussed below (under the heading *Failure To Respond*), limit the use of Rule 8220 Series proceedings to address the most serious on-going violations concerning associated persons and members who fail to provide the Association with requested information; and

(2) Limit the sanctions available under Rule 8220 proceedings to suspensions.

Finally, the Association is proposing to amend the service provision under the Rule 8220 Series to make it consistent with the service provision under the Rule 9530 Series, a similar rule series. The Association is proposing that both the Rule 8220 Series and the Rule 9530 Series service provisions permit personal service, service by facsimile, and service by overnight courier. The Association is further proposing to clarify that attempted delivery of a document by an overnight courier constitutes service under these provisions.

Service of Papers—Address Changes. NASD Rule 9134(b)(1) states that service of papers on a natural person in a disciplinary proceeding must be at the person's residential address as reflected in the Central Registration Depository (CRD). If the Association staff has actual knowledge that the person's residential CRD address is out of date, then in addition to service at the residential address as reflected in the CRD, service should also be make at the person's last know residential address and the CRD address of the firm with which the person is associated or affiliated, if he/she is currently in the industry. The Association is proposing to modify the rule to permit adjudicators to waive the requirement of sending papers to CRD addresses when they are no longer valid, and there is a more current address available. This change would only relate to documents served on respondents after complaints have been served.

Further, the Association is proposing to amend NASD Rule 9135(a) to clarify that complaints shall be deemed timely filed so long as they are either mailed or delivered to the Office of Hearing Officers within the two-year jurisdictional period, as outlined in the By-Laws.

Severance of Cases. NASD Rule 9214, ''Consolidation of Disciplinary Proceedings,'' authorizes the Chief Hearing Officer to order the consolidation of disciplinary hearings. The Association is now proposing to amend NASD Rule 9214 to state that the Chief Hearing Officer has authority to sever disciplinary proceedings involving multiple respondents into two or more proceedings. Under the rule proposal, the Chief Hearing Officer may order the severance of a disciplinary matter into two or more disciplinary proceedings, upon his or her own motion, or upon motion of a Party.

In determining whether to order the severance, the Chief Hearing Office shall consider: (1) Whether the same or similar evidence reasonably should be expected to be offered at each of the possible hearings; (2) whether the severance would conserve the time and resources of the Parties; and (3) whether any unfair prejudice would be suffered by one or more of the Parties if the severance is (not) ordered. If the Chief Hearing Officer issues an order to sever a disciplinary proceeding for which a Hearing Panel, or if applicable, Extended Hearing Panel has been appointed, the Chief Hearing Officer's order shall specify whether the same Hearing Panel or, if applicable, Extended Hearing Panel, shall preside over the severed disciplinary proceedings, or whether a new Hearing Panel(s) or, if applicable extended Hearing Panel(s), shall preside over all severed proceedings, based on the criteria set forth in NASD Rules 9231 and 9232.

Producing Documents. The Association is proposing amendments to NASD Rule 9253 to clarify the scope of the Association's document production requirements. NASD Rule 9251(a) requires Association staff to make available to respondents documents prepared or obtained by the staff in connection with the investigations that led to the institution of a disciplinary proceeding. Exceptions to the production requirements are listed in NASD Rule 9251(b), and include examination and inspection reports and internal employee communication. Notwithstanding these exceptions, documents containing the staff's investigative techniques might become discoverable under Rule 9253, if staff members are called as witnesses during hearings. NASD Rule 9253 requires Association staff to produce written statements made or adopted by staff members, if they relate to the subject matter of those persons' testimony. It also requires the staff to produce contemporaneously recorded recitals of oral statements made by witnesses, if those written statements are substantially verbatim.

The proposed modifications of NASD Rule 9253 clarify that the only portions of routine examination or inspection reports, internal employee communications, and any other internal documents that are required to be produced, under this rule, are the portions outlining the substance of (and any conclusions regarding) oral statement made by persons who are not employees of the Association when evidence of those statements are offered by Association staff during disciplinary hearings.

Amending Complaints. The Association is proposing to modify its rules regarding amending complaints to more closely follow the Federal Rules of Civil Procedure (''FRCP). The FRECP do not limit the types of amendments that may be made to complaints. NASD Rule 9212, however, only permits amendments to ''new matters of fact or law.'' The Association is proposing to amend the rule to eliminate this restriction. Thus, for instance, under the proposed rule change, the Association staff could amend complaints to include additional respondents. Further, the FRCP permit amendments to make complaints conform to the evidence presented. The Association is proposing to modify NASD Rule 9212 to permit such amendments. Also, the FRCP state that amendments to complaints will be freely granted when justice so requires. The Association is proposing to amend NASD Rule 9212 to state that amendments to complaints will be freely granted when justice so requires. Association staff will need to obtain hearing officer approval to amend complaints after answers have been filed.

Effective Dates of Sanctions. The Central Registration Depository currently sets the effective dates of the imposition of sanctions imposed under the Code by notifying respondents in

writing when fines are due and of the effective date of suspensions. The Association is proposing to amend NASD Rules 9216, 9268, 9269, and 9360 to state that the effective dates of sanctions are the dates set by the Association staff, unless stated otherwise in orders, decisions, or settlement agreements. As a result of these changes, the Association believes that IM–8310–2 is no longer needed and, accordingly, is proposing it be deleted. This change will not affect the NASD's policy of automatically staying the imposition of the fines, disgorgement and suspensions, pending review.

Summary Dispositions. NASD Rule 9264(a) authorizes either the Association or respondents to file motions to summarily dispose of ''any or all the causes of action in the complaint.'' This rule however, does not permit parties to move to eliminate issues that do not involve entire ''causes of actions.'' The Association is proposing to modify NASD Rule 9264(a) to track the language in the FRCP, which permits courts to dismiss issues.

Further, the Association is proposing to modify NASD Rule 9264 to authorize hearing officers to deny, grant, or defer motions to dismiss without referring the matter to the full panel. The authority to grant such motions would be limited to jurisdictional issues, such as whether the complaint was filed within the two-year jurisdictional period. The Association believes that Hearing Officers should be permitted to dismiss such motions which generally are technical legal questions, and do not require the input of industry representatives.

Default Decisions. NASD Rule 9269 provides that motions to set aside default decisions should be made to the Review Subcommittee or the NAC. The hearing officers who issue the default decisions, however, are particularly familiar with the matters. The Association is proposing to modify the rule to state that a motion to set aside a default decision should be made to the hearing officers that originally decided the motion for a default decision. If the hearing officer that issued the original order is not available, the Chief Hearing Officer shall appoint another hearing officer to decide the motion. Appeals from such denials could be made to the NAC or the Review Subcommittee.

Remand Cases. NASD Rule 9349 authorizes the NAC to remand disciplinary cases to hearing panels. The Association is proposing to amend NASD Rules 9344 and 9349 to clarify that the Review Subcommittee may also remand disciplinary cases to hearing panels.

Office of General Counsel. Under NASD Rules 9311 and 9312, the General Counsel of NASD Regulation is required to obtain Review Subcommittee or NAC authorization to order parties to brief particular matters. The General Counsel rarely seeks additional briefing on particular points, but where the General Counsel believes that additional briefing is necessary, the Review Subcommittee or the NAC would most likely order it. Thus, requiring the General counsel to seek authorization for additional briefing is an unnecessary use of resources. The Association is proposing that this requirement be eliminated. The Association is proposing to include in the rules a process by which parties may challenge, before the Review subcommittee or the NAC, requests for additional briefing made by the General Counsel.

Briefing Schedules. NASD Rule 9347(b) establishes briefing schedules for papers filed in NAC proceedings. The Association is proposing amending this rule to clarify that the time periods listed in the rule are only applicable to the principal briefing schedule and not applicable to the briefing of subsequent collateral issues.

Procedures for Regulation of Activities of a Member Experiencing Financing or Operational Difficulties. Under the NADA Rule 9410 Series, the Department of Member Regulation issues notices and holds initial hearings to determine whether members must limit their business activities as a result of financial and/or operational difficulties. Members can appeal Member Regulation's decisions to NAC, and the NAC or the Review Subcommittee will appoint a Subcommittee to participate in the review. The Association is proposing to amend the rule series to provide that firms may appeal limitations in notices issued by the Department of Member Regulation to hearing panels that will consist of a hearing officer and two other panelists. Under the proposal, the Department of Member Regulation would not hold hearings, and the NAC would not participate in matters handled under this rule series.

Currently, an NASD Governor may initiate the review of a decision issued by the NAC, under the NASD rule 9410 Series, not later than the next meeting of the NASD Board that is at least 15 days after the date on which the NASD Board reviews the proposed written decision of the NAC. The Association is proposing to replace this procedure with a mechanism by which the Executive Committee of the NASD Board may initiate the review of the hearing panel decision for a period of 15 days. Currently, the Department of Member Regulations's decision is stayed unless otherwise ordered by the NAC decision. The Association is proposing to modify this provision to provide that the Department of Member Regulation's recommendation is stayed unless ordered otherwise by the Executive Committee.

Other Proceedings. Two categories of expedited proceedings available under the NASD Rule 9510 Series are referred to as ''Summary Proceedings'' and ''Non-Summary Proceedings.'' The key differences between Summary and Non-Summary proceedings are that: (1) In a Summary Proceeding, the Association can impose sanctions against a member or associated person before a hearing is held and a final Association decision is served, whereas in a Non-Summary Proceeding, generally a hearing must be held and a final decision served before any sanction may be imposed; (2) a Summary Proceeding requires prior authorization by the NASD Board of Governors, whereas a Non-Summary Proceeding may be initiated by staff without Board involvement; and (3) while the various forms of Summary Proceedings are enumerated in Section 15A(h)(3) of the Act,[4] the othe reforms of expedited proceedings, including Non-Summary, are not.

The Association is proposing several amendments to the rules that govern the Code's Summary and Non-Summary Proceedings. Under the current rules, it is unclear as to whether hearing officers have all of the powers in Summary and Non-Summary Proceedings (the Rule 9500 Series) that they have in regular disciplinary proceedings (the Rule 9200 Series). The Association is proposing to add a provision to the NASD Rule 9500 series stating that: The hearing officer shall have authority to do all things necessary and appropriate to discharge his or her duties as set forth under Rule 9235.''

NASD Rule 9514(a)(1) requires that requests for hearings be filed within 7 days of receipt of suspension letters (or, with respect to notice of a pre-use filing requirement under Rule 2210(c)(4) and Rule 2220(c)(2), within 30 days of such notice). The Association is proposing to amend NASD Rule 9514(a)(2) to clarify that if the member or person subject to the notice does not timely request a hearing under Rule 9514(a)(1), the notice shall constitute final Association action.

NASD Rule 9514(d)(2) states that Non-Summary Proceedings held under

[4] 15 U.S.C. 78o–3(h)(3).

the Rule 9500 Series need to be held within 21 days after respondent requests a hearing. Hearing panels may, during the initial 21-day periods, extend the time in which the hearings shall be held by additional 21-day periods. The Association believes that these periods are too short, and is proposing amending the rule to extend the initial period to 40 days, with an additional 30 days of further extension. Since the suspension is not in effect during this time, this additional time will not prejudice respondents, and it will provide the staff and respondents with ample time to prepare for hearings.

NASD Rule 9516 gives firms/persons suspended or limited under these provisions the opportunity to become reinstated on the grounds of full compliance with the conditions of the suspension or limitation. The request needs to be filed with the department or office of the Association that acted as the party in the proceeding. If the department head denies reinstatement, the party may file a request for relief with the NASD Board, and the NASD Board must respond in writing within 14 days. The Association believes that the matters appealed, however, do not require NASD Board review. The Association is proposing that appeals under NASD Rule 9516 be addressed by the Review Subcommittee of the National Adjudicatory Council, rather than the NASD Board.

Eligibility Proceedings. The Association is proposing several changes to the NASD Rule 9520 Series that govern the process by which persons may become or remain associated with a member, notwithstanding the existence of a statutory disqualification or for a current member or person associated with a member to obtain relief from the eligibility or qualification requirements. First, the NASD Rule 9520 Series does not state whether extensions of time or waivers of time limitations for filing of papers or holding of hearings may be granted. The Association is proposing to create NASD Rule 9524(a)(5) that permits such actions by consent of all the parties. Further, the eligibility rules do not state whether the disqualification hearing panel or the NAC may order that the record be supplemented. The Association is proposing to create NASD Rule 9524(a)(3)(c) to permit the Hearing Panel to order the Parties to supplement the record with any additional evidence the Hearing Panel deems necessary.

NASD Rule 9524(b)(3) states that NASD Regulation's statutory disqualification recommendations become effective upon service on applicants. However, only the denials are effective upon service on applicants (subject to the applicant requesting a stay of effectiveness from the Commission). Approval decisions are not effective until the Commission has either sent an acknowledgment letter to NASD Regulation (usually within 30 days, and the SEC can request a further 60-day extension of that period), or the Commission has entered an order in cases that have involved a previously-entered SEC bar (there is no time limitation for the entry of such an order). The Association is proposing to amend this rule to reflect these points.

If a member files an application for relief under the eligibility rules, the NAC or the Review Subcommittee appoints a hearing panel composed of two or more members who are current or former members of the NAC or former Directors or Governors. The Association is proposing that NASD Rule 9524(a)(1) be amended to state that members of the Statutory Disqualification Committee may also serve on hearing panels.

NASD Rule 9524(a)(3) states that if the Association staff initiated the proceedings, the Association will give to the applicant all documents that were relied on by the Association in issuing its notice. However, most applications are started by member firms, not the Association. The Association is proposing to amend this rule to reflect this fact.

The Association is also proposing to amend NASD Rule 9524(a)(3) to provide that once an application is filed, CRD will gather all of the information necessary to process the application, including:

(1) CRD records for the disqualified member, sponsoring member, and/or disqualified person, and the proposed supervisor; and

(2) All of the information submitted by the disqualified member or sponsoring member in support of the application.

Proposed NASD Rule 9524(a)(3) would further provide that CRD will prepare an index of these documents, and simultaneously provide this index and copies of the documents to the disqualified member or sponsoring member, the Office of the General Counsel of NASD Regulation, and the Department of Member Regulation. The rule also would require the Department of Member Regulation to submit its recommendation and supporting documents to the hearing panel and the disqualified member or sponsoring member within 10 business days of the hearing, unless the parties otherwise agree. Similarly, the disqualified member or sponsoring member would be required to submit its documents to the hearing panel and the Department of Member Regulation within 10 business days of the hearing, unless otherwise agreed.

Amendments to the NASD Rule 9520 Series also concern the review procedures undertaken by Association staff in the case of certain disqualifying events. In particular, the Association is proposing to amend NASD Rule 9522(e) to permit members to submit a written request for relief (rather than an MC–400 application) in cases where the disqualified member or person is subject to an injunction that was entered 10 or more years prior to the proposed administration or association. Under Exchange Act Rule 19h–1,[5] the NASD is not required to provide any notice to the Commission of the proposed admission or association in these types of cases. The Association also proposes that members be able to file a written request for relief in cases where a member requests to change the supervisor of a disqualified person or where, for instance, the New York Stock Exchange has determined to approve the proposed association of a disqualified person and the NASD concurs with the determination. Member Regulation would also be granted discretion to approve the written request for relief in these cases, if it deemed such action to be consistent with the public interest and the protection of investors.

The Association also proposes to amend the NASD Rule 9520 Series to permit Member Regulation to approve an MC–400 application for relief in those cases where the disqualifying event is excepted from the ''full'' notice requirements of Rule 19h–1, but where a''short form'' notification to the Commission under Rule 19h–1 is still required. In these cases, the member would be required to file an MC–400, but Member Regulation would have the discretion to approve the application when consistent with the public interest and the protection of investors.

In addition, the Association is proposing new Rule 9523 to permit Member Regulation to recommend the membership or continued membership of a disqualified member or sponsoring member or the association or continuing association of a disqualified person pursuant to a supervisory plan. The procedures set forth in proposed NASD Rule 9523 are modeled on current Rule 9216 concerning Acceptance, Waiver, and Consent procedures, and are intended to avoid the requirement of a formal hearing and decision by the Statutory Disqualification Committee (and its hearing panels) in cases that

[5] 17 CFR 240.19h–1.

generally only involve the issue of what type of supervisory plan is appropriate for the disqualified member or person. Under proposed NASD Rule 9523, the member would be required to file an MC–400 application with the NASD. Member Regulation, however, would have the discretion to recommend the approval of the application in the event an appropriate supervisory plan is established. The member would be required to execute a letter consenting to the imposition of the supervisory plan. The letter and the supervisory plan would then be submitted to the Office of General Counsel and/or the Chairman of the Statutory Disqualification Committee for review and possible approval. While both the Office of General Counsel and the Committee Chairman would have authority to approve the application or refer it to the NAC, only the Committee Chairman would be permitted to reject the application.

Failure To Respond. As noted above (under the heading ''Investigations''), proceedings initiated under the Rule 8220 Series are designed to address the most serious on-going violations concerning associated persons and members that are failing to provide the Association with information. For this reason, these proceedings are brought on an accelerated basis.

The Association is proposing to create a new Rule 9540 Series that could be used against those who fail to provide the Association with information, required filings, or keep membership applications or supporting documents current. Under the proposed NASD Rule 9540 Series, the Association would send notices informing respondents that failure to provide the Association with previously requested information or required filings or the failure to keep its membership application or supporting documents current will result in suspensions, unless the information is provided to the Association within 20 days. Respondents would have five days to request hearings to challenge proposed suspensions. These hearings would be conducted before three-member hearing panels, and the hearing panels would have the authority to order any fitting sanctions, including expulsions and bars. Respondents who fail to request hearings to challenge the suspension during the six-month period following the receipt of notices initiating proceedings under this rule series will be automatically barred or expelled.

Further, the Association is proposing to include in the proposed NASD Rule 9540 Series a process by which the Department of Member Regulation could quickly cancel the memberships of firms that fail to meet the Association's eligibility and qualification standards. Under the proposal, the Association would send letters to members informing them that their memberships will be canceled within 20 days of receipt of the letters, unless the firm becomes eligible for continuance in membership within this time period. The members will be provided opportunities to request hearings within five days of service of the notices to challenge the proposed cancellations. The hearings would be held before Hearings Officers.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which require that the rules of an association 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. The NASD believes that the proposed rule change is consistent with Section 15A(b)(7) of the Act[7] in that it works to adequately safeguard the interests of investors while establishing fair and reasonable rules for its members and persons associated with its members. The rule change is consistent with Section 15A(b)(8) of the Act[8] in that it furthers the statutory goals of providing a fair procedure for disciplining members and associated persons.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will impose 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

On August 10, 1999, the proposed rule change was published for comment in NASD *Notice to Members Number 99–73.* No comments were received in response to the Notice to Members.

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

Within 35 days of the 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 NASD consents, the Commission will:

(A) By order approve the 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 at 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–99–76 and should be submitted by May 31, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–11610 Filed 5–9–00; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78o–3(b)(6).

[7] 15 U.S.C. 78o–3(b)(7).

[8] 15 U.S.C. 78o–3(b)(8).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42754; File No. SR–NASD–00–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. and Amendment No. 1 thereto Relating to the Entry of Locking/Crossing Quotations Prior to the Nasdaq Market Opening

May 3, 2000.

Pursuant to Section 19(b0(1) of the Securities Exchange Act of 1934