

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54872; File No. SR-NASD-2006-128]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Establishing an Effective Date for Amendments to NASD Rule 2340

December 5, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 15, 2006, 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 and II below, which Items have been prepared by NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is filing the proposed rule change to establish May 31, 2007 as the effective date for the amendments to NASD Rule 2340 (concerning customer account statements) that the SEC approved in September 2006.<sup>3</sup> The amendments require customer account statements to include a statement advising customers to promptly report any inaccuracy or discrepancy in their account to the introducing firm and clearing firm (where these are different firms) and to re-confirm any oral communication in writing. No changes are being proposed to NASD rule text.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its rule filing with the Commission, NASD 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 III 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

NASD is filing the proposed rule change to establish May 31, 2007 as the effective date for the amendments to NASD Rule 2340 (concerning customer account statements) that the SEC approved in September 2006. Consistent with recommendations made by the Government Accountability Office ("GAO"), the amendments to Rule 2340 will require customer account statements to include an advisory statement indicating that a customer should report promptly any inaccuracy or discrepancy in its account to its clearing firm and (if it is a different firm) its introducing firm. The advisory statement also would inform customers that any oral communications should be re-confirmed in writing to further protect the customer's rights, including rights under the Securities Investor Protection Act ("SIPA").

Pursuant to the SEC's approval of SR-NASD-2004-171, the amendments to Rule 2340 will go into effect on March 6, 2007. However, for several reasons, NASD seeks to delay implementation of these provisions until May 31, 2007. An implementation date of May 31, 2007 will conform to the proposed implementation date of a similar New York Stock Exchange LLC ("NYSE") rule change,<sup>4</sup> thereby reducing possible confusion for firms that are members of both self-regulatory organizations ("SROs"). In addition, consistent with recommendations made by the GAO, NASD has filed a related rule change, which generally would require members to advise all customers, in writing at the time of account opening, and at other specified times, that they may obtain information about the Securities Investor Protection Corporation ("SIPC") by contacting SIPC, and to provide such customers with SIPC's telephone number and Web site.<sup>5</sup> The NYSE also has filed a similar rule change,<sup>6</sup> and both NASD and NYSE are proposing a May 31, 2007 effective date for those related amendments. Finally, establishing May 31, 2007 as the effective date will give firms sufficient time to make necessary changes to their

customer account statements and procedures.

###### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>7</sup> which provides, among other things, that NASD 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. NASD believes that the proposed rule change is consistent with the provisions of the Act noted above because each customer will be advised to promptly report any discrepancies or inaccuracies in his or her account to his or her brokerage firm (both the clearing firm and introducing firm, where the customer's account receives services from both) and to re-confirm any oral communications in writing, thereby further protecting the customer's rights, including rights under SIPA. NASD further believes that extending the effective date will ensure that firms will have sufficient time to make the necessary changes to their account statements and procedures to be able to comply with the new SIPC disclosure requirements, and that dual members will not have conflicting effective dates.

##### 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.

##### 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. 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. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2006-128 on the subject line.

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

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

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

<sup>3</sup> See Securities Exchange Act Rel. No. 54411 (September 7, 2006), 71 FR 54105 (September 13, 2006), as corrected by Securities Exchange Act Rel. No. 54411A (October 6, 2006), 71 FR 61115 (October 17, 2006); SR-NASD-2004-171.

<sup>4</sup> See SR-NYSE-2005-09.

<sup>5</sup> See SR-NASD-2006-124.

<sup>6</sup> See SR-NYSE-2005-09.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-128. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to the File Number SR-NASD-2006-128 and should be submitted on or before January 4, 2007.

### IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act<sup>8</sup> for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. After careful consideration, the Commission finds that the proposed rule change is consistent with the Act, and in particular, with Section 15A(b)(6) of the Act,<sup>9</sup> which provides, among other things, that NASD 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. In particular, by conforming the effective date of this disclosure requirement with the effective date of similar disclosure

requirements of NASD and the NYSE, the proposal will reduce the possibility of confusion and will promote the effective implementation of these disclosure requirements.

Pursuant to Section 19(b)(2) of the Act,<sup>10</sup> the Commission finds good cause for approving the proposed rule change before the thirtieth day after the date of publication of notice of filing thereof. Accelerating approval will give NASD additional time to notify its members about the revised effective date for these amendments and help to ensure that firms have sufficient time to efficiently make the changes to their account statements and procedures needed to comply with this and related disclosure requirements.

### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-NASD-2006-128) is hereby approved on an accelerated basis.

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

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E6-21236 Filed 12-13-06; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54900; File No. SR-NSCC-2006-12]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Buy-Ins of Municipal Securities

December 8, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 16, 2006, the National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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

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

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to NSCC's rules concerning buy-ins of municipal securities.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.<sup>2</sup>

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to amend NSCC's rules to streamline the processing of continuous net settlement ("CNS") buy-ins of municipal securities. At the request of members and after consultation with the Buy-In Subcommittee of the Securities Industry Association, NSCC proposes to modify Rule 11 (CNS System), Procedure VII (CNS Accounting Operation) and Procedure X (Execution of CNS Buy-Ins) with respect to CNS buy-ins of municipal securities as set forth below.

Executions of buy-ins in municipal securities are governed by the rules of the Municipal Securities Rulemaking Board ("MSRB") and have a ten-day cycle from notification of intent to buy-in to buy-in execution. In contrast, buy-ins for equity and corporate bond securities have a two-day cycle.

Under NSCC's rules (except with respect to securities subject to a voluntary corporate reorganization), an NSCC member that has a long position at the end of any day ("originator") may submit to NSCC a Notice of Intention to Buy-In ("Buy-In Notice") specifying a quantity of securities not exceeding such long position that it intends to buy-in ("Buy-In Position"). The day the Buy-In Notice is submitted is referred to as N, and the succeeding days are referred to as N+1 and N+2. The Buy-In Position is given high priority for CNS allocations until expiration of the buy-in.

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 15 U.S.C. 78o-3(b)(6).