

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49021; File No. SR-NASD-2003-197]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Delay the Implementation Date of Amendments to Article VIII (District Committees and District Nominating Committees) of the By-Laws of NASD Regulation, Inc.

January 5, 2004.

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 December 29, 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 the NASD. NASD filed the proposal pursuant to Section 19(b)(3)(A)(i) of the Act,<sup>3</sup> and Rule 19b-4(f)(1)<sup>4</sup> thereunder, in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NASD is filing with the Commission a proposed rule change to delay, until February 1, 2004, the implementation date of amendments to Article VIII (District Committees and District Nominating Committees) of the By-Laws of NASD Regulation, Inc. that were established by SR-NASD-2003-55.<sup>5</sup> NASD filed SR-NASD-2003-55 to streamline the nomination and election processes governing NASD District Committees and District Nominating Committees ("Committees"), modernize communication procedures, and improve the consistency among the Committees across all districts. There is no change to the rule text associated with this rule filing. NASD

subsequently filed SR-NASD-2003-107 to delay the implementation date of the amendments to January 1, 2004 to avoid disrupting the 2004 election cycle, which was already underway.<sup>6</sup>

#### 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 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 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 purpose of the proposed rule change is to notify the Commission and other interested parties of the delay in implementation of amendments to Article VIII of the By-Laws of NASD Regulation, Inc. ("Article VIII") established by SR-NASD-2003-55 until February 1, 2004. On March 21, 2003, NASD filed a proposed rule change to streamline the nomination and election processes governing District Committees and District Nominating Committees, modernize communication procedures, and improve the consistency among the Committees across all districts. On June 11, 2003, the SEC published a notice of filing and immediate effectiveness of the proposed rule change.<sup>7</sup> The amendments were to become effective 30 days later. NASD submitted a subsequent rule filing to extend the implementation date of the amendments to January 1, 2004 because NASD's election cycle for District Committees and District Nominating Committees for 2004 was already underway and NASD did not want new rules to become effective in the middle of such election cycle.<sup>8</sup>

In this rule filing, NASD is proposing to extend the implementation date of the amendments to February 1, 2004. As the amendments to Article VIII were not effective prior to the start of the 2004 election cycle, NASD is conducting

these elections in accordance with the existing provisions of Article VIII. NASD believed that the 2004 election cycle would be completed by December 2003. However, a contested election in one of the Districts has resulted in a delay in the 2004 election cycle. NASD expects to have the 2004 District Committee and District Nominating Committee elections completed and certified by the end of January 2004 and, therefore, proposes to delay the implementation date of the amendments to Article VIII until February 1, 2004 in order to avoid any confusion among participants and to prevent any disruption in the election procedures that could be brought on by adopting amendments in the middle of the election cycle.

###### 1. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>9</sup> which require, among other things, that NASD 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. In addition, the proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act<sup>10</sup> and paragraph (f)(1) of Rule 19b-4<sup>11</sup> thereunder, in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. NASD believes that delaying the implementation date of the amendments to Article VIII of the By-Laws of NASD Regulation, Inc. until February 1, 2004 will permit this year's Committee elections to proceed in an orderly fashion under existing procedures. Any change to existing procedures in the middle of the current Committee election cycle may cause unnecessary confusion to participants and disrupt the election process.

##### 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.<sup>12</sup>

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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>11</sup> 17 CFR 240.19b-4(f)(1).

<sup>12</sup> Telephone conversation between Kosha Dalal, Assistant General Counsel, Office of General Counsel, NASD and Leah Mesfin, Attorney, Division of Market Regulation, Commission on January 2, 2004.

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>5</sup> See Securities Exchange Act Release No. 48105 (June 11, 2003), 68 FR 35926 (June 17, 2003).

<sup>6</sup> See Securities Exchange Act Release No. 48259 (July 30, 2003), 68 FR 46673 (August 6, 2003).

<sup>7</sup> See Securities Exchange Act Release No. 48015 (June 11, 2003), 68 FR 35926 (June 17, 2003).

<sup>8</sup> See Securities Exchange Act Release No. 48259 (July 30, 2003), 68 FR 46673 (August 6, 2003).

*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 proposed rule change has been filed by NASD as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act<sup>13</sup> and Rule 19b-4(f)(1) thereunder,<sup>14</sup> which renders the proposal effective upon receipt of this filing by the Commission.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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 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, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-NASD-2003-197. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 NASD. All submissions should refer to file number

SR-NASD-2003-197 and should be submitted by February 3, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04-612 Filed 1-12-04; 8:45 am]

**BILLING CODE 8010-01-U**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3559]**

**Commonwealth of Puerto Rico; Amendment #3**

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective December 19, 2003, the above numbered declaration is hereby amended to include the municipalities of Aibonito and Naranjito as disaster areas due to damages caused by severe storms, flooding, mudslides and landslides beginning on November 10, 2003 and continuing through November 23, 2003.

In addition, applications for economic injury loans from small businesses located in the contiguous municipalities of Barranquitas, Cidra, Comerio, and Corozal may be filed until the specified date at the previously designated location. All other municipalities contiguous to the above named primary municipalities have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is January 20, 2004, and for economic injury the deadline is August 23, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: December 22, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-596 Filed 1-12-04; 8:45 am]

**BILLING CODE 8025-01-P**

**SOCIAL SECURITY ADMINISTRATION**

**Statement of Organization, Functions and Delegations of Authority**

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S2 covers the Deputy Commissioner, Operations. Notice is given that

Subchapter S2R, the Office of Central Operations, is being amended to reflect the realignment of the Center for Management Support and the Center for Human Resources into one center; *i.e.*, the Center for Human Resources. The new material and changes are as follows:

**Section S2R.10 *The Office of Central Operations—(Organization):***

C. The Immediate Office of the Associate Commissioner, Office of Central Operations (S2R).

4. The Assistant Associate Commissioner for Management Operations and Support (S2RC).

Delete:

b. The Center for Management Support (S2RC2).

Reletter:

“c” to “b”;

“d” to “c”;

“e” to “d”;

“f” to “e”.

**Section S2R.20 *The Office of Central Operations—(Functions):***

C. The Immediate Office of the Associate Commissioner, OCO (S2R) provides internal operations and management support and assistance to the Associate Commissioner and all OCO components.

4. The Assistant Associate Commissioner for Management and Operations Support (S2RC) is responsible for the direction of six centers which perform systems, management, program, material resources, personnel management services, and security and integrity support functions for OCO.

Delete: “six” prior to the word “centers”.

Add: five

b. The Center for Management Support (S2RC2):

Delete: b in its entirety.

Reletter:

“c” to “b”;

“d” to “c”;

“e” to “d”;

“f” to “e”.

d. The Center for Human Resources (S2RC5): Add: 14. In the area of Labor Management and Employee Relations: Maintain responsibility for all aspects of the mid-term and impact and implementation bargaining process that pertain only to OCO; process grievances through all steps of the grievance procedure; in consultation with the Office of General Counsel, represent OCO managers at all stages of the arbitration process, including the preparation of position papers and briefs; and process all aspects of systems violations in accordance with guidance issued by the Office of Human Resources and the Deputy Commissioner for Operations.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>14</sup> 17 CFR 240.19b-4(f)(1).

<sup>15</sup> 17 CFR 200.30-3(a)(12).