

vehicle that provides PMMs with much-improved access to away markets on behalf of Public Customer orders they are holding.

With Linkage in place, the ISE believes that it is appropriate to be more specific regarding the PMM's obligations to "address" Public Customer orders when there is a better price on another market. Accordingly, the Exchange proposes to amend ISE Rule 803 to specify that the PMM must, as soon as practical, either execute the order at the best available price or send a P/A Order through Linkage to obtain the best price for the order. Proposed Supplementary Material .02 to ISE Rule 803 states that a PMM must act with due diligence in handling such Public Customers orders and must accord such orders priority over the PMM's principal orders.

## 2. Statutory Basis

The ISE believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,<sup>5</sup> in general, and section 6(b)(5) of the Act,<sup>6</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The ISE does not believe that the proposed rule change, as amended, imposes 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*

The Exchange has not solicited, and does not intend to solicit, comments on the proposed rule change, as amended. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Within 35 days of the date of 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 self-regulatory organization consents, the Commission will:

- (a) By order approve such 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 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 Section, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR-ISE-2003-03 and should be submitted by October 22, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48541; File No. SR-NASD-2003-122]

### **Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Proposal To Conduct Background Verification and Charge Application Fee for NASD Neutral Roster Applicants**

September 25, 2003.

On August 5, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. ("NASD Dispute Resolution") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to conduct background verification and charge an application fee for NASD neutral roster applicants. NASD does not propose any textual changes to the By-Laws or Rules of NASD.

The Commission published the proposed rule change for comment in the **Federal Register** on August 14, 2003.<sup>3</sup> The Commission received no comments relating to the proposal. This order approves the proposed rule change.

NASD maintains a pool of approximately 7000 available arbitrators. Currently, arbitrator applicants submit biographical profile forms, together with two letters of reference. The biographical profile forms require applicants to provide detailed information on their business and employment histories, education, training, possible conflicts, experience, expertise, associations with industry members, and other matters. The application also requires a narrative background information statement in which applicants are asked to explain why they believe their experience and knowledge would benefit the process. Attorneys and accountants are further directed to provide specific details about their practices.

Arbitrator information is entered into NASD's database and is provided to parties in the form of a disclosure report during the arbitrator selection process. Arbitrators must update this biographical information on a regular

<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 Release No. 48294 (August 6, 2003), 68 FR 48653 ("Notice of Proposal").

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

basis. NASD sends frequent reminders to arbitrators about the importance of this obligation, especially after they are notified regarding possible service as an arbitrator. NASD requires arbitrators in each case to affirm that they have reviewed their disclosure report and that it is accurate, and to complete a disclosure checklist attached to the oath. NASD provides each arbitrator on a panel with the co-panelists' biographical profiles in order to facilitate peer reviews for accuracy.<sup>4</sup>

In addition to gathering the above information, NASD currently checks records on the Central Registration Depository (CRD) for arbitrator applicants who have been registered with NASD, most of whom would be categorized as "non-public" arbitrators under NASD Rule 10308(a)(4). NASD currently does not verify any of the information provided by arbitrator applicants who do not have CRD records, most of whom would be classified as "public" arbitrators under NASD Rule 10308(a)(5).

NASD proposes to expand its verification of background information to cover all arbitrator applicants. NASD believes this will provide additional protection to parties using the Dispute Resolution forum, raise the standards of the neutral roster, and enhance investor confidence in the integrity of the forum.<sup>5</sup>

Specifically, NASD Dispute Resolution has identified a vendor to provide the following verification services:

- Criminal check in the county of the applicant's residence;
- Federal criminal check;
- Employment verification; and
- Professional license verification.

The verification fee will be \$80.00 per application. This fee will cover the vendor's expected charge for verification of each application, with the understanding that the actual work required to verify each application will vary. For example, some applicants will have only one employer over the past ten years, and some will have two or more. NASD believes that having a single, reasonable fee for background verification will be more practical administratively than charging different fees that vary depending on each applicant's background.<sup>6</sup> For this

amount, the vendor will perform county and federal criminal record checks; verify any professional licenses; and check the last employer or, if the applicant has been employed for fewer than ten years by the same employer, then the last two employers. To keep the fee reasonable, NASD will assume that verification of professional licenses provides an indirect check on the applicant's education, since licensing authorities generally verify an applicant's educational history. If the applicant does not have a professional license, however, then the vendor will substitute verification of the last degree awarded.

The background verification fee will be charged for new arbitrator applications that are received by NASD after the effective date of the proposed rule change. It will not apply to arbitrators currently on NASD's arbitrator roster who wish to update information they supplied previously. Applications received after the effective date will not be processed until NASD receives the proper fee.

NASD Dispute Resolution represents that the effective date of this proposal will be October 1, 2003.<sup>7</sup>

The Commission finds that the proposed rule change is consistent with the provisions of section 15A(b) of the Act,<sup>8</sup> in general, and furthers the objectives of section 15A(b)(6),<sup>9</sup> in particular, 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. The Commission believes that verifying background information and credentials for arbitrator applicants will protect investors and the general public and enhance the integrity of the arbitration process.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-NASD-2003-122) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>7</sup> *Id.*

<sup>8</sup> 15 U.S.C. 78o-3(b).

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

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

<sup>11</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF STATE

[Public Notice 4500]

### 30-Day Notice of Proposed Information Collection: Form DS-1648, Application for A, G, or NATO Visa; OMB Control Number 1405-0100

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

*Type of Request:* Revision of Currently Approved Collection.

*Originating Office:* Bureau of Consular Affairs, Department of State (CA/VO).

*Title of Information Collection:* Application for A, G, or NATO Visa.

*Frequency:* On occasion.

*Form Number:* DS-1648.

*Respondents:* Aliens applying for A, G or NATO visas.

*Estimated Number of Respondents:* 20,000 per year.

*Average Hours Per Response:* 30 minutes.

*Total Estimated Burden:* 10,000 hours per year.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

#### FOR FURTHER INFORMATION CONTACT:

Copies of the proposed information collection and supporting documents may be obtained from Brendan Mullarkey of the Office of Visa Services, U.S. Department of State, 2401 E St. NW, RM L-703, Washington, DC 20520, who may be reached on 202-663-1166. Public comments and questions should be directed to the State Department

<sup>4</sup> For additional information on procedures designed to reveal potential conflicts of interest, see Professor Michael A. Perino, *Report to the SEC Regarding Arbitrator Conflict Disclosure Requirements in NASD and NYSE Securities Arbitrations* (Nov. 12, 2002), available on the Commission's Web site, Market Regulation page, at: <http://www.sec.gov/pdf/arbconflict.pdf>.

<sup>5</sup> See Notice of Proposal, *supra* note 3.

<sup>6</sup> *Id.*