



VOICE OF INDEPENDENT BROKER-DEALERS
AND INDEPENDENT FINANCIAL ADVISORS

www.financialservices.org

VIA ELECTRONIC MAIL

April 16, 2007

Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: SEC File Number SR-NASD-2007-023

Dear Ms. Morris:

On March 19, 2007, the National Association of Securities Dealers, Inc. (NASD) filed with the Securities and Exchange Commission (SEC) a proposal to amend the NASD's By-Laws. If adopted, the By-Law amendments would implement certain governance and other related changes to accommodate the consolidation of the member firm regulatory functions of the NASD and NYSE Regulation, Inc. (NYSE Regulation). The SEC has published this notice to solicit comments on the NASD's amended proposed By-Law changes.¹ The Financial Services Institute² (FSI) appreciates this opportunity to comment on the NASD's proposed By-Law amendments.

Background on FSI Members

The proposed By-Law amendments are of particular interest to FSI and its members. Our independent broker-dealer (IBD) members have a number of similar business characteristics. They generally clear their securities business on a fully disclosed basis; primarily engage in the sale of packaged products, such as mutual funds and variable insurance products, by "check and application"; take a comprehensive approach to their clients' financial goals and objectives; and provide investment advisory services through either affiliated registered investment advisor firms or such firms owned by their registered representatives.

Our registered representative members are independent contractors, rather than employees of the IBD firms. These financial advisors are typically located in communities where they know their clients personally and provide them investment advice in face-to-face meetings – often times over the client's kitchen table. Most of their new clients come through referrals from existing clients or other centers of influence. Due to their close ties to the community in which they

¹ Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change To Amend the By-Laws of NASD To Implement Governance and Related Changes To Accommodate the Consolidation of the Member Firm Regulatory Functions of NASD and NYSE Regulation, Inc., 72 FR 14149 (March 26, 2007).

² The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed in 2004. Our members are broker-dealers, often dually registered as federal investment advisors, and their independent contractor registered representatives. FSI's 102 Broker-Dealer members have more than 128,000 registered representatives serving more than 14 million American households and generating in excess of \$11.3 billion in annual revenues. FSI also has more than 7,600 Financial Advisor members.

operate their small businesses, we believe these financial advisors have a strong incentive to make the achievement of their clients' investment objectives their primary goal.

Since its founding, FSI members have been actively involved in the NASD's governance structure. FSI's Chair John Simmers, CEO of ING Advisors Network, serves on the NASD Board of Governors. In 2006, five (5) FSI members were nominated and elected to NASD District Committees. Currently, more than twenty (20) FSI members serve on nine (9) of the eleven (11) District Committees. In addition, FSI members have and continue to serve on various other NASD standing committees including the NASD District Nominating Committees, the National Adjudicatory Council, and the Independent Dealer/Insurance Affiliate Committee. FSI members remain committed to active involvement in the regulation of their industry.

Comments on the Proposed By-Law Amendments

The proposed By-Law amendments provide for a new Board structure to govern the combined organization during both the initial transitional period and the period thereafter. During each of these periods, the majority of the Board will consist of Public Governors. The remaining Board members will represent the industry. These Industry Governors will include three appointed Governors – a Floor Member Governor, an Independent Dealer/Insurance Affiliate Governor, and an Investment Company Affiliate Governor. The remaining Industry Governors will represent firms of differing size – three (3) Small Firm Governors (representing firms of no more than 150 registered representatives), one (1) Mid-Size Firm Governor (representing firms of at least 151 and no more than 499 registered representatives, and three (3) Large Firm Governors (representing firms of 500 or more registered representatives). These Industry Governors will be nominated by a Nominating Committee and elected by those firms meeting the affiliated registered representative criteria for each group. The By-Law amendments also provide important definitions of relevant terms and delineate procedures for filling Governor vacancies during the Transitional Period, the composition of required Board Committees, and other relevant provisions.

On December 13, 2006, the FSI Board of Directors voted unanimously to endorse the merger of the regulatory functions of NASD and NYSE Regulation into a single, unified self-regulatory organization for the securities industry. This decision was based upon FSI's belief that the structure of the proposed organization would provide opportunities for broad and diverse industry involvement in the regulation of our industry, cost savings as a result of the elimination of unnecessary duplication and redundancy, greater efficiency in oversight, and improved investor protection efforts. FSI supports the proposed NASD By-Law amendments because they are (a) appropriately designed to facilitate the efficient and orderly consolidation of the member firm regulatory functions of the NASD and NYSE Regulation, (b) well formulated to assist in achieving the laudable goal of streamlining of the current broker-dealer regulatory system by permitting "the establishment of a single set of rules and group examiners with complementary areas of expertise in a single organization..."³, and (c) likely to result in an improvement in the regulator's customer protection efforts.

Opponents of the merger express concern that the proposed By-Law changes will result in the combined organization's Board being dominated by the large firms at the expense of the views and concerns of small firms. They argue that the combined organization should retain the NASD's current "one firm, one vote" election process for the selection of all Governors. FSI respectfully disagrees. The proposed By-Law amendments provide for substantial and important involvement of all segments of the industry in the governance structure of the resulting combined organization. The new regulatory authority's governance structure is, therefore, well designed to insure that neither the largest nor the smallest broker-dealer firms can dominate the Board.

³ 72 FR 14149.

Instead, firms of all sizes will have an opportunity for representation and involvement as important regulatory issues are discussed. FSI believes that this structure offers the best opportunity for balanced and effective regulation in furtherance of customer protection.

We remain committed to constructive engagement in the regulatory process and, therefore, support the proposed By-Law amendments and the resulting consolidation of the member firm regulatory functions of NASD and NYSE Regulation.

Again, thank you for the opportunity to comment on the proposed NASD By-Law amendments. Should you have any questions, please contact me at 770 980-8487.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dale E. Brown". The signature is fluid and cursive, with the first name "Dale" being the most prominent.

Dale E. Brown, CAE
Executive Director & CEO

pc: Honorable Christopher Cox
 Honorable Paul S. Atkins
 Honorable Roel C. Campos
 Honorable Annette L. Nazareth
 Honorable Kathleen L. Casey
 Erik R. Sirri
 Mary L. Schapiro
 Elisse B. Walter
 Marc Menchel