SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52947; File No. SR-NASD-2005-132)

December 13, 2005

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Session Fee Increase for the Regulatory Element of the Continuing Education Requirements of NASD Rule 1120

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 22, 2005, 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 has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the NASD under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b-4(f)(2) thereunder,[4] 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 proposing to amend Section 4 of Schedule A to the NASD By-Laws to increase the session fee for the Regulatory Element of the continuing education requirements of NASD Rule 1120. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in [brackets].

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

[2]   17 CFR 240.19b-4.

[3]   15 U.S.C. 78s(b)(3)(A)(ii).

[4]   17 CFR 240.19b-4(f)(2).

SCHEDULE A TO NASD BY-LAWS

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Section 4—Fees

(a) through (e) No change.

(f) There shall be a session fee of [$60.00] $75.00 assessed as to each individual who is

required to complete the Regulatory Element of the Continuing Education Requirements

pursuant to Rule 1120.

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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 Regulatory Element, a computer-based education program administered by NASD to

help ensure that registered persons are kept up-to-date on regulatory, compliance, and sales

practice matters in the industry, is a component of the Securities Industry Continuing Education

Program ("Program") under NASD Rule 1120. The Securities Industry/Regulatory Council on

Continuing Education ("Council")[5] was organized in 1995 to facilitate cooperative

industry/regulatory coordination of the administration and future development of the Program in

keeping with applicable industry regulations and changing industry needs. Its roles include

recommending and helping develop specific content and questions for the Regulatory Element,

defining minimum core curricula for the Firm Element component of the Program, and

developing and updating information about the Program for industry-wide dissemination.

It is the Council's responsibility to maintain the Program on a revenue neutral basis while

maintaining adequate reserves for unanticipated future expenditures.[6] In December 2003, the

Council voted to reduce the Regulatory Element session fee from $65 to $60 effective January 1,

2004, in order to reduce the reserves to a level necessary to support current and expected

programs and expenses. The Council decided to review the reserve level and evaluate the

Regulatory Element session fee on an annual basis. The 2004 financial review and evaluation

produced no change in the Regulatory Element session fee. In September 2005, the Council's

annual financial review and evaluation revealed that unless the Regulatory Element session fee

were adjusted, the Council's reserves were likely to be insufficient in 2006. The reasons for the

declining surplus are: (1) lower than projected session volume resulting in a significant decrease

in actual revenue over projected revenue; (2) higher delivery-related expenses beginning in 2006;

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[5]   The Council currently consists of 20 individuals, 14 of whom are securities industry
        professionals associated with NASD member firms, and six of whom represent self-
        regulatory organizations (the American Stock Exchange LLC, the Chicago Board
        Options Exchange, Inc., the Municipal Securities Rulemaking Board, NASD, the New
        York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.).

[6]   The Regulatory Element session fee was initially set at $75 when NASD established the
        continuing education requirements in 1995. The fee was reduced in 1999 to $65 and
        again in 2004 to $60. The proposed fee increase returns the Regulatory Element session
        fee to its original level.

and (3) costs associated with the rebuilding of PROCTOR®.[7] At its September 2005 meeting, the Council voted unanimously to increase the Regulatory Element session fee from $60 to $75, effective January 1, 2006, in order to meet costs and maintain an adequate reserve in 2006.

The proposed implementation date is January 1, 2006.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[8] in general, and furthers the objectives of Sections 15A(b)(5) and 15A(b)(6) of the Act in particular.[9] Section 15A(b)(5) of the Act requires, among other things, that NASD rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that NASD operates or controls. Further, Section 15A(b)(6) of the Act provides 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 designed to accomplish these ends by enabling the Program to be maintained on a revenue neutral basis while maintaining adequate reserves for unanticipated future expenditures.

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

NASD 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.

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[7]   PROCTOR® is a technology system that supports computer-based testing and training. The Regulatory Element program uses PROCTOR® to package content, deliver, score and report results, and maintain and generate statistical data related to the Program.

[8]   15 U.S.C. 78o-3.

[9]   15 U.S.C. 78o-3(b)(5) and (b)(6).

C.   Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

NASD has neither solicited nor received comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[10] and Rule 19b-4(f)(2) thereunder,[11] because it establishes or changes a due, fee, or other charge imposed by the NASD. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change 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.[12]

IV.   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. Please include File Number SR-NASD-2005-132 on the subject line.

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[10]   15 U.S.C. 78s(b)(3)(A)(ii).

[11]   17 CFR 240.19.b-4(f)(2).

[12]   15 U.S.C. 78s(b)(3)(C).

<u>Paper comments</u>:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-NASD-2005-132. 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 the filing also will be available for inspection and copying at the principal offices of the 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 File Number SR-NASD-2005-132 and should be submitted on or before [insert date 21 days from publication in the <u>Federal</u> <u>Register</u>].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz
Secretary

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[13]   17 CFR 200.30-3(a)(12).