

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-52352; File No. SR-NASD-2005-58)

August 26, 2005

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Relating to the Reporting of Data to Clearing Firms by Correspondent Firms

I. Introduction

On May 2, 2005, the National Association of Securities Dealers, Inc. (“NASD”) 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 amend NASD Rule 3150 and Rule 3230 governing the reporting of data to clearing firms by correspondent firms. On July 14, 2005, NASD filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as amended, was published for comment in the Federal Register on July 26, 2005.<sup>4</sup> The Commission received one comment letter on the proposed rule change.<sup>5</sup> This order approves the proposed rule change, as amended.

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

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

<sup>3</sup> Amendment No. 1, which replaced and superseded the original filing in its entirety, clarifies which piggybacking arrangements will be subject to the rule and modifies certain rule language to conform with other terms used in NASD rules.

<sup>4</sup> Securities Exchange Act Release No. 52059 (July 19, 2005), 70 FR 43204 (July 26, 2005).

<sup>5</sup> See letter from James Rogan, Chairman, SIA Clearing Firms Committee, Securities Industry Association (“SIA”), to Jonathan G. Katz, Secretary, Commission, dated August 12, 2005 (“SIA letter”).

## II. Description

NASD proposes to amend NASD Rule 3150 (governing reporting requirements for clearing firms) and NASD Rule 3230 (governing clearing agreements) to permit regulators and clearing firms to distinguish between data belonging to an introducing firm and data belonging to its “piggybacking” firm(s). Broker-dealers that contract for clearing services with an introducing firm are often referred to as “piggybacking” firms, or “piggybackers.” Under this arrangement, only the introducing firm has a contractual arrangement with the clearing firm, which clears for both the introducing firm and the introducing firm’s piggybacking firms. The proposed rule change would require clearing firms to report data to NASD about each piggybacking firm separately from the introducing firm’s own customer and proprietary data. The proposed rule change would apply only if the piggybacking relationship with the introducing firm is established on or after the effective date of the proposed rule change.

## III. Comment Received

The commenter discussed a concern that the SIA Clearing Firms Committee had with a prior version of the proposed rule change relating to which intermediary account relationships would be subject to the proposed rule change.<sup>6</sup> Specifically, the SIA letter stated that “we are please to see that...subsection (b) has now been modified so that Rule 3150 will only apply to intermediary clearing arrangements which are actually established after the effective date of the rule.”<sup>7</sup>

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<sup>6</sup> See SIA letter supra note 5.

<sup>7</sup> Id.

#### IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association<sup>8</sup> and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder.<sup>9</sup> The Commission finds specifically that the proposed rule change is consistent with the provisions of Section 15A(b)(6)<sup>10</sup> of the Act, which requires, 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. The Commission notes that the NASD proposal, as amended, will allow regulators and clearing firms to determine whether data being reported to clearing firms belongs to an introducing firm or a piggybacking firm. The Commission believes that this ability will enhance the surveillance component of NASD's National Examination Program and may facilitate any future Securities Investor Protection Corporation ("SIPC") liquidations of a broker-dealer.

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<sup>8</sup> In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78o-3.

<sup>10</sup> 15 U.S.C. 78o-3(b)(6).

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (File No. SR-NASD-2005-58), as amended, is approved.

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

Margaret H. McFarland  
Deputy Secretary

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

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