

**SECURITIES AND EXCHANGE COMMISSION**  
**(Release No. 34-49674; File No. SR-NASD-2004-001)**

**May 10, 2004**

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Arbitrator Training Fees**

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 January 7, 2004, the National Association of Securities Dealers, Inc. (“NASD”), through its wholly owned subsidiary, NASD Dispute Resolution (“NASD Dispute Resolution”), filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Dispute Resolution. On April 2, 2004, NASD filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

NASD is proposing to amend the fees that are charged to its panel member arbitrators. The text of the proposed rule change is available at the principal office of NASD and at the Commission.

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

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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> See letter from Mignon McLemore, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated April 2, 2004.

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

NASD proposes to raise the fee for panel member training from \$100 to \$125 for all applicants who register for the training after the proposed rule change becomes effective. This increase is intended to offset increased costs of providing the panel member training program, due primarily to increased room rental and staff travel costs. The proposed increase of \$25 per trainee also will allow NASD to increase the honorarium provided to arbitrators who serve as co-trainers for the programs.

Dispute Resolution staff plans to extend the length of the current four-hour training program to cover additional subject matter. Following approval of the proposed rule change, the usual panel member training program will consist of a four-hour morning session, followed by a two-hour afternoon session.<sup>4</sup> During the afternoon session, staff and the designated co-trainer, who is an arbitrator on the roster, will facilitate a videotaped training on civility. In light of the increased length of the training session, NASD plans to raise the honorarium of each co-trainer from \$300 for a four-hour program to \$400 for a six-hour program.

NASD believes the increase in the training fee will enable it to provide in-depth arbitrator training, which will improve the quality of the arbitrator roster. Moreover, NASD

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<sup>4</sup> NASD room rental expenses will not increase, because rates quoted are for the entire business day.

believes this nominal increase is an equitable allocation of reasonable fees among persons using an NASD system or facility.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association'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. NASD believes that the minimal increase in the in-person panel member training fee will help NASD improve the knowledge and experience of arbitrators and thus, improve the quality of the NASD arbitration forum.

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, as amended.

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

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 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](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2004-001 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-001. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection

and copying at the principal office of 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-2004-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>5</sup> 17 CFR 200.30-3(a)(12)

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Directory: C:\Documents and Settings\curryr\My Documents  
Template: C:\Documents and Settings\curryr\Application  
Data\Microsoft\Templates\Normal.dot  
Title:  
Subject:  
Author: Unknown  
Keywords:  
Comments:  
Creation Date: 5/10/2004 2:34 PM  
Change Number: 2  
Last Saved On: 5/10/2004 2:34 PM  
Last Saved By: us  
Total Editing Time: 4 Minutes  
Last Printed On: 5/10/2004 3:28 PM  
As of Last Complete Printing  
Number of Pages: 5  
Number of Words: 1,025 (approx.)  
Number of Characters: 5,846 (approx.)