

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50162; File No. SR-NASD-2004-078)

August 6, 2004

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. to Establish Certain Qualification Requirements for Supervisors of Research Analysts

On May 10, 2004, the National Association of Securities Dealers, Inc. (“NASD”), filed with the Securities and Exchange Commission (“SEC” or “Commission”), a proposed rule change to establish certain qualification requirements for supervisors of research analysts pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the Federal Register on June 23, 2004.³ The Commission received no comments on the proposal.

The proposed rule change amends NASD Rule 1022 to require supervisors of research analysts to pass the regulatory part (Series 87) of the Research Analyst Qualification Examination or the Series 16 Supervisory Analyst Examination administered by the New York Stock Exchange (“NYSE”).

NASD Rule 1050, which became effective on March 30, 2004, requires all persons associated with a member who are to function as research analysts to be registered as such with NASD and pass a qualification examination.⁴ Those individuals required to be registered as research analysts must pass the Research Analyst Qualification Examination (Series 86/87) or qualify for an exemption. The Series 86/87 consists of two parts: an analysis part (Series 86)

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 49857 (June 15, 2004), 69 FR 35106 (June 23, 2004).

⁴ See Securities Exchange Act Release No. 48252 (July 29, 2003), 68 FR 4575 (August 4, 2003).

that tests fundamental analysis and valuation of equity securities, and a regulatory part (Series 87) that tests knowledge of applicable rules.

In light of these new research analyst registration requirements and the scope and importance of the comprehensive analyst conflict rules that have been implemented recently, the proposal requires supervisors of research analysts to pass the regulatory part (Series 87) of the Research Analyst Qualification Examination or, for dual NASD-NYSE members, the NYSE Supervisory Analyst Examination (Series 16).

Under the proposed rule change, dual members would be required to have a principal who has passed either the Series 24 and the Series 87 or the Series 16 to supervise the content of research. If the member elects to have a Series 16 be responsible for supervising the content of research, then a Series 24 principal who has also passed either the Series 87 or the Series 16 would be responsible for supervising the conduct of both the Series 16 supervisory analyst and the research analyst.

The Commission believes that the proposed rule change should provide NASD members that are also members of the NYSE some flexibility in their supervisory structure for research analysts by allowing dual members to permit a principal who has passed either the Series 24 and the Series 87 or the Series 16 to supervise the content of research.

The Commission also believes that the proposal should promote investor protection by ensuring that persons responsible for reviewing and approving research reports and for providing general supervision of the conduct of research analysts have demonstrable knowledge of NASD Rule 2711 and other analyst conflict of interest laws, rules and regulations.

For the above reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association⁵ and, in particular, the requirements of Section 15A of the Act⁶ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Sections 15A(b)(6) and 15A(b)(9) of the Exchange Act.⁷

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act⁸, that the proposed rule change (File No. SR-NASD-2004-078) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland
Deputy Secretary

⁵ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78o-3.

⁷ 15 U.S.C. 78o-3(b)(6) and (9).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).