

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50575; File No. SR-NASD-2004-145)

October 20, 2004

Self-Regulatory Organizations; National Association of Securities Dealers, Inc; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 thereto Relating to Amendments to Section 4 of Schedule A to the NASD By-Laws (Fees for Qualification Examinations)

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 September 30, 2004, 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, and II below, which Items have been prepared by NASD. NASD has designated this proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the rule effective upon filing with the Commission.⁵ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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).

⁵ On October 13, 2004, the NASD filed Amendment No. 1 to the proposal. See letter from Shirley H. Weiss, Associate General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated October 13, 2004 (“Amendment No. 1”). Amendment No. 1 clarifies and makes minor edits to the purpose section and the proposed rule text.

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

NASD proposes to amend Section 4 of Schedule A to the NASD By-Laws, to establish examination fees that shall be assessed upon persons taking various qualification examinations as of January 1, 2005. The proposed rule change also lists the examination fees that NASD will publish in Schedule A regardless of whether the current examination fee will increase. Below is the text of the proposed rule change. Proposed new language is in italics. Deletions are in [brackets].

SCHEDULE A TO NASD BY-LAWS

* * * * *

Section 4--Fees

(a) and (b) No change

(c) [There shall be an examination fee of \$60.00 assessed as to each individual who is required to take an examination for registration as a registered representative pursuant to the provisions of the Rule 1030 Series, except that the examination fee for general securities representatives shall be \$110.00.] The following fees shall be assessed to each individual who registers to take an examination as described below as of January 1, 2005. [This] These fees [is] are in addition to the registration fee described in [Item] paragraph (b). [Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph (l) of this Section.]

<u>Series 4</u>	<u>Registered Options Principal</u>	<u>\$80</u>
<u>Series 6</u>	<u>Investment Company Products/ Variable Contracts Representative</u>	<u>\$70</u>

<u>Series 7</u>	<u>General Securities Representative</u>	<u>\$225</u>
<u>Series 9</u>	<u>General Securities Sales Supervisor - Options Module</u>	<u>\$60</u>
<u>Series 10</u>	<u>General Securities Sales Supervisor - General Module</u>	<u>\$95</u>
<u>Series 11</u>	<u>Assistant Representative- Order Processing</u>	<u>\$60</u>
<u>Series 17</u>	<u>Limited Registered Representative</u>	<u>\$65</u>
<u>Series 22</u>	<u>Direct Participation Programs Representative</u>	<u>\$70</u>
<u>Series 23</u>	<u>General Securities Principal Sales Supervisor Module</u>	<u>\$75</u>
<u>Series 24</u>	<u>General Securities Principal</u>	<u>\$85</u>
<u>Series 26</u>	<u>Investment Company Products/ Variable Contracts Principal</u>	<u>\$75</u>
<u>Series 27</u>	<u>Financial and Operations Principal</u>	<u>\$85</u>
<u>Series 28</u>	<u>Introducing Broker/Dealer Financial and Operations Principal</u>	<u>\$75</u>
<u>Series 37</u>	<u>Canada Module of S7 (Options Required)</u>	<u>\$150</u>
<u>Series 38</u>	<u>Canada Module of S7 (No Options Required)</u>	<u>\$150</u>
<u>Series 39</u>	<u>Direct Participation Programs Principal</u>	<u>\$75</u>
<u>Series 42</u>	<u>Registered Options Representative</u>	<u>\$60</u>
<u>Series 55</u>	<u>Limited Representative- Equity Trader</u>	<u>\$80</u>
<u>Series 62</u>	<u>Corporate Securities Limited Representative</u>	<u>\$70</u>

<u>Series 72</u>	<u>Government Securities Representative</u>	<u>\$80</u>
<u>Series 82</u>	<u>Limited Representative – Private Securities Offering</u>	<u>\$75</u>
<u>Series 86</u>	<u>Research Analyst - Analysis</u>	<u>\$150</u>
<u>Series 87</u>	<u>Research Analyst - Regulatory</u>	<u>\$105</u>

(1) Persons for whom any qualification examination is waived pursuant to Rule 1070 shall be assessed as an application fee the examination fee for each qualification examination so waived.

(2) There shall be a service charge equal to the examination fee assessed to each individual who, having made an appointment for a specific time and place for computer-based administration of an examination, fails to timely appear for such examination or timely cancel such appointment.

(3) There shall be a service charge fee of \$15.00 in addition to those fees specified above for any examination taken in a foreign test center located outside the territorial limits of the United States.

[(d) There shall be a New York Stock Exchange examination development fee of \$90.00 assessed as to each individual who takes a Series 7 examination for registration as a general securities representative. This fee is in addition to the registration and examination fees described in paragraphs (b) and (c) respectively.]

[(e) There shall be an examination fee of \$105.00 assessed as to each individual who takes a Series 86 examination for registration as a research analyst pursuant to Rule 1050. There shall be an examination fee of \$55.00 assessed as to each individual who takes a Series 87 examination for registration as a research analyst pursuant to Rule 1050. This fee is in addition

to the registration fee described in paragraph (b). Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph (l) of this Section.]

[(f) There shall be a New York Stock Exchange examination development fee of \$45.00 assessed as to each individual who takes a Series 86 or Series 87 examination for registration as a research analyst pursuant to Rule 1050. This fee is in addition to the registration and examination fees described in paragraphs (b) and (e) respectively.]

[(g) There shall be an examination fee of \$110.00 assessed as to each individual taking the General Securities-Sales Supervisor Examination. There shall be an examination fee of \$75.00 assessed as to each individual who is required to take any other examination for principals pursuant to the provisions of the Rule 1020 Series. Persons for whom an examination is waived pursuant to Rule 1070 shall pay a fee as set forth in paragraph (l) of this Section.]⁶

[(h) There shall be a service charge fee of \$15.00 in addition to those fees specified in (b), (c), (d), (e) and (f) above for any examination taken in a foreign test center located outside the territorial limits of the United States.]⁷

[(i) There shall be a service charge equal to the examination fee assessed as to each individual who, having made an appointment for a specific time and place for computer-based administration of an examination, fails to timely appear for such examination or timely cancel such appointment.]⁸

⁶ See Amendment No. 1, supra note 5.

⁷ Id.

⁸ Id.

(j) and (k) are renumbered (d) and (e).⁹

[(l) Each individual who is granted a waiver(s) for any qualification examination specified in paragraphs (c), (e), or (g) of this section shall be assessed as an application fee the examination fee as set forth in paragraph (c), (e), (f), or (g) for each qualification examination so waived.]¹⁰

(m) through (o) are renumbered (f) through (h).¹¹

* * * * *

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 had 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

NASD proposes to make certain changes in qualification examination fees. NASD also proposes to publish in Schedule A a list of all the qualification examinations that may be

⁹ Id.

¹⁰ Id.

¹¹ Id.

required and their corresponding fees, regardless of whether such fees are proposed to be changed or would remain the same under the proposed rule change.¹²

Any person associated with a member firm who is engaged in the securities business of the firm must register with NASD. As part of the registration process, securities professionals must pass a qualification examination to demonstrate competence in each area in which they intend to work. Some of these examinations are sponsored (i.e., developed) by NASD, and others are sponsored by the North American Securities Administrators Association ("NASAA"), the New York Stock Exchange ("NYSE"), the Municipal Securities Rulemaking Board ("MSRB"), or other self-regulatory organizations ("SROs").¹³ NASD administers these qualification examinations via computer through the PROCTOR[®] system at test centers operated by vendors under contract with NASD. NASD charges an examination fee to candidates for NASD-sponsored examinations. For those examinations sponsored by an NASD client and administered/delivered by NASD, NASD charges a delivery fee that comprises either a part or all of the examination fee for these examinations.

¹² NASD states that Section 4 of Schedule A currently identifies NYSE examination development fees of \$90.00 for the Series 7 examination and \$45.00 per examination for the Series 86 and 87 examinations. Under the proposed rule change, these development fees will continue to be part of the total examination fee charged to candidates, but they will no longer be separately identified in Schedule A. See Amendment No. 1, supra note 5.

¹³ For example, NASD administers and delivers the Series 6, 24, and 27 examinations, which are sponsored by NASD. NASD also administers and delivers client examinations, such as the Series 7, which is sponsored by NYSE, and the Series 9 and 10, which are sponsored jointly by several SROs (AMEX, CBOE, MSRB, NASD, NYSE, PCX, and PHLX).

NASD has not adjusted current examination fees for NASD-sponsored examinations or delivery fees for client-sponsored examinations since 1989. At present, these fees do not reflect the costs incurred by NASD for administering and delivering these examinations. These costs consist of operational, technology and delivery costs. Operational costs consist of salaries and overhead for NASD staff involved in test delivery technical support, customer support and service, and examination administration. Delivery costs vary based on the length of the examination because NASD pays its delivery vendors an hourly rate for seat time at test delivery centers.¹⁴

Technology costs are the costs associated with the PROCTOR® system, including system maintenance and enhancements. The PROCTOR® system provides the following capabilities: importation and storage of items within examination banks; statistical analyses against the examination bank; tracking candidates' enrollment windows, appointments and result records; use of the delivery driver at the test delivery centers; and exporting raw data on item performance. Technology costs also include the significant expense being incurred over the next two years for the PROCTOR® system redesign/rebuild. The current PROCTOR® system needs to be updated to incorporate more modern technology. The new system will be more reliable and will include many new features such as additional item (question) formats (short answer, matching, drag/drop), on-line exhibits, and advanced biometrics for greater security.

NASD represents that this proposed rule change would eliminate existing provisions relating to specific examinations. Specifically, the proposed rule change would list in Schedule

¹⁴ NASD provides a network of more than 400 test centers located throughout the United States and overseas operated by two commercial vendors.

All qualification examinations that may be required by NASD for its members, regardless of sponsor(s), and the corresponding fee that will be charged for each examination (whether the fee is proposed to be changed or remains the same). These fees represent the fees to be charged persons who register for one of these examinations beginning on January 1, 2005.¹⁵ NASD plans to conduct an annual review of its costs and adjust examination and delivery fees, if necessary, as of January 1 each year after making the appropriate rule filings.

Fee Changes

NASD recently conducted an analysis of the costs of developing, administering, and delivering qualification examinations. The analysis showed that NASD's costs are rising, particularly, with respect to technology and delivery costs. Thus, NASD proposes to raise examination fees for certain NASD-sponsored examinations. In addition, NASD has advised its client examination sponsors of the impact of the higher costs on delivery fees for client-sponsored examinations. Accordingly, NASD is proposing to raise the examination fees for the following examinations.

Series 4	Registered Options Principal (Sponsored jointly by AMEX, CBOE, NASD, NYSE, PCX, and PHLX)	From \$75 to \$80
Series 6	Investment Company Products/Variable Contracts Representative (NASD-sponsored)	From \$60 to \$70

¹⁵ The published fee represents the fee that will be charged at the time the individual registers for the examination. The individual then has 120 days to take the examination.

Series 7	General Securities Representative (NYSE-sponsored)	From \$200 to \$225
Series 9	General Securities Sales Supervisor - Options Module (Sponsored jointly by AMEX, CBOE, MSRB, NASD, NYSE, PCX, and PHLX)	From \$50 to \$60
Series 10	General Securities Sales Supervisor - General Module (Sponsored jointly by AMEX, CBOE, MSRB, NASD, NYSE, PCX, and PHLX) ¹⁶	From \$60 to \$95
Series 22	Direct Participation Programs Representative (NASD-sponsored)	From \$60 to \$70
Series 24	General Securities Principal (NASD-sponsored)	From \$75 to \$85
Series 27	Financial and Operations Principal (NASD-sponsored)	From \$75 to \$85
Series 55	Limited Representative-Equity Trader (NASD-sponsored)	From \$60 to \$80
Series 62	Corporate Securities Limited Representative (NASD-sponsored)	From \$60 to \$70

¹⁶ See Amendment No. 1, *supra* note 5.

Series 72	Government Securities Representative (NASD-sponsored)	From \$60 to \$80
Series 87	Research Analyst - Regulatory (sponsored jointly by NASD and NYSE)	From \$100 to \$105

Publication of Fee Schedule in Schedule A to NASD By-Laws

Notwithstanding whether the current examination fee will increase, NASD proposes to publish in Schedule A a schedule of all qualification examination fees that are delivered by NASD and that may be required by NASD for its members. NASD proposes to publish the following schedule:

Series 4	Registered Options Principal	\$80
Series 6	Investment Company Products/ Variable Contracts Representative	\$70
Series 7	General Securities Representative	\$225
Series 9	General Securities Sales Supervisor - Options Module	\$60
Series 10	General Securities Sales Supervisor - General Module	\$95
Series 11	Assistant Representative- Order Processing	\$60
Series 17	Limited Registered Representative	\$65
Series 22	Direct Participation Programs Representative	\$70
Series 23	General Securities Principal Sales Supervisor Module	\$75
Series 24	General Securities Principal	\$85

Series 26	Investment Company Products/ Variable Contracts Principal	\$75
Series 27	Financial and Operations Principal	\$85
Series 28	Introducing Broker/Dealer Financial and Operations Principal	\$75
Series 37	Canada Module of S7 (Options Required)	\$150
Series 38	Canada Module of S7 (No Options Required)	\$150
Series 39	Direct Participation Programs Principal	\$75
Series 42	Registered Options Representative	\$60
Series 55	Limited Representative- Equity Trader	\$80
Series 62	Corporate Securities Limited Representative	\$70
Series 72	Government Securities Representative	\$80
Series 82	Limited Representative – Private Securities Offering	\$75
Series 86	Research Analyst - Analysis	\$150
Series 87	Research Analyst - Regulatory	\$105

NASD will announce the implementation of the proposed rule change in a Notice to Members to be published no later than 30 days from the date the proposed rule change is filed with the Commission. The new fees will become effective for "120-day examination windows" opened in the Central Registration Depository (CRD[®]) on or after January 1, 2005.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,¹⁷ in general and with Section 15A(b)(5) of the Act,¹⁸ in particular which requires, among other things, that NASD's 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. NASD believes that the rule change is consistent with Section 15A(b)(5) of the Act¹⁹ in that the fee changes reflect NASD's increased costs in delivering the examinations and in maintaining and upgrading the examination delivery system.

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

NASD believes that the proposed rule change does not impose 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

The proposed rule change has become effective upon filing with the Commission,

¹⁷ 15 U.S.C. 78o-3.

¹⁸ 15 U.S.C. 78o-3(b)(5).

¹⁹ Id.

pursuant to Section 19(b)(3)(A)(ii) of the Act²⁰ and subparagraph (f)(2) of Rule 19b-4 thereunder,²¹ because it establishes or changes a due, fee, or other charge imposed by NASD. At any time within 60 days of the filing of the proposed rule change, as amended, 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2004-145 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-2004-145. 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

²⁰ 15 U.S.C. 78s(b)(3)(a)(ii).

²¹ 17 CFR 240.19b-4(f)(2).

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 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-2004-145 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.²²

Jill M. Peterson
Assistant Secretary

²² 17 CFR 200.30-3(a)(12).