

maker and the \$0.002 credit that it would receive if its order in SIZE had been accessed by another market participant.¹¹

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,¹² including section 15A(b)(5) of the Act,¹³ which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

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

Nasdaq 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

The foregoing rule change establishes or changes a due, fee, or other charge and, therefore, has become effective immediately pursuant to section 19(b)(3)(A)(ii) of the Act¹⁴ and rule 19b-4(f)(2) thereunder.¹⁵ At any time within 60 days of the filing of such 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.

¹¹ By contrast, when a market maker or ECN enters a non-directed or preferred order that accesses its own Quote/Order (*i.e.*, its proprietary quote, or a limit order that it has entered into SIZE or posted under its own MPID), it pays no order execution fee (but also receives no credit as a liquidity provider). Nasdaq believes that this added discount is an appropriate mechanism to ensure that market participants who undertake the burdens of continuous liquidity provision are provided benefits commensurate with their activities. Nasdaq also believes that the discount serves to encourage market makers and ECNs to enter orders into SuperMontage and thereby expose them to the full market, rather than internalizing them through their own proprietary crossing systems.

¹² 15 U.S.C. 78o-3.

¹³ 15 U.S.C. 78o-3(5).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁵ 17 CFR 19b-4(f)(2).

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-2003-30 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47539; File No. SR-NFA-2003-02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Futures Association Regarding the Interpretive Notice to NFA Compliance Rule 2-9 Concerning Ethics Training Requirements

March 19, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-7 under the Act,² notice is hereby given that on March 6, 2003, the National Futures Association ("NFA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared by the NFA. The Commission

¹⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(7).

² 17 CFR 240.19b-7.

is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA also has filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC").

On March 5, 2003, NFA submitted the proposed rule change to the CFTC for approval. The CFTC has not yet given such approval.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The proposed rule change adopts a new Interpretive Notice to NFA Compliance Rule 2-9 Concerning Ethics Training Requirements. The Interpretive Notice expands on the CFTC's Statement of Acceptable Practices for ethics training and provides additional guidance to firms in meeting their ethics training obligations.

Section 15A(k) of the Act³ makes NFA a national securities association for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products under section 15(b)(11) of the Act.⁴ Some of the firms that are affected by this rule change are broker-dealers registered under section 15(b)(11).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NFA has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

During examinations of its Member firms, NFA asks for feedback on any areas in which Members may need more guidance. One of the areas that has recently required some clarification is ethics training. In 2001, the CFTC issued a Statement of Acceptable Practices ("Statement") for ethics training. This Statement was designed to allow flexibility in the format, frequency and providers of ethics training, giving each firm the freedom to tailor training to suit their own operations. Also, firms are no longer

³ 15 U.S.C. 78o-3(k).

⁴ 15 U.S.C. 78o(b)(11).

required to submit ethics training information to NFA. Because the CFTC Statement is general in nature, Member firms have indicated that they would like NFA to provide some type of additional guidance.

In response, NFA's Board of Directors ("Board") adopted the proposed Interpretive Notice to assist NFA Members in interpreting the changes to the ethics training rules. The Interpretive Notice outlines these changes and discusses them in more detail than the CFTC's Statement. This guidance comes in the form of an Interpretive Notice because the Board considers ethics training to be an element of a Member's supervisory obligations under NFA Compliance Rule 2-9.

2. Statutory Basis

The rule change is authorized by, and consistent with, section 15A(k)(2)(D) of the Act.⁵

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

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act and the Commodity Exchange Act.

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

NFA did not publish the rule change to the membership for comment. NFA did not receive comment letters concerning the rule change.

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

The proposed rule change is not effective because the CFTC has not approved the proposed rule change.

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.⁶

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file

nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically to the following e-mail address: rule-comments@sec.gov. 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 these filings also will be available for inspection and copying at the principal office of NFA. Electronically submitted comments will be posted on the Commission's website (<http://www.sec.gov>). All submissions should refer to File No. SR-NFA-2003-02 and should be submitted by April 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47533; File No. SR-NFA-2003-01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Futures Association Regarding the Interpretive Notice to NFA Compliance Rule 2-9 Concerning Enhanced Supervisory Requirements

March 19, 2003.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-7 under the Act,² notice is hereby given that on March 6, 2003, the National Futures Association ("NFA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule changes described in Items I, II, and III below, which Items have been prepared by the NFA. The Commission is publishing this notice to solicit comments on the proposed rule changes

from interested persons. NFA also has filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC").

On March 5, 2003, NFA requested that the CFTC make a determination that review of the proposed rule change is not necessary. The CFTC made such a determination on March 17, 2003.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The proposed rule change makes two amendments to NFA's Interpretive Notice to NFA Compliance Rule 2-9 Concerning Enhanced Supervisory Requirements. The first amendment refines the triggering criteria to eliminate associated persons who worked at a Disciplined Firm for less than 60 days more than 10 years ago. The second amendment expands the definition of Disciplined Firm to include firms that are barred by the SEC or NASD because of deceptive sales practices involving security futures contracts.

Section 15A(k) of the Act³ makes NFA a national securities association for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products under Section 15(b)(11) of the Act.⁴ Some of the firms that are affected by this rule change are broker-dealers registered under Section 15(b)(11).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NFA has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Interpretive Notice entitled "Compliance Rule 2-9: Enhanced Supervisory Requirements" ("Notice") was originally issued in 1993 and has been amended and revised from time to time since then. On February 15, 2001, NFA's Board of Directors ("Board") adopted changes to the Notice to impose enhanced supervisory requirements on

⁵ 15 U.S.C. 78o-3(k).

⁶ 15 U.S.C. 78s(b)(1).

⁷ 17 CFR 200.30-3(a)(75).

¹ 15 U.S.C. 78s(b)(7).

² 17 CFR 240.19b-7.

³ 15 U.S.C. 78o-3(k).

⁴ 15 U.S.C. 78o(b)(11).