

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-54463; File No. SR-NASD-2006-100)

September 15, 2006

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Delivery of Options Disclosure Documents

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 August 17, 2006, 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, II and III below, which Items have been prepared by NASD. NASD filed the proposed rule change as a “non-controversial” rule change under Rule 19b-4(f)(6) under the Act,<sup>3</sup> which rendered the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NASD proposes to amend NASD Rule 2860 (Options) to (1) require that a copy of each amendment to the options disclosure document, Characteristics and Risks of Standardized Options (“ODD”), be distributed to each customer not later than the time of the delivery of a confirmation of a transaction in the category of options issued by The Options Clearing Corporation (“OCC”) to which the amendment pertains and (2) clarify that revisions to the Special Statement for Uncovered Option Writers (“Special Written Statement”) be distributed to each customer approved for writing uncovered short options not later than the time of the

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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> 17 CFR 240.19b-4(f)(6).

delivery of a confirmation of a transaction in options issued by the OCC. The text of the proposed rule change is available on NASD's Web site, <http://www.nasd.com>, at NASD's Office of the Secretary, and at the Commission's Public Reference Room.

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 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 is proposing revisions to the requirement to deliver amendments and/or revisions to the options disclosure documents in NASD Rule 2860 to conform to similar rules of other self-regulatory organizations.<sup>4</sup> Specifically, NASD is amending the rule to more clearly delineate the particular delivery requirements applicable to the ODD and the Special Written Statement.

Currently, NASD Rule 2860(b)(11)(A) requires that amendments and revisions to both disclosure documents be distributed to each customer not later than the time a confirmation of a transaction is delivered to each customer who enters into a transaction in options issued by the OCC. By contrast, the rules of the Options Exchanges require that amendments to the ODD be

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<sup>4</sup> See CBOE Rule 9.15; ISE Rule 616; Phlx Rule 1029; Amex Rule 926; and NYSE Rule 726 (collectively, "Options Exchanges").

distributed to each customer not later than the time a confirmation of a transaction in the category of options to which the amendment pertains is delivered to such customer.

NASD believes that the delivery of an amendment to the ODD is appropriately triggered by a customer transaction in an options contract to which such amendment pertains. Furthermore, the proposed rule change will harmonize NASD's rule for amendments to the ODD with those of the Options Exchanges.

In addition, through a new subparagraph (2), NASD is clarifying that revisions to the Special Written Statement be distributed to each customer having an account approved for writing uncovered short options not later than the time a confirmation of a transaction is delivered to each customer who enters into a transaction in options issued by the OCC. NASD states that the rules of the Options Exchanges do not address delivery of revisions to the Special Written Statement.

NASD has filed the proposed rule change for immediate effectiveness. NASD will announce the implementation date of the proposed rule change in a Notice to Members to be published no later than 60 days following the filing of the rule change with the Commission for immediate effectiveness. The implementation date will be 30 days after the date of the Notice to Members.

## 2. Statutory Basis

NASD believes that the proposed rule change is consistent with Section 15A(b)(6)<sup>5</sup> of the Act in that it is 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 is proposing the rule change to harmonize NASD's rule for delivery of amendments to

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<sup>5</sup> 15 U.S.C. 78q-3(b)(6).

the ODD with those of the Options Exchanges and to clarify members' delivery obligations for revisions to the Special Written Statement.

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

NASD does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

NASD has neither solicited nor received written comments on the proposed rule change.

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

Because the proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>7</sup>

At any time within 60 days of the filing of the 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 the furtherance of the purposes of the Act.<sup>8</sup>

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</sup> See 15 U.S.C. 78s(b)(3)(C).

#### 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-2006-100 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-100. 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 Room. 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-2006-100 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>9</sup>

Nancy M. Morris  
Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).