

preferred or convertible debt securities effected otherwise than on a securities exchange. There is an exception from the requirement for the Series 55 examination for any person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by, or is under common control with the member.

A committee of industry representatives, together with NASD Regulation staff, recently undertook a review of the Series 55 examination program. As a result of this review, NASD Regulation is proposing revisions to the Series 55 examination study outline to reflect changes in relevant laws, rules, and regulations covered by the examination, including Rules 11Ac1-5,<sup>10</sup> 11Ac1-6,<sup>11</sup> and 11Ac1-7<sup>12</sup> under the Act, as well as Regulation ATS.<sup>13</sup>

To adequately test the material covered in the revised examination, NASD Regulation is proposing to reorganize the substantive sections of the outline and to allocate questions to each section as follows: Nasdaq and Over-The-Counter Markets, 45 questions; Nasdaq Automated Execution and Trading Systems, 9 questions; Trade Reporting Requirements, 18 questions; and General Industry Standards, 28 questions. Consequently, NASD Regulation is proposing to increase the total number of multiple-choice questions on the Series 55 examination to 100 from 90.

NASD Regulation is proposing similar changes to the corresponding sections of the Series 55 examination selection specifications and question bank. The Series 55 examination will remain a 3-hour examination and the passing score for the examination will continue to be 70%.

## 2. Statutory Basis

NASD Regulation believes that the proposed revisions are consistent with the provisions of Sections 15A(b)(6)<sup>14</sup> and 15A(g)(3) of the Act,<sup>15</sup> which authorize the NASD to prescribe standards of training, experience, and competence for persons associated with NASD members.

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

NASD Regulation 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>16</sup> and Rule 19b-4(f)(1)<sup>17</sup> thereunder, in that the foregoing proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. NASD Regulation proposes to implement the revised Series 55 examination program on August 1, 2002.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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 proposal 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-2002-51 and should be submitted by May 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

Margaret H. McFarland,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45808; File No. SR-NASD-2002-50]

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Revisions to the Limited Principal—Direct Participation Programs (Series 39) Examination Program

April 24, 2002.

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 April 10, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated this proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization under section 19(b)(3)(A)(i) of the Act,<sup>3</sup> and Rule 19b-4(f)(1)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 Regulation is proposing revisions to the Limited Principal—

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>5</sup> See Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000.

<sup>10</sup> 17 CFR 240.11Ac1-5.

<sup>11</sup> 17 CFR 240.11Ac1-6.

<sup>12</sup> 17 CFR 240.11Ac1-7.

<sup>13</sup> 17 CFR 242.300-303.

<sup>14</sup> 15 U.S.C. 78o-3(b)(6).

<sup>15</sup> 15 U.S.C. 78o-3(g)(3).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>17</sup> 17 CFR 240.19b-4(f)(1).

Direct Participation Programs (Series 39) examination program. The proposed revisions update the Series 39 examination study outline,<sup>6</sup> selection specifications,<sup>7</sup> and question bank<sup>8</sup> to reflect changes to the laws, rules, and regulations covered by the examination and to reflect more accurately the duties and responsibilities of a direct participation programs principal. The proposed revisions also change the method for scoring the Series 39 examination. The proposed revisions do not result in any textual changes to the By-Laws, Schedules to the By-Laws, or Rules of NASD Regulation or the NASD.

## 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 Regulation 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 Regulation 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

Pursuant to Section 15A(g)(3) of the Act,<sup>9</sup> which requires the NASD to prescribe standards of training, experience, and competence for persons associated with NASD members, the NASD has developed examinations, and administers examinations developed by other self-regulatory organizations, that are designed to establish that persons associated with NASD members have attained specified levels of competence and knowledge. NASD Regulation periodically reviews the content of the examinations to determine whether

revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

The Series 39 examination is an NASD examination that qualifies an individual to function as a limited principal responsible solely for a member's activities with respect to equity interests in or the debt of direct participation programs. A committee of industry representatives, together with NASD Regulation staff, recently undertook a review of the Series 39 examination program. As a result of this review, NASD Regulation is proposing revisions to the Series 39 examination study outline to reflect changes in relevant laws, rules, and regulations covered by the examination, including rules concerning anti-money laundering as well as Regulations FD<sup>10</sup> and S-P,<sup>11</sup> and to reflect more accurately the duties and responsibilities of a direct participation programs principal.

Additionally, NASD Regulation is proposing to change the method for scoring the Series 39 examination. Currently, the Series 39 examination is graded based on two passing scores. Individuals taking the examination must obtain a score of 70% on the substantive section relating to compliance with financial responsibility rules and a score of 70% on the remaining substantive sections. Those individuals who fail either part must retake the Series 39 examination. NASD Regulation is proposing to combine both parts and require 70% as the passing score.<sup>12</sup> NASD Regulation also is proposing to reduce the total number of multiple-choice questions to 95 from 100. The testing time for the Series 39 examination will remain at 2 hours.

To adequately test the material covered in the revised examination,

NASD Regulation is proposing to reorganize the substantive sections of the outline and to allocate questions to each section as follows: Structure and Regulation of Direct Participation Program Offerings, 47 questions; Sales Supervision, General Supervision of Employees, Regulatory Framework of NASD, 31 questions; and Compliance with Financial Responsibility Rules, 17 questions.

NASD Regulation is proposing similar changes to the corresponding sections of the Series 39 examination selection specifications and question bank.

#### 2. Statutory Basis

NASD Regulation believes that the proposed revisions are consistent with the provisions of Sections 15A(b)(6)<sup>13</sup> and 15A(g)(3) of the Act,<sup>14</sup> which authorize the NASD to prescribe standards of training, experience, and competence for persons associated with NASD members.

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

NASD Regulation 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 proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>15</sup> and Rule 19b-4(f)(1)<sup>16</sup> thereunder, in that the foregoing proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. NASD Regulation proposes to implement the revised Series 39 examination program on August 1, 2002.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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.

<sup>6</sup> The text of the Series 39 study outline is available at NASD Regulation and at the Commission.

<sup>7</sup> NASD Regulation has requested confidential treatment for the Series 39 examination, and thus the specifications are omitted from this filing. The specifications have been filed separately with the Commission pursuant to Rule 24b-2 under the Act. 17 CFR 240.24b-2.

<sup>8</sup> Based upon instruction from the Commission staff, NASD Regulation is not filing the question bank for Commission review. See Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000.

<sup>9</sup> 15 U.S.C. 78o-3(g)(3).

<sup>10</sup> 17 CFR 243.100-103.

<sup>11</sup> 17 CFR 248.1-18; 17 CFR 248.30; and 17 CFR 248, Appendix A.

<sup>12</sup> NASD Rules 1022(b) and 1022(c) were recently amended to require members that are subject to Rule 15c3-1 under the Act to have at least one associated person registered as a financial and operations principal. 17 CFR 240.15c3-1. See Securities Exchange Act Release No. 44332 (May 21, 2001), 66 FR 29196 (May 29, 2001) (Order approving SR-NASD-2000-77). In light of these amendments, NASD Regulation believes that it is no longer necessary for an individual who is qualifying as a direct participation programs principal to pass a separately scored substantive section of the examination relating to financial responsibility. Accordingly, NASD Regulation is proposing to combine the substantive section relating to compliance with financial responsibility rules with the other substantive sections and to require one passing score for the entire examination. Additionally, as discussed below, NASD Regulation is proposing to decrease the number of questions in the substantive section relating to compliance with financial responsibility rules to 17 questions from 24 questions.

<sup>13</sup> 15 U.S.C. 78o-3(b)(6).

<sup>14</sup> 15 U.S.C. 78o-3(g)(3).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(1).

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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-2002-50 and should be submitted by May 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45809; File No. SR-NASD-2002-52]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Revisions to the Limited Representative—Direct Participation Programs (Series 22) Examination Program

April 24, 2002.

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 April 10, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed

rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated this proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization under section 19(b)(3)(A)(i) of the Act,<sup>3</sup> and Rule 19b-4(f)(1)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 Regulation is proposing revisions to the Limited Representative—Direct Participation Programs (Series 22) examination program. The proposed revisions update the Series 22 examination study outline,<sup>6</sup> selection specifications,<sup>7</sup> and question bank<sup>8</sup> to reflect changes to the laws, rules, and regulations covered by the examination and to reflect more accurately the duties and responsibilities of a direct participation programs representative. The proposed revisions do not result in any textual changes to the By-Laws, Schedules to the By-Laws, or Rules of NASD Regulation or the NASD.

#### 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 Regulation 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.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>5</sup> See Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000.

<sup>6</sup> The text of the Series 22 study outline is available at NASD Regulation and at the Commission.

<sup>7</sup> NASD Regulation has requested confidential treatment for the Series 22 examination, and thus the specifications are omitted from this filing. The specifications have been filed separately with the Commission pursuant to Rule 24b-2 under the Act. 17 CFR 240.24b-2.

<sup>8</sup> Based upon instruction from the Commission staff, NASD Regulation is not filing the question bank for Commission review. See Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000.

NASD Regulation 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

Pursuant to Section 15A(g)(3) of the Act,<sup>9</sup> which requires the NASD to prescribe standards of training, experience, and competence for persons associated with NASD members, the NASD has developed examinations, and administers examinations developed by other self-regulatory organizations, that are designed to establish that persons associated with NASD members have attained specified levels of competence and knowledge. NASD Regulation periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

The Series 22 examination is a limited representative qualification examination for a person associated with a member whose activities in the investment banking and securities business are limited solely to the solicitation, purchase, and/or sale of equity interests in or debt of direct participation programs. A committee of industry representatives, together with NASD Regulation staff, recently undertook a review of the Series 22 examination program. As a result of this review, NASD Regulation is proposing revisions to the Series 22 examination study outline to reflect changes in relevant laws, rules, and regulations covered by the examination, including rules concerning anti-money laundering as well as Regulations FD<sup>10</sup> and S-P,<sup>11</sup> and to reflect more accurately the duties and responsibilities of a direct participation programs representative.

To adequately test the material covered in the revised examination, NASD Regulation is proposing to reorganize the substantive sections of the outline and to allocate questions to each section as follows: Investment Entities for Direct Participation Programs, 12 questions; Types of Direct Participation Programs, 11 questions; Offering Practices Applicable to Direct Participation Programs, 14 questions; Tax Issues Applicable to Direct Participation Programs, 20 questions;

<sup>9</sup> 15 U.S.C. 78o-3(g)(3).

<sup>10</sup> 17 CFR 248.100-103.

<sup>11</sup> 17 CFR 248.1-18; 17 CFR 248.30; and 17 CFR 248, Appendix A.

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

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.