exchanges and quoted in the OTCBB by NASD members.

it is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved for an interim period through January 31, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12)

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34–35168; File No. SR-NASD-94-77]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating To Granting the Director of Arbitration the Authority to Delegate Duties Under the Code of Arbitration Procedure

December 29, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1994, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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

The NASD is proposing to amend Section 3 of the Code of Arbitration Procedure ¹ to expressly provide that the Director of Arbitration may delegate decision making authority as appropriate. Below is the text of the proposed rule change. Proposed new language is in italics; proposed elections are in brackets.

Code of Arbitration Procedure

Director of Arbitration

Sec. 3. The Board of Governors of the Association shall appoint a Director of Arbitration ("Director") who shall be charged with the performance of all administrative duties and functions in connection with matters submitted for arbitration pursuant to this Code. *The Director* [He] shall be directly

responsible to the National Arbitration Committee and shall report to it at periodic intervals established by the Committee and at such other times as called upon by the Committee to do so. The duties and functions of the Director may be delegated by the Director, as appropriate. In the event of the incapacitation, resignation, removal, or other permanent or indefinite inability of the Director to perform the duties and responsibilities of the Director, the President or an Executive Vice President of the Association may appoint an interim Director.

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

In its filing with the Commission, the 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. The 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 Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The current provisions of Section 3 of the Code provide for the appointment of a Director of Arbitration by the NASD Board of Governors to perform all administrative duties and functions in connection with matters submitted to the NASD for arbitration. The Director has found it necessary to delegate certain functions of the Director to senior management employees of the NASD's Arbitration Department, especially as a result of the significant growth in the Department's staff and workload. The NASD believes this delegation power is inherent in the authority of the Director to manage the functions of the NASD's Arbitration Department. Nevertheless, the NASD is proposing to amend Section 3 of the Code to expressly provide for such delegation.

The proposed rule change to Section 3 provides that the duties and functions of the Director may be delegated by the Director as appropriate. Further, in the event that the Director is incapacitated, resigns, is removed or is permanently or indefinitely disabled from the performance of the duties and functions of the Director, the proposed rule change provides that the President of

the Association or an Executive Vice President may appoint an interim Director to perform this functions and responsibilities of the Director.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b) of the Act ² in that the proposed rule change will protect investors and the public interest by avoiding disruptions and uncertainly about the authority to Act under the Code by permitting the duties and functions of the Director to be delegated by the Director and by permitting certain other NASD officers to appoint an interim Director if certain circumstances render the Director unable to discharge the duties vested in the Director.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD 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

The proposed rule change was published for comment by the SEC as part of SR–NASD–93–51 in Securities Exchange Act Release No. 33108 (October 26, 1993), 58 FR 58573 (November 2, 1993). No comments were received by the SEC specifically directed at the proposed amendment to Section 3.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

 $^{^1\,}N\!ASD\,Manual$, Code of Arbitration Procedure, (CCH) ¶ 3703.

² 15 U.S.C. § 78o-3.