

agreement actionable as a violation of Article III, Section 1 of the Rules of Fair Practice. The amendment is limited to settlement agreements that have been reduced to writing and have been executed. The amendment, therefore, will not encompass unexecuted settlements.

## 2. Use of Revocation Procedures

In 1993, the NASD amended Article VI, Section 3 of the By-laws to specify that a membership or registration could be suspended or cancelled on fifteen (15) days notice for failing to honor an arbitration award rendered in an NASD arbitration. The use of such an expedited or "revocation" proceeding was limited to awards in NASD sponsored proceedings because the NASD's oversight of the arbitration process provided greater assurance about the awards that would be enforced in such proceedings.<sup>4</sup>

The NASD believes that the failure by a member or an associated person of a member to honor settlement agreements entered into in connection with an arbitration proceeding or mediation sponsored by the NASD should be subject to the same revocation proceedings as are arbitration awards. Accordingly, the NASD is also proposing to amend Article VI, Section 3 of the By-Laws to specify that membership or registration can be suspended or cancelled on fifteen (15) days notice for failing to honor a settlement agreement obtained in connection with an NASD arbitration or mediation. The action of the NASD under Article VI, Section 3 of the By-Laws with respect to failure to honor settlement agreements will be conducted as a revocation proceeding pursuant to the provisions of Article VI of the Code of Procedure, which provides an opportunity for review of the NASD's action upon written request of the member or associated person.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act<sup>5</sup> in that forcing members or associated persons of a member to abide by settlement agreements entered into in

compromise of a dispute pending in arbitration or mediation will enhance the effectiveness of arbitration and mediation as alternative dispute resolution forums and eliminate the unfair impact and waste of resources experienced by the public, other litigants and the arbitration/mediation forum that results from the failure to honor a settlement agreement.

### *(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*

Written comments were neither solicited nor received.

## 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 Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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-95-20 and should be submitted by July 11, 1995.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Rel. No. IC-21135; 812-9616]

## National Equity Trust, et al.; Notice of Application

June 14, 1995.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** National Equity Trust and Prudential Securities Incorporated ("Prudential").

**RELEVANT ACT SECTIONS:** Order requested under sections 6(c) and 17(b) of the Act that would exempt applicants from section 17(a) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order to permit a terminating series of a unit investment trust to sell portfolio securities to a new series of the trust.

**FILING DATE:** The application was filed on May 26, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 10, 1995 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Prudential Securities Incorporated, Unit Trust Department, One New York Plaza, New York, New York 10292, Attn.: Kenneth Swankie.

**FOR FURTHER INFORMATION CONTACT:** Deepak T. Pai, Staff Attorney, at (202) 942-0574, or Robert A. Robertson,

<sup>4</sup> Revocation proceedings initiated under Article VI, Section 3 of the By-Laws are conducted pursuant to Article VI of the NASD's Code of Procedure. As such they are subject to review by a hearing panel upon request of the member or associated person. The use of Article VI of the Code of Procedure for such proceedings was initiated in connection with the NASD's adoption of an amendment to Article VI, Section 3 of the By-Laws relating to failure to pay arbitration awards. See, SR-NASD-91-73, approved by the SEC in Securities Exchange Act Release No. 31763 (January 28, 1993).

<sup>5</sup> 15 U.S.C. 78o-3.

<sup>6</sup> 17 CFR 200.30-3(a)(12).