by MSRB rules require ultimate supervision by someone who knows these rules.

The fact that MSRB rules apply at all results, of course, from the Exchange Act and not because the MSRB has sought to regulate municipal fund securities. Dealers selling mutual fund IRA accounts and municipal bond mutual funds are not required to comply with MSRB rules because these securities are not municipal securities and are instead subject to regulation under other regulatory schemes. In contrast, municipal fund securities are municipal securities and therefore are subject to MSRB rules and exempt from most other provisions of federal securities laws (such as the Securities Act and the Investment Company Act).

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

Within 35 days of the 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 the 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, including whether the proposed rule is consistent with the Exchange 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 submissions, 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 the filing will also be available for inspection and copying at the MSRB's principal offices. All submissions should refer to File No. SR–MSRB–2002–03 and should be submitted by April 24, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–8041 Filed 4–2–02; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45663; File No. SR–NASD–2002–38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to the Replacement of an Arbitrator Upon Disqualification or Other Disability of an Arbitrator

March 27, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 13, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution''), 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 Dispute Resolution. NASD Dispute Resolution amended its proposal on March 22, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

NASD Dispute Resolution is proposing to amend the procedure followed upon the disqualification or other disability of an arbitrator on a three-person arbitration panel under Rule 10313 of the Code of Arbitration Procedure (''Code''). Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

CODE OF ARBITRATION PROCEDURE

* * * * *

10313. Disqualification or Other Disability of Arbitrators

(a) In the event that any arbitrator, after the commencement of the earlier of [(a)] *(1)* the first pre-hearing conference or [(b)] *(2)* the first hearing but prior to the rendition of the award, should become disqualified, resign, die, refuse or otherwise be unable to perform as an arbitrator, [the remaining arbitrator(s) shall continue with the hearing and determination of the controversy, unless such continuation is objected to by any party within 5 days of notification of the vacancy on the panel. Upon objection,] the Director shall appoint a replacement arbitrator to fill the vacancy and the hearing shall continue. *In the alternative, if all parties agree to proceed with any remaining arbitrator(s), they shall inform the Director in writing within 5 business days of notification of the vacancy, and the remaining arbitrator(s) shall continue with the hearing and determination of the controversy.*

(b) The Director shall inform the parties as soon as possible of the name and employment history of the replacement arbitrator for the past 10 years, as well as information disclosed pursuant to Rule 10312. A party may make further inquiry of the Director concerning the replacement arbitrator's background. If the arbitration proceeding is subject to Rule 10308, the party may exercise his or her right to challenge the replacement arbitrator within the time remaining prior to the next scheduled hearing session by notifying the Director in writing of the name of the arbitrator challenged and the basis for such challenge. If the arbitration proceeding is not subject to Rule 10308, within the time remaining prior to the next scheduled hearing session or the 10 day period provided under Rule 10311, whichever is shorter, a party may exercise the party's right to challenge the replacement arbitrator as provided in Rule 10311.

* * * * *

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 Dispute Resolution included statements concerning the purpose of

---

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Barbara Z. Sweeney, Senior Vice President, NASD Dispute Resolution, to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, dated March 22, 2002 (''Amendment No. 1''). In Amendment No. 1, NASD Dispute Resolution replaced the original rule filing in its entirety and changed the filing to become immediately effective upon filing pursuant to section 19(b)(3)(A) of the Act and paragraph (f)(6) of Rule 19b–4. 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b–4(f)(6).

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 Dispute Resolution 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 Dispute Resolution proposes to amend the procedure followed upon the disqualification or other disability of an arbitrator on a three-person arbitration panel under Rule 10313 of the Code. Currently, Rule 10313 of the Code provides that, when an arbitrator becomes disqualified, resigns, dies, refuses or otherwise becomes unable to perform as an arbitrator, the arbitration proceeds with the remaining arbitrators unless a party objects within five days of notification of the vacancy.[4] If there is an objection, the arbitrator is replaced.

Under the proposed rule change, NASD Dispute Resolution will send the name of a replacement arbitrator along with notification of the vacancy. After having this information, parties then will have five business days in which to decide whether to continue with only the remaining two arbitrators or accept a replacement.

NASD Dispute Resolution staff has indicated that, in their experience, parties almost never want to proceed with only the two remaining arbitrators. Therefore, NASD Dispute Resolution believes that providing a replacement arbitrator immediately, without waiting for an objection, would save the parties time and reduce the administrative costs of producing a letter and waiting for responses when, in most cases, there will be an objection to continuing with only two arbitrators.

2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change, as amended, is consistent with section 15A(b)(6) of the Act[5] which requires, among other things, that the Association's rules be 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 Dispute Resolution believes that the proposed rule change will protect investors and the public interest by providing parties with an immediate replacement arbitrator, thereby reducing delays in the arbitration process and reducing the forum's administrative costs.

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

NASD Dispute Resolution does not believe that the proposed rule change, as amended, 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

No written comments were solicited or received with respect to the proposed rule change, as amended.

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

Because the foregoing proposed rule change, as amended, does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and NASD Dispute Resolution provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date,[6] it has become effective pursuant to section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] At any time within 60 days of the filing of the proposed rule change, as amended, 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 No. SR–NASD–2002–38 and should be submitted by April 24, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–8008 Filed 4–2–02; 8:45 am]

BILLING CODE 8010–01–P

[4] In very unusual circumstances, two arbitrators may have been disqualified or otherwise unable to serve at the same time, and the parties would have to decide whether to proceed with the one remaining arbitrator or seek two replacements.

[5] 15 U.S.C. 78*o*–3(b)(6).

[6] On March 13, 2002, NASD Dispute Resolution submitted the original rule filing under section 19(b)(2) of Act. 15 U.S.C. 78s(b)(2). In Amendment No. 1, NASD Dispute Resolution requested that the proposed rule change become effective upon filing pursuant to section 19(b)(3)(A) of Act and Rule 19b–4(f)(6) thereunder. 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b–4(f)(6). The Commission has agreed to accept the original rule filing as satisfying the 5-day pre-filing requirement pursuant to Rule 19b–4(f)(6). 17 CFR 240.19b–4(f)(6).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45667; File No. SR–Phlx–2002–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to an Extension of the Interim Intermarket Linkage Program

March 28, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.