

Phlx Memo No. 387-07

RC No: NASD- 2003-158

RC No: NASD-2004-011

MEMORANDUM

To: Members and Member Organizations

From: Legal Department

Date: February 16, 2007

Re: NASD Code of Arbitration
SR-NASD-2003-158 and SR-NASD-2004-011- Order Approving
Proposed Rule Change and Amendment Nos. 1,2, 3, and 4 To Amend
NASD Arbitration Rules for Customer Disputes and Notice of Filing and
Order Granting Accelerated Approval of Amendments 5, 6, and 7 Thereto;
Order Approving Proposed Rule Change and Amendments 1, 2, 3, and 4
To Amend NASD Arbitration Rules for Industry Disputes and Notice of
Filing and Order Granting Accelerated Approval of Amendments 5, 6, and
7

Pursuant to Phlx Rule 950, Section 44, the Exchange has outsourced its arbitration and mediation program to NASD Dispute Resolution. The purpose of this memo is to update you as to proposed amendments to the NASD Code of Arbitration Procedure.

The National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or the "Commission"), a proposed rule change to amend the NASD Code of Arbitration Procedure in connection with rules applicable to customer disputes ("Customer Code") and to industry disputes ("Industry Code") on October 15, 2003 and January 16, 2004. Amendments 1, 2, 3, and 4 to the Customer Code were filed with the Commission on January 3, January 19, April 8, and June 10, 2005, respectively. Amendments 1, 2, 3, and 4 to the Industry Code were filed with the Commission on January 3, February 26, April 8, and June 10, 2005, respectively. The Customer Code and Amendments 1, 2, 3, and 4 thereto ("Customer Code Notice") and the Industry Code and Amendments 1, 2, 3, and 4 thereto ("Industry Code Notice") were published for comment on June 23, 2005. The Commission received 51 comments in response to the Customer Code Notice and one comment in response to the Industry Code Notice, all of which are available on the Commission's Internet Web site at (<http://www.sec.gov/rules/sro.shtml>). On May 4, 2006, NASD filed Amendments 5 to the Customer Code and to the Industry Code. The Commission received 125 comments

following NASD's posting of Amendment 5 to the Customer Code on its Web site. The Commission did not receive any comments in connection with Amendment 5 to the Industry Code. NASD filed Amendments 6 to the Customer Code and Industry Code on July 21, 2006 and Amendments 7 to Customer Code and Industry Code on August 15, 2006. NASD requested accelerated approval in connection with Amendments 5, 6, and 7. This Order approves the Customer Code and Industry Code, as amended, accelerating approval of Amendments 5, 6, and 7 thereto.

NASD proposed to amend the NASD Code of Arbitration Procedure ("current Code") to simplify the rule language into plain English, reorganize the rules, codify certain practices, and implement several substantive changes. The current Code would be reorganized into three separate procedural codes: The NASD Code of Arbitration Procedure for Customer Disputes; the NASD Code of Arbitration Procedure for Industry Disputes; and the NASD Code of Mediation Procedure. The three new codes are intended to replace the current Code in its entirety.

This approval order pertains to the Customer Code and Industry Code, the final texts of which are available on the NASD Web site. Charts comparing the current Code to the Customer Code and Industry Code are also available. Descriptions of the proposed rule changes, as amended by Amendments 1, 2, 3, and 4, are contained in the Customer Code Notice and Industry Code Notice and are also available at NASD's principal office and at the Commission's Public Reference Room.

View approval orders for [SR-NASD-2003-158](#) and [SR-NASD-2004-011](#) and the updated [Customer Code](#) and [Industry Code](#).

If you have any questions regarding this approved rule change, or would like a complete copy of this proposed filing, or further questions regarding the NASD Dispute Resolution Process, please click on the NASD Dispute Resolution website at www.nasdadr.com. If you need additional help, please contact Scott Donnini at (215) 496-5358.