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*The National Association of Securities Dealers Should Possess
Authority to Issue Temporary-Cease-and-Desist Orders*

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Abstract by Carrie Mitchell

The National Association of Securities Dealers (NASD's) has responsibility under statute as a private, not-for-profit, self-regulatory organization (SRO). The NASD's ability to engage in summary action and review its prior experience with expedited proceedings. Cease-and-desist and temporary-cess-and-desist orders are important remedies. The NASD's proposed temporary-cess-and-desist order will be beneficial. The NASD should receive authorization to issue temporary cease-and-desist orders.

The general authority is provided under the Securities Exchange Act of 1934 (Act) to allow the NASD to issue temporary-cess-and-desist orders and that this remedy fits well with other remedies offered by the Act. While currently the NASD must refer egregious behavior to the SEC, or another law enforcement agency, or bring regular disciplinary action, this should not be the case. In addition, to address recidivist behavior, the NASD must bring disciplinary proceeding seriatim, providing the offender with the opportunity to continue the violation while waiting for the outcome of the proceedings. Finally, the temporary-cess-and-desist orders seem consistent with the general design of the NASD's decision with the SEC, under which the NASD assumed its self regulatory status and professional hearing officers were introduced into the process. The authority would benefit NASD's ability to self regulate.