

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54461; File No. SR-NASD-2006-106)

September 15, 2006

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Market/Limit-on-Open Orders Sent to the American Stock Exchange or New York Stock Exchange

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 September 11, 2006, the National Association of Securities Dealers, Inc. (“NASD”), through its subsidiary, The Nasdaq Stock Market, Inc. (“Nasdaq”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq has filed the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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

Nasdaq proposes to establish a new order processing option for its INET and Brut facilities that allow those system users to direct that their market/limit-on-open orders being sent to the American Stock Exchange (“Amex”) or New York Stock Exchange (“NYSE”) for participation in those markets’ opening processes have any shares remaining unexecuted after the open be returned to the Nasdaq facility of their origin for display and potential execution, as

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

appropriate. Nasdaq has designated this proposal as non-controversial and has requested that the Commission waive the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act.⁵

The text of the proposed rule change is below. Proposed new language is underlined.

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4903. Order Entry Parameters

(a) –(b) No Change

(c) Thru Brut Orders—

(1) General. A Thru Brut Order is an order submitted to the System that is designated for routing to another market center. The following requirements shall apply to Thru Brut Orders:

(A) – (B) No Change

(C) Market/Limit on Open Orders – if requested by the entering party, unexecuted share amounts of market on open orders directed to the New York or American stock exchanges will be returned to the System for display and potential execution.

(d) – (f) No Change

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4956. Routing

(a) INET Order Routing Process

(1) The INET Order Routing Process shall be available to Participants from 7:00 a.m. to 8:00 p.m. Eastern Time, and shall route orders as described below:

(A) – (B) No Change

(C) Market/Limit on Open Orders

⁵ 17 CFR 240.19b-4(f)(6)(iii).

If requested by the entering party, unexecuted share amounts of market on open orders directed to the New York or American stock exchanges will be returned to the INET System for display and potential execution.

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

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq proposes to provide a new voluntary option for its INET and Brut facilities that would allow users to direct that, for orders being sent to the NYSE or Amex for participation in those markets' opening process, thereafter return any unexecuted share amounts back to the originating facility for display and potential execution. Currently, such share amounts are automatically cancelled back to the entering party, and Nasdaq wishes give its facility users the ability to elect to have those unexecuted remainders to instead continue to participate in Nasdaq's automated execution environment. Nasdaq believes that the above option would enhance the choices available to users of the INET and Brut systems to select the best method to execute proprietary and customer orders across multiple trading venues.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of

Section 15A of the Act,⁶ in general, and with Section 15A(b)(6) of the Act,⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

Nasdaq 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.

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

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(iii) of the Act⁸ and Rule 19b-4(f)(6) thereunder⁹ because the proposal: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that Nasdaq has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

⁶ 15 U.S.C. 78o-3.

⁷ 15 U.S.C. 78o-3(b)(6).

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6).

Nasdaq has fulfilled the five-day pre-filing requirement. Nasdaq has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would immediately provide users of Nasdaq's INET and Brut facilities the choice to have unexecuted remainders of certain orders either continue to participate in Nasdaq's automated execution environment or be automatically cancelled. For these reasons, the Commission designates the proposed rule change to be effective and operative upon filing with the Commission.¹⁰

At any time within 60 days of the filing of such proposed rule change, 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 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2006-106 on the subject line.

¹⁰ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-106. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2006-106 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Nancy M. Morris
Secretary

¹¹ 17 CFR 200.30-3(a)(12).