

NATIONAL ASSOCIATION OF SECURITIES DEALERS, Inc. (NASD)

Proposed Rule Change

It is proposed that the following provisions of the NASD Rules be amended as set forth below. The following text does not appear in the release issued by the Commission.

Proposed new rule language is underlined; proposed deletions are in [brackets].

4200. DEFINITIONS

(a) For purposes of the Rule 4000 Series, unless the context requires otherwise:

(1) - (22) No Change

(23) "Nasdaq market maker" means a dealer that, with respect to a security, holds itself out (by entering quotations in [The Nasdaq Stock Market] the Nasdaq Market Center) as being willing to buy and sell such security for its own account on a regular and continuous basis and that is registered as such.

(24) - (37) No Change

(b) No Change

4611. Registration as a Nasdaq Market Maker

(a) Quotations and quotation sizes may be entered into [The Nasdaq Stock Market] the Nasdaq Market Center only by an Association member registered as a Nasdaq market maker or other entity approved by the Association to function in a market-making capacity.

(b) – (d) No change

(e) Unless otherwise specified by the Association, each Nasdaq market maker that is registered as a market maker in a Nasdaq-listed security shall [also at all times be registered as a market maker] participate in the Nasdaq [National Market Execution System (NNMS)] Market Center with respect to that security and be subject to the [NNMS] Nasdaq Market Center Rules as set forth in the Rule 4700 Series.

(f) No change

4618. Clearance and Settlement

(a) - (b) No Change

(c) All transactions through the facilities of the [Nasdaq National Market Execution System] Nasdaq Market Center shall be cleared and settled through a registered clearing agency using a continuous net settlement system.

4619. Withdrawal of Quotations and Passive Market Making

(a) No change

(b) A market maker that wishes to obtain excused withdrawal status based on a market maker's systemic equipment problems, such as defects in a market maker's software or hardware systems or connectivity problems associated with the circuits connecting Nasdaq[s] Market Center systems with the market maker's systems, shall contact Nasdaq Market Operations. Nasdaq Market Operations may grant excused withdrawal status based on systemic equipment problems for up to five (5) business days, unless extended by Nasdaq Market Operations.

(c) No change

(d) Excused withdrawal status may be granted to a market maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency and is withdrawn from participation in the [Automated Confirmation Transaction service] trade reporting service of the Nasdaq Market Center, thereby terminating its registration as a market maker in Nasdaq [issues] securities. Provided however, that if the Association finds that the market maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to Rule 4620 and the Rule 4700 Series governing the Nasdaq Market Center [Nasdaq National Market Execution System]. Market makers that fail to maintain a clearing relationship will have their [NNMS] Nasdaq Market Center system status set to "suspend" and be thereby prevented from entering, or executing against, any quotes/orders in the system.

(e)- (f) No change

4620. Voluntary Termination of Registration

(a) A market maker may voluntarily terminate its registration in a security by withdrawing its Quote from [The Nasdaq Stock Market] the Nasdaq Market Center. A market maker that voluntarily terminates its registration in a security may not re-register as a market maker in that security for twenty (20) business days. Withdrawal from participation as a market maker in a Nasdaq-listed security in the Nasdaq [National Market Execution System] Market Center shall constitute termination of registration as a

market maker in that security for purposes of this Rule; provided, however, that a market maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency and is withdrawn from participation in the [Automated Confirmation Transaction System] trade reporting service of the Nasdaq Market Center and thereby terminates its registration as a market maker in Nasdaq-listed issues may register as a market maker at any time after a clearing arrangement has been reestablished and the market maker has complied with [ACT] Nasdaq Market Center participant requirements contained in Rule 6100.

(b) – (d) No change

4625. Obligation to Provide Information

(a) An NASD member operating in or participating in [the third market, The Nasdaq Stock Market,] the Nasdaq Market Center or other Nasdaq-operated system[,] shall provide information orally, in writing, or electronically (if such information is, or is required to be, maintained in electronic form) to the staff of Nasdaq when:

(1) Nasdaq MarketWatch staff makes an oral, written, or electronically communicated request for information relating to a specific NASD rule, SEC rule, or provision of a joint industry plan (e.g., ITS, UTP, CTA, and CQA) (as promulgated and amended from time-to-time) that Nasdaq MarketWatch is responsible for administering or to other duties and/or obligations imposed on Nasdaq MarketWatch by the Association under the Plan of Allocation and Delegation of Function by the NASD to Subsidiaries or otherwise; this shall include, but not be limited to, information relating to:

(A) a locked or crossed market; or

(B) a trade reported by a member or ECN to the [Automated Transaction Confirmation Service ("ACT")] Nasdaq Market Center; or

(C) trading activity, rumors, or information that a member may possess that may assist in determining whether there is a basis to initiate a trading halt, pursuant to NASD Rule 4120 and IM-4120-1; or

(D) a quotation that appears not to be reasonably related to the prevailing market; or

(E) a clearly erroneous transaction, pursuant to NASD Rule 11890; or

(F) a request for an excused withdrawal or reinstatement, pursuant to NASD Rules 4619, 4620, 5106 and 6350; or

(G) the resolution of a trade-through complaint, or other transaction, pursuant to NASD Rules 5262, 5265, and 11890; or

(H) a request to submit a stabilizing bid, pursuant to NASD Rules 4614 and 5106, or a request to have a quotation identified as a penalty bid on Nasdaq, pursuant to NASD Rule 4624.

(2) Nasdaq Market Operations staff makes an oral, written, or electronically communicated request for information relating to a specific NASD rule, SEC rule, provision of a joint industry plan (e.g., ITS, UTP, CTA, and CQA) (as promulgated and amended from time-to-time) that Nasdaq Market Operations is responsible for administering or to other duties and/or obligations imposed on Nasdaq Market Operations by the Association under the Plan of Allocation and Delegation of Function by the NASD to Subsidiaries or otherwise; this shall include, but not be limited to, information relating to:

(A) a request to reconsider a determination to withhold a primary market maker designation, pursuant to NASD Rule 4612; or

(B) a[n ACT] Nasdaq Market Center trade reporting input error; or

(C) an equipment failure.

(b) No change

4630. Reporting Transactions in Nasdaq National Market Securities

This Rule 4630 Series applies to the reporting by members of transactions in Nasdaq National Market securities ("designated securities") [through] to the [Automated Confirmation Transaction Reporting Service (ACT)] Nasdaq Market Center [or the Nasdaq National Market Execution System ("NNMS"), as permitted by Rule 4720].

4632. Transaction Reporting

(a) – (b) No change

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) Nasdaq symbol of the designated security;

(2) Number of shares (odd lots shall not be reported);

(3) Price of the transaction as required by paragraph (d) below;

(4) A symbol indicating whether the transaction is a buy, sell, or cross;

(5) The time of execution if the trade is reported more than 90 seconds after execution.

(6) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include:

(A) An order identifier, meeting such parameters as may be prescribed by the Association, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1)).

(B) The time of the execution expressed in hours, minutes, and seconds. This information must be reported regardless of the period of time between execution of the trade and the [ACT or NNMS] report to the Nasdaq Market Center [trade report]. All times reported to the [ACT or NNMS systems] Nasdaq Market Center shall be in Eastern Time.

(d) Procedures for Reporting Price and Volume

Members that are required, or have the option, to report transactions [using ACT or NNMS] to the Nasdaq Market Center, pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in designated securities in the following manner:

(1) For agency transactions, report the number of shares and the price excluding the commission charged.

Example:

SELL as agent 100 shares at 40 less a commission of \$12.50;

REPORT 100 shares at 40.

(2) For dual agency transactions, report the number of shares only once, and report the price excluding the commission charged.

Example:

SELL as agent 100 shares at 40 less a commission of \$12.50;

BUY as agent 100 shares at 40 plus a commission of \$12.50;

REPORT 100 shares at 40.

(3) (A) For principal transactions, except as provided below, report each purchase and sale transaction separately and report the number of shares and the price. For principal transactions which are executed at a price which includes a mark-up, mark-down or service charge, the price reported shall exclude the mark-up, mark-down or service charge. Such reported price shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the security, the number of shares involved in the transaction, the published bids and offers with size at the time of the execution (including the reporting firm's own quotation), the cost of execution and the expenses involved in clearing the transaction.

Example:

BUY as principal 100 shares from another member at 40 (no mark-down included);

REPORT 100 shares at 40.

Example:

BUY as principal 100 shares from a customer at 39.90 which includes a \$0.10 mark-down from prevailing market at 40;

REPORT 100 shares at 40.

Example:

SELL as principal 100 shares to a customer at 40.10, which includes a \$0.10 mark-up from the prevailing market of 40;

REPORT 100 shares at 40.

Example:

BUY as principal 10,000 shares from a customer at 39.75, which includes a \$0.25 mark-down or service charge from the prevailing market of 40;

REPORT 10,000 shares at 40.

(B) Exception: A "riskless" principal transaction in which a member, after having received an order to buy a security, purchases the security as principal at the same price to satisfy the order to buy or, after having received an order to sell, sells the security as principal at the same price to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down, commission-equivalent, or other fee. Alternatively, a member may report a riskless principal transaction by submitting the following report(s) to [ACT or NNMS] the Nasdaq Market Center:

(i) The member with the obligation to report the transaction pursuant to paragraph (b) above must submit a last sale report for the initial leg of the transaction.

(ii) Regardless of whether a member has a reporting obligation pursuant to paragraph (b) above, the firm must submit, for the offsetting, "riskless" portion of the transaction, either:

a. a clearing-only report with a capacity indicator of "riskless principal," if a clearing report is necessary to clear the transaction;
or

b. a non-tape, non-clearing report with a capacity indicator of "riskless principal," if a clearing report is not necessary to clear the transaction.

Example:

SELL as a principal 100 shares to another member at 40 to fill an existing order;

BUY as principal 100 shares from a customer at 40 minus a mark-down of \$12.50;

REPORT 100 shares at 40 by submitting to [ACT or NNMS] the Nasdaq Market Center either a single trade report marked with a "riskless principal" capacity indicator or by submitting the following reports:

(1) where required by this Rule, a tape report marked with a "principal" capacity indicator; and

(2) either a non-tape, non-clearing report or a clearing-only report marked with a "riskless principal" capacity indicator.

(e) Transactions Not Required To Be Reported

The following types of transactions shall not be reported:

(1) transactions executed through [NNMS] execution services of the Nasdaq Market Center;

(2) odd-lot transactions;

(3) transactions which are part of a primary distribution by an issuer or of a registered secondary distribution (other than "shelf distributions") or of an unregistered secondary distribution;

(4) transactions made in reliance on Section 4(2) of the Securities Act of 1933;

(5) transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, e.g., to enable the seller to make a gift;

(6) purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a preestablished consideration unrelated to the current market.

(f) No change

4640. Reporting Transactions in Nasdaq SmallCapSM Market Securities

This Rule 4640 Series sets forth the requirements for reporting transactions in Nasdaq SmallCapSM Market securities ("designated securities") [utilizing] to the [Automated Confirmation Transaction Service (ACT) or the Nasdaq National Market Execution System ("NNMS"), as permitted by Rule 4720] Nasdaq Market Center.

4642. Transaction Reporting

(a) - (b) No change

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) Nasdaq symbol of the designated security;

(2) Number of shares, excluding odd lots;

(3) Price of the transaction as required by paragraph (d) below;

(4) A symbol indicating whether the transaction is a buy, sell, or cross;

(5) The time of execution if the trade is reported more than 90 seconds after execution.

(6) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include:

(A) An order identifier, meeting such parameters as may be prescribed by the Association, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1)).

(B) The time of execution expressed in hours, minutes, and seconds. This information must be reported regardless of the period of time between execution of the trade and the [ACT or NNMS] report to the Nasdaq Market Center [trade report]. All times reported to the [ACT or NNMS] Nasdaq Market Center system[s] shall be in Eastern Time.

(d) Procedures for Reporting Price and Volume *

Members that are required, or have the option, to report transactions [using ACT or NNMS] to the Nasdaq Market Center, pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in designated securities in the following manner:

(1) For agency transactions, report the number of shares and the price excluding the commission charged.

(2) For dual agency transactions, report the number of shares only once, and report the price excluding the commission charged.

(3) (A) For principal transactions, except as provided in subparagraph (B) below, report each purchase and sale transaction separately and report the number of shares and the price. For principal transactions that are executed at a price [which] that includes a mark-up, mark-down or service charge, the price reported shall exclude the mark-up, mark-down or service charge. Such reported price shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the security, the number of shares involved in the transaction, the published bids and offers with size at the time of the execution (including the reporting firm's own quotation), the cost of execution and the expenses involved in clearing the transaction.

(B) Exception: A "riskless" principal transaction in which a member, after having received an order to buy a security, purchases the security as principal at the same price to satisfy the order to buy or, after having received an order to sell, sells the security as principal at the same price to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down, commission-equivalent, or other fee. Alternatively, a member may report a riskless principal transaction by submitting the following report(s) to [ACT or NNMS] the Nasdaq Market Center:

(i) The member with the obligation to report the transaction pursuant to paragraph (b) above must submit a last sale report for the initial leg of the transaction.

(ii) Regardless of whether a member has a reporting obligation pursuant to paragraph (b) above, the firm must submit, for the offsetting, "riskless" portion of the transaction, either:

a. a clearing-only report with a capacity indicator of "riskless principal," if a clearing report is necessary to clear the transaction;
or

b. a non-tape, non-clearing report with a capacity indicator of "riskless principal," if a clearing report is not necessary to clear the transaction.

Example:

SELL as a principal 100 shares to another member at 40 to fill an existing order;

BUY as principal 100 shares from a customer at 40 minus a mark-down of \$12.50;

REPORT 100 shares at 40 by submitting to [ACT or NNMS] the Nasdaq Market Center either a single trade report marked with a "riskless principal" capacity indicator or by submitting the following reports:

(1) where required by this Rule, a tape report marked with a "principal" capacity indicator; and

(2) either a non-tape, non-clearing report or a clearing-only report marked with a "riskless principal" capacity indicator.

(e) Transactions Not Required To Be Reported

The following types of transactions shall not be reported:

(1) Transactions executed through [NNMS] execution services of the Nasdaq Market Center.

(2) transactions which are part of a primary distribution by an issuer or of a registered secondary distribution (other than "shelf distributions") or of an unregistered secondary distribution;

(3) transactions made in reliance on Section 4(2) of the Securities Act of 1933;

(4) transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, e.g., to enable the seller to make a gift;

(5) purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a preestablished consideration unrelated to the current market.

(f) No changes

* For examples of reporting procedures, refer to Rule 4632, Transaction Reporting.

4650. Reporting Transactions in Nasdaq Convertible Debt Securities

This Rule 4650 Series sets forth the applicable reporting requirements for transactions in convertible bonds that are listed on Nasdaq (designated securities) and reported [utilizing] to the [Automated Confirmation Transaction Service (ACT) or the Nasdaq National Market Execution System (“NNMS”), as permitted by Rule 4720] Nasdaq Market Center.

4652. Transaction Reporting

(a) – (b) No change

(c) Information To Be Reported

Each last sale report shall contain the following information:

- (1) Nasdaq symbol of the designated security;
- (2) Number of bonds;
- (3) Price of the transaction as required by paragraph (d) below;
- (4) A symbol indicating whether the transaction is a buy, sell, or cross;
- (5) The time of execution if the trade is reported more than 90 seconds after execution.

(6) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include:

(A) An order identifier, meeting such parameters as may be prescribed by the Association, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954 (b)(1)).

(B) The time of the execution expressed in hours, minutes, and seconds. This information must be reported regardless of the period of time between execution of the trade and the [ACT or NNMS] report to the Nasdaq Market Center [trade report]. All times reported to the [ACT or NNMS] Nasdaq Market Center system[s] shall be in Eastern Time.

(d) Procedures for Reporting Price and Volume

Members that are required, or have the option, to report transactions [using ACT or NNMS] to the Nasdaq Market Center, pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in designated securities in the following manner:

(1) For agency transactions, report the number of bonds and the price excluding the commission charged.

(2) For dual agency transactions, report the number of bonds only once, and report the price excluding the commission charged.

(3) (A) For principal transactions, except as provided in subparagraph (B), report each purchase and sale transaction separately and report the number of bonds and the price. For principal transactions that are executed at a price which includes a mark-up, mark-down or service charge, the price reported shall exclude the mark-up, mark-down or service charge. Such reported price shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the bond, the number of bonds involved in the transaction, the published bids and offers with size at the time of the execution (including the reporting firm's own quotation), the cost of execution and the expenses involved in clearing the transaction.

(B) Exception: A "riskless" principal transaction in which a member, after having received an order to buy a security, purchases the bond as principal at the same price to satisfy the order to buy or, after having received an order to sell, sells the bond as principal at the same price to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down, commission-equivalent, or other fee. Alternatively, a member may report a riskless principal transaction by submitting the following report(s) to [ACT or NNMS] the Nasdaq Market Center:

(i) The member with the obligation to report the transaction pursuant to paragraph (b) above must submit a last sale report for the initial leg of the transaction.

(ii) Regardless of whether a member has a reporting obligation pursuant to paragraph (b) above, the firm must submit, for the offsetting, "riskless" portion of the transaction, either:

a. a clearing-only report with a capacity indicator of "riskless principal," if a clearing report is necessary to clear the transaction;
or

b. a non-tape, non-clearing report with a capacity indicator of "riskless principal," if a clearing report is not necessary to clear the transaction.

Example:

SELL as a principal 100 shares to another member at 40 to fill an existing order;

BUY as principal 100 shares from a customer at 40 minus a mark-down of \$12.50;

REPORT 100 shares at 40 by submitting to [ACT or NNMS] the Nasdaq Market Center either a single trade report marked with a "riskless principal" capacity indicator or by submitting the following reports:

(1) where required by this Rule, a tape report marked with a "principal" capacity indicator; and

(2) either a non-tape, non-clearing report or a clearing-only report marked with a "riskless principal" capacity indicator.

(e) – (f) No change

4700. NASDAQ MARKET CENTER – EXECUTION SERVICES [NATIONAL MARKET EXECUTION SYSTEM (NNMS)]

4701. Definitions

Unless stated otherwise, the terms described below shall have the following meaning:

(a) The term "active [NNMS] Nasdaq Market Center securities" shall mean those [NNMS] Nasdaq Market Center eligible securities in which at least one [NNMS] Nasdaq Market Maker or ITS/CAES Market Maker is currently active in [NNMS] the Nasdaq Market Center.

(b) No change

(c) The term "Attributable Quote/Order" shall have the following meaning:

(1) For [NNMS] Nasdaq Market Makers and [NNMS] Nasdaq ECNs, a bid or offer Quote/Order that is designated for display (price and size) next to the participant's MPID in the Nasdaq Quotation Montage once such Quote/Order becomes the participant's best attributable bid or offer.

(2) For ITS/CAES Market Makers, a bid or offer Quote/Order that is designated for display (price and size) next to the participant's MPID once such Quote/Order becomes the participant's best attributable bid or offer.

(3) For UTP Exchanges, the best bid and best offer quotation with price and size that is transmitted to Nasdaq by the UTP Exchange, which is displayed next to the UTP Exchange's MPID in the Nasdaq Quotation Montage.

(d) Reserved [The term "Automated Confirmation Transaction" service or "ACT" shall mean the automated system owned and operated by The Nasdaq Stock Market, Inc., which compares trade information entered by ACT Participants and submits "locked-in" trades to clearing.]

(e) The term "automatic refresh size" shall mean the default size to which a[n NNMS] Nasdaq Market Maker's quote will be refreshed pursuant to NASD Rule 4710(b)(2), if the market maker elects to utilize the Quote Refresh Functionality and does not designate to Nasdaq an alternative refresh size, which must be at least one normal unit of trading. The automatic refresh size default amount shall be 1,000 shares.

(f) The term "Directed Order" shall mean an order in a Nasdaq-listed security that is entered into the system by a[n NNMS] Nasdaq Market Center participant that is directed to a particular Quoting Market Participant at any price, through the Directed Order process described in Rule 4710(c). This term shall not include the "Preferred Order" described in subparagraph (aa) of this rule. Directed Orders shall not be available for ITS Securities.

(g) The term "Displayed Quote/Order" shall mean both Attributable and Non-Attributable (as applicable) Quotes/Orders transmitted to Nasdaq by Quoting Market Participants or [NNMS] Order Entry Firms. [NNMS] Order Entry [f]Firms are not permitted to enter Displayed Quotes/Orders in ITS Securities.

(h) No change

(i) The term "Immediate or Cancel" shall mean, for limit orders so designated, that if after entry into the [NNMS] Nasdaq Market Center a marketable limit order (or unexecuted portion thereof) becomes non-marketable, the order (or unexecuted portion thereof) shall be canceled and returned to the entering participant.

(j) - (l) No change

(m) The term "marketable limit order" shall mean a limit order to buy that, at the time it is entered into the [NNMS] Nasdaq Market Center, is priced at the current inside offer or higher, or a limit order to sell that, at the time it is entered into the [NNMS] Nasdaq Market Center, is priced at the inside bid or lower.

(n) No change

(o) The term "Non-Attributable Quote/Order" shall mean:

(1) for orders in Nasdaq-listed securities, a bid or offer Quote/Order that is entered by a Nasdaq Quoting Market Participant or [NNMS] Order Entry Firm and is designated for display (price and size) on an anonymous basis in the [Nasdaq Order Display Facility] order display service of the Nasdaq Market Center. UTP Exchanges may submit Non-Attributable Quote/Order(s) in conformity with Rule 4710(e).

(2) for orders in ITS Securities, a bid or offer Quote/Order that is entered by an ITS/CAES Market Maker and is designated for display (price and size) and/or execution on an anonymous basis. [NNMS] Order Entry Firms shall be eligible to enter Non-Attributable orders in ITS Securities only if they are designated as Immediate or Cancel or Total Immediate or Cancel.

(p) The term "Non-Directed Order" shall mean an order that is entered into the system by a [n NNMS] Nasdaq Market Center Participant and is not directed to any particular Quoting Market Participant or ITS Exchange, and shall also include Preferred Orders as described in subparagraph (aa) of this rule.

(q) No change

(r) The term ["Nasdaq National Market Execution System," "NNMS] "Nasdaq Market Center," or "system" shall mean the automated system for order execution and trade reporting owned and operated by The Nasdaq Stock Market, Inc. The Nasdaq Market Center comprises:

(1) an order execution service that [which] enables [NNMS] Nasdaq Market Center Participants to execute transactions in active [NNMS] Nasdaq Market Center [authorized] securities; [to have reports of the transactions automatically forwarded to the appropriate National Market Trade Reporting System, if required, for dissemination to the public and the industry, and to "lock in" these trades by sending both sides to the applicable clearing corporation(s) designated by the NNMS Participant(s) for clearance and settlement;] and [to] provides [NNMS] Nasdaq Market Center Participants with

sufficient monitoring and updating capability to participate in an automated execution environment;[.]

(2) a trade reporting service that, among other things, provides for the reporting of transactions in securities; compares trade information entered by Nasdaq Market Center Participants and submits "locked-in" trades for clearing to the National Securities Clearing Corporation (NSCC) for clearance and settlement; transmits last-sale reports of transactions automatically to the National Trade Reporting System, if required, for dissemination to the public and industry; and provides participants with monitoring and risk management capabilities to facilitate participation in a "locked-in" trading environment;

(3) for Nasdaq listed securities, a quotation montage that displays for a particular stock two columns (one for bid, one for offer), under which is listed in price/time priority the MPIDs for each Nasdaq Market Maker, Nasdaq ECN, and UTP Exchange registered in the stock and the corresponding quote (price and size) next to the related MPID;

(4) for Nasdaq listed securities, an order display service that displays, without attribution to a particular Quoting Market Participant's MPID, the five best price levels in the Nasdaq Market Center on both the bid and offer side of the market and the aggregate size of Attributable and Non-Attributable Quotes/Orders at each price level.

(s) The term "[NNMS] Nasdaq Market Center eligible securities" shall mean designated Nasdaq-listed equity securities and ITS Securities. ITS Securities shall include all securities included in NASD Rule 5210(c) and NASD Rule 6410(d).

(t) The term "[NNMS]Nasdaq ECN" shall mean a member of the Association that meets all of the requirements of NASD Rule 4623, and that participates in the [NNMS] Nasdaq Market Center with respect to one or more Nasdaq listed securities.

(1) The term "[NNMS] Nasdaq Auto-Ex ECN" shall mean a[n NNMS] Nasdaq ECN that participates in the automatic-execution functionality of the [NNMS] Nasdaq Market Center system, and accordingly executes Non-Directed Orders via automatic execution for the purchase or sale of an active Nasdaq listed security at the Nasdaq inside bid and/or offer price.

(2) The term "[NNMS] Nasdaq Order-Delivery ECN" shall mean a[n NNMS] Nasdaq ECN that participates in the order-delivery functionality of the [NNMS] Nasdaq Market Center system, accepts delivery of Non-Directed Orders that are Liability Orders, and provides an automated execution of Non-Directed Orders (or an automated rejection of such orders if the price is no longer available) for the purchase or sale of an active Nasdaq listed security at the Nasdaq inside bid and/or offer price.

(u) The term "[NNMS] Nasdaq Market Maker" with respect to participation in the Nasdaq Market Center system shall mean a member of the Association that is registered as a Nasdaq Market Maker [and as a Market Maker] for purposes of participation in [NNMS] the Nasdaq Market Center with respect to one or more Nasdaq listed securities, and is currently active in [NNMS] the Nasdaq Market Center and obligated to execute

orders through the automatic-execution functionality of the [NNMS] Nasdaq Market Center system for the purchase or sale of an active Nasdaq listed security at the Nasdaq inside bid and/or offer price.

(v) The term "[NNMS] Nasdaq Market Center Participant" shall mean a[n NNMS] Nasdaq Market Maker, [NNMS] Nasdaq ECN, UTP Exchange, ITS/CAES Market Maker or [NNMS] Order Entry Firm registered as such with the Association for participation in [NNMS] the Nasdaq Market Center.

(w) The term "[NNMS] Order Entry Firm" shall mean a member of the Association who is registered as an Order Entry Firm for purposes of entering orders in [NNMS] active Nasdaq Market Center [S] securities into [NNMS] the Nasdaq Market Center. This term shall also include any Electronic Communications Network or Alternative Trading System that fails to meet all the requirements of Rule 4623. [NNMS] Order Entry Firms shall not charge any fee to a broker-dealer that accesses the [NNMS] Order Entry Firm's quote/order through [NNMS] the Nasdaq Market Center.

(x) Reserved [The term "Nasdaq Quotation Montage" shall mean the portion of the Nasdaq WorkStation presentation that displays for a particular stock two columns (one for bid, one for offer), under which is listed in price/time priority the MPIDs for each NNMS Market Maker, NNMS ECN, and UTP Exchange registered in the stock and the corresponding quote (price and size) next to the related MPID.]

(y) The term "Nasdaq Quoting Market Participant" shall include only the following: (1) [NNMS] Nasdaq Market Makers; (2) [NNMS] Nasdaq ECNs; and (3) ITS/CAES Market Makers.

(z) - (aa) No change

(bb) The term "Quote/Order" shall mean a single quotation or shall mean an order or multiple orders at the same price submitted to the Nasdaq Market Center by a Nasdaq Quoting Market Participant or, for Nasdaq securities, [NNMS] Order Entry Firm that is displayed in the form of a single quotation. For ITS Securities, orders entered by [NNMS] Order Entry Firms are not displayed. Unless specifically referring to a UTP Exchange's agency Quote/Order (as set out in Rule 4710(e)(2)(b)), when this term is used in connection with a UTP Exchange, it shall mean the best bid and/or the best offer quotation transmitted to Nasdaq by the UTP Exchange.

(cc) The term "Quoting Market Participant" shall include any of the following: (1) [NNMS] Nasdaq Market Makers; (2) [NNMS] Nasdaq ECNs; (3) UTP Exchange Specialists, and (4) ITS/CAES Market Makers.

(dd) The term "Reserve Size" shall mean the system-provided functionality that permits a Nasdaq Quoting Market Participant or [NNMS] Order Entry Firm to display in its Displayed Quote/Order part of the full size of a proprietary or agency order, with the remainder held in reserve on an undisplayed basis to be displayed in whole or in part after the displayed part is reduced by executions to less than a normal unit of trading.

(ee) Reserved [The term "Nasdaq Order Display Facility" shall mean, in Nasdaq listed securities, the portion of the Nasdaq WorkStation presentation that displays, without attribution to a particular Quoting Market Participant's MPID, the five best price levels

in Nasdaq on both the bid and offer side of the market and the aggregate size of Attributable and Non-Attributable Quotes/Orders at each price level.]

(ff) The term "UTP Exchange" shall mean any registered national securities exchange that elects to participate in the [NNMS] Nasdaq Market Center and that has unlisted trading privileges in Nasdaq National Market securities pursuant to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination Of Quotation and Transaction Information For Nasdaq/National Market System Securities Traded On Exchanges On An Unlisted Trading Privilege Basis ("Nasdaq UTP Plan").

(gg) The term "Legacy Quote" shall mean the quotation mechanism that existed in Nasdaq on or before July 1, 2002, and that does not permit the entry of Quotes/Orders at multiple price levels in the [NNMS] Nasdaq Market Center.

(hh) The term "Day" shall mean, for orders so designated, that if after entry into the [NNMS] Nasdaq Market Center, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display and/or execution until market close (4:00 p.m. Eastern Time), after which it shall be returned to the entering party.

(ii) The term "Good-till-Cancelled" shall mean, for orders so designated, that if after entry into [NNMS] Nasdaq Market Center, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display and/or execution until cancelled by the entering party, or until 1 year after entry, whichever comes first.

(jj) The term "End-of-Day" shall mean, for orders so designated, that if after entry into the [NNMS] Nasdaq Market Center, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential execution and/or display until market close (4:00 p.m. Eastern Time), and thereafter for potential execution until 6:30 p.m. Eastern Time, after which it shall be returned to the entering party. End-of-Day orders shall not be available for ITS Securities.

(kk) The term "Auto-Ex" shall mean, for orders in Nasdaq listed securities so designated, an order that (except when it is displayed or interacts with a displayed Discretionary Order at a price in its discretionary price range) will execute solely against the Quotes/Orders of [NNMS] Nasdaq Market Center Participants that participate in the automatic execution functionality of the [NNMS] Nasdaq Market Center and that do not charge a separate quote access fee to [NNMS] Nasdaq Market Center Participants accessing their Quotes/Orders through the [NNMS] Nasdaq Market Center. An Auto-Ex Order may be designated as "Immediate or Cancel" (an "IOC Auto-Ex Order") or "Day" or "GTC" (a "Postable Auto-Ex Order"). A[n NNMS Participant] party entering a Postable Auto-Ex Order may (but is not required to) specify that the order will utilize the functionality associated with Discretionary Orders.

(ll) The term "Fill or Return" shall mean for orders in ITS Securities so designated, an order that is entered by an ITS/CAES Market Maker and delivered to or executed by [NNMS] Nasdaq Market Center Participants without delivering the order to an ITS Exchange and without trading through the quotations of ITS Exchanges. The System will, if necessary, execute against interest at successive price levels.

(mm) The term "Pegged" shall mean, for priced limit orders so designated, that after entry into the [NNMS] Nasdaq Market Center, the price of the order is automatically adjusted by [NNMS] the Nasdaq Market Center in response to changes in the Nasdaq Market Center inside bid or offer, as appropriate. The [NNMS] Nasdaq Market Center Participant entering a Pegged Order may specify that the price of the order will either equal the inside quote on the same side of the market (a "Regular Pegged Order") or equal a price that deviates from the inside quote on the contra side of the market by \$0.01 (i.e., \$0.01 less than the inside offer or \$0.01 more than the inside bid) (a "Reverse Pegged Order"). The market participant entering a Pegged Order may (but is not required to) specify a cap price, to define a price at which pegging of the order will stop and the order will be permanently converted into an un-pegged limit order. Pegged Orders shall not be available for ITS Securities.

(nn) (1) The term "Discretionary" shall mean, for priced limit orders in Nasdaq listed securities so designated, an order that when entered into [NNMS] the Nasdaq Market Center has both a displayed bid or offer price, as well as a non-displayed discretionary price range in which the participant is also willing to buy or sell, if necessary. The displayed price may be fixed or may be pegged to equal the inside quote on the same side of the market. The pegging of the Discretionary Order may be capped in the same manner as that of a Pegged Order. The discretionary price range of a Discretionary Order that is pegged will be adjusted to follow the pegged displayed price.

(2) for orders in ITS Securities so designated, an order that when entered into [NNMS] the Nasdaq Market Center has both a displayed bid or offer price, as well as a non-displayed discretionary price range in which the participant is also willing to buy or sell, if necessary. The display price must be fixed. A Discretionary Order in an ITS Security may not result in a quote that locks or crosses the national best bid and offer and shall not be executed at a price that trades through the quotation of an ITS Exchange unless it is designated as a Sweep Order.

(oo) The term "Summary" shall mean, for priced limit orders so designated, that if an order is marketable upon receipt by [NNMS] the Nasdaq Market Center, it shall be rejected and returned to the entering party. Summary Orders may only be entered by [NNMS] Nasdaq Order-Delivery ECNs. Summary Orders may only be designated as Non-Attributable Orders.

(pp) The term "ITS/CAES Market Maker" shall mean a member of the Association that is registered as an ITS/CAES Market Maker as defined in NASD Rule 5210(e) or as a CQS Market Maker as defined in NASD Rule 6320 [and as a Market Maker] for purposes of participation in [NNMS] the Nasdaq Market Center with respect to one or more ITS Securities, and is currently active in [NNMS] the Nasdaq Market Center. ITS/CAES Market Makers shall be permitted to execute orders in ITS Securities through the automatic execution or order delivery functionality of the [NNMS] Nasdaq Market Center system for the purchase or sale of active ITS Securities.

(qq) The term "ITS Exchange" shall mean a national securities exchange that participates in the ITS system as defined in Rule 5210(a). ITS Exchanges shall not be eligible to participate in the [NNMS] Nasdaq Market Center. ITS Commitments sent by ITS Exchanges shall be processed by the system in accordance with the ITS Plan and all applicable NASD rules governing the

participation in ITS. Quotes/Orders that are eligible for ITS will be processed by the system and delivered to the appropriate ITS Exchange as an ITS Commitment in accordance with the requirements of the ITS Plan and all applicable NASD rules.

(rr) The term "Sweep Order" shall mean, for orders in ITS Securities so designated, an order that may be entered only by ITS/CAES Market Makers and that may be delivered to or executed only by [NNMS] Nasdaq Market Center Participants at multiple price levels and that may trade through ITS Exchanges' quotations.

(ss) The term "Total Day" shall mean, for orders in ITS Securities so designated, that if after entry into the [NNMS] Nasdaq Market Center, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display between 7:30 a.m. and 6:30 p.m. and for potential execution between 9:30 a.m. and 6:30 p.m., after which it shall be returned to the entering party.

(tt) The term "Total Good-till-Cancelled" shall mean, for orders in ITS Securities so designated, that if after entry into [NNMS] the Nasdaq Market Center, the order is not fully executed, the order (or unexecuted portion thereof) shall remain available for potential display between 7:30 a.m. and 6:30 p.m. and for potential execution between 9:30 a.m. and 6:30 p.m., until cancelled by the entering party, or until 1 year after entry, whichever comes first.

(uu) The term "Total Immediate or Cancel" shall mean, for limit orders in ITS Securities so designated, that if after entry into the [NNMS] Nasdaq Market Center a marketable limit order (or unexecuted portion thereof) becomes non-marketable, the order (or unexecuted portion thereof) shall be canceled and returned to the entering participant. Such orders may be entered between 7:30 a.m. and 6:30 p.m. and are available for potential execution between 9:30 a.m. and 6:30 p.m.

4705. [NNMS] Nasdaq Market Center Participant Registration

(a) Participation in [NNMS] the Nasdaq Market Center as a [n NNMS] Nasdaq Market Maker requires current registration as such with the Association. Such registration shall be conditioned upon the [NNMS] Nasdaq Market Maker's initial and continuing compliance with the following requirements:

(1) execution of a [n NNMS] Nasdaq Market Center Participant application agreement with the Association;

(2) membership in, or access arrangement with a participant of, a clearing agency registered with the Commission that maintains facilities through which [NNMS] Nasdaq Market Center compared trades may be settled;

(3) registration as a market maker in The Nasdaq Stock Market pursuant to the Rule 4600 Series and compliance with all applicable rules and operating procedures of the Association and the Commission;

(4) maintenance of the physical security of the equipment located on the premises of the [NNMS] Nasdaq Market Maker to prevent the improper use or access to Nasdaq systems, including unauthorized entry of information into [NNMS] the Nasdaq Market Center; and

(5) acceptance and settlement of each [NNMS] Nasdaq Market Center trade that [NNMS] the Nasdaq Market Center identifies as having been effected by such [NNMS] Nasdaq Market Maker, or if settlement is to be made through another clearing member, guarantee of the acceptance and settlement of such identified [NNMS] Nasdaq Market Center trade by the clearing member on the regularly scheduled settlement date.

(b) Pursuant to Rule 4611([f] e), participation [as an NNMS] in the Nasdaq Market Center [Market Maker] is required for any Nasdaq [m]Market [m]Maker registered to make a market in a[n NNMS] Nasdaq listed security.

(c) Participation in [NNMS] the Nasdaq Market Center as an [NNMS] Order Entry Firm requires current registration as such with the Association. Such registration shall be conditioned upon the [NNMS] Order Entry Firm's initial and continuing compliance with the following requirements:

(1) execution of a[n NNMS] Nasdaq Market Center Participant application agreement with the Association;

(2) membership in, or access arrangement with a participant of, a clearing agency registered with the Commission that maintains facilities through which [NNMS] Nasdaq Market Center compared trades may be settled;

(3) compliance with all applicable rules and operating procedures of the Association and the Securities and Exchange Commission;

(4) maintenance of the physical security of the equipment located on the premises of the [NNMS] Order Entry Firm to prevent the improper use or access to Nasdaq systems, including unauthorized entry of information into [NNMS] the Nasdaq Market Center; and

(5) acceptance and settlement of each [NNMS] Nasdaq Market Center trade that [NNMS] the Nasdaq Market Center identifies as having been effected by such [NNMS] Order Entry Firm or if settlement is to be made through another clearing member, guarantee of the acceptance and settlement of such identified [NNMS] Nasdaq Market Center trade by the clearing member on the regularly scheduled settlement date.

(d) Participation in [NNMS] the Nasdaq Market Center as a[n NNMS] Nasdaq ECN requires current registration as an NASD member and shall be conditioned upon the following:

(1) the execution of a[n NNMS] Nasdaq Market Center Participant application agreement with the Association;

(2) compliance with all requirements in NASD Rule 4623 and all other applicable rules and operating procedures of the Association and the Securities and Exchange Commission;

(3) membership in, or access arrangement with a participant of, a clearing agency registered with the Commission that maintains facilities through which [NNMS] Nasdaq Market Center[-] compared trades may be settled;

(4) maintenance of the physical security of the equipment located on the premises of the [NNMS] Nasdaq ECN to prevent the improper use or access to Nasdaq systems, including unauthorized entry of information into [NNMS] the Nasdaq Market Center; and

(5) acceptance and settlement of each trade that is executed through the facilities of the [NNMS] Nasdaq Market Center, or if settlement is to be made through another clearing member, guarantee of the acceptance and settlement of such identified [NNMS] Nasdaq Market Center trade by the clearing member on the regularly scheduled settlement date.

(e) Participation in [NNMS] the Nasdaq Market Center as an ITS/CAES Market Maker shall be conditioned upon the ITS/CAES Market Maker's initial and continuing compliance with the requirements set forth in NASD Rule 5220.

(f) The registration required hereunder will apply solely to the qualification of a [n NNMS] Nasdaq Market Center Participant to participate in [NNMS] the Nasdaq Market Center. Such registration shall not be conditioned upon registration in any particular eligible or active [NNMS] Nasdaq Market Center securities.

(g) Each [NNMS] Nasdaq Market Center Participant shall be under a continuing obligation to inform the Association of noncompliance with any of the registration requirements set forth above.

(h) The Association and its subsidiaries shall not be liable for any losses, damages, or other claims arising out of the [NNMS] Nasdaq Market Center or its use. Any losses, damages, or other claims, related to a failure of the [NNMS] Nasdaq Market Center to deliver, display, transmit, execute, compare, submit for clearance and settlement, adjust, retain priority for, or otherwise correctly process an order, Quote/Order, message, or other data entered into, or created by, the [NNMS] Nasdaq Market Center shall be absorbed by the member, or the member sponsoring the customer, that entered the order, Quote/Order, message, or other data into the [NNMS] Nasdaq Market Center.

4706. Order Entry Parameters

(a) Non-Directed Orders--

(1) General. The following requirements shall apply to Non-Directed Orders Entered by [NNMS Market] Nasdaq Market Center Participants:

(A) A [n NNMS] Nasdaq Market Center Participant may enter into the [NNMS] Nasdaq Market Center a Non-Directed Order in order to access the best bid/best offer as displayed in Nasdaq.

(B) A Non-Directed Order must be a market or limit order, must indicate whether it is a buy, short sale, short-sale exempt, or long sale, and may be

designated as "Immediate or Cancel," "Day," "Good-till-Cancelled," "Auto-Ex," "Fill or Return," "Pegged," "Discretionary," "Sweep," "Total Day," "Total Good till Cancelled," "Total Immediate or Cancel," or "Summary."

[(1)] (i) If a priced order designated as "Immediate or Cancel" ("IOC") is not immediately executable, the unexecuted order (or portion thereof) shall be returned to the sender.

[(2)] (ii) If a priced order designated as a "Day" order is not immediately executable, the unexecuted order (or portion thereof) shall be retained by [NNMS] the Nasdaq Market Center and remain available for potential display/execution until it is cancelled by the entering party, or until 4:00 p.m. Eastern Time on the day such order was submitted, whichever comes first, whereupon it will be returned to the sender.

[(3)] (iii) If the order is designated as "Good-till-Cancelled" ("GTC"), the order (or unexecuted portion thereof) will be retained by [NNMS] the Nasdaq Market Center and remain available for potential display/execution until cancelled by the entering party, or until 1 year after entry, whichever comes first.

[(4)] (iv) Starting at 7:30 a.m., until the 4:00 p.m. market close, IOC and Day Non-Directed Orders may be entered into [NNMS] the Nasdaq Market Center (or previously entered orders cancelled), but such orders entered prior to market open will not become available for execution until 9:30 a.m. Eastern Time. GTC orders may be entered (or previously entered GTC orders cancelled) between the hours 7:30 a.m. to 6:30 p.m. Eastern Time, but such orders entered prior to market open, or GTC orders carried over from previous trading days, will not become available for execution until 9:30 a.m. Eastern Time. Exception: For Nasdaq listed securities only, Non-Directed Day (other than Pegged, Postable Auto-Ex, and Discretionary Orders) and GTC orders (other than Postable Auto-Ex Orders) may be executed prior to market open if required under Rule 4710(b)(3)(B).

[(5)] (v) For Nasdaq listed securities, an order may be designated as "Auto-Ex," in which case the order may be designated as IOC, Day or GTC. If a [n NNMS] Nasdaq Market Center Participant entering a Postable Auto-Ex Order specifies that the order will utilize the functionality associated with Discretionary Orders, the order will automatically be designated as Day.

[(6)] (vi) For ITS Securities, an order may be designated as "Fill or Return," in which case it shall be executed solely against the Quotes/Orders of [NNMS] Nasdaq Market Center Participants at the best bid/best offer within [NNMS] the Nasdaq Market Center. The [NNMS] Nasdaq Market Center will, if necessary, execute against interest at successive price levels. A Fill or Return Order will not trade through the quotation of an ITS Exchange.

[(7)] (vii) An order may be designated as "Pegged," in which case the order will also automatically be designated as Day. A Pegged Order may not be designated as a Preferred Order. A Pegged Order (or unexecuted portion thereof) will be retained by [NNMS] the Nasdaq Market Center and its price adjusted in response to changes in the Nasdaq Market Center inside market. A Pegged Order (including a Discretionary Order that is pegged) will be cancelled if there is no displayable Quote/Order to which its price can be pegged. Starting at 7:30 a.m., until the 4:00 p.m. market close, Pegged Orders may be entered into [NNMS] the Nasdaq Market Center (or previously entered orders cancelled), but such orders entered prior to market open will not become available for execution until 9:30 a.m. Eastern Time. The initial price of Pegged Orders (including Discretionary Orders that are pegged) entered prior to market open will be established at 9:30 a.m. based on the Nasdaq inside bid or offer at that time. Pegged Orders shall not be available for ITS Securities.

To maintain the capacity and performance of the [NNMS] Nasdaq Market Center, Nasdaq may at any time suspend the entry of Pegged Orders (including Discretionary Orders that are pegged) for all securities or for any security. Pegged Orders that are in the [NNMS] Nasdaq Market Center at the time of such suspension will continue to be available for adjustment and execution.

[(8) (A)] (viii) a. An order may be designated as "Discretionary", in which case the order will also automatically be designated as Day. A Discretionary Order may not be designated as a Preferred Order. The order (or unexecuted portion thereof) shall be displayed in the system, if appropriate, using the displayed price selected by the entering party, with the system also retaining a non-displayed discretionary price range within which the entering party is also willing to execute if necessary. If a Discretionary Order is pegged, its displayed price will be adjusted in response to changes in the Nasdaq inside market. Starting at 7:30 a.m., until the 4:00 p.m. market close, Discretionary Orders may be entered into [NNMS] the Nasdaq Market Center (or previously entered orders cancelled), but such orders entered prior to market open will not become available for execution until 9:30 a.m. Eastern Time. Discretionary Orders whose displayed price or discretionary price range does not lock or cross another Quote/Order will be available for execution at 9:30 a.m. All other Discretionary Orders will be added to the time-priority queue described in Rule 4706(a)(1)(F) and (a)(2)(B) and processed by [NNMS] the Nasdaq Market Center at market open.

[(B)] b. A Discretionary Order in an ITS Security may not be preferred to an ITS/CAES Market Maker or ITS Exchange, shall not result in a quote that locks or crosses the national best bid and offer and shall not be executed at a price that trades through the quotation of an ITS Exchange unless it is also designated as a Sweep Order. Starting at 7:30 a.m., until the 4:00 p.m. market close, Discretionary Orders in ITS

Securities may be entered into [NNMS] the Nasdaq Market Center (or previously entered orders cancelled), but such orders entered prior to market open will not become available for execution until 9:30 a.m. Eastern Time. Discretionary Orders whose displayed price or discretionary price range does not lock or cross another Quote/Order will be available for execution at 9:30 a.m. All other Discretionary Orders will be added to the time-priority queue described in Rule 4706(a)(1)(F) and (a)(2)(B) and processed by [NNMS] the Nasdaq Market Center at market open.

[(9)] (ix) An order in an ITS Security may be designated as a "Sweep Order." A Sweep Order may be entered only by an ITS/CAES Market Maker. A Sweep Order may trade through the quotations of ITS Exchanges, and it will be delivered to or executed only by [NNMS] Nasdaq Market Center Participants at multiple price levels.

[(10)] (x) An order in an ITS Security may be designated as "Total Day" ("X") and may be entered between the hours 7:30 a.m. to 6:30 p.m. Eastern Time and are available for potential execution beginning at 9:30 a.m. If a priced X order is not immediately executable, the unexecuted order (or portion thereof) shall be retained by [NNMS] the Nasdaq Market Center and remain available for potential display/execution until it is cancelled by the entering party, or until 6:30 p.m. Eastern Time on the day such order was submitted, whichever comes first, whereupon it will be returned to the sender.

[(11)] (xi) An order in an ITS Security may be designated as "Total Good-till-Cancelled" ("GTX"). A GTX order (or unexecuted portion thereof) shall be retained by [NNMS] the Nasdaq Market Center and remain available for potential display/execution until cancelled by the entering party, or until 1 year after entry, whichever comes first. GTX orders may be entered (or previously entered GTX orders cancelled) between the hours 7:30 a.m. to 6:30 p.m. Eastern Time and are available for potential execution beginning at 9:30 a.m. _

[(12)] (xii) An order in an ITS Security may be designated as "Total Immediate or Cancel" ("IOX"). IOX orders may be entered beginning at 7:30 a.m. until 6:30 p.m. and are available for potential execution throughout the trading day beginning at 9:30 a.m. If a priced order designated as IOX and entered prior to 9:30 a.m. is not immediately executable at 9:30 a.m., the unexecuted order (or portion thereof) shall be returned to the sender. If a priced order designated as IOX and entered between 9:30 a.m. and 6:30 p.m. is not immediately executable, the unexecuted order (or portion thereof) shall be returned to the sender.

[(13)] (xiii) An order may be designated as "Summary," in which case the order shall be designated either as Day or GTC. A Summary Order that is marketable upon receipt by [NNMS] the Nasdaq Market Center shall be rejected and returned to the entering party. If not marketable upon receipt by [NNMS] the Nasdaq Market Center, it will be

retained by [NNMS] the system. Summary Day and GTC orders shall be executed prior to the market open if required under Rule 4710(b)(3)(B). Summary Orders may only be entered by [NNMS] Nasdaq Order-Delivery ECNs. Summary Orders may only be designated as Non-Attributable Orders.

(C) The system will not process a Non-Directed Order to sell short if the execution of such order would violate NASD Rule 3350 or, in the case of ITS Securities, SEC Rule 10a-1.

(D) Non-Directed Orders will be processed as described in Rule 4710.

(E) The [NNMS] Nasdaq Market Center shall not accept Non-Directed Orders that are All-or-None, or have a minimum size of execution.

(F) A[n NNMS] Nasdaq Market Center Participant may enter a Non-Directed Order that is either a market order or a limit order prior to the market's open. Market orders and limit orders designated as Immediate or Cancel, limit orders designated as Total Immediate or Cancel, Auto-Ex Orders, and Discretionary Orders whose displayed price or discretionary price range would lock or cross another Quote/Order if they were displayed shall be held in a time-priority queue that will begin to be processed by [NNMS] the Nasdaq Market Center at market open. If an Immediate or Cancel limit order is unmarketable at the time it reaches the front of the time-priority processing queue, it will be returned to the entering market participant. Limit orders that are not designated as Immediate or Cancel orders shall be retained by [NNMS] the Nasdaq Market Center for potential display in conformity with Rule 4707(b) and/or potential execution in conformity with Rule 4710(b)(1)(B).

(2) Entry of Non-Directed Orders by [NNMS] Order Entry Firms--In addition to the requirements in paragraph (a)(1) of this rule, the following conditions shall apply to Non-Directed Orders entered by [NNMS] Order-Entry Firms:

(A) (i) All Non-Directed orders in Nasdaq listed securities shall be designated as Immediate or Cancel, GTC or Day but shall be required to be entered as Non-Attributable if not entered as IOC. [NNMS] Order Entry Firms may designate orders as "Pegged" or "Discretionary," in which case the order will also automatically be designated as Day. [NNMS] Order Entry Firms may also designate orders as "Auto-Ex," in which case the order may be designated as IOC, Day or GTC. If an [NNMS] Order Entry Firm entering a Postable Auto-Ex Order specifies that the order will utilize the functionality associated with Discretionary Orders, the order will automatically be designated as Day. For IOC orders, if after entry into the [NNMS] Nasdaq Market Center of a Non-Directed Order that is marketable, the order (or the unexecuted portion thereof) becomes non-marketable, the system will return the order (or unexecuted portion thereof) to the entering participant.

(ii) In ITS Securities, all Non-Directed orders shall be designated as Immediate or Cancel, GTC, Day, Total Immediate or Cancel, Total Day, or Total GTC but shall be required to be entered as Non-attributable if not entered as IOC

or IOX. [NNMS] Order Entry Firms may only assign the IOC, IOX and Fill or Return and Discretionary order designations described in subparagraph (a)(1)(B). For IOC and IOX orders, if after entry into the [NNMS] Nasdaq Market Center of a Non-Directed Order that is marketable, the order (or the unexecuted portion thereof) becomes non-marketable, the system will return the order (or unexecuted portion thereof) to the entering participant.

(B) A Non-Directed Order that is either a market or limit order may be entered prior to the market's open. Limit and market orders designated as Immediate or Cancel or, in the case of ITS Securities, IOX, Auto-Ex Orders, and Discretionary Orders whose displayed price or discretionary price range would lock or cross another Quote/Order if they were displayed will be held in a time-priority queue that will begin to be processed at market open. A limit order that is designated as IOC or, in the case of ITS Securities, IOX, and that is not marketable at the time it reaches the front of the time-priority processing queue will be returned to the entering participant.

(b) Directed Orders in Nasdaq-listed Securities. A participant may enter a Directed Order in a Nasdaq-listed security into the [NNMS] Nasdaq Market Center to access a specific Attributable Quote/Order displayed in the [Nasdaq Quotation Montage] system, subject to the following conditions and requirements:

(1) Unless the Quoting Market Participant to which a Directed Order is being sent has indicated that it wishes to receive Directed Orders that are Liability Orders, a Directed Order must be a Non-Liability Order, and as such, at the time of entry must be designated as:

(A) an "All-or-None" order ("AON") that is at least one normal unit of trading (e.g. 100 shares) in excess of the Attributable Quote/Order of the Quoting Market Participant to which the order is directed; [or]

(B) a "Minimum Acceptable Quantity" order ("MAQ"), with a MAQ value of at least one normal unit of trading in excess of Attributable Quote/Order of the Quoting Market Participant to which the order is directed. Nasdaq will append an indicator to the quote of a Quoting Market Participant that has indicated to Nasdaq that it wishes to receive Directed Orders that are Liability Orders[.]; or

(C) a Directed Order that is entered at a price that is inferior to the Attributable Quote/Order of the Quoting Market Participant to which the order is directed.

(2) A Directed Order may have a time in force of 3 to 99 minutes, or may be designated as "Day" order, or an "End of Day" order.

(3) Directed Orders shall be processed pursuant to Rule 4710(c).

(4) A Directed Order entered into the system may not be cancelled until a minimum of five seconds has elapsed after the time of entry. This five-second time period shall be measured by [NNMS] the Nasdaq Market Center.

(5) Directed Orders shall not be entered in ITS Securities.

(c) Entry of Agency and Principal Orders—[NNMS] Nasdaq Market Center Participants are permitted to enter into the [NNMS] Nasdaq Market Center both agency and principal orders for delivery and execution processing.

(d) Order Size—

(1) In Nasdaq-listed securities, any order in whole shares up to 999,999 shares may be entered into the [NNMS] Nasdaq Market Center for normal execution processing.

(2) Orders in ITS Securities must be entered for a minimum of one round lot, or in round lot multiples, or in mixed lots. Orders in ITS Securities will be delivered to ITS Exchanges in round lots only.

(e) Open Quotes--The [NNMS] Nasdaq Market Center will only deliver an order or an execution to a Quoting Market Participant if that participant has an open quote.

4707. Entry and Display of Quotes/Orders

(a) Entry of Quotes/Orders--Nasdaq Quoting Market Participants may enter Quotes/Orders into the [NNMS] Nasdaq Market Center, and [NNMS] Order Entry Firms may enter Non-Attributable Orders into the [NNMS] Nasdaq Market Center, subject to the following requirements and conditions:

(1) Nasdaq Quoting Market Participants shall be permitted to transmit to the [NNMS] Nasdaq Market Center multiple Quotes/Orders at a single as well as multiple price levels. Such Quote/Order shall indicate whether it is an "Attributable Quote/Order" or "Non-Attributable Quote/Order," and the amount of Reserve Size (if applicable). [NNMS] Order Entry Firms shall be permitted to transmit to [NNMS] the Nasdaq Market Center multiple Non-Attributable Quotes/Orders at a single as well as multiple price levels and the amount of Reserve Size (if applicable).

(2) Upon entry of a Quote/Order into the system, the [NNMS] Nasdaq Market Center shall time-stamp it, which time-stamp shall determine the ranking of the Quote/Order for purposes of processing Non-Directed Orders as described in Rule 4710(b). For each subsequent size increase received for an existing quote at a given price, the system will maintain the original time-stamp for the original quantity of the quote and assign a separate time-stamp to that size increase. When a Pegged Order (including a Discretionary Order that is pegged) is displayed as a Quote/Order, its time-stamp will be updated whenever its price is adjusted.

(3) Consistent with Rule 4613, a[n NNMS] Nasdaq Market Maker is obligated to maintain a two-sided Attributable Quote/Order at all times, for at least one normal unit of trading.

(4) Nasdaq Quoting Market Participants may continue to transmit to the [NNMS] Nasdaq Market Center only their best bid and best offer Attributable Quotes/Orders. Notwithstanding NASD Rule 4613 and subparagraph (a)(1) of this rule, nothing in these rules shall require a Nasdaq Quoting Market Participant to transmit to the [NNMS] Nasdaq Market Center multiple Quotes/Orders.

(b) Display of Quotes/Orders in Nasdaq--The [NNMS] Nasdaq Market Center will display Quotes/Orders submitted to the system as follows:

(1) Attributable Quotes/Orders--The price and size of a Nasdaq Quoting Market Participant's best priced Attributable Quote/Order on both the bid and offer side of the market will be displayed in the [Nasdaq Quotation Montage] system under the Nasdaq Quoting Market Participant's MPID, and also will be displayed in the [Nasdaq Order Display Facility] order display service of the Nasdaq Market Center as part of the aggregate trading interest at a particular price when the price of such Attributable Quote/Order falls within the number of price levels authorized for aggregation and display pursuant to Rule 4701([ee] r) on either side of the market. Upon execution or cancellation of the Nasdaq Quoting Market Participant's best-priced Attributable Quote/Order on a particular side of the market, the [NNMS] Nasdaq Market Center will automatically display the participant's next best Attributable Quote/Order on that side of the market.

(2) Non-Attributable Quotes/Orders--The price and size of a Nasdaq Quoting Market Participant's and [NNMS] Order Entry Firm's Non-Attributable Quote/Order on both the bid and offer side of the market will be displayed in the [Nasdaq Order Display Facility] order display service of the Nasdaq Market Center as part of the aggregate trading interest at a particular price when the price of such Non-Attributable Quote/Order falls within the number of price levels authorized for aggregation and display pursuant to Rule 4701([ee] r) on either side of the market. A Non-Attributable Quote/Order will not be displayed [in the Nasdaq Quotation Montage] under the Nasdaq Quoting Market Participant's MPID. Non-Attributable Quotes/Orders that are the best priced Non-Attributable bids or offers in the system will be displayed in the Nasdaq Quotation Montage under an anonymous MPID, which shall represent and reflect the aggregate size of all Non-Attributable Quotes/Orders in Nasdaq at that price level. Upon execution or cancellation of a Nasdaq Quoting Market Participant's or [NNMS] Order Entry Firm's Non-Attributable Quote/Order, the [NNMS] Nasdaq Market Center will automatically display a Non-Attributable Quote/Order in the [Nasdaq Order Display Facility] order display service of the Nasdaq Market Center (consistent with the parameters described above) if it falls within the number of price levels authorized for aggregation and display pursuant to Rule 4701([ee] r) on either side of the market.

(3) Exceptions--The following exceptions shall apply to the display parameters set forth in paragraphs (1) and (2) above:

(A) Odd-lots, Mixed Lots, and Rounding--The [NNMS] Nasdaq Market Center (and all accompanying data feeds) shall be capable of displaying trading interest in round lot amounts. For quote display purposes, [NNMS] the Nasdaq Market Center will aggregate all shares, including odd-lot share amounts, entered by a Quoting Market Participant and [NNMS] Order Entry Firm at a single price level and then round that total share amount down to the nearest round-lot amount for display and dissemination, consistent with subparagraphs (b)(1) and (b)(2) of this rule. Though rounded, any odd-lot portion of a Quote/Order that is not displayed as a result of this rounding process will remain in the system, with the time-priority of their original entry, and be continuously available for execution. Round-lots that are subsequently reduced by executions to a mixed lot amount will likewise be rounded for display purposes by the system to the

nearest round-lot amount at that same price level. Any odd-lot number of shares that do not get displayed as a result of this rounding will remain in the system with the time-priority of their original entry and thus be continuously available for execution. If executions against an Attributable Quote/Order result in there being an insufficient (odd-lot) amount of shares at a price level to display an Attributable Quote/Order for one round-lot, the system will display the Quoting Market Participant's next best priced Attributable Quote/Order consistent with Rule 4710(b)(2). If all Attributable Quotes/Orders on the bid and/or offer side of the market are exhausted so that there are no longer any Attributable Quotes/Orders, the system may refresh a market maker's exhausted bid or offer quote using the process set forth in Rule 4710(b)(5). With the exception of Legacy Quotes, odd-lot remainders that are not displayed will remain in the system at their original price levels and continue to be available for execution.

(B) Aggregation and Display of Odd-lots Bettering the Inside Price— Except as provided in Subsection (C) below, odd-lot share amounts that remain in system at prices that improve the best bid/offer in Nasdaq shall be subject to aggregation for display purposes, via the SIZE MPID, with the odd-lot share amounts of other [NNMS] Quoting Market Participants and [NNMS] Order Entry Firms at those same price level(s). Such odd-lots will be displayed via SIZE if 1) the combination of all such odd-lots at a particular price level is equal to, or more than, a round-lot and 2) that the price level represents either the highest bid or lowest offer price within the system. This aggregation shall display only the maximum round-lot portion of the total combined shares available at that best-priced level. This aggregation shall be for display purposes only and all individual odd-lot share amounts that are part of any such aggregation shall continue to be processed by the system based on the time-priority of their original entry.

(C) In the case of ITS Securities, odd lot share amounts of each individual ITS/CAES Market Maker shall be aggregated and shall be displayed next to that ITS/CAES Market Maker's MPID for a minimum of one round lot or for round lot multiples. An odd lot share amount will be cancelled if it represents an ITS/CAES Market Maker's best priced quote or order within [SuperMontage] the Nasdaq Market Center. Odd lot share amounts will be cancelled at the end of the day.

(c) No change

(d) Summary Scan--The "Summary Scan" functionality[,] is a query-only non-dynamic functionality for Nasdaq listed securities[,] only. It displays without attribution to Quoting Market Participants' MPIDs the aggregate size of Attributable and Non-Attributable Quotes/Orders for all levels (on both the bid and offer side of the market) below the number of price levels authorized for aggregation and display pursuant to Rule 4701 ([ee] 1).

(e) NQDS Prime--"NQDS Prime" is a separate data feed for Nasdaq-listed securities that Nasdaq will make available for a fee that is approved by the Securities and Exchange Commission. This separate data feed will display with attribution to Quoting Market Participants' MPIDs all Attributable Quotes/Orders on both the bid and offer side of the market for the price levels that are disseminated in the [Nasdaq Order Display Facility] order display service of the Nasdaq Market Center.

(f) IM Prime--"IM Prime" is a separate data feed that Nasdaq will make available for a fee that is approved by the Securities and Exchange Commission. This separate data feed will display with attribution to ITS/CAES Market Makers' MPIDs all Attributable Quotes/Orders on both the bid and offer side of the market for the price levels that are disseminated [in the Nasdaq Order Display Facility] for ITS Securities in the Nasdaq Market Center.

4708. ITS Commitments.

(a) Compliance with Rule 5200 Series.

(1) Pre Opening Application. ITS/CAES Market Makers may use [NNMS] the Nasdaq Market Center to participate in the Pre Opening Application in accordance with Rule 5250. [NNMS] Order Entry Firms may not participate in the Pre Opening Application.

(2) Trade throughs. ITS/CAES Market Makers must use [NNMS] the Nasdaq Market Center to comply with the trade through obligations set forth in Rules 5262 and 5264. The [NNMS] Nasdaq Market Center will reject any order of an [NNMS] Order Entry Firm that, if executed, would trade through an ITS Exchange.

(3) Locked and Crossed Markets. ITS/CAES Market Makers must use [NNMS] the Nasdaq Market Center to comply with the locked and crossed markets obligations set forth in Rules 5263. Any order or portion thereof entered by an [NNMS] Order Entry Firm that would create a locked/crossed market with an ITS Exchange will be rejected.

(b) Inbound ITS Commitments

(1) If the ITS Commitment contains an obvious error as described in Rule 5265(b), the [NNMS] Nasdaq Market Center will decline it.

(2) If the ITS Commitment, if executed, would result in a violation of SEC Rule 10a-1, the [NNMS] Nasdaq Market Center will decline it.

(3) If the conditions described in subparagraphs (1) and (2) above do not apply, the [NNMS] Nasdaq Market Center will execute or deliver an inbound ITS Commitment in accordance with applicable provisions of the Rule 5200 Series and the ITS Plan.

4710. Participant Obligations in [NNMS] the Nasdaq Market Center

(a) Registration -- Upon the effectiveness of registration as a [NNMS] Nasdaq Market Maker, [NNMS] Nasdaq ECN, ITS/CAES Market Maker or [NNMS] Order Entry Firm, the [NNMS] Nasdaq Market Center Participant may commence activity within [NNMS] the Nasdaq Market Center for exposure to orders, entry of orders, or to report trades, as applicable. The operating hours of [NNMS] the Nasdaq Market Center may be established as appropriate by the Association. The extent of participation in Nasdaq by an [NNMS] Order Entry Firm shall be determined solely by the firm in the exercise of its ability to enter orders into the Nasdaq Market Center.

(b) Non-Directed Orders

(1) General Provisions--A Quoting Market Participant in a [NNMS] Nasdaq Market Center eligible [S]security, as well as [NNMS] Order Entry Firms, shall be subject to the following requirements for Non-Directed Orders:

(A) Obligations - For each [NNMS] Nasdaq Market Center eligible security in which it is registered, a Quoting Market Participant must accept and execute individual Non-Directed Orders against its quotation, in an amount equal to or smaller than the combination of the Displayed Quote/Order and Reserve Size (if applicable) of such Quote/Order, when the Quoting Market Participant is at the best bid/best offer in the Nasdaq Market Center. This obligation shall also apply to the Non-Attributable Quotes/Orders of [NNMS] Order Entry Firms. Quoting Market Participants, and [NNMS] Order Entry Firms, shall participate in the [NNMS] Nasdaq Market Center as follows:

(i) [NNMS] Nasdaq Market Makers, [NNMS] Nasdaq Auto-Ex ECNs, and [NNMS] Order Entry Firms to the extent they enter a Non-Attributable Quote/Order shall participate in the automatic-execution functionality of the [NNMS] Nasdaq Market Center, and shall accept the delivery of an execution up to the size of the participant's Displayed Quote/Order and Reserve Size.

(ii) ITS/CAES Market Makers may elect to participate in the order delivery or the automatic execution functionality of the [NNMS] Nasdaq Market Center. ITS/CAES Market Makers that elect automatic execution shall accept the delivery of an execution up to the size of the participant's Displayed Quote/Order and Reserve Size. ITS/CAES Market Makers that elect order delivery shall accept the delivery of an order up to the size of the ITS/CAES Market Maker's Displayed Quote/Order and Reserve Size. ITS/CAES Market Maker that elect order delivery shall be required to execute the full size of such order (even if the delivered order is a mixed lot or odd lot) unless that interest is no longer available in the ITS/CAES Market Maker's system, in which case the ITS/CAES Market Maker is required to execute in a size equal to the remaining amount of trading interest available in the ITS/CAES Market Maker's system.

(iii) [NNMS] Nasdaq Order-Delivery ECNs shall participate in the order-delivery functionality of the [NNMS] Nasdaq Market Center, and shall accept the delivery of an order up to the size of the [NNMS] Nasdaq Order-Delivery ECN's Displayed Quote/Order and Reserve Size. The [NNMS] Nasdaq Order-Delivery ECN shall be required to execute the full size of such order (even if the delivered order is a mixed lot or odd lot) unless that interest is no longer available in the ECN, in which case the ECN is required to execute in a size equal to the remaining amount of trading interest available in the ECN.

(iv) UTP Exchanges that choose to participate in the [NNMS] Nasdaq Market Center shall do so as described in subparagraph (f) of this rule and as otherwise described in the [NNMS] Nasdaq Market Center rules and the UTP Plan.

(B) Processing of Non-Directed Orders--Upon entry of a Non-Directed Order into the system, the [NNMS] Nasdaq Market Center will ascertain who the next Quoting Market Participant or [NNMS] Order Entry Firm in queue to receive an order is and shall deliver an execution to Quoting Market Participants or [NNMS] Order Entry Firms that

participate in the automatic-execution functionality of the system, or shall deliver a Liability Order to Quoting Market Participants that participate in the order-delivery functionality of the system. Non-Directed Orders entered into the [NNMS] Nasdaq Market Center system shall be delivered to or automatically executed against Quoting Market Participants' or [NNMS] Order Entry Firms' Displayed Quotes/Orders and Reserve Size, in strict price/time priority, as described in the algorithm contained in subparagraph (b)(B)(i) of this rule. The individual time priority of each Quote/Order submitted to [NNMS] the Nasdaq Market Center shall be assigned by the system based on the date and time such Quote/Order was received. Remainders of Quote/Orders reduced by execution, if retained by the system, shall retain the time priority of their original entry. For purposes of the execution algorithm described below, "Displayed Quotes/Orders" shall also include any odd-lot, odd-lot portion of a mixed-lot, or any odd-lot remainder of a round-lot(s) reduced by execution, share amounts that while not displayed in the [Nasdaq Quotation Montage] quotation montage of the Nasdaq Market Center, remain in system and available for execution.

(i) Execution Algorithm--Price/Time--The system will access interest in the system in the following priority and order:

a. Displayed Quotes/Orders of [NNMS] Nasdaq Market Makers, ITS/CAES Market Makers and [NNMS] Nasdaq ECNs, displayed Non-Attributable Quotes/Orders of Order Entry Firms, and displayed non-attributable agency Quotes/Orders of UTP Exchanges (as permitted by subparagraph (e) of this rule), in time priority between such participants' Quotes/Orders;

b. Reserve Size of Nasdaq Quoting Market Participants and [NNMS] Order Entry Firms, in time priority between such participants' Quotes/Orders; and

c. Principal Quotes/Orders of UTP Exchanges, in time priority between such participants' Quotes/Orders.

(ii) Exceptions--The following exceptions shall apply to the above execution parameters:

a. If a Nasdaq Quoting Market Participant or [NNMS] Order Entry Firm enters a Non-Directed Order into the system, before sending such Non-Directed Order to the next Quoting Market Participants in queue, the [NNMS] Nasdaq Market Center will first attempt to match off the order against the Nasdaq Quoting Market Participant's or [NNMS] Order Entry Firm's own Quote/Order if the participant is at the best bid/best offer in Nasdaq. Nasdaq Quoting Market Participants and [NNMS] Order Entry Firms may avoid any attempted automatic system matching permitted by this paragraph through the use of an anti-internalization qualifier (AIQ) quote/order flag containing the following values: "Y" or "I", subject to the following restrictions:

Y--if the Y value is selected, the system will execute the flagged quote/order solely against attributable and non-attributable quotes/orders

(displayed and reserve) of Quoting Market Participants and [NNMS] Order Entry Firms other than the party entering the AIQ "Y" flagged quote/order. If the only available trading interest is that of the same party that entered the AIQ "Y" flagged quote/order, the system will not execute at an inferior price level, and will instead return the latest entered of those interacting quote/orders (or unexecuted portions thereof) to the entering party; provided, however, that in the case of a Discretionary Order interacting with a bid/offer entered by the system pursuant to Rule 4710(b)(5), the Discretionary Order (or unexecuted portions thereof) will be returned.

I--if the I value is selected, the system will execute against all available trading interest, including the quote/orders of the [NNMS] Order Entry Firm or Nasdaq Quoting Market Participant that entered the AIQ "I" flagged order based on the price/time execution algorithm.

b. If a[n NNMS] Nasdaq Market Center [Market] Participant enters a Preferred Order, the order shall be executed against (or delivered in an amount equal to) both the Displayed Quote/Order and Reserve Size of the Quoting Market Participant to which the order is being directed, if that Quoting Market Participant is at the best bid/best offer when the Preferred Order is next in line to be delivered (or executed). Any unexecuted portion of a Preferred Order shall be returned to the entering [NNMS] Nasdaq Market Center [Market] Participant. If the Quoting Market Participant is not at the best bid/best offer when the Preferred Order is next in line to be delivered (or executed), the Preferred Order shall be returned to the entering [NNMS] Nasdaq Market Center [Market] Participant.

c. If a[n NNMS] Nasdaq Market Center [Market] Participant enters a Quote or Non-Directed Order that would result in [NNMS] the Nasdaq Market Center either: 1) delivering an execution to a Quoting Market Participant(s) or an [NNMS] Order Entry Firm that participates in the automatic-execution functionality of the system at a price substantially away from the current inside bid/offer in that security; or 2) delivering a Liability Order to a Quoting Market Participant(s) that participates in the order-delivery functionality of the system at a price substantially away from the current inside bid/offer in that security, the system shall instead process only those portions of the order that will not result in either an execution or delivery at a price substantially away from the current inside best bid/offer in the security and return the remainder to the entering party. For purposes of this subsection only, an execution or delivery based on a sell order shall be deemed to be substantially away from the current inside bid if it is to be done at a price lower than a break-price established by taking the inside bid, reducing it by 10% of the bid's value, and then subtracting \$0.01. For example, in a stock with a current inside bid of \$10.00, the maximum price at which a single sell order could be executed would be \$8.99 calculated as follows: $(\$10.00 - (\$10.00 \times .10 \text{ e.g. } \$1) - \$0.01 = \$8.99)$. For offers, an execution or delivery based on a buy order

shall be deemed to be substantially away from the current inside offer if it is done a price higher than a break-price established by taking the inside offer, adding 10% of the offer's value to it, and then adding \$0.01. For example, in a stock with a current inside offer of \$10.00, the highest price at which a single sell order could be executed would be \$11.01 calculated as follows: $(\$10.00 + (\$10.00 \times .10 \text{ e.g. } \$1) + \$0.01 = \11.01 . This subsection shall not apply to ITS commitments received from ITS Exchanges or to orders based on such ITS commitments.

d. An Auto-Ex Order in a Nasdaq listed security that is designated IOC will interact solely with the Quotes/Orders of [NNMS] Nasdaq Market Center Participants that participate in the automatic execution functionality of the [NNMS] Nasdaq Market Center and that do not charge a separate quote-access fee to [NNMS] Nasdaq Market Center Participants accessing their Quotes/Orders through the [NNMS] Nasdaq Market Center (“Auto-Ex Eligible Participants”). An IOC Auto-Ex Order will not interact with the Quote/Order of an Auto-Ex Eligible Participant if the Quote/Order of a[n NNMS] Nasdaq Market Center Participant that is not an Auto-Ex Eligible Participant is priced better than the Quote/Order of any Auto-Ex Eligible Participant at that time. An IOC Auto-Ex Order (or an unexecuted portion thereof) will be cancelled if it cannot be immediately executed.

Upon entry into the [NNMS] Nasdaq Market Center, a Postable Auto-Ex Order will be processed in the same manner as an IOC Auto-Ex Order; provided, however, that if the Postable Auto-Ex Order includes discretionary prices, the order will be processed in the same manner as a Discretionary Order, but will interact solely with the Quotes/Orders of Auto-Ex Eligible Participants and will not interact with the Quote/Order of an Auto-Ex Eligible Participant if the Quote/Order of a[n NNMS] Nasdaq Market Center Participant that is not an Auto-Ex Eligible Participant is priced better than the Quote/Order of any Auto-Ex Eligible Participant at that time. Any portion of a Postable Auto-Ex Order that cannot be immediately executed will be displayed, unless it would lock or cross the Quote/Order of a[n NNMS] Nasdaq Market Center Participant that is not an Auto-Ex Eligible Participant, in which case the Postable Auto-Ex Order (or any unexecuted portion thereof) will be cancelled. Depending on the functionality specified by the [NNMS] Nasdaq Market Center Participant entering the order, a Postable Auto-Ex Order that is displayed will have the same characteristics and be subject to the same rules as a regular limit order or a Discretionary Order.

For purposes of this subclause d., any displayed Discretionary Order that may be executed against (or delivered to) an Auto-Ex Order at a price in the Discretionary Order’s discretionary price range will be deemed to have been entered by an Auto-Ex Eligible Participant.

e. If a[n NNMS] Nasdaq Market Center [Market] Participant enters a Discretionary Order, the Discretionary Order shall first be executed against (or delivered in an amount equal to) the Quotes/Orders

and Reserve Size of [NNMS] Nasdaq Market Center [Market] Participants (including displayed Discretionary Orders at their displayed prices) in conformity with this rule and subject to any applicable exceptions. If the full size of the incoming Discretionary Order cannot be executed at its displayed price, the order may also be executed against (or delivered in an amount equal to) the Quotes/Orders and Reserve Size of [NNMS] Nasdaq Market Center [Market] Participants within the incoming Discretionary Order's discretionary price range (including displayed Discretionary Orders at their displayed prices), in conformity with this rule and subject to any applicable exception. If the full size of the incoming Discretionary Order cannot be executed in this manner, the order may also be executed by (or receive delivery of) displayed Discretionary Orders with discretionary price ranges that overlap with the incoming Discretionary Order's discretionary price range, in conformity with this rule and subject to any applicable exception. The unexecuted portion of a Discretionary Order will then be retained by [NNMS] the Nasdaq Market Center for potential display in conformity with Rule 4707(b).

When a Discretionary Order is displayed as a Quote/Order, Non-Directed Orders or Quotes/Orders entered at the displayed price (including incoming Discretionary Orders with a displayed or discretionary price equal to the displayed Discretionary Order's displayed price) may be executed against (or delivered to) the displayed Discretionary Order, and market orders may be executed against (or delivered to) the displayed Discretionary Order when its displayed price is at the inside. Non-Directed Orders or Quotes/Orders (other than Discretionary Orders) entered at a price within the displayed Discretionary Order's discretionary price range may be executed by (or receive delivery of) the displayed Discretionary Order at the price of the incoming Non-Directed Order or Quote/Order if there are no displayed Quotes/Orders at that price or better. Incoming Discretionary Orders with a discretionary price range that overlaps with the displayed Discretionary Order's discretionary price range may be executed by (or receive delivery of) the displayed Discretionary Order at the overlapping price most favorable to the displayed Discretionary Order. A displayed Discretionary Order that may be executed at a price in its discretionary price range will execute against Non-Directed Orders and Quotes/Orders entered by [NNMS] Nasdaq Market Center Participants in the automatic execution functionality of the [NNMS] Nasdaq Market Center, and will be delivered to Non-Directed Orders and Quotes/Orders entered by [NNMS] Order-Delivery ECNs.

For purposes of determining execution priority, the price priority of a displayed Discretionary Order will be based on its displayed price when it may be executed at its displayed price. When displayed Discretionary Orders may be executed at prices within their discretionary price ranges, their price priority vis-a-vis one another will be based on their most aggressive discretionary prices, and their price priority vis-a-vis

Quotes/Orders that are not Discretionary Orders will be based upon the price at which they are executable.

f. A Fill or Return order in an ITS Security will be executed solely by the [NNMS] Nasdaq Market Center at the best bid/best offer, without delivering the order to an ITS Exchange. The [NNMS] Nasdaq Market Center will, if necessary, execute against interest at successive price levels.

(C) Decrementation Procedures--The size of a Quote/Order displayed in the [Nasdaq Order Display Facility] order display service and/or the [Nasdaq Quotation Montage] quotation montage of the Nasdaq Market Center will be decremented upon the delivery of a Liability Order or the delivery of an execution of a Non-Directed Order or Preferred Order in an amount equal to the system-delivered order or execution.

(i) If a[n NNMS] Nasdaq Auto-Ex ECN has its bid or offer Attributable Quote/Order and Reserve Size decremented to zero without transmission of another Attributable Quote/Order to the Nasdaq Market Center, the system will zero out the side of the quote that is exhausted. If both the bid and offer are decremented to zero without transmission of a revised Attributable Quote/Order, the ECN will be placed into an excused withdrawal state until the ECN transmits to the Nasdaq Market Center a revised Attributable Quote/Order.

(ii) If a[n NNMS] Nasdaq Order-Delivery ECN declines or partially fills a Non-Directed Order without immediately transmitting to Nasdaq a revised Attributable Quote/Order that is at a price inferior to the previous price, or if a[n NNMS] Nasdaq Order-Delivery ECN fails to respond in any manner within 30 seconds of order delivery, the system will cancel the delivered order and send the order (or remaining portion thereof) back into the system for immediate delivery to the next eligible Quote/Order in queue. The system then will zero out those ECN Quote/Orders to which the Non-Directed Order was delivered. If there are no other Quote/Orders at the declined price level, the ECN's quote on that side of the market will remain at zero until the ECN transmits to Nasdaq a revised Attributable Quote/Order. If both the bid and offer are zeroed out, the ECN will be placed into an excused withdrawal state until the ECN transmits to the Nasdaq Market Center a revised Attributable Quote/Order.

(iii) If a[n NNMS] Nasdaq ECN's Quote/Order has been zeroed out or if the ECN has been placed into excused withdrawal as described in subparagraphs (b)(1)(C)(i) and (ii) of this rule, the system will continue to access the ECN's Non-Attributable Quotes/Orders that are in the [NNMS] Nasdaq Market Center, as described in Rule 4707 and subparagraph (b) of this rule.

(iv) If a[n NNMS] Nasdaq ECN regularly fails to meet a 5-second response time (as measured by the ECN's Service Delivery Platform) over a period of orders, such that the failure endangers the maintenance of a fair

and orderly market, Nasdaq will place that ECN's quote in a closed-quote state. Nasdaq will lift the closed-quote state when the [NNMS] Nasdaq ECN certifies that it can meet the 5-second response time requirement with regularity sufficient to maintain a fair and orderly market.

(v) ITS/CAES Market Makers

(a) If an ITS/CAES Market Maker declines or partially fills a Non-Directed Order without immediately transmitting to Nasdaq a revised Attributable Quote/Order that is at a price inferior to the previous price, or if that ITS/CAES Market Maker fails to respond in any manner within 7 seconds of order delivery, the system will cancel the delivered order and send the order (or remaining portion thereof) back into the system for immediate delivery to the next Quoting Market Participant in queue.

(b) If the bid side of the ITS/CAES Market Maker's Quote/Order is zeroed out, the system then will automatically establish a bid of \$0.01 for 100 shares. If the offer side of the ITS/CAES Market Maker's Quote/Order is zeroed out, the system then will automatically establish an offer of two times the system best offer plus \$0.01 and offer for 100 shares.

(c) If an ITS/CAES Market Maker regularly fails to meet a 5-second response time (as measured by the ITS/CAES Market Maker's Service Delivery Platform) over a period of orders, such that the failure endangers the maintenance of a fair and orderly market, Nasdaq will place that ITS/CAES Market Maker's quote in a closed-quote state. Nasdaq will lift the closed-quote state when the ITS/CAES Market Maker certifies that it can meet the 5-second response time requirement with regularity sufficient to maintain a fair and orderly market.

(D) All entries in [NNMS] the Nasdaq Market Center shall be made in accordance with the requirements set forth in the NNMS User Guide, as published from time to time by Nasdaq.

(2) Refresh Functionality

(A) Reserve Size Refresh--Once a Nasdaq Quoting Market Participant's or [NNMS] Order Entry Firm's Displayed Quote/Order size on either side of the market in the security has been decremented to an amount less than one normal unit of trading due to [NNMS] Nasdaq Market Center processing, Nasdaq will refresh the displayed size out of Reserve Size to a size-level designated by the Nasdaq Quoting Market Participant or [NNMS] Order Entry Firm, or in the absence of such size-level designation, to the automatic refresh size. The amount of shares taken out of reserve to refresh display size shall be added to any shares remaining in the Displayed Quote/Order and shall be of an amount that when combined with the number of shares remaining in the Nasdaq Quoting Market Participant's Displayed Quote/Order before it is refreshed will equal the displayed size-level designated by the Nasdaq Quoting Market Participant or, in the absence of such size-level designation, to the automatic refresh size. If there are

insufficient shares available to produce a Displayable Quote/Order, the Nasdaq Quoting Market Participant's Quote/Order, and any odd-lot remainders, will be refreshed, updated, or retained, in conformity with [NNMS] Rules 4707 and 4710 as appropriate. To utilize the Reserve Size functionality, a minimum of 100 shares must initially be displayed in the Nasdaq Quoting Market Participant's or [NNMS] Order Entry Firm's Displayed Quote/Order, and the Displayed Quote/Order must be refreshed to at least 100 shares. This functionality will not be available for use by UTP Exchanges.

(B) Auto Quote Refresh ("AQR")--Once a [n NNMS] Nasdaq Market Maker's Displayed Quote/Order size and Reserve Size on either side of the market in the security has been decremented to an amount less than one normal unit of trading due to [NNMS] Nasdaq Market Center executions, the [NNMS] Nasdaq Market Maker may elect to have The Nasdaq Stock Market refresh the market maker's quotation as follows:

(i) Nasdaq will refresh the market maker's quotation price on the bid or offer side of the market, whichever is decremented to an amount less than a normal unit of trading, by a price interval designated by the [NNMS] Nasdaq Market Maker; and

(ii) Nasdaq will refresh the market maker's displayed size to a level designated by the [NNMS] Nasdaq Market Maker, or in the absence of such size level designation, to the automatic refresh size.

(iii) This functionality shall produce an Attributable Quote/Order.

(iv) The AQR functionality described in this subparagraph shall only be available for use in connection with a [NNMS] Nasdaq Market Maker's "Legacy Quote." This functionality shall be available only to [NNMS] Nasdaq Market Makers.

(v) The AQR functionality shall not be available to any participant for any ITS Security.

(3) Entry of Locking/Crossing Quotes/Orders - The system shall process locking/crossing Quotes/Orders as follows:

(A) Locked/Crossed Quotes/Orders During Market Hours--If during market hours, a participant enters into the [NNMS] Nasdaq Market Center a Quote/Order that will lock/cross the market (as defined in NASD Rule 4613(e) or in NASD Rule 5263(a) or (b)), the system will not display the Quote/Order as a quote in Nasdaq; instead the system will treat the Quote/Order as a marketable limit order and enter it into the system as a Non-Directed Order for processing (consistent with subparagraph (b) of this rule) as follows:

(i) For locked-market situations, the order will be routed to the Quoting Market Participant or [NNMS] Order Entry Firm next in queue who would be locked, and the order will be executed (or delivered for execution) at the lock price;

(ii) For crossed-market situations, the order will be entered into the system and routed to the next Quoting Market Participants or [NNMS] Order Entry Firms in queue who would be crossed, and the order will be executed (or delivered for execution) at the price of the Displayed Quote/Order that would have been crossed.

Once the lock/cross is cleared, if the participant's order is not completely filled, the system may, if consistent with the parameters of the Quote/Order, reformat the order and display it in Nasdaq as a Quote/Order on behalf of the entering Quoting Market Participant or Order Entry Firm. If an order is not eligible to be reformatted and displayed, the [NNMS] Nasdaq Market Center will reject the remainder of the order back to the entering participant. In ITS Securities, orders entered by [NNMS] Order Entry Firms are not eligible to be reformatted and displayed.

(B) Locked/Crossed Quotes/Orders Immediately Before the Open--If the market in a Nasdaq-listed security is locked or crossed at 9:29:30 a.m., Eastern Time, the [NNMS] Nasdaq Market Center will clear the locked and/or crossed Quotes/Order by executing (or delivering for execution) the highest bid against the lowest offer(s) against which it is marketable, at the price of the newer in time of the two quotes/orders. This process will be repeated until an un-locked and un-crossed market condition is achieved. Between 9:29:30 a.m. and 9:29:59 Eastern Time, once [NNMS] the Nasdaq Market Center has cleared a locked or crossed market, or if a newly submitted quote/order would create a locked or crossed market, [NNMS] the Nasdaq Market Center will prevent a locked or crossed market from being created by processing such locking or crossing quote/order in a manner consistent with subparagraph (b)(3)(a) of this Rule.

(i) Exception--The following exception shall apply to the above locked/crossed processing parameters:

If a Nasdaq Quoting Market Participant has entered a Locking/Crossing Quote/Order into the system that would become subject to the automated processing described in section (B) above, the system shall, before sending the order to any other Quoting Market Participant or [NNMS] Order Entry Firm, first attempt to match off the order against the locking/crossing Nasdaq Quoting Market Participant's own Quote/Order if that participant's Quote/Order is at the highest bid or lowest offer, as appropriate. A Nasdaq Quoting Market Participant may avoid this automatic matching through the use of anti-internalization qualifier as set forth in Rule 4710 (b)

(1)(B)(iv)(a). [NNMS] Order Entry Firms that enter locking/crossing Quotes/Orders shall have those Quotes/Orders processed as set forth in paragraph (B) above, unless they voluntarily select a "Y" AIQ Value as provided for in Rule 4710 (b) (1)(B)(ii)(a).

(C) Locked/Crossed Quotes/Orders in ITS Securities at the Open--If the market in an ITS Security is locked or crossed at 9:30 a.m., Eastern Time, the [NNMS] Nasdaq Market Center will clear the locked and/or crossed Quotes/Order by executing (or delivering for execution) the highest bid against the lowest offer(s) against which it is

marketable, at the price of the newer in time of the two quotes/orders. This process will be repeated until an un-locked and un-crossed market condition is achieved. While the [NNMS] Nasdaq Market Center is clearing a locked or crossed market, if a newly submitted Quote/Order would create a locked or crossed market, [NNMS] the Nasdaq Market Center will prevent a locked or crossed market from being created by holding such Quotes/Orders in queue.

(i) Exception--The following exception shall apply to the above locked/crossed processing parameters:

If an ITS/CAES Market Maker has entered a Locking/Crossing Quote/Order into the system that would become subject to the automated processing described in section (C) above, the system shall, before sending the order to any other ITS/CAES Market Maker or [NNMS] Order Entry Firm, first attempt to match off the order against the locking/crossing ITS/CAES Market Maker's own Quote/Order if that participant's Quote/Order is at the highest bid or lowest offer, as appropriate. An ITS/CAES Market Maker may avoid this automatic matching through the use of anti-internalization qualifier as set forth in Rule 4710(b)(1)(B)(ii)(a). [NNMS] Order Entry Firms that enter locking/crossing Quotes/Orders shall have those Quotes/Orders processed as set forth in paragraph (B) above, unless they voluntarily select a "Y" AIQ Value as provided for in Rule 4710 (b)(1)(B)(ii)(a).

(4) A[n NNMS] Nasdaq Market Maker may terminate its obligation by keyboard withdrawal (or its equivalent) from [NNMS] the Nasdaq Market Center at any time. However, the market maker has the specific obligation to monitor its status in [NNMS] the Nasdaq Market Center to assure that a withdrawal has in fact occurred. Any transaction occurring prior to the effectiveness of the withdrawal shall remain the responsibility of the market maker.

(5) If a[n NNMS] Nasdaq Market Maker's Attributable Quote/Order is reduced to less than a round-lot amount on one side of the market due to [NNMS] Nasdaq Market Center executions, the [NNMS] Nasdaq Market Center will close the Market Maker's quote in the [NNMS] Nasdaq Market Center on that side of the market, and the [NNMS] Nasdaq Market Maker will be permitted a grace period of 30 seconds within which to take action to restore its Attributable Quote/Order, if the market maker has not authorized use of the AQR functionality or does not otherwise have an Attributable Quote/Order on both sides of the market in the system. A[n NNMS] Nasdaq Market Maker that fails to transmit an Attributable Quote/Order in a security within the allotted time will have the exhausted side of its quotation restored by the system at a price \$0.01 inferior to the lowest displayed bid price or the highest displayed offer price in that security as appropriate. If all bids and/or offers are exhausted so that there are no longer any Quote/Orders displayed on the bid and/or offer side of the market, the system will refresh a market maker's exhausted bid or offer quote to a normal unit of trading priced \$0.01 inferior to the lesser of either: a) the last valid displayed inside bid/offer in the security before all such bids/offers were exhausted; or b) the market maker's last

displayed bid/offer before exhaustion. If the resulting bid/offer quote would create a locked or crossed market, [NNMS] the Nasdaq Market Center will instead re-open the exhausted market maker's bid/offer quote at a price \$0.01 inferior to the unexhausted inside bid/offer in that security. If at any time this automatic quote restoration process would result in the creation of a bid/offer of less than \$0.01, the system will refresh that bid/offer to a price of \$0.01. Except as provided in subparagraph (b)(6) of this rule, a[n NNMS] Nasdaq Market Maker that withdraws from a security may not re-register in the system as a market maker in that security for twenty (20) business days.

(6) Notwithstanding the provisions of subparagraph (5) above:

(A) a[n NNMS] Nasdaq Market Maker that obtains an excused withdrawal pursuant to Rule 4619 or an ITS/CAES Market Maker that obtains an excused withdrawal pursuant to Rule 6350 prior to withdrawing from [NNMS] the Nasdaq Market Center may reenter [NNMS] the Nasdaq Market Center according to the conditions of its withdrawal; and

(B) a[n NNMS] Nasdaq Market Maker or ITS/CAES Market Maker that fails to maintain a clearing arrangement with a registered clearing agency or with a member of such an agency, and is thereby withdrawn from participation in [ACT and NNMS] the trade reporting service of the Nasdaq Market Center for [NNMS] Nasdaq Market Center eligible securities, may reenter [NNMS] the Nasdaq Market Center after a clearing arrangement has been reestablished and the market maker has [compiled] complied with [ACT participant] requirements for participation in the trade reporting service of the Nasdaq Market Center. Provided however, that if the Association finds that the [ACT] market maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused.

(7) The Market Operations Review Committee shall have jurisdiction over proceedings brought by market makers seeking review of their removal from [NNMS] the Nasdaq Market Center pursuant to subparagraph (b)(5) of this rule.

(8) In the event that a malfunction in the Quoting Market Participant's equipment occurs, rendering communications with [NNMS] the Nasdaq Market Center inoperable, the Quoting Market Participant is obligated to immediately contact Nasdaq Market Operations by telephone to request withdrawal from [NNMS] the Nasdaq Market Center and a closed-quote status, and (a) if the Quoting Market Participant is a[n NNMS] Nasdaq Market Maker, an excused withdrawal [from Nasdaq] pursuant to Rule 4619, or (b) an ITS/CAES Market Maker, an excused withdrawal pursuant to Rule 6350. If withdrawal is granted, Nasdaq Market Operations personnel will enter the withdrawal notification into [NNMS] Nasdaq Market Center from a supervisory terminal and shall close the quote. Such manual intervention, however, will take a certain period of time for completion and, unless otherwise permitted by the Association pursuant to its authority under Rule 11890, the Quoting Market Participant will continue to be obligated for any transaction executed prior to the effectiveness of the withdrawal and closed-quote status.

(c) Directed Order Processing--A participant may enter a Directed Order in Nasdaq-listed securities into the [NNMS] Nasdaq Market Center to access a specific Quote/Order in the Nasdaq Quotation Montage and to begin the negotiation process with a particular

Quoting Market Participant. The system will deliver an order (not an execution) to the Quoting Market Participant designated as the recipient of the order. Upon delivery, the Quoting Market Participant shall owe no liability under the Firm Quote Rule to that order, unless the Quoting Market Participant to which a Directed Order is being sent has indicated that it wishes to receive Directed Orders that are Liability Orders (as described in Rule 4706(b)). Additionally, upon delivery, the system will not decrement the receiving Quoting Market Participant's Quote/Order. This provision shall not apply to Preferred Orders.

(d) [NNMS] Order Entry Firms. All entries in [NNMS] the Nasdaq Market Center shall be made in accordance with the procedures and requirements set forth in the NNMS User Guide and these rules. Orders may be entered in [NNMS] the Nasdaq Market Center by the [NNMS] Order Entry Firm through either its Nasdaq terminal or computer interface. The system will transmit to the firm on the terminal screen and printer, if requested, or through the computer interface, as applicable, an execution report generated immediately following the execution.

(e) UTP Exchanges. Participation in the [NNMS] Nasdaq Market Center by UTP Exchanges is voluntary. If a UTP Exchange does not participate in the [NNMS System] Nasdaq Market Center, the UTP Exchange's quote will not be accessed through the [NNMS] Nasdaq Market Center, and the [NNMS] Nasdaq Market Center will not include the UTP Exchange's quotation for order processing and execution purposes.

A UTP Exchange may voluntarily participate in the [NNMS System] Nasdaq Market Center if it executes a Nasdaq Workstation Subscriber Agreement, as amended, for UTP Exchanges, and complies with the terms of this subparagraph (e) of this rule. The terms and conditions of such access and participation, including available functionality and applicable rules and fees, shall be set forth in and governed by the Nasdaq Workstation Subscriber Agreement, as amended for UTP Exchanges. The Nasdaq Workstation Subscriber Agreement, as amended for UTP Exchanges may expand but shall not contract the rights and obligations set forth in these rules. Access to UTP Exchanges may be made available on terms that differ from the terms applicable to members but may not unreasonably discriminate among similarly situated UTP Exchanges. The following provisions shall apply to UTP Exchanges that choose to participate in the [NNMS] Nasdaq Market Center.

(1) Order Entry--UTP Exchanges that elect to participate in the system shall be permitted to enter Directed and Non-Directed Orders into the system subject to the conditions and requirements of Rules 4706. Directed and Non-Directed Orders entered by UTP Exchanges shall be processed (unless otherwise specified) as described in subparagraphs (b) and (c) of this rule.

(2) Display of UTP Exchange Quotes/Orders in Nasdaq

(A) UTP Exchange Principal Orders/Quotes--UTP Exchanges that elect to participate in the system shall transmit to the [NNMS] Nasdaq Market Center a single bid Quote/Order and a single offer Quote/Order. Upon transmission of the Quote/Order to Nasdaq, the system shall time stamp the Quote/Order, which time stamp shall determine the ranking of the Quote/Order for purposes of processing Non-Directed Orders. The [NNMS] Nasdaq Market Center shall display the best

bid and best offer Quote/Order transmitted to Nasdaq by a UTP Exchange in the Nasdaq Quotation Montage under the MPID for the UTP Exchange, and shall also display such Quote/Order in the [Nasdaq Order Display Facility] order display service of the Nasdaq Market Center as part of the aggregate trading interest when the UTP Exchange's best bid/best offer Quote/Order falls within the number of price levels authorized for aggregation and display pursuant to Rule 4701([ee] r).

(B) UTP Exchange Agency Quotes/Orders

(i) A UTP Exchange that elect to participate in the system may transmit to the [NNMS] Nasdaq Market Center Quotes/Orders at a single as well as multiple price levels that meet the following requirements: are not for the benefit of a broker and/or dealer that is with respect to the UTP Exchange a registered or designated market maker, dealer or specialist in the security at issue; and are designated as Non-Attributable Quotes/Orders ("UTP Agency Order/Quote").

(ii) Upon transmission of a UTP Agency Quote/Order to Nasdaq, the system shall time stamp the order, which time stamp shall determine the ranking of these Quote/Order for purposes of processing Non-Directed Orders, as described in subparagraph (b) of this rule. A UTP Agency Quote/Order shall not be displayed in the Nasdaq Quotation Montage under the MPID for the UTP Exchange. Rather, UTP Agency Quotes/Orders shall be reflected in the [Nasdaq Order Display Facility] order display service of the Nasdaq Market Center and Nasdaq Quotation Montage in the same manner in which Non-Attributable Quotes/Orders from Nasdaq Quoting Market Participants are reflected in Nasdaq, as described in Rule 4707(b)(2).

(3) Non-Directed Order Processing--UTP Exchanges that elect to participate in the system shall be required to provide automatic execution against their Quotes/Orders for Nasdaq Quoting Market Participants and [NNMS] Order Entry Firms, shall accept an execution of an order up to the size of the UTP Exchange's displayed Quote/Order, and shall have Non-Directed Orders they enter into the system processed as described in subparagraph (b) of this rule.

(4) Directed Order Processing--UTP Exchanges that elect to participate in the system shall participate in the Directed Order processing as described in subparagraph (c) of this rule.

(5) Decrementation--UTP Exchanges shall be subject to the decrementation procedures described in subparagraph (b) of this rule.

(6) Scope of Rules--Nothing in these rules shall apply to UTP Exchanges that elect not to participate in the system.

4711. Clearance and Settlement

All transactions executed in, or reported through, [NNMS] the Nasdaq Market Center shall be cleared and settled through a registered clearing agency using a continuous net settlement system.

4712. Obligation to Honor System Trades

(a) If a[n NNMS] Nasdaq Market Center Participant, or clearing member acting on his behalf, is reported by [NNMS] the Nasdaq Market Center to clearing, or shown by the activity reports generated by [NNMS] the Nasdaq Market Center as constituting a side of a System trade, such [NNMS] Nasdaq Market Center Participant, or clearing member acting on his behalf, shall honor such trade on the scheduled settlement date.

(b) Nasdaq shall have no liability if a[n NNMS] Nasdaq Market Center Participant, or a clearing member acting on his behalf, fails to satisfy the obligations in paragraph (a).

4713. Compliance with Rules and Registration Requirements

(a) Failure by a[n NNMS] Nasdaq Market Center Participant to comply with any of the rules or registration requirements applicable to [NNMS] the Nasdaq Market Center identified herein shall subject such [NNMS] Nasdaq Market Center Participant to censure, fine, suspension or revocation of its registration as a[n NNMS] Nasdaq Market Maker, ITS/CAES Market Maker, Order Entry Firm, and/or [NNMS] Nasdaq ECN or any other fitting penalty under the Rules of the Association.

(b) (1) If a[n NNMS] Nasdaq Market Center Participant fails to maintain a clearing relationship as required under paragraphs (a)(2), (c)(2), or (d)(3) of Rule 4705, it shall be removed from [NNMS] the Nasdaq Market Center until such time as a clearing arrangement is reestablished.

(2) A[n NNMS] Nasdaq Market Center Participant that is not in compliance with its obligations under paragraphs (a)(2), (c)(2), or (d)(3) of Rule 4705 shall be notified when Nasdaq exercises its authority under paragraph (b)(1) of Rule 4713.

(3) The authority and procedures contained in paragraph (b) do not otherwise limit the Association's authority, contained in other provisions of the Association's rules, to enforce its rules or impose any fitting sanction.

4715. Adjustment of Open Quotes and/or Orders

[NNMS] The Nasdaq Market Center will automatically adjust the price and/or size of open quotes and/or orders in all [NNMS] Nasdaq Market Center eligible securities (unless otherwise noted) resident in the system in response to issuer corporate actions

related to a dividend, payment or distribution, on the ex-date of such actions, except where a cash dividend or distribution is less than one cent (\$0.01), as follows:

(a) – (d) no change

4719. Anonymity

(a) No change

(b) Full Anonymity

(1) Transactions executed in [NNMS] the Nasdaq Market Center in which at least one member submits a Non-Attributable Quote/Order seeking full anonymity will be processed anonymously. The transaction reports will indicate the details of the transactions, but will not reveal contra party identities.

(2) (A) The processing described in paragraph (b)(1) shall not apply to transactions executed in [NNMS] the Nasdaq Market Center when the member whose Quote/Order is decremented is an Order-Delivery ECN that charges an access fee.

(B) Except as required to comply with the request of a regulator, or as ordered by a court or arbitrator, Order-Delivery ECNs shall not disclose the identity of the member that submitted a Non-Attributable Quote/Order that decremented the Order-Delivery ECN's Quote/Order.

(3) The Association will reveal a member's identity in the following circumstances:

(A) when the National Securities Clearing Corporation ("NSCC") ceases to act for a member, or the member's clearing firm, and NSCC determines not to guarantee the settlement of the member's trades;

(B) for regulatory purposes or to comply with an order of an arbitrator or court; or

(C) on risk management reports provided to the member's contra parties each day after 4:00 p.m., which disclose trading activity on an aggregate dollar value basis.

(4) The Association will reveal to a member, no later than the end of the day on the date an anonymous trade was executed, when the member's Quote/Order has been decremented by another Quote/Order submitted by that same member.

(5) (A) In order to satisfy members' record keeping obligations under SEC Rules 17a-3(a)(1) and 17a-4(a), Nasdaq shall, with the exception of those circumstances described in subparagraph (B) below, retain for the period specified in Rule 17a-4(a) the identity of each member that executes a fully anonymous transaction described in paragraph (b) of Rule 4719. The information shall be retained in its original form or a form approved under Rule 17a-6.

(B) In the situations described in paragraphs (b)(2) or (b)(4) of Rule 4719, and solely with respect to the member that submits, and receives an execution of, a fully anonymous Non-Attributable Quote/Order that is a Preferred Order, the member retains the obligation to comply with Rules 17a-3(a)(1) and 17a-4(a) because it possesses the identity of its contra party.

4720. Reporting Through [NNMS] the Execution Services of the Nasdaq Market Center

Subject to the conditions set forth the below, members may utilize [NNMS] the Nasdaq Market Center to report trades in [NNMS] Nasdaq Market Center eligible securities required or eligible to be reported to Nasdaq pursuant to the Rule 4630, 4640, 4650 and 6100 Series.

(1) Members shall include the time of execution on reports submitted to [NNMS] the Nasdaq Market Center; and

(2) For transactions between members, the members who are parties to the trade shall agree to all trade details prior to submitting the report to [NNMS] the Nasdaq Market Center, and have in effect and on file with Nasdaq, an Automated Confirmation Transaction Service Service Bureau/Executing Broker Supplement to the Nasdaq Workstation II Agreement (“Attachment 2 Agreement”), and a Nasdaq National Market Execution System Give-Up Addendum to the Nasdaq Workstation II Subscriber Agreement (“SuperMontage Give-Up Agreement”).

5200. Intermarket Trading System/Computer Assisted Execution System

5210. Definitions

(a) The term "ITS Participant Exchange" shall mean a participant in the ITS Plan that is a national securities exchange.

(b) The term "ITS Plan" shall mean the plan agreed upon by the ITS participants, as from time to time amended in accordance with the provisions therein, and approved by the Commission pursuant to Section 11A(a)(3)(B) of the Act and SEC Rule 11Aa3-2 thereunder.

(c) The term "ITS Security" shall mean any security which may be traded through the System by an ITS/CAES Market Maker.

(d) The term "ITS System" shall mean the communications network and related equipment that links electronically the ITS Participant Exchanges and ITS/CAES Market Makers as described in the Plan.

(e) The term "ITS/CAES Market Maker" shall mean a member of the Association that is registered as a market maker with the Association for the purposes of participation in ITS through CAES with respect to one or more specified ITS securities in which he is then actively registered. The term "ITS/CAES Market Maker" shall also include a member of the Association that meets the definition of electronic communications

network ("ECN"), as defined in SEC Rule 11Ac-1-1(a)(8), or alternative trading system ("ATS"), subject to SEC Regulation ATS Rule 301(b), and has voluntarily chosen to register with Nasdaq and meets the terms of registration set forth in the Nasdaq-provided agreement linking ECNs and ATSS to the CAES system. Registration as an ITS/CAES Market Maker is mandatory for all registered CQS market makers in securities eligible for inclusion in the ITS/CAES linkage.

(f) The term "Participant Market" shall mean the securities trading floor of each participating ITS Exchange and the markets of ITS/CAES Market Makers in ITS securities.

(g) The term "Pre-Opening Application" shall mean the application of the System which permits a specialist or ITS/CAES Market Maker who wishes to open his market in an ITS Security to obtain pre-opening interests from other specialists and ITS/CAES Market Makers.

(h) The term "Previous Day's Consolidated Closing Price" shall mean the last price at which a transaction in a security was reported by the consolidated last sale reporting system on the last previous day on which transactions were reported by such system; provided, however, that the "previous day's consolidated closing price" for all Network A or Network B eligible Securities shall be the last price at which a transaction in the stock was reported by the New York Stock Exchange, Inc. (NYSE) or the American Stock Exchange, Inc. (Amex), if, because of unusual market conditions, the NYSE or the Amex price is designated as such pursuant to the ITS plan.

(i) A "Third Participating Market Center Trade-Through," as that term is used in this Rule, occurs whenever an ITS/CAES Market Maker initiates the purchase of an ITS Security by sending a commitment to trade-through the ITS System and such commitment results in an execution at a price which is higher than the price at which the security is being offered (or initiates the sale of such a security by sending a commitment to trade-through the ITS System and such commitment results in an execution at a price which is lower than the price at which the security is being bid for) at the time of the purchase (or sale) in another ITS participating market center as reflected by the offer (bid) then being displayed by ITS/CAES Market Makers from such other market center. The member described in the foregoing sentence is referred to in this Rule as the "member who initiated a third participating market center trade-through.

[(i)] "CAES" means the "Computer Assisted Execution System", the computerized order routing and execution facility for ITS Securities, as from time to time modified or supplemented, that is operated by The Nasdaq Stock Market, Inc. and made available to NASD members. CAES functionality is offered through the ["Nasdaq National Market Execution System" or "NNMS" which operates] Nasdaq Market Center pursuant to the Rule 4700 Series.

5220. ITS/CAES Registration

In order to participate in ITS, a market maker must be registered with the Association as an ITS/CAES Market Maker in each security in which a market will be made in ITS. Such registration shall be conditioned upon the ITS/CAES Market Maker's continuing compliance with the following requirements:

(a) - (b) No change

(c) participation in [NNMS] the Nasdaq Market Center in accordance with the Rule 4700 and 5200 Series;

(d) – (h) No change

(i) election to participate in the Nasdaq Market Center through either automatic execution or order delivery. As a part of its contractual obligation required under subsection (j) below, Market Makers choosing order delivery status are required to satisfactorily demonstrate to Nasdaq the technical capacity to properly and timely respond to orders delivered through CAES.

(j) with respect to order delivery ITS/CAES Market Makers, execution of an addendum to the ITS/CAES Market Maker application agreement at least two business days prior to the requested date of operation.

5332. Reporting Debt and Equity Transactions in PORTAL Securities

(a) Transactions in a PORTAL equity security shall be reported to the [Automated Confirmation Transaction System ("ACT")] Nasdaq Market Center in accordance with this Rule, except for transactions meeting the requirements of subparagraphs (e)(1)--(4) of Rule 6230.[^{*}] Each PORTAL transaction report on a PORTAL equity security shall [_{**}]:

(1) include the information required by paragraph (d) of Rule 6130, including the time of execution;

(2) be submitted to [ACT] the Nasdaq Market Center no later than 6:30 p.m. Eastern Time (or the end of the [ACT] Nasdaq Market Center reporting session that is in effect at that time); and

(3) be submitted by the party as required by paragraph (c) of Rule 6130.

(b) – (d) No change

[Rule 5332 will not be effective until a date is announced by the NASD; amended by SR-NASD-99-66 eff. March 6, 2001.]

[^{*} Until the Trade Reporting And Comparison Entry Service Rules are approved by the SEC and made effective, members that are obligated to report secondary market transactions in PORTAL equity securities will be able to rely on the exceptions from reporting in Rule 6240(c) of the Fixed Income Pricing Service Rules.]

[_{**} Effective June 16, 2001.]

5400. NASDAQ STOCK MARKET AND ALTERNATIVE DISPLAY FACILITY TRADE REPORTING

5410. Applicability

(a) For a period of time, NASD will operate two facilities for collecting trade reports for executions in Nasdaq National Market, Nasdaq SmallCap Market, and Nasdaq Convertible Debt securities ("designated securities"): The Nasdaq Stock Market and the Alternative Display Facility ("ADF"). Nasdaq will [continue to] operate the [Automated Confirmation Transaction Service ("ACT") and the Nasdaq National Market Execution System ("NNMS")] Nasdaq Market Center (including its trade reporting service), and NASD, through the ADF, will operate Trade Reporting and Comparison Service ("TRACS"). This Rule 5400 Series establishes the rules for determining which member must report a trade and whether a trade must be reported to [ACT or NNMS (as permitted by Rule 4720)] the Nasdaq Market Center, pursuant to the Rule 4630, 4640, 4650 and 6100 Series or TRACS, pursuant to the Rule 4630A and 6100A Series.

(b) No change

5420. Definitions

(a) No change

(b) ["Automated Confirmation Transactions Service" or "ACT" is the service that, among other things, accommodates reporting and dissemination of last sale reports in designated securities.] Reserved

(c) –(f) No change

5430. Transaction Reporting

(a) When and How Transactions are Reported

(1) Registered Reporting Nasdaq Market Makers and Registered Reporting ADF Market Makers shall, within 90 seconds after execution, transmit last sale reports of transactions in designated securities executed during normal market hours. Transactions not reported within 90 seconds after execution shall be designated as late and such trade reports must include the time of execution.

(2) Non-Registered Reporting Members shall, within 90 seconds after execution, transmit [through ACT, NNMS or] to the Nasdaq Market Center or TRACS, as

applicable, or if [ACT, NNMS] the Nasdaq Market Center or TRACS is unavailable due to system or transmission failure, by telephone to Market Operations Department, last sale reports of transactions in designated securities executed during normal market hours. Transactions not reported within 90 seconds after execution shall be designated as late and such trade reports must include the time of execution.

(3) Non-Registered Reporting Members shall report weekly to the Market Operations Department, on a form designated by the Board of Governors, last sale reports of transactions in designated securities which are not required to be reported under subparagraph (2) or (4).

(4) Transaction Reporting Outside Normal Market Hours

(A) (i) Last sale reports of transactions in designated securities executed between 8:00 a.m. and 9:30 a.m. Eastern Time shall be reported within 90 seconds after execution and shall be designated as ".T" trades to denote their execution outside normal market hours. Additionally, last sale reports of transactions in designated securities executed between the hours of 4:00 p.m. and 6:30 p.m. Eastern Time shall be reported within 90 seconds after execution; trades executed and reported after 4:00 p.m. Eastern Time shall be designated as ".T" trades to denote their execution outside normal market hours. Transactions not reported within 90 seconds must include the time of execution on the trade report.

(ii) Last sale reports of transactions in designated securities executed between 8:00 a.m. and 9:30 a.m. Eastern Time not reported to [ACT] the Nasdaq Market Center prior to 9:30 a.m. shall be reported the following day on an "as/of" basis and include the time of execution. The requirements of this paragraph (ii) apply only to those trades that are required to be, or are voluntarily, reported to [ACT] the Nasdaq Market Center pursuant to Rule 5430(b).

(B) Last sale reports of transactions in designated securities executed outside the hours of 8:00 a.m. and 6:30 p.m. Eastern Time shall be reported as follows:

(i) (a) Last sale reports of transactions executed between midnight and 8:00 a.m. Eastern Time shall be reported between 8:00 a.m. and 9:30 a.m. Eastern Time on trade date, be designated as ".T" trades to denote their execution outside normal market hours, and be accompanied by the time of execution.

(b) Last sale reports of transactions executed between midnight and 8:00 a.m. Eastern Time not reported to [ACT] the Nasdaq Market Center between 8:00 a.m. and 9:30 a.m. Eastern Time on trade date shall be reported to [ACT] the Nasdaq Market Center the following day on an "as/of" basis and include the time of execution. The requirements of this paragraph b. apply only to those trades that are required to be, or are voluntarily, reported to [ACT] the Nasdaq Market Center pursuant to Rule 5430(b).

(ii) Last sale reports of transactions executed between 6:30 p.m. and midnight Eastern Time shall be reported on the next business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time, be designated "as/of" trades to denote their execution on a prior day, and be accompanied by the time of execution.

(5) All members shall report as soon as practicable to the Market Regulation Department on Form T, last sale reports of transactions in designated securities for which electronic submission [into ACT, NNMS] to the Nasdaq Market Center or TRACS is not possible (e.g., the ticker symbol for the security is no longer available or a market participant identifier is no longer active). Transactions that can be reported [into ACT, NNMS] to the Nasdaq Market Center or TRACS, whether on trade date or on a subsequent date on an "as of" basis (T+N), shall not be reported on Form T.

(6) All members shall report transactions occurring at prices based on average-weighting, or other special pricing formulae, using a special indicator designated by NASD and set out in the Symbol Directory.

(7) All trade tickets for transactions in eligible securities shall be time-stamped at the time of execution.

(8) Transactions not reported within 90 seconds after execution shall be designated as late. A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade in violation of Rule 2110.

(9) All members shall append a trade report modifier as designated by NASD to transaction reports that reflect a price different from the current market when the execution is based on a prior reference point in time, which shall be accompanied by the prior reference time.

(b) Which Party Reports Transaction and to Which Facility

(1) In transactions between two Registered Reporting Nasdaq Market Makers, the member representing the sell side shall report the trade [using ACT or NNMS] to the Nasdaq Market Center.

(2) In transactions between a Registered Reporting Nasdaq Market Maker and a Non-Registered Reporting Member, the Registered Reporting Nasdaq Market Maker shall report the trade [using ACT or NNMS] to the Nasdaq Market Center.

(3) In transactions between two Non-Registered Reporting Members, the member representing the sell side shall report the trade [using ACT, NNMS] to the Nasdaq Market Center or TRACS.

(4) In transactions between a member and a customer, the member shall report as follows:

(A) A Registered Reporting Nasdaq Market Maker shall report the trade [using ACT or NNMS] to the Nasdaq Market Center;

(B) A Registered Reporting ADF Market Maker shall report the trade using TRACS; and

(C) A Non-Registered Reporting Member shall report the trade [using ACT, NNMS] to the Nasdaq Market Center or TRACS.

(5) In transactions between two Registered Reporting ADF Market Makers, the member representing the sell side shall report the trade using TRACS.

(6) In transactions between a Registered Reporting ADF Market Maker and a Non-Registered Reporting Member, the Registered Reporting ADF Market Maker shall report the trade using TRACS.

(7) In transactions between a Registered Reporting Nasdaq Market Maker and a Registered Reporting ADF Market Maker, the member representing the sell side shall report as follows:

(A) A Registered Reporting Nasdaq Market Maker shall report the trade [using ACT or NNMS] to the Nasdaq Market Center; and

(B) A Registered Reporting ADF Market Maker shall report the trade using TRACS.

(8) If a member simultaneously is a Registered Reporting Nasdaq Market Maker and a Registered Reporting ADF Market Maker, and has the trade reporting obligation pursuant to paragraphs (1), (2), (4), (5), (6), or (7), the member can report the trade using either [ACT or NNMS,] the Nasdaq Market Center or TRACS, unless the trade is executed using ACES or the execution services of the Nasdaq Market Center [NNMS]. A trade executed using ACES must be reported [using ACT or NNMS] to the Nasdaq Market Center, and trades executed using [NNMS] the execution services of the Nasdaq Market Center will be reported to [ACT or NNMS] the Nasdaq Market Center automatically.

(9) In transactions conducted through a[n ACT/NNMS] Reporting ECN (as defined in Rule 6110) that are reported to [ACT or NNMS] the Nasdaq Market Center, the [ACT/NNMS] Reporting ECN shall ensure that transactions are reported in accordance with Rule 6130(c). If a[n ACT/NNMS] Reporting ECN is also a Registered Reporting ADF ECN (as defined in Rule 4200A), Rule 6130(c) shall apply only to transactions conducted through the ECN for which trade reports are submitted to [ACT or NNMS] the Nasdaq Market Center.

(10) Nasdaq will append the .T modifier or the .SLD modifier, as appropriate, to those reports submitted to [ACT or NNMS] the Nasdaq Market Center that contain the time of execution, but that do not contain the appropriate modifier.

6000. NASD SYSTEMS AND PROGRAMS

6100. [AUTOMATED CONFIRMATION TRANSACTION SERVICE (ACT)] TRADE REPORTING SERVICE

6110. Definitions

(a) The term “[ACT Eligible] Reportable Security” shall mean all Nasdaq National Market and Nasdaq SmallCap securities, all Consolidated Quotation Service (CQS) securities traded in the over-the-counter market, all OTC Equity Securities as defined in Rule 6600, and all Direct Participation Programs as defined in Rule 6910.

(b) The term “[ACT] Reporting Market Maker” shall mean a member of the Association that is registered as a Nasdaq or CQS Market Maker and is a member of a registered clearing agency for clearing or comparison purposes or has a clearing arrangement with such a member.

(c) The term “[ACT] Reporting Order Entry Firm” shall mean a member of the Association that is a firm that executes orders but does not act as a market maker in the instant transaction and is a member of a registered clearing agency for clearing or comparison purposes or has a clearing arrangement with such a member.

(d) [The term "Automated Confirmation Transaction Service" or "ACT" shall mean the automated system owned and operated by The Nasdaq Stock Market, Inc. which compares trade information entered by ACT participants and submits "locked-in" trades to National Securities Clearing Corporation (NSCC) for clearance and settlement; transmits reports of the transactions automatically to the National Trade Reporting System, if required, for dissemination to the public and the industry; and provides participants with monitoring and risk management capabilities to facilitate participation in a "locked-in" trading environment.] Reserved

(e) The term "Browse" shall mean the function of [ACT] the Nasdaq Market Center that permits a Participant to review (or query) for trades in the system identifying the Participant as a party to the transaction, subject to the specific uses contained in the ACT Users Guide.

(f) The term "Clearing Broker/Dealer" or "Clearing Broker" shall mean the member firm that has been identified in the [ACT] Nasdaq Market Center system as principal for clearing and settling a trade, whether for its own account or for a correspondent firm.

(g) The term "Correspondent Executing Broker/Dealer" or "Correspondent Executing Broker" shall mean the member firm that has been identified in the [ACT] Nasdaq Market Center system as having a correspondent relationship with a clearing firm whereby it executes trades and the clearing function is the responsibility of the clearing firm.

(h) The terms "Gross Dollar Thresholds" or "Super Caps" in the risk management application of [ACT] the Nasdaq Market Center shall mean the daily dollar amounts for purchases and sales that a clearing broker establishes in the [ACT] Nasdaq Market Center system for each correspondent executing broker that may be raised or lowered on an inter-day or intra-day basis. If the value of a correspondent's trades, including those aggregated from transactions in all automated systems owned and operated by the Association or its subsidiaries, equals or exceeds any gross dollar threshold, the system will alert the clearing broker.

(i) The term "Introducing Broker/Dealer" or "introducing broker" shall mean the member firm that has been identified in the [ACT] Nasdaq Market Center system as a party to the transaction, but does not execute or clear trades.

(j) The term "Participant" shall mean any member of the Association in good standing that uses the [ACT] Nasdaq Market Center system as a Market Maker registered as a Nasdaq or CQS Market Maker according to the requirements of Rule 4611 or Rule 6320, an OTC market maker (as defined in Rule 6610(d)), an Order Entry Firm, or a clearing broker/dealer, correspondent executing broker/dealer, or introducing broker/dealer.

(k) No change

(l) The term "Pre-alert" shall mean the alert notifying the correspondent executing broker and the clearing broker that the correspondent executing broker has equaled or exceeded 70% of any purchase or sale gross dollar amount. The Association reserves the right to modify the percentage of the pre-alert as necessary and upon prior notification to the [ACT] Participants.

(m) The term "Reportable [ACT] Nasdaq Market Center Transaction" shall mean inter-dealer transactions, including those for less than one round lot, in a[n ACT eligible security] Reportable Security, and shall also include transactions that are required or eligible to be submitted [utilizing ACT] to the Nasdaq Market Center pursuant to the Rule 4630, 4640, 4650, 5400, 6400, 6600, and 6900 Series.

(n) The term "Reporting Party" shall mean the [ACT] Participant that is required to input the trade information, according to the requirements of the trade report input rules applicable to [ACT] the Nasdaq Market Center contained in Rule 6130.

(o) The term "Single Trade Limit" shall mean the pre-established dollar amount for a single trade that enables a[n ACT] Nasdaq Market Center clearing firm to review the trade before it is obligated to clear the trade. When a correspondent executing broker negotiates a trade that equals or exceeds the Single Trade Limit, its clearing broker shall have a period of fifteen (15) minutes to review and agree or decline to act as principal for clearing that trade. The Association reserves the right to modify the time frame for clearing broker review as necessary and upon prior notification to the [ACT] Participants.

(p) The terms "Participant," "[ACT] Reporting Order Entry Firm," "correspondent executing broker/dealer," "correspondent executing broker," "introducing broker/dealer," "introducing broker," "clearing broker/dealer," and "clearing broker" shall also include, where appropriate, the Non-Member Clearing Organizations and UTP Exchanges listed in Rules 6120(a)(5) and (a)(6) below and their qualifying members.

(q) The term "[ACT/NNMS] Reporting ECN" shall mean a member of the Association that is an electronic communications network that is a participant of a registered clearing agency for clearing or comparison purposes or has a clearing arrangement with such a participant, to the extent that transactions executed through it are reported to [ACT or NNMS] the Nasdaq Market Center.

6120. Trade Reporting Participation [in ACT] Requirements

(a) Mandatory Participation for Clearing Agency Members

(1) (A) Participation in [ACT] the trade reporting service of the Nasdaq Market Center is mandatory for all members that execute transactions using the execution services of the Nasdaq Market Center or [National Market Execution System, the Primex Auction System,] ACES[, the Computer Assisted Execution System, and the Intermarket Trading System/Computer Assisted Execution System].

(B) Participation in [ACT] trade reporting service of the Nasdaq Market Center is mandatory for members that are participants of a clearing agency registered with the Commission pursuant to Section 17A of the Act, and for members that have a clearing arrangement with such a participant, unless a member subscribes to TRACS. Such participation in [ACT] the Nasdaq Market Center shall include the reconciliation of all over the counter clearing agency eligible transactions.

(2) Participation in [ACT] the trade reporting service of the Nasdaq Market Center as a Market Maker shall be conditioned upon the [ACT] Reporting Market Maker's initial and continuing compliance with the following requirements:

(A) execution of, and continuing compliance with, an ACT Participant Application Agreement;

(B) membership in, or maintenance of an effective clearing arrangement with a participant of, a clearing agency registered pursuant to the Act;

(C) registration as a Market Maker for Nasdaq or CQS securities pursuant to Rule 4611 or Rule 6320, if applicable, and compliance with all applicable rules and operating procedures of the Association and the Commission;

(D) maintenance of the physical security of the equipment located on the premises of the [ACT] Reporting Market Maker to prevent unauthorized entry of information into [ACT] the Nasdaq Market Center; and

(E) acceptance and settlement of each trade that [ACT] the Nasdaq Market Center identifies as having been effected by such [ACT] Reporting Market Maker, or if settlement is to be made through a clearing member, guarantee or the acceptance and settlement of each [ACT] Nasdaq Market Center identified trade by the clearing member on the regularly scheduled settlement date.

(3) Participation in [ACT] the trade reporting service of the Nasdaq Market Center as a[n] Reporting Order Entry Firm shall be conditioned upon the Reporting Order Entry Firm's initial and continuing compliance with the following requirements:

(A) execution of, and continuing compliance with, an ACT Participant Application Agreement;

(B) membership in, or maintenance of an effective clearing arrangement with a participant of, a clearing agency registered pursuant to the Act;

(C) compliance with all applicable rules and operating procedures of the Association and the Commission;

(D) maintenance of the physical security of the equipment located on the premises of the [ACT] Reporting Order Entry Firm to prevent the unauthorized entry of information into [ACT] the Nasdaq Market Center; and

(E) acceptance and settlement of each trade that [ACT] the Nasdaq Market Center identifies as having been effected by such [ACT] Reporting Order Entry Firm, or if settlement is to be made through a clearing member, guarantee of the acceptance and settlement of each [ACT] Nasdaq Market Center identified trade by the clearing member on the regularly scheduled settlement date.

(4) Participation in [ACT] the trade reporting service of the Nasdaq Market Center as a Clearing Broker shall be conditioned upon the Clearing Broker's initial and continuing compliance with the following requirements:

(A) execution of, and continuing compliance with, an ACT Participant Application Agreement;

(B) membership in a clearing agency registered pursuant to the Act;

(C) compliance with all applicable rules and operating procedures of the Association and the Commission;

(D) maintenance of the physical security of the equipment located on the premises of the [ACT] Clearing Broker to prevent the unauthorized entry of information into [ACT] the Nasdaq Market Center; and

(E) acceptance and settlement of each trade that [ACT] the Nasdaq Market Center identifies as having been effected by itself or any of its correspondents on the regularly scheduled settlement date.

(5) (A) Upon compliance with the conditions specified in subparagraph (B) below, access to and participation in [ACT] the trade reporting service of the Nasdaq Market Center shall be granted to the following Non-Member Clearing Organizations:

(i) West Canada Clearing Corporation; and

(ii) The Canadian Depository for Securities.

(B) Non-Member Clearing Organization access to and participation in [ACT] the trade reporting service of the Nasdaq Market Center shall be conditioned upon the Organization's initial and continuing compliance with the following requirements:

(i) execution of and continuing compliance with a Non-Member Clearing Organization ACT Participation Application Agreement;

(ii) a Non-Member Clearing Organization shall only have access to [ACT] the trade reporting service of the Nasdaq Market Center to operate as a service bureau for its members functioning as Reporting Order Entry Firms, Correspondent Executing Broker/Dealers, Correspondent brokers, Clearing Broker/Dealers, or Clearing Brokers, as those terms are defined in Rule 6110;

(iii) registration as a clearing agency pursuant to the Act, membership in a clearing agency registered pursuant to the Act, or maintenance of an effective clearing arrangement with a registered clearing agency;

(iv) compliance with all applicable rules and operating procedures of the Association and the Commission;

(v) maintenance of the physical security of the equipment located on the premises of the Non-Member Clearing Organization to prevent the unauthorized entry of information into [ACT] the Nasdaq Market Center; and

(vi) a Non-Member Clearing Organization may only participate in [ACT] the trade reporting service of the Nasdaq Market Center on behalf of its members who have:

a. executed a Non-Member ACT Access Participant Application Agreement and

b. have been in continuing compliance with such agreement.

(C) A Non-Member Clearing Organization may permit its members functioning as Reporting Order Entry Firms to have direct access to [ACT] the trade reporting service of the Nasdaq Market Center provided the member of the Non-Member Clearing Organization complies with the following requirements:

(i) execution of a Non-Member ACT Participant Application Agreement;

(ii) membership in a Non-Member Clearing Organization listed in paragraph (a)(5)(A) above; and

(iii) compliance with paragraph (a)(3)(C) through (E) above.

(D) A Non-Member Clearing Organization may permit its members functioning as Clearing Brokers to have direct access to [ACT] the trade reporting service of the Nasdaq Market Center provided the member of the Non-Member Clearing Organization complies with the following requirements:

(i) execution of a Non-Member ACT Participant Application Agreement;

(ii) membership in a Non-Member Clearing Organization listed in paragraph (a)(5)(A) above; and

(iii) compliance with paragraph (a)(4)(C) through (E) above.

(6) Upon compliance with the conditions specified in subparagraphs (A)-- (E) below, access to and participation in [ACT] the trade reporting service of the Nasdaq Market Center may be granted to a national securities exchange that trades Nasdaq National Market or SmallCap securities on an unlisted trading privileges basis ("UTP Exchange"). The terms and conditions of such access and participation, including available functionality and applicable rules and fees, shall be set forth in and governed

by a UTP Exchange ACT Participant Application Agreement. Such access may be made available on terms that differ from the terms applicable to members but that do not unreasonably discriminate among national securities exchanges.

(A) execution of, and continuing compliance with, a UTP Exchange ACT Participant Application Agreement;

(B) continuing compliance with UTP Exchange ACT Participant Application Agreement and all applicable rules and operating procedures of the Association and the Commission;

(C) maintenance of the physical security of the equipment located on the premises of the UTP Exchange to prevent the unauthorized entry of information into [ACT] the Nasdaq Market Center;

(D) acceptance and settlement of each trade that [ACT] the Nasdaq Market Center identifies as having been effected by itself or any of its correspondents on the regularly scheduled settlement date; and

(E) A UTP Exchange shall not permit its members to have direct access to [ACT] the Nasdaq Market Center without the express written consent of the Association.

(7) Each [ACT] Participant shall be obligated to inform the Association of non-compliance with any of the participation requirements set forth above.

(b) Participant Obligations [in ACT]

(1) Access [to ACT]

Upon execution and receipt by the Association of the ACT Participant application agreement, a[n ACT] Participant may commence input and validation of trade information in [ACT eligible securities] Reportable Securities. [ACT] Participants may access the service via Nasdaq terminals or Workstations or through computer interface during the hours of operation specified in the ACT Users Guide. Prior to such input, all [ACT] Participants, including those that have trade report information submitted to Nasdaq by any third party, must obtain from Nasdaq a unique identifying Market Participant Symbol (["MMID" or] "MPID"), and use that identifier for trade reporting and audit trail purposes.

(2) Market Maker Obligations

(A) [ACT] Reporting Market Makers shall commence participation in [ACT] the Nasdaq Market Center by initially contacting the [ACT] Nasdaq Operation Center to verify authorization for submitting trade data to the [ACT] Nasdaq Market Center system for [ACT eligible securities] Reportable Securities.

(B) A[n ACT] Reporting Market Maker that is a self-clearing firm shall be obligated to accept and clear each trade that the [ACT] Nasdaq Market Center system identifies as having been effected by that Market Maker.

(C) A[n ACT] Reporting Market Maker that is an introducing broker or a correspondent executing broker shall identify its clearing broker when it becomes a[n ACT] [p]Participant and notify the [ACT] Nasdaq Operation Center if its

clearing broker is to be changed; this will necessitate execution of a revised ACT Participant Application Agreement.

(D) If at any time a[n ACT] Reporting Market Maker fails to maintain a clearing arrangement, it shall be removed from the [ACT] Nasdaq Market Center system, and be precluded from participation as a Market Maker pursuant to the requirements of the Rule 4700 and 6300 Series until such time as a clearing arrangement is reestablished and notice of such arrangement, with an amended ACT Participant Application Agreement, is filed with the Association. If, however, the Association finds that the [ACT] Reporting Market Maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to Rule 4619 and the Rule 4700 Series.

(3) Order Entry Firm Obligations

(A) [ACT] Reporting Order Entry Firms shall commence participation in [ACT] the Nasdaq Market Center by initially contacting the [ACT] Nasdaq Operation Center to verify authorization for submitting trade data to the [ACT] Nasdaq Market Center system for [ACT eligible securities] Reportable Securities.

(B) A[n ACT] Reporting Order Entry Firm that is a self-clearing firm shall be obligated to accept and clear each trade that the [ACT] Nasdaq Market Center system identifies as having been effected by the Order Entry Firm.

(C) A[n ACT] Reporting Order Entry Firm that is an introducing broker or a correspondent executing broker shall identify its clearing broker when it becomes a[n ACT] Participant and notify the [ACT] Nasdaq Operation Center if its clearing broker is to be changed; this change will necessitate execution of a revised ACT Participant Application Agreement.

(D) If at any time a[n ACT] Reporting Order Entry Firm fails to maintain a clearing arrangement, it shall be removed from the [ACT] Nasdaq Market Center system until such time as a clearing arrangement is reestablished, and notice of such arrangement, with an amended ACT Participant Application Agreement, is filed with the Association.

(4) Clearing Broker Obligations

(A) [ACT] Nasdaq Market Center clearing brokers shall be obligated to accept and clear as a party to the transaction each trade that the system identifies as having been effected by itself or any of its correspondent executing brokers. Clearing brokers may cease to act as principal for a correspondent executing broker at any time provided that notification has been given to, received and acknowledged by the [ACT] Nasdaq Operation Center and affirmative action has been completed by the Center to remove the clearing broker from [ACT] the Nasdaq Market Center for that correspondent executing broker. The clearing broker's obligation to accept and clear trades for its correspondents shall not cease prior to the completion of all of the steps detailed in this subparagraph (4).

(B) [ACT] Nasdaq Market Center clearing brokers may utilize the [ACT] Nasdaq Market Center Risk Management functions upon execution of the ACT Participant Risk Management Agreement. Clearing brokers that utilize the [ACT] Nasdaq Market Center Risk Management functions may establish for each correspondent executing broker daily Gross Dollar Thresholds and may raise or lower the thresholds on an inter-day or intra-day basis. [ACT] Nasdaq Market Center clearing brokers will receive a system alert when a correspondent executing broker equals or exceeds any gross dollar threshold, and will also receive a system pre-alert when a correspondent executing broker equals or exceeds 70% of any daily threshold.

(C) For trades effected by a correspondent executing broker that equal or exceed a Single Trade Limit, clearing brokers have fifteen (15) minutes from the time of trade report input to [ACT] the Nasdaq Market Center to review the trade and accept or decline to act as principal to the trade. If the clearing broker does not make an affirmative acceptance or declination of the trade report within fifteen (15) minutes, the trade report will be subject to processing in accordance with the pre-established criteria described in Rule 6150(b)(6).

(D) If at any time a[n ACT] Nasdaq Market Center clearing broker fails to maintain a clearing arrangement, it shall be removed from the [ACT] Nasdaq Market Center system until such time as a clearing arrangement is reestablished, and notice of such arrangement, with an amended ACT Participant Application Agreement, is filed with the Association.

6130. Trade Report Input

(a) Reportable [ACT] Transactions

With the exception of those trades reported to the Nasdaq Market Center pursuant to [through the Nasdaq National Market Execution System – “NNMS” (as permitted by) Rule 4720[]], members shall [utilize ACT to report] comply with the Rule 6100 Series when reporting transactions that are required to be reported to Nasdaq pursuant to the Rule Series 4630, 4640, 4650, 5430, 6400, 6500 and 6600 Series, including executions of less than one round lot if those executions are to be compared and locked-in. Members [may utilize ACT] may report to the Nasdaq Market Center, in accordance with Rule 6100, [to report] transactions that are eligible to be reported to Nasdaq pursuant to Rule 5430, including executions of less than one round lot if those executions are to be compared and locked-in. Members also may [utilize NNMS] report to the Nasdaq Market Center, in accordance with Rule 4720, [to report] transactions that are eligible to be reported to Nasdaq pursuant to Rule 5430, including executions of less than one round lot if those executions are locked-in. All trades that are reportable transactions will be processed through the National Trade Reporting System; however, only those trades that are subject to regular way settlement and are not already locked-in trades will be compared and locked-in through [ACT] the Nasdaq Market Center. Trades that are reported as other than regular way settlement (i.e., Cash, Next-Day, Seller's Option) will not be compared [in ACT] by the Nasdaq Market Center or reported to NSCC. All

transactions in Direct Participation Program securities shall be reported to [ACT] the Nasdaq Market Center pursuant to the Rule 6900 Series as set forth therein.

(b) When and How Trade Reports are Submitted [to ACT]

[ACT] Participants shall transmit trade reports to [ACT] the Nasdaq Market Center for transactions in Nasdaq securities within 90 seconds after execution, or shall utilize the Browse function [in ACT] to accept or decline trades within twenty (20) minutes after execution, according to the requirements of paragraph (c) of this Rule.

(c) Which Party Inputs Trade Reports [to ACT]

[ACT] Participants shall, subject to the input requirements below, either input trade reports [into the ACT system] or utilize the Browse feature to accept or decline a trade within the applicable time-frames as specified in paragraph (b) of this Rule. Trade data input obligations are as follows:

(1) in transactions between a Reporting Market Maker and a[n] Reporting Order Entry Firm, the Market Maker shall be required to submit a trade report to [ACT] the Nasdaq Market Center;

(2) in transactions between two Reporting Market Makers, the member representing the sell side shall be required to submit a trade report to [ACT] the Nasdaq Market Center;

(3) in transactions between two Reporting Order Entry Firms, the member representing the sell side shall be required to submit a trade report to [ACT] the Nasdaq Market Center;

(4) in transactions between a member and a customer, the member shall be required to submit a trade report to [ACT] the Nasdaq Market Center;

(5) in transactions conducted through a[n ACT/NNMS] Reporting ECN that are reported to [ACT or NNMS] the Nasdaq Market Center, the [ACT] Reporting ECN shall ensure that transactions are reported in accordance with one of the following methods:

(A) the [ACT/NNMS] Reporting ECN shall submit the trade reports to [ACT or NNMS] the Nasdaq Market Center and identify itself as the reporting party;

(B) the [ACT/NNMS] Reporting ECN shall submit the trade reports to [ACT or NNMS] the Nasdaq Market Center on behalf of the reporting party and identify the reporting party in accordance with the rules for determining reporting parties reflected in paragraphs (1), (2), (3), and (4) above; or

(C) the [ACT/NNMS] Reporting ECN shall require one of the parties, determined in accordance with the rules for determining reporting parties reflected in paragraphs (1), (2), (3), and (4) above, to submit the trade reports to [ACT or NNMS] the Nasdaq Market Center.

When a[n ACT/NNMS] Reporting ECN reports transactions in accordance with subparagraph (A), the [ACT/NNMS] Reporting ECN shall be responsible for ensuring that the trade reports are accurate and contain all information required by subsection (d) of this rule for both the [ACT/NNMS] Reporting ECN and the identified non-reporting

party. When a[n ACT/NNMS] Reporting ECN reports transactions in accordance with subparagraph (B), both the [ACT/NNMS] Reporting ECN and the party identified as the reporting party shall be responsible for ensuring that the trade reports are accurate and contain all information required by subsection (d) of this rule for both the [ACT/NNMS] Reporting ECN and the identified reporting party. When a[n ACT/NNMS] Reporting ECN requires reporting of transactions in accordance with subparagraph (C), the reporting party shall be responsible for ensuring the accuracy and completeness of the trade report.

A[n ACT/NNMS] Reporting ECN shall provide written notice to the Association of the method of trade reporting used by the [ACT/NNMS] Reporting ECN for each of its subscribers, and may change the method of trade reporting used for a subscriber by providing advance written notice of the change to the Association;

(6) in transactions conducted through two [ACT/NNMS] Reporting ECNs or a[n ACT/NNMS] Reporting ECN and an ECN that is not a[n ACT/NNMS] Reporting ECN, a[n ACT/NNMS] Reporting ECN shall be responsible for complying with the requirements of paragraph (5) above for reporting a transaction executed through its facilities, and an ECN that routed an order to it for execution shall be deemed to be a[n] Reporting Order Entry Firm and a member for purposes of the rules for determining reporting parties reflected in paragraphs (1), (3), and (4) above; and

(7) in transactions conducted through a[n ACT/NNMS] Reporting ECN in which neither of the parties is a member, the [ACT/NNMS] Reporting ECN shall report the transaction in accordance with the requirements of subparagraph (5)(A) above.

(d) Trade Information To Be Input

Each [ACT] report to the Nasdaq Market Center shall contain the following information:

- (1) Security identification symbol of the eligible security (SECID);
- (2) Number of shares;
- (3) Unit price, excluding commissions, mark-ups or mark-downs;
- (4) Execution time for any transaction in Nasdaq or CQS securities not reported within 90 seconds of execution;
- (5) A symbol indicating whether the party submitting the trade report represents the Market Maker side or the Order Entry side;
- (6) A symbol indicating whether the transaction is a buy, sell, sell short, sell short exempt or cross;
- (7) A symbol indicating whether the trade is as principal, riskless principal, or agent;
- (8) Reporting side clearing broker (if other than normal clearing broker);
- (9) Reporting side executing broker as "give-up" (if any);
- (10) Contra side executing broker;
- (11) Contra side introducing broker in case of "give-up" trade;

(12) Contra side clearing broker (if other than normal clearing broker).

(13) For any transaction in an order for which a member has recording and reporting obligations under Rules 6954 and 6955, the trade report must include:

(A) An order identifier, meeting such parameters as may be prescribed by the Association, assigned to the order that uniquely identifies the order for the date it was received (see Rule 6954(b)(1)).

(B) The time of the execution expressed in hours, minutes, and seconds. This information must be reported regardless of the period of time between execution of the trade and the [ACT] report to the Nasdaq Market Center [trade report]. All times reported to the [ACT] Nasdaq Market Center system shall be in Eastern Time.

(e) Aggregation of Transaction Reports

Individual executions of orders in a security at the same price may be aggregated, for [ACT] Nasdaq Market Center reporting purposes, into a single report if the transactions are with the identical contra party; provided, however, that a reporting party may not withhold reporting a trade in anticipation of aggregating the transaction with other transactions.

6140. [ACT] Trade Report Processing

Locked-in trades may be determined in the [ACT] Nasdaq Market Center system by matching the trade information submitted by the reporting parties through one of the following methods:

(a) Trade by Trade Match

Both parties to the trade submit transaction data and the [ACT] Nasdaq Market Center system performs an on-line match;

(b) Trade Acceptance

The reporting party enters its version of the trade into the system and the contra party reviews the trade report and accepts or declines the trade. An acceptance results in a locked-in trade; a declined trade report is purged from the [ACT] Nasdaq Market Center system at the end of trade date processing;

(c) No change

(d) T+N Trade Processing

T+N entries may be submitted until 5:15 p.m. each business day. At the end of daily matching, all declined trade entries will be purged from the [ACT] Nasdaq Market Center system. [ACT] The Nasdaq Market Center will not purge any open trade (i.e. unmatched or unaccepted) at the end of its entry day, but will carry-over such trades to the next business day for continued comparison and reconciliation. [ACT] The Nasdaq Market Center will automatically lock in and submit to NSCC as such any carried-over T to T+21 (calendar day) trade if it remains open as of 2:30 p.m. on the next business day.

[ACT] The Nasdaq Market Center will not automatically lock in T+22 (calendar day) or older open "as-of" trades that were carried-over from the previous business day; these will be purged by [ACT] the Nasdaq Market Center at the end of the carry-over day if they remain open. Members may re-submit these T+22 or older "as-of" trades into [ACT] the Nasdaq Market Center on the next business day for continued comparison and reconciliation for up to one calendar year.

6150. [ACT] Risk Management Functions

(a) Clearing brokers may voluntarily use [ACT] Nasdaq Market Center risk management for trades of correspondent firms for which they clear trades. Clearing brokers that discontinue the use of [ACT] Nasdaq Market Center risk management, as well as the correspondents for whom they clear, must continue to comply with all applicable rules governing the reporting of trades to [ACT] the Nasdaq Market Center. A clearing broker that chooses not to use [ACT] Nasdaq Market Center risk management shall notify Nasdaq in writing that:

(1) the clearing broker will no longer utilize the [ACT] the Nasdaq Market Center risk management function for trades cleared for all correspondents or for specified correspondents for which it clears trades;

(2) the firm will use another risk management tool that provides risk management functions comparable to those provided by [ACT] the Nasdaq Market Center as described in subparagraph (b) below, and that enables the clearing broker to monitor the trading activities and risk exposure of its specified correspondents and to meet its financial and operational obligations under the federal securities laws and NASD rules; and

(3) the firm requests relief from [ACT] the Nasdaq Market Center risk management charges for all correspondents or for specified correspondents for which it clears trades.

(b) If a clearing broker voluntarily uses [ACT] the Nasdaq Market Center risk management service, the [ACT] Nasdaq Market Center system will provide the following risk management capabilities to clearing brokers that have executed an ACT Participant Risk Management Agreement:

(1) Trade File Scan

Clearing brokers will be able to scan the trading activities of their correspondent executing brokers through a Nasdaq terminal.

(2) Gross Dollar Thresholds ("Super Caps") and Sizeable Limits

Clearing brokers will be able to establish, on an inter-day or intra-day basis, gross dollar thresholds (also known as "Super Caps") for purchases and sales for their correspondent executing brokers. When any of a correspondent's gross dollar thresholds are exceeded, notice will be furnished to the clearing broker, and any trade in excess of an applicable "sizeable limit" that is negotiated by the correspondent will be subject to review by the clearing broker until such time as the correspondent's trading activity no longer exceeds a gross dollar threshold. Specifically, the clearing broker will have 15 minutes from

execution to review any single trade negotiated by the correspondent that equals or exceeds the applicable sizeable limit in order to decide to act as principal for the trade or to decline to act as principal. If the clearing broker does not affirmatively accept or decline the "sizeable trade," at the end of 15 minutes the system will act in accordance with pre-established processing criteria, as described below.

(A) ACT Workstation Users.

(i) Clearing brokers that use the ACT Workstation may establish gross dollar thresholds and sizeable limits for each of their correspondent executing brokers. They may establish different gross dollar thresholds and sizeable limits for each type of security (i.e., Nasdaq National Market, Nasdaq SmallCap Market, Consolidated Quotations Service, or OTC Bulletin Board), as well as an aggregate gross dollar threshold and sizeable limit for all types of securities.

(ii) Notice will be provided to all [ACT] Participants when a correspondent's aggregate gross dollar threshold is exceeded, but will be provided solely to the clearing broker if the gross dollar threshold for a type of security is exceeded.

(iii) Clearing brokers that use the ACT Workstation may also establish the default processing criteria that will apply to sizeable trades when a correspondent's gross dollar threshold has been exceeded; the clearing broker may specify that after 15 minutes, if the clearing broker does not affirmatively accept or decline the trade, such trades should be either automatically declined or automatically subjected to normal [ACT] Nasdaq Market Center processing in which the clearing broker will act as principal to clear the trades.

(B) Other [ACT] Nasdaq Market Center Risk Management Users.

(i) Clearing brokers that do not use the ACT Workstation may establish aggregate gross dollar thresholds for each of their correspondent executing brokers, but may not establish gross dollar thresholds for each type of security (i.e., Nasdaq National Market, Nasdaq SmallCap Market, Consolidated Quotations Service, or OTC Bulletin Board).

(ii) Notice will be provided to all [ACT] Participants when a correspondent's aggregate gross dollar threshold is exceeded.

(iii) The sizeable limit is \$200,000 for all clearing brokers that do not use the ACT Workstation. When a correspondent's aggregate gross dollar threshold is exceeded, no trade in excess of the sizeable limit will be accepted for [ACT] processing unless the clearing broker accepts the trade within 15 minutes of execution.

(3) Gross Dollar Threshold Pre-Alert

The [ACT] Nasdaq Market Center system will also alert the clearing broker and its correspondent when the correspondent's trading activity equals or exceeds 70% of any gross dollar threshold established by the clearing broker for that correspondent.

(4) End of Day Recap

Clearing brokers that access [ACT] the Nasdaq Market Center through computer interface will be able to receive an end of day recap of all trade detail information of their correspondents.

(5) On-line Review

Clearing brokers that access [ACT] the Nasdaq Market Center through computer interface will be able to receive intra-day activity of their correspondents as it is reported.

(6) Single Trade Limit

Clearing brokers will have 15 minutes from trade report input to [ACT] the Nasdaq Market Center to review any single trade executed by their correspondent executing brokers that equals or exceeds a pre-established limit in order to decide to act as principal for the trade or to decline to act as principal. If, however, the clearing firm does not affirmatively accept or decline the trade, at the end of 15 minutes the system will act in accordance with pre-established processing criteria, as described below.

(A) ACT Workstation Users. Clearing brokers that use the ACT Workstation may establish single trade limits for each of their correspondent executing brokers, and may establish different limits for each type of security (i.e., Nasdaq National Market, Nasdaq SmallCap Market, Consolidated Quotations Service, or OTC Bulletin Board). Such clearing brokers may also establish the default processing criteria that will apply to trades that exceed the single trade limit after 15 minutes if the clearing broker does not affirmatively accept or decline the trade; the clearing broker may specify that such trades should be either automatically declined or automatically subjected to normal [ACT] processing in which the clearing broker will act as principal to clear the trades.

(B) Other [ACT] Nasdaq Market Center Risk Management Users. For clearing brokers that do not use the ACT Workstation, the single trade limit is \$1,000,000. If such a clearing broker does not affirmatively accept or decline a trade that exceeds the single trade limit, at the end of 15 minutes the system will subject the trade to normal [ACT] processing and the clearing broker will be obligated to act as principal to clear the trade.

6160. Obligation to Honor Trades

If a[n ACT] Participant is reported by [ACT] the Nasdaq Market Center as a party to a trade that has been treated as locked-in and sent to NSCC, notwithstanding any other agreement to the contrary, that party shall be obligated to act as a principal to the trade and shall honor such trade on the scheduled settlement date.

6170. Audit Trail Requirements

The data elements specified in Rule 6130(d) are critical to the Association's compilation of a transaction audit trail for regulatory purposes. As such, all member firms utilizing the [ACT Service] trade reporting service of the Nasdaq Market Center have an ongoing obligation to input 6130(d) information accurately and completely.

6180. Violation of [ACT] Nasdaq Market Center Reporting Service Rules

Failure of a[n ACT] Participant or person associated with a[n ACT] Participant to comply with any of the rules or requirements of [ACT] the Nasdaq Market Center may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2110.

6190. Termination of [ACT Service] Access

The Association may, upon notice, terminate [ACT service] access to the trade reporting service of the Nasdaq Market Center as to a Participant in the event that a[n ACT] Participant fails to abide by any of the rules or operating procedures of the [ACT] trade reporting service of the Nasdaq Market Center service or the Association, or fails to honor contractual agreements entered into with the Association or its subsidiaries, or fails to pay promptly for services rendered by the [ACT Service] trade reporting service of the Nasdaq Market Center.

6400. REPORTING TRANSACTIONS IN LISTED SECURITIES

6410. Definitions

- (a) No change
- (b) ["Automated Confirmation Transaction Service" or "ACT" is the service that, among other things, accommodates reporting and dissemination of last sale reports in eligible securities.] Reserved
- (c) – (h) No change

6420. Transaction Reporting

(a) When and How Transactions are Reported

(1) Registered Reporting Members shall transmit [through ACT] to the Nasdaq Market Center within 90 seconds after execution, last sale reports of transactions in eligible securities executed between 9:30 a.m. and 4:00 p.m. Eastern Time otherwise than on a national securities exchange. Transactions not reported within 90 seconds after

execution shall be designated as late and such trade reports must include the time of execution. Registered Reporting Members shall also transmit [through ACT] to the Nasdaq Market Center within 90 seconds after execution, last sale reports of transactions in eligible securities executed in the United States otherwise than on a national securities exchange between 4:00 p.m. and 6:30 p.m. Eastern Time; trades executed and reported after 4:00 p.m. Eastern Time shall be designated as ".T" trades to denote their execution outside normal market hours. Transactions not reported within 90 seconds after execution must include the time of execution on the trade report.

(2) (A) Non-Registered Reporting Members shall, within 90 seconds after execution, transmit [through ACT] to the Nasdaq Market Center or if [ACT] the Nasdaq Market Center is unavailable due to system or transmission failure by telephone to the Nasdaq Market Operations Department, last sale reports of transactions in eligible securities executed between 9:30 a.m. and 4:00 p.m. Eastern Time otherwise than on a national securities exchange.

(B) Non-registered Reporting Members shall, within 90 seconds after execution, transmit [through ACT] to the Nasdaq Market Center or if [ACT] the Nasdaq Market Center is unavailable due to system or transmission failure, by telephone to the Nasdaq Market Operations Department, last sale reports of transactions in eligible securities executed in the United States otherwise than on a national securities exchange between the hours of 4:00 p.m. and 6:30 p.m. Eastern Time; trades executed and reported after 4:00 p.m. Eastern Time shall be designated as ".T" trades to denote their execution outside normal market hours. Transactions not reported within 90 seconds after execution must include the time of execution on the trade report.

(3) (A) All members shall report transactions in eligible securities executed outside the hours of 9:30 a.m. and 6:30 p.m. Eastern Time as follows:

(i) by transmitting the individual trade reports [through ACT] to the Nasdaq Market Center on the next business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time;

(ii) by designating the entries "as/of" trades to denote their execution on a prior day; and

(iii) by including the time of execution. The party responsible for reporting on T+1, the trade details to be reported, and the applicable procedures shall be governed, respectively by paragraphs (b), (c), and (d) below.

(B) All members shall report as soon as practicable to the Market Regulation Department on Form T, last sale reports of transactions in designated securities for which electronic submission [into ACT] to the Nasdaq Market Center is not possible (e.g., the ticker symbol for the security is no longer available or a market participant identifier is no longer active). Transactions that can be reported [into ACT] to the Nasdaq Market Center whether on trade date or on a subsequent date on an "as of" basis (T+N), shall not be reported on Form T.

(4) All trade tickets for transactions in eligible securities shall be time-stamped at the time of execution.

(5) Transactions not reported within 90 seconds after execution shall be designated as late. A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of the Rule 2110.

(6) All members shall report transactions at prices based on average-weighting or other special pricing formulae unrelated to the current or closing price of the security on the primary market to Nasdaq using a special indicator, as designated by the Association.

(7) Nasdaq will append the .T modifier or the .SLD modifier, as appropriate, to those reports submitted to [ACT] the Nasdaq Market Center that contain the time of execution, but that do not contain the appropriate modifier.

(b) Which Party Reports Transaction

(1) Transactions executed on an exchange are reported by the exchange and shall not be reported by members.

(2) In transactions between two Registered Reporting Members, only the member representing the sell side shall report.

(3) In transactions between a Registered Reporting Member and a Non-Registered Reporting Member, only the Registered Reporting Member shall report.

(4) In transactions between Non-Registered Reporting Members, only the member representing the sell side shall report.

(5) In transactions conducted through a[n ACT/NNMS] Reporting ECN (as defined in Rule 6110), the [ACT/NNMS] Reporting ECN shall ensure that the transactions are reported in accordance with Rule 6130(c).

(c) No change

(d) Procedures for Reporting Price and Volume

Members which are required to report pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in eligible securities in the following manner:

(1) For agency transactions, report the number of shares and the price excluding the commission charged.

Example:

SELL as agent 100 shares at 40 less a commission of \$12.50;

REPORT 100 shares at 40.

(2) For dual agency transactions, report the number of shares only once, and report the price excluding the commission charged.

Example:

SELL as agent 100 shares at 40 less a commission of \$12.50;

BUY as agent 100 shares at 40 plus a commission of \$12.50;

REPORT 100 shares at 40.

(3) (A) For principal transactions, except as provided below, report each purchase and sale transaction separately and report the number of shares and the price. For principal transactions which are executed at a price which includes a mark-up, mark-down or service charge, the price reported shall exclude the mark-up, mark-down or service charge.

Example:

BUY as principal 100 shares from another member at 40 (no mark-down included).

REPORT 100 shares at 40.

Example:

BUY as principal 100 shares from a customer at $39 \frac{3}{4}$, which includes a $\frac{1}{8}$ mark-down from prevailing market of $39 \frac{7}{8}$;

REPORT 100 shares at $39 \frac{7}{8}$.

Example:

BUY as principal 100 shares from a customer at 39.75, which includes a \$0.10 mark-down from prevailing market of \$39.85;

REPORT 100 shares at 39.85.

Example:

SELL as principal 100 shares to a customer at $40 \frac{1}{8}$, which includes a $\frac{1}{8}$ mark-up from the prevailing market of 40;

REPORT 100 shares at 40.

Example:

SELL as principal 100 shares to a customer at 40.10, which includes a .10 mark-up from the prevailing market of 40;

REPORT 100 shares at 40.

(B) Exception: A "riskless" principal transaction in which a member after having received an order to buy, purchases the security as principal at the same price to satisfy the order to buy or, after having received an order to sell, sells the security as principal at the same price to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down, commission-equivalent, or other fee. Alternatively, a member may report a riskless principal transaction by submitting the following report(s) to [ACT] the Nasdaq Market Center:

(i) The member with the obligation to report the transaction pursuant to paragraph (b) above must submit a last sale report for the initial leg of the transaction.

(ii) Regardless of whether a member has a reporting obligation pursuant to paragraph (b) above, the firm must submit, for the offsetting, "riskless" portion of the transaction, either:

a. a clearing-only report with a capacity indicator of "riskless principal," if a clearing report is necessary to clear the transaction;
or

b. a non-tape, non-clearing report with a capacity indicator of "riskless principal," if a clearing report is not necessary to clear the transaction.

A riskless principal transaction in which a member purchases or sells the security on an exchange to satisfy a customer's order will be reported by the exchange and the member shall not report.

Example:

BUY as principal 100 shares from another member at 40 to fill an existing order;

SELL as principal 100 shares to a customer at 40 plus mark-up of \$12.50;

REPORT 100 shares at 40 by submitting to [ACT] the Nasdaq Market Center either a single trade report marked with a "riskless principal" capacity indicator or by submitting the following reports:

(1) where required by this Rule, a tape report marked with a "principal" capacity indicator; and

(2) either a non-tape, non-clearing report or a clearing-only report marked with a "riskless principal" capacity indicator.

Example:

BUY as principal 100 shares on an exchange at 40 to fill an existing order;

SELL as principal 100 shares to a customer at 40 plus a mark-up of \$12.50;

DO NOT REPORT (will be reported by exchange).

(e) No change

6600. OVER-THE-COUNTER EQUITY SECURITIES

This Rule 6600 Series sets forth recording and reporting requirements for certain quotations and unpriced indications of interest displayed on inter-dealer quotation systems and the trade reporting requirements applicable to members' transactions in equity securities for which real-time trade reporting is not otherwise required (hereinafter referred to as "OTC Equity Securities"). Members shall utilize the [Automated Confirmation Transaction Service (ACT)] Nasdaq Market Center for trade reporting in OTC Equity Securities.

6610. Definitions

(a) No change

(b) ["Automated Confirmation Transaction Service" or ACT] "Nasdaq Market Center" [is the service] means, for the purposes of Rules 6600-6630, the service provided by Nasdaq that, among other things, accommodates reporting and dissemination of last sale reports in OTC Equity Securities. Regarding those OTC Equity Securities that are not eligible for clearance and settlement through the facilities of the National Securities Clearing Corporation, the [ACT] Nasdaq Market Center comparison function will not be available. However, [ACT] the Nasdaq Market Center will support the entry and dissemination of last sale data on such securities.

(c) – (e) No change

6620. Transaction Reporting

(a) When and How Transactions are Reported

(1) OTC Market Makers shall, within 90 seconds after execution, transmit [through ACT] to the Nasdaq Market Center last sale reports of transactions in OTC Equity Securities executed during normal market hours. Transactions not reported within 90 seconds after execution shall be designated as late.

(2) Non-Market Makers shall, within 90 seconds after execution, transmit [through ACT] to the Nasdaq Market Center or if [ACT] the Nasdaq Market Center is unavailable due to system or transmission failure, by telephone to the Nasdaq Market

Operations Department, last sale reports of transactions in OTC Equity Securities executed during normal market hours. Transactions not reported within 90 seconds after execution shall be designated as late.

(3) Transaction Reporting Outside Normal Market Hours

(A) Last sale reports of transactions in OTC Equity Securities executed between 8:00 a.m. and 9:30 a.m. Eastern Time shall be transmitted [through ACT] to the Nasdaq Market Center within 90 seconds after execution and shall be designated as ".T" trades to denote their execution outside normal market hours. Last sale reports of transactions in OTC Equity Securities executed between the hours of 4:00 p.m. and 6:30 p.m. Eastern Time shall also be transmitted [through ACT] to the Nasdaq Market Center within 90 seconds after execution; trades executed and reported after 4:00 p.m. Eastern Time shall be designated as ".T" to denote their execution outside normal market hours. Transactions not reported within 90 seconds must include the time of execution on the trade report.

(B) Last sale reports of transactions in OTC Equity Securities executed outside the hours of 8:00 a.m. and 6:30 p.m. Eastern Time shall be reported as follows:

(i) Last sale reports of transactions in American Depositary Receipts (ADRs), Canadian issues, or domestic OTC Equity Securities that are executed between midnight and 8:00 a.m. Eastern Time shall be transmitted [through ACT] to the Nasdaq Market Center between 8:00 a.m. and 9:30 a.m. Eastern Time on trade date, be designated as ".T" trades to denote their execution outside normal market hours, and be accompanied by the time of execution. The party responsible for reporting on trade date, the trade details to be reported, and the applicable procedures shall be governed, respectively, by paragraphs (b), (c), and (d) below;

(ii) Last sale reports of transactions in ADRs, Canadian issues, or domestic OTC Equity Securities that are executed between 6:30 p.m. and midnight Eastern Time shall be transmitted [through ACT] to the Nasdaq Market Center on the next business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time, be designated "as/of" trades to denote their execution on a prior day, and be accompanied by the time of execution. The party responsible for reporting on T+1, the trade details to be reported, and the applicable procedures shall be governed, respectively, by paragraphs (b), (c), and (d) below; and

(iii) Last sale reports of transactions in foreign securities (excluding ADRs and Canadian issues) shall be transmitted [through ACT] to the Nasdaq Market Center on T+1 regardless of time of execution. * Such reports shall be made between 8:00 a.m. and 1:30 p.m. Eastern Time in the same manner as described in subparagraph (3)(B)(ii) above.

(4) All members shall report as soon as practicable to the Market Regulation Department on Form T, last sale reports of transactions in OTC Equity Securities for which electronic submission [into ACT] to the Nasdaq Market Center is not possible

(e.g., the ticker symbol for the security is no longer available or a market participant identifier is no longer active). Transactions that can be reported [into ACT] to the Nasdaq Market Center whether on trade date or on a subsequent date on an "as of" basis (T+N), shall not be reported on Form T.

(5) A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2110.

(6) All members shall append a trade report modifier as designated by the Association to transaction reports that reflect a price different from the current market when the execution is based on a prior reference point in time, which shall be accompanied by the prior reference time.

(7) Nasdaq will append the .T modifier or the .SLD modifier, as appropriate, to those reports submitted to [ACT] the Nasdaq Market Center that contain the time of execution, but that do not contain the appropriate modifier.

(b) Which Party Reports Transactions

(1) In transactions between two OTC Market Makers, only the member representing the sell side shall report.

(2) In transactions between an OTC Market Maker and a Non-Market Maker, only the OTC Market Maker shall report.

(3) In transactions between two Non-Market Makers, only the member representing the sell side shall report.

(4) In transactions between a member and a customer, the member shall report.

(5) In transactions conducted through a [n ACT/NNMS] Reporting ECN (as defined in Rule 6110), the [ACT/NNMS] Reporting ECN shall ensure that the transactions are reported in accordance with Rule 6130(c), and the term "Reporting Market Maker" as used in such rule shall be construed to refer to an OTC Market Maker.

(c) No change

(d) Procedures for Reporting Price and Volume

Members that are required to report pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in OTC Equity Securities in the following manner:

(1) For agency transactions, report the number of shares and the price excluding the commission charged.

(2) For dual agency transactions, report the number of shares only once, and report the price excluding the commission charged.

(3) (A) For principal transactions, except as provided in subparagraph (B) hereof, report each purchase and sale transaction separately and report the number of shares and the price. For principal transactions that are executed at a price which includes a mark-up, mark-down or service charge, the price reported shall

exclude the mark-up, mark-down or service charge. Such reported price shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the OTC Equity Security, the number of shares involved in the transaction, the published bids and offers with size displayed in any inter-dealer quotation system at the time of the execution (including the reporting firm's own quotation), the cost of execution and the expenses involved in clearing the transaction.

(B) Exception: A "riskless" principal transaction in which a member, after having received an order to buy a security, purchases the security as principal at the same price to satisfy the order to buy or, after having received an order to sell, sells the security as principal at the same price to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down, commission-equivalent, or other fee. Alternatively, a member may report a riskless principal transaction by submitting the following report(s) to [ACT] the Nasdaq Market Center:

(i) The member with the obligation to report the transaction pursuant to paragraph (b) above must submit a last sale report for the initial leg of the transaction.

(ii) Regardless of whether a member has a reporting obligation pursuant to paragraph (b) above, the firm must submit, for the offsetting, "riskless" portion of the transaction, either:

a. a clearing-only report with a capacity indicator of "riskless principal," if a clearing report is necessary to clear the transaction; or

b. a non-tape, non-clearing report with a capacity indicator of "riskless principal," if a clearing report is not necessary to clear the transaction.

Example:

SELL as a principal 100 shares to another member at 40 to fill an existing order;

BUY as principal 100 shares from a customer at 40 minus a mark-down of \$12.50;

REPORT 100 shares at 40 by submitting to [ACT] the Nasdaq Market Center either a single trade report marked with a "riskless principal" capacity indicator or by submitting the following reports:

(1) where required by this Rule, a tape report marked with a "principal" capacity indicator; and

(2) either a non-tape, non-clearing report or a clearing-only report marked with a "riskless principal" capacity indicator.

(e) Transactions Not Required To Be Reported

The following types of transactions shall not be reported:

(1) Transactions which are part of a primary distribution by an issuer or a registered secondary distribution (other than "shelf distributions") or of an unregistered secondary distribution;

(2) Transactions made in reliance on Section 4(2) of the Securities Act of 1933;

(3) Transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security;

(4) Purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the current market.

(5) In transactions conducted through a[n ACT] Reporting ECN (as defined in Rule 6110), the [ACT] Reporting ECN shall ensure that the transactions are reported in accordance with Rule 6130(c), and the term "Reporting Market Maker" as used in such rule shall be construed to include an OTC Market Maker.

* Member firms that have the operational capability to report transactions in foreign securities (excluding ADRs and Canadian issues) within 90 seconds of execution, between the hours of 8:00 a.m. and 5:15 p.m. Eastern Time, may do so at their option. If a firm chooses this option, it need not report the same transaction(s) on T+1 as prescribed by subsection (ii)(c).

6910. Definitions

The following terms shall have the following meanings for purposes of Rule 6900.

(a) ["Automated Confirmation Transaction Service," or "ACT] "Nasdaq Market Center" [is the service] means the service provided by Nasdaq that, among other things, accommodates reporting of transactions in direct participation programs (DPPs). The [ACT] Nasdaq Market Center comparison function will not be available for those DPPs that are both eligible for quotation in the OTC Bulletin Board and eligible for clearance and settlement through the facilities of the National Securities Clearing Corporation. However, [ACT] the Nasdaq Market Center will support the entry and inclusion of transaction data on such securities for reporting purposes.

(b) – (e) No change

6920. Transaction Reporting.

(a) When and How Transactions are Reported

(1) Reports of secondary market transactions in direct participation programs shall be transmitted [through ACT] to the Nasdaq Market Center on the next business day ("T+1") after the date of execution between 8:00 a.m. and 1:30 p.m. Eastern Time, be designated "as of" trades to denote their execution on a prior day, and be accompanied by

the time of execution. The party responsible for reporting on T+1, the trade details to be reported, and the applicable procedures shall be governed, respectively, by paragraphs (b), (c), and (d) below. Member firms that have the operational capability to report transactions within 90 seconds of execution, between the hours of 8:00 a.m. and 5:15 p.m. Eastern Time, may do so at their option. If a firm chooses this option, it need not report the same transaction(s) on T+1 as prescribed above.

(2) All members shall report to the Market Regulation Department in Rockville, Maryland on Form T, reports of transactions in DPPs that were not transmitted [through ACT] to the Nasdaq Market Center for whatever reason, either on the trade date or the next business day. Form T shall be used exclusively as a back-up mode whenever electronic entry of trade data is not feasible due to system malfunctions or other unusual conditions.

(3) A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2110.

(b) Which Party Reports Transactions

(1) In transactions between two members, only the member representing the sell side shall report.

(2) In transactions between a member and a customer, the member shall report.

(3) In transactions conducted through a[n ACT/NNMS] Reporting ECN (as defined in Rule 6110), the [ACT/NNMS] Reporting ECN shall ensure that the transactions are reported in accordance with Rule 6130(c); provided that for purposes of Rule 6130(c)(5) (B) and (C), the party with the reporting obligation shall be as set forth in Rule 6130(c)(3) and the term "Reporting Order Entry Firm" as used in such rule shall be construed to refer to any member.

(c) –(e) No change

6950. ORDER AUDIT TRAIL SYSTEM

6951. Definitions

For purposes of Rules 6950 through 6957:

(a)- (d) No change

(e) ["ACT" shall mean the Automated Confirmation Transaction Service operated by The Nasdaq Stock Market, Inc.] "Nasdaq Market Center" shall mean the service provided by Nasdaq that, among other things, provides for the reporting of transactions in Nasdaq securities.

(f) – (j) No change

(k) "Order Audit Trail System" shall mean the automated system owned and operated by the Association that is designed to capture order information reported by members for

integration with trade information reported to [ACT] the Nasdaq Market Center and quotation information disseminated by members in order to provide the Association with an accurate time sequenced record of orders and transactions.

(l) – (n) No change

6954. Recording of Order Information

(a) – (c) No change

(d) Order Modifications, Cancellations, and Executions

Order information required to be recorded under this Rule when an order is modified, canceled, or executed includes the following.

(1) When a Reporting Member modifies or receives a modification to the terms of the order, the Reporting Member shall record, in addition to all other applicable information items (including a new order identifier) that would apply as if the modified order were originated or received at the time of the modification:

(A) the order identifier assigned to the order by the Reporting Member prior to the modification,

(B) the date and time the modification was originated or received, and

(C) the date the order was first originated or received by the Reporting Member.

(2) When the Reporting Member cancels or receives a cancellation of an order, in whole or part, the Reporting Member shall record:

(A) the order identifier assigned to the order by the Reporting Member,

(B) the market participant symbol assigned by the Association to the Reporting member,

(C) the date the order was first originated or received by the Reporting Member,

(D) the date and time the cancellation was originated or received,

(E) if the open balance of an order is canceled after a partial execution, the number of shares canceled, and

(F) whether the order was canceled on the instruction of a customer or the Reporting Member.

(3) When a Reporting Member executes an order, in whole or in part, the Reporting Member shall record:

(A) the order identifier assigned to the order by the Reporting Member,

(B) the market participant symbol assigned by NASD to the Reporting Member,

(C) the date the order was first originated or received by the Reporting Member,

(D) the Reporting Member's number assigned for purposes of identifying transaction data in [ACT] the Nasdaq Market Center,

(E) the designation of the order as fully or partially executed,

(F) the number of shares to which a partial execution applies and the number of unexecuted shares remaining,

(G) the identification number of the terminal where the order was executed,

(H) the date and time of execution and

(I) the national securities exchange or facility operated by a registered securities association where the trade was reported.

[*NASD members must implement the provisions of Rule 6954(d)(3)(I) beginning on October 14, 2002*]

7000. CHARGES FOR SERVICES AND EQUIPMENT

7010. System Services

(a) – (f) No change

(g) [Automated Confirmation Transaction Service] Nasdaq Market Center Trade Reporting

The following charges shall be paid by the participant for use of the [Automated Confirmation Transaction Service (ACT)] trade reporting service of the Nasdaq Market Center:

Transaction Related Charges:

Reporting of transactions in Nasdaq National Market and SmallCap Market securities executed through the Nasdaq [National Market Execution System] Market Center (“[NNMS] Nasdaq Market Center Covered Transactions”)

Average daily volume of transaction reports for [NNMS] <u>Nasdaq Market Center Covered Transactions</u> during the month to which a participant is a party:	Fee per side for transaction reports of [NNMS] <u>Nasdaq Market Center Covered Transactions</u> to which such participant is a party:
0 to 9,999	\$0.029
10,000 or more	\$0.00

- Other reports for transactions in Nasdaq National Market \$0.00

and SmallCap Market securities not subject to comparison through [ACT] the Nasdaq Market Center

Reporting of transactions in ITS Securities (as defined in Rule 5210(c)) not subject to comparison through [ACT] the Nasdaq Market Center (“ITS Covered Transactions”)

Average daily volume of media transaction reports for ITS Covered Transactions during the month (i) that are submitted [by] to the trade reporting service of the Nasdaq Market Center automatically [systems to ACT] and in which a participant is identified as the reporting party, or (ii) that are submitted or introduced by such participant to [ACT] the Nasdaq Market Center:

Fee per side for reports of ITS Covered Transactions to which such participant is a party:

0 to 5,000
More than 5,000

\$0.029
\$0.029 for a number of reports equal to 5,000 times the number of trading days in the month
\$0.00 for all remaining reports

Reporting of all other transactions not subject to comparison through [ACT] the Nasdaq Market Center

\$0.029/side

Comparison \$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares)

Late Report – T+N \$0.288/side

Browse/query \$0.288/query

CTCI fee \$575.00/month

WebLink ACT \$300/month (full functionality) or \$150/month (up

month) (For the purposes of this service only, a transaction is defined as an original trade entry, either on trade date or as-of transactions per month.)

Risk Management Charges	\$0.035/side and \$17.25/month per correspondent firm (maximum \$10,000/month per correspondent firm)
Corrective Transaction Charge	\$0.25/Cancel, Error, Inhibit, Kill, or 'No' portion of No/Was transaction, paid by reporting side; \$0.25/Break, Decline transaction, paid by each party
ACT Workstation	\$525/logon/month

(h) No change

(i) Nasdaq [National Market Execution System (SuperMontage)] Market Center order execution

(1) The following charges shall apply to the use of the [Nasdaq National Market Execution System (commonly known as SuperMontage)] order execution services of the Nasdaq Market Center by members for Nasdaq-listed securities:

Order Entry

Non-Directed Orders (excluding Preferred Orders) No charge

Preferred Orders:

Preferred Orders that access a Quote/Order of the member that entered the Preferred Order[] No charge

Other Preferred Orders \$0.02 per order entry

Directed Orders \$0.10 per order entry

Order Execution

Non-Directed or Preferred Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the [NNMS] Nasdaq Market Center:

Charge to member entering order:

Average daily shares of liquidity provided through the [NNMS] Nasdaq Market Center by the member during the month:

400,000 or less	\$0.003 per share executed (but no more than \$120 per trade for trades in securities executed at \$1.00 or less per share)
400,001 to 5,000,000	\$0.0027 per share executed (but no more than \$108 per trade for trades in securities executed at \$1.00 or less per share)
5,000,001 or more	\$0.0026 per share executed (but no more than \$104 per trade for trades in securities executed at \$1.00 or less per share)

Credit to member providing liquidity:

Average daily shares of liquidity provided through the [NNMS] Nasdaq Market Center by the member from April 15 to April 30, 2004, or during any month thereafter:

20,000,000 or less	\$0.002 per share executed (but no more than \$80 per trade for trades in securities executed at \$1.00 or less per share)
20,000,001 or more	\$0.0025 per share executed (but no more than \$100 per trade for trades in securities executed at \$1.00 or less per share)

Non-Directed or Preferred Order that accesses the Quote/Order of a market participant that charges an access fee to market participants accessing its Quotes/Orders through the [NNMS] Nasdaq Market Center:

Charge to member entering order:

Average daily shares of liquidity provided through the [NNMS] Nasdaq Market Center by the member during the month:

400,000 or less	\$0.001 per share executed (but no more than \$40 per trade for trades in securities executed at \$1.00 or less per share)
400,001 or more	\$0.001 per share executed (but no more than \$40 per trade for trades in securities executed at \$1.00 or less per share, and no more than \$10,000 per month)

Directed Order \$0.003 per share executed

Non-Directed or Preferred Order entered by a member that accesses its own Quote/Order submitted under the same or a different market participant identifier of the member No charge

Order Cancellation

Non-Directed and Preferred Orders No charge
Directed Orders \$0.10 per order cancelled

(2) For purposes of assessing [NNMS] Nasdaq Market Center fees and credits hereunder, (A) a Discretionary Order that executes prior to being displayed as a Quote/Order will always be deemed to be accessing liquidity unless it is executed by (or receives delivery of) a displayed Discretionary Order at a price in the discretionary price range of the displayed Discretionary Order, and (B) a Discretionary Order that executes after being displayed as a Quote/Order will always be deemed to be providing liquidity, unless the displayed Discretionary Order executes against (or is delivered to) a Quote/Order or Non-Directed Order that has not been designated “Immediate or Cancel,” at a price in its discretionary price range.

(3) Pilot – Closing Cross

For a period of three months commencing on the date Nasdaq implements its Closing Cross (as described in Rule 4709) members shall not be charged [SuperMontage] Nasdaq Market Center execution fees, or receive [SuperMontage] Nasdaq Market Center liquidity provider credits, for those quotes and orders executed in the Nasdaq Closing Cross.

(j) – (p) No change

(q) Nasdaq Data Entitlement Packages

This subsection (q) sets out the charges for the data entitlement packages for Nasdaq listed securities collectively known as ViewSuite. Subsections (q)(1) and (q)(2) describe the data entitlement packages and set out the regular charges for each. Subsection (q)(3) describes the Enterprise License Program, an optional pilot program that modifies the regular charges for participants as set out therein. Subsection (q)(4) describes the Non-

Display Enterprise License Pilot. Subsection (q)(5) describes the ViewSuite entitlement, a second pilot program that suspends the regular charges set out in (q)(1) and (q)(2) during its operation. Thus, the monthly charges set out in (q)(1) and (q)(2) below are not in effect during the length of the pilot program set out in (q)(5). Subsection (q)(6) sets forth definitions and subsection (q)(7) addresses revenue sharing.

(1) No change

(2) TotalView

The TotalView Data Feed consists of the individual Nasdaq [SuperMontage] Market Center participant orders and quotes and the aggregate size of such orders and quotes at each price level in [Super Montage] the Nasdaq Market Center. The TotalView entitlement package includes the information disseminated through the TotalView Data Feed in addition to the data contained in the PowerView entitlement package.

(A) Distributors of TotalView data shall pay a charge of \$7,500 per month.

(B) For Total View, there shall be a charge of \$150 per month per controlled device.

(C) 30-Day Free-Trial Offer. Nasdaq shall offer all new individual subscribers and potential new individual subscribers a 30-day waiver of the fees for TotalView. This waiver shall not include the incremental fees assessed for the NQDS-only service, which are \$30.00 for professional users and \$9.00 for non-professional users per month. This fee waiver period shall be applied on a rolling basis, determined by the date on which a new individual subscriber or potential individual subscriber is first entitled by a distributor to receive access to TotalView. A distributor may only provide this waiver to a specific individual subscriber once. For the period of the offer, the TotalView fee of \$120 per professional user and \$141 per non-professional user per month shall be waived.

(3)-(7) No change

(r) - (u) No Change
