

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-52210; File No. SR-NASD-2004-089)

August 4, 2005

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto to Require Limit Order Protection and to Expand the Application of Manning Obligations to Exchange-Listed Securities

On June 9, 2004, the National Association of Securities Dealers, Inc. (“NASD”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to require members to provide price improvement to customer limit orders under certain circumstances, and to expand the application of NASD IM-2110-2 (“Manning” obligations) to exchange-listed securities. The proposed rule change prohibits a member from trading for its own account in a Nasdaq or exchange-listed security at a price that is better than an unexecuted customer limit order in that security, unless the member immediately thereafter executes the customer limit order at the price at which it traded for its own account or at a better price.

On November 2, 2004, NASD filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as modified by Amendment No. 1, was published for notice and comment in the Federal Register on February 25, 2005.<sup>4</sup> The Commission

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 replaced NASD’s original proposed rule change in its entirety.

<sup>4</sup> Securities Exchange Act Release No. 51231 (February 18, 2005), 70 FR 9402.

received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of Section 15A of the Act<sup>5</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 15A(b)(6),<sup>6</sup> which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that requiring price improvement for customer limit orders as detailed in the proposed rule change, and the expansion of the application of Manning obligations under NASD IM-2110-2 to include exchange-listed securities, will provide the opportunity for investors to receive better limit order executions, and thus enhance the overall integrity of the market.<sup>7</sup>

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act<sup>8</sup>, that the

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<sup>5</sup> 15 U.S.C. 78o-3

<sup>6</sup> 15 U.S.C. 78o-3(b)(6).

<sup>7</sup> In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. See, 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-NASD-2004-089) be, and it hereby is, approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

J. Lynn Taylor  
Assistant Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).