

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53819; File No. SR-NASD-2006-052)

May 17, 2006

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Reflect the Revised Effective Date of Certain Amendments to NASD's Order Audit Trail System Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 20, 2006, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD. NASD has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act³ and Rule 19b-4(f)(1) thereunder,⁴ which renders the proposal effective upon receipt of this filing with the Commission. The Exchange filed Amendment No. 1 to the proposed rule change on May 15, 2006.⁵ The Commission is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

⁵ In Amendment No. 1, NASD made certain technical and clarifying changes to the rule text and throughout the proposed rule change. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on May 15, 2006, the date on which the Exchange filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to establish July 10, 2006 as the effective date of the amendments to NASD's Order Audit Trail System ("OATS") rules approved by the Commission on September 28, 2005⁶ and March 30, 2006.⁷

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in [brackets].⁸

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6950. Order Audit Trail System

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6957. Effective Date

The requirements of the Order Audit Trail System shall be effective in accordance with the following schedule:

(a) and (b) No Change.

(c) **Manual Orders**

The requirements of the Order Audit Trail System shall be effective on July 10,

⁶ See Securities Exchange Act Release No. 52521 (September 28, 2005), 70 FR 57909 (October 4, 2005) (SR-NASD-00-23). See also Notice to Members 05-78 (November 2005).

⁷ See Securities Exchange Act Release No. 53580 (March 30, 2006), 71 FR 17529 (April 6, 2006) (SR-NASD-2006-040). See also Notice to Members 06-15 (April 2006).

⁸ The proposed changes indicated below are based on rule text approved by the SEC on September 28, 2005 and March 30, 2006, which, but for this subsequent filing, would have become effective May 8, 2006. See supra notes 5 and 6.

2006[six months after publication of the revised *OATS Reporting Technical Specifications* relating to SR-NASD-00-23,] for all manual orders, provided that firms shall be required to report information item (18) specified in Rule 6954(b) only to the extent such item is available to them.

(d) No Change.

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6958. Exemption to the Order Recording and Data Transmission Requirements

(a) through (b) No Change.

(c) This Rule shall be in effect until July 10, 2011[May 8, 2011].

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

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

NASD is proposing to establish July 10, 2006 as the effective date of the amendments to NASD's rules relating to OATS requirements approved by the Commission on September 28, 2005 and March 30, 2006. Specifically, on September 28, 2005, the SEC approved amendments to NASD Rules 6950 through 6957 ("OATS

Rules”).⁹ The amendments to the OATS Rules: (1) implement the OATS reporting requirements for manual orders (“OATS Phase III”); (2) provide that members are required to capture and report the time the order is received by the member from the customer for all orders; (3) expand the order transmittal requirements to include orders routed to a member's trading desk or trading department; (4) exclude certain members from the definition of “Reporting Member” for those orders that meet specified conditions and are recorded and reported to OATS by another member; and (5) permit NASD to grant exemptive relief from the OATS reporting requirements in certain circumstances to members that meet specified criteria.

On March 30, 2006, the SEC approved further amendments to the OATS Rules that expand NASD’s OATS exemptive authority to include electronic recording requirements.¹⁰ As amended, NASD has the authority to grant exemptive relief from the OATS electronic recording and reporting requirements for manual orders to members that meet specified criteria.

The current effective date of these amendments is May 8, 2006. Since approval of these amendments, several firms and service bureaus have requested that the effective date of the amended OATS requirements be extended, noting the significant technological changes required to implement the OATS requirements for manual orders in particular. NASD understands the concerns raised and believes that extending the effective date of the recent amendments to the OATS Rules until July 10, 2006 will greatly assist firms and service bureaus by providing additional time to ensure that all the

⁹ See supra note 5.

¹⁰ See supra note 6.

necessary system changes can be tested and implemented, thereby helping to ensure the integrity and accuracy of OATS data.

Accordingly, NASD is proposing to establish July 10, 2006 as the effective date of the amendments to NASD's OATS Rules approved by the Commission on September 28, 2005 and March 30, 2006. In doing so, NASD also is proposing amendments to NASD Rules 6957(c) and 6958(c) to reflect the amended effective date.

NASD has filed the proposed rule change for immediate effectiveness. NASD announced the revised effective date in its Notice to Members 06-17 (April 2006).

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹¹ which requires, among other things, that NASD 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. NASD believes that extending the effective date of the recent amendments to the OATS Rules will provide firms and service bureaus more time to make necessary system changes to ensure compliance with the amended OATS requirements.

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

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

While NASD did not specifically solicit comment on the proposed rule change, NASD received one written comment letter regarding certain implementation issues and

¹¹ 15 U.S.C. 78o-3(b)(6).

concerns.¹² Specifically, the commenter contends that release of the OATS Reporting Technical Specifications and subsequent clarification from NASD staff regarding the OATS reporting requirements highlighted new development requirements that were not accounted for in their original implementation planning. As such, the commenter requests that NASD extend the time for testing and extend the compliance date for the amended OATS reporting requirements. As described herein, NASD is proposing to extend the effective date of the recent amendments to the OATS Rules to provide additional time for firms and service bureaus to make necessary system changes to ensure compliance with the amended OATS requirements.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and paragraph (f)(1) of Rule 19b-4 thereunder,¹⁴ in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of NASD. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

¹² See Letter from Financial Information Forum, on behalf of FIF Service Bureau Committee, to Paul McKenney, NASD, dated March 29, 2006.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(1).

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2006-052 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NASD-2006-052. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NASD-2006-052 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Nancy M. Morris
Secretary

¹⁵ 17 CFR 200.30-3(a)(12).