

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55206; File No. SR-NASD-2007-008)

January 31, 2007

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Periods for NASD Rules Governing Multiple MPIDs on the Trade Reporting Facilities and on the Alternative Display Facility

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> notice is hereby given that on January 26, 2007, the National Association of Securities Dealers, Inc. (“NASD”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by NASD. NASD has filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NASD proposes to amend NASD Rules 4613A(b) and 5140 to extend the pilot programs for the use of multiple Market Participant Symbols (“MPIDs”) for Registered Reporting Alternative Display Facility (“ADF”) electronic communications networks (“ECNs”) and Trade Reporting Facility Participants. The text of the proposed rule change is available at NASD, the Commission’s Public Reference Room, and [www.nasd.com](http://www.nasd.com).

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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> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

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

Rule 4613A(b) and IM-4613A-1

Rule 4613A(b) (Character of Quotations) provides that a Registered Reporting ADF ECN may request additional MPIDs for displaying quotes and orders and reporting trades through the ADF trade reporting facility, the Trade Reporting and Comparison Service, for any ADF-Eligible Security. A Registered Reporting ADF ECN that is permitted the use of additional MPIDs for displaying quotes and orders is subject to the same rules applicable to the member's first quotation (i.e., an ECN that displays one or more additional quotes/orders is required to comply with all rules applicable to ECNs in their display of quotes/orders). A Registered Reporting ADF ECN also is prohibited from using an additional MPID to accomplish indirectly what it is prohibited from doing directly through its Primary MPID. In addition, NASD staff retains full discretion to determine whether a bona fide regulatory and/or business need exists for being granted an additional MPID privilege and to limit or withdraw the additional MPID display privilege at any time. The procedures for requesting, and the restrictions surrounding the use of, multiple MPIDs are set forth in IM-4613A-1 (Procedures for Allocation of Multiple MPIDs).

The Commission approved Rule 4613A(b) and IM-4613A-1 on a pilot basis on August

11, 2006.<sup>5</sup> By its terms, the pilot period expires on January 26, 2007, and NASD has determined to seek an extension of the pilot period until January 25, 2008. NASD believes that such an extension will provide additional time to analyze the use of multiple MPIDs on the ADF. NASD is not proposing any other changes to the pilot as this time.<sup>6</sup>

#### Rule 5140 and IM-5140

Rule 5140 (Multiple MPIDs for Trade Reporting Facility Participants) provides that any Trade Reporting Facility Participant that wishes to use more than one MPID for purposes of reporting trades to a Trade Reporting Facility must submit a written request to, and obtain approval from, NASD Operations for such additional MPIDs. In addition, IM-5140 (Use of Multiple MPIDs) states that NASD considers the issuance of, and trade reporting with, multiple MPIDs to be a privilege and not a right. A Trade Reporting Facility Participant must identify the purpose(s) and system(s) for which the multiple MPIDs will be used. If NASD determines that the use of multiple MPIDs is detrimental to the marketplace, or that a Trade Reporting Facility Participant is using one or more additional MPIDs improperly or for other than the purpose(s) identified by the Participant, NASD staff retains full discretion to limit or withdraw its grant of the additional MPID(s) to such Trade Reporting Facility Participant for purposes of reporting trades to a Trade Reporting Facility. NASD believes that Rule 5140 and IM-5140 are necessary to consolidate the process of issuing, and tracking the use of, multiple MPIDs used to report

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<sup>5</sup> See Securities Exchange Act Release No. 54307 (August 11, 2006), 71 FR 47551 (August 17, 2006).

<sup>6</sup> The expiration of the pilot period coincided with the expiration of the current ADF pilot period. See Securities Exchange Act Release No. 53699 (April 21, 2006), 71 FR 25271 (April 28, 2006). In a separate rule filing, NASD proposed to make the ADF rules permanent. See Securities Exchange Act Release No. 55181 (January 26, 2007) (SR-NASD-2007-005). At this time, NASD is seeking to extend only Rule 4613A(b) and IM-4613A-1 for another year.

trades to NASD Trade Reporting Facilities.

The Commission approved Rule 5140 on a pilot basis on November 6, 2006.<sup>7</sup> By its terms, the pilot period expires on January 26, 2007, and NASD has determined to seek an extension of the pilot period until January 25, 2008. NASD believes that such an extension will provide additional time to analyze the use of multiple MPIDs on the Trade Reporting Facilities. NASD is not proposing any other changes to the pilot as this time. NASD proposes to implement the proposed rule change on January 27, 2007.

## 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>8</sup> 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 the proposed rule change is consistent with these requirements because it would provide a process by which ECNs (in the case of the ADF) and Trade Reporting Facility Participants (in the case of the Trade Reporting Facilities) can request, and NASD can properly allocate, the use of additional MPIDs for displaying quotes and orders through the ADF or reporting trades to a Trade Reporting Facility.

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

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

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<sup>7</sup> See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006); see also Securities Exchange Act Release No. 54715A (November 14, 2006), 71 FR 67183 (November 20, 2006) (correcting original approval order).

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

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

Written comments were neither solicited nor received.

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

The foregoing proposed rule change is subject to Section 19(b)(3)(A)(iii) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder<sup>10</sup> because the proposal: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>11</sup>

NASD has requested that the Commission waive the 30-day operative delay in this case. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the benefits of the multiple MPID pilots to continue uninterrupted. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.<sup>12</sup>

At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

<sup>11</sup> Rule 19b-4(f)(6) also requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NASD has satisfied the five-day pre-filing requirement.

<sup>12</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

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

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2007-008 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-2007-008. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of NASD. All

comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2007-008 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.<sup>13</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).