

3110(b)(2) requires that members, for each transaction in a non-Nasdaq security, indicate on the order ticket the name of each dealer contacted and each quotation received with respect to that security, in order to determine the best inter-dealer market. NASD Regulation has proposed to eliminate this obligation when two or more priced quotations for that security are displayed in an inter-dealer quotation system if: (1) the system permits quotation updates on a real-time basis, and (ii) NASD Regulation has access to the quotation data.⁷

Third, NASD Regulation has proposed to add a new provision to Rule 2320(g) that will require members that display quotations for a given non-Nasdaq security in two or more quotation mediums that permit quotation updates on a real-time basis to provide the same priced quotation in each medium.⁸

III. Discussion

A. General

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the regulations thereunder applicable to the NASD.⁹ In particular, the Commission believes that the proposal is consistent with Sections 15A(b)(6) and 15A(b)(9) of the Act.¹⁰ Section 15A(b)(6) requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest. Section 15A(b)(9) requires that the rules of the association not impose any burden on competition

not necessary or appropriate in furtherance of the purposes of the Act.

B. Amendment to Three Quote Rule and Corresponding Recordkeeping Provision

The Commission approved the NASD proposal that instituted the Three Quote Rule in 1988.¹¹ The Three Quote Rule was an amendment to the NASD's interpretation relating to best execution of retail transactions in non-Nasdaq securities. The Rule's purpose is to assure that NASD members fulfill their duty to provide customers with best execution for transactions in non-Nasdaq securities, especially illiquid securities with non-transparent prices.

Currently, the Three Quote Rule requires members to obtain quotes from three dealers before executing a transaction in a non-Nasdaq security on behalf of a customer. Under NASD Rule 3110(b)(2), the companion recordkeeping rule, members are required to indicate on the order ticket for each transaction in a non-Nasdaq security the names of the dealers contacted and the prices of the quotations. NASD Regulation's current proposal would exempt from the Three Quote Rule transactions involving a non-Nasdaq security when there are two or more priced quotations for that security displayed in an inter-dealer quotation system that permits quotation updates on a real-time basis. A corresponding amendment to NASD Rule 3110(b)(2) would eliminate the requirement to indicate on the order ticket for a transaction in a non-Nasdaq security the dealers contacted and quotations received, provided there are two or more priced quotations for that security displayed in an inter-dealer quotation system and NASD Regulation has access to the historical quotation information.¹²

In light of the significant technological advances that have occurred in the markets for non-Nasdaq securities since adoption of the Three Quote Rule, the Commission believes it is reasonable and consistent with the Act to limit the Rule's applicability to those situations when fewer than two priced quotes for a non-Nasdaq security are posted in an inter-dealer quotation medium. The Commission also finds that, in light of the proposed amendment to the Three Quote Rule, the corresponding amendment to the recordkeeping provisions of NASD Rule 3110(b)(2) is reasonable and consistent with the purposes of the Act. The Commission notes that, whether or not

a transaction in a non-Nasdaq security is subject to the Three Quote Rule, the member executing the transaction must satisfy its duty of best execution.

C. Requirement to Post Same Quotation in Different Mediums

Currently, an NASD member may display different priced quotations for the same non-Nasdaq security in different quotation mediums. The Commission believes that this practice can be confusing to market participants and, in particular, to public investors. Requiring that members display consistent priced quotations in multiple quotation mediums will enhance the ability of market participants to ascertain the best inter-dealer market for a non-Nasdaq security. The Commission finds that the proposed amendment implementing this requirement is consistent with the purposes of the Act.

IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-NASD-00-20) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 00-25025 Filed 9-28-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43318; File No. SR-NASD-00-54]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. on Use of the .T Modifier for Extended Hours Trades in Listed Securities

September 21, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 1, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary the Nasdaq Stock Market, Inc. ("Nasdaq"), 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

⁷ At present, NASD Regulation has such data with respect to the OTCBB but does not have access to historical quotation data with respect to the Pink Sheets. NASD Regulation recently submitted to the Commission a proposed rule change (SR-NASD-00-42) that would require NASD members that publish quotations in the Pink Sheets (or any similar automated quotation system) to record and maintain priced quotations and unpriced indications of interest data and to report such quotation data to NASD Regulation upon request.

⁸ The proposed rule change defines the term *quotation medium* as any inter-dealer quotation system or any publication or electronic communications network or other device that is used by brokers or dealers to make known to others their interest in transactions in any security, including offers to buy or sell at a stated price or otherwise, or invitations of offers to buy or sell.

⁹ In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78o-3(b)(6) and (b)(9).

¹¹ See Securities Exchange Act Release No. 25637 (May 2, 1988), 53 FR 16488 (May 9, 1988).

¹² See *supra* note 7.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

have been prepared by Nasdaq. On September 19, 2000, Nasdaq submitted Amendment No. 1 to the proposed rule change.³ Nasdaq has filed the proposed pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(b) thereunder,⁵ which renders the rule effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Nasdaq proposes to amend NASD Rule 6420, the transaction reporting rule for over-the-counter ("OTC") trades in listed securities. The purpose of this amendment is to require members to append a ".T" modifier to Nasdaq InterMarket transactions in listed securities executed between 4:00 p.m. and 6:30 p.m. Eastern Time ("ET"). The text of the proposed rule change follows. Proposed new language is underlined; deleted language is bracketed.

* * * * *

6400. REPORTING TRANSACTIONS IN LISTED SECURITIES

6420. Transaction Reporting

(a) When and How Transactions are Reported.

(1) Registered Reporting Members shall transmit through ACT, within 90 seconds after execution, last sale reports of transactions in eligible securities executed during the trading hours of the Consolidated Tape 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, 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 [shall be designated as late and such trade reports] must include the time of execution *on the trade report.*

³ See letter from Peter R. Geraghty, Assistant General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, SEC, dated September 18, 2000 ("Amendment No. 1"). In Amendment No. 1, Nasdaq amended the proposed rule language to clarify that transactions in CQS securities that occur between 9:30 a.m. and 4:00 p.m. Eastern Time and that not reported within 90 seconds after execution must be designated as late by using the appropriate modifier.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

(2)

(A) Non-Registered Reporting Members shall, within 90 seconds after execution, transmit through ACT or the ACT Service Desk (if qualified pursuant to Rule 7010(i)), or if ACT 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 during the trading hours of the Consolidated Tape otherwise than on a national securities exchange.

(B) Non-registered Reporting Members shall, within 90 seconds after execution, transmit through ACT or the ACT Service Desk (if qualified pursuant to Rule 7010(i)), or if ACT 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 [shall be designated as late and such trade reports] must include the time of execution *on the trade report.*

(3) to (6) No Change.

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

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

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

1. Purpose

In its June 2000 *Special Study: Electronic Communication Networks and After-Hours Trading*, the SEC's Division of Market Regulation stated that U.S. equity markets should take the necessary steps to preserve regular trading session closing prices that are distinct from prices at which equity securities trade in the after-hours trading session.⁶ For Nasdaq securities and non-Nasdaq OTC equity securities, this is accomplished by requiring firms to use a special ".T" modifier on trade

⁶ NASD Rule 4617 defines normal market hours as 9:30 a.m. through 4:00 p.m. ET. The extended hour trading session currently takes place between 4:00 p.m. and 6:30 p.m. ET.

reports transmitted through Nasdaq's Automated Confirmation Transaction Service ("ACT") outside normal market hours.⁷ Trades in Nasdaq and non-Nasdaq OTC securities that occur outside normal market hours are counted into the current day's trading volume, but do not affect the security's daily high, low, or last sale price, and do not affect Index calculations or mutual fund net asset values.

NASD members trading securities listed on the New York Stock Exchange ("NYSE"), the American Stock Exchange ("Amex"), or the regional exchanges in the Nasdaq InterMarket are not currently required to use a ".T" modifier for trades that occur outside normal market hours. As a result, extended trading hour session InterMarket trades are treated the same as regular session trades and are used to calculate NYSE and Amex closing prices. This has resulted in corporate and investor confusion over stock pricing.

In order to address this issue, and provide for consistency in the use of the ".T" modifier, Nasdaq proposes to require NASD members to follow the same ".T" reporting rules for listed equities as they use for Nasdaq and OTC equity securities during the extended hour trading session. This will be accomplished by amending the Transaction Report Rules for trades in listed securities to require members to designate as ".T" transactions executed and reported to ACT after 4:00 p.m. ET to denote their execution outside normal market hours. As with Nasdaq and non-Nasdaq OTC securities, firms must report late trades during this time period with the ".T" modifier and the execution time because ACT does not allow firms to enter two modifiers (*i.e.*, a firm cannot include both ".T" and ".SLD" on a trade report to denote both an extended hour trading session trade and a late trade). Inclusion of the time of execution on the ".T" trade report indicates a late trade occurring outside normal market hours.

2. Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act⁸ because it will result in more accurate and reliable information regarding last sale transaction reports. Section 15A(b)(6) of the Act⁹ requires that the rules of a registered securities association be designed to prevent fraudulent and manipulative acts and

⁷ See NASD Rules 4632, 4642, 4652, and 6620.

⁸ 15 U.S.C. 78o-3(b)(6).

⁹ *Id.*

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

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

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

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.

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

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest; impose any significant burden on competition; and become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6)¹¹ thereunder. At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act,¹² the Commission may summarily abrogate the 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.

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. Nasdaq seeks to have the proposed rule change become operative on or before September 21, 2000.¹⁴

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative on September 21, 2000. The Commission notes that the use of the ".T" modifier proposed by Nasdaq is intended to help clarify those trades in listed securities that are executed after normal trading hours similar to that which is used in Nasdaq issues and OTC equity issues. The Commission believes that extending the use of ".T" to trades executed in listed securities during extended hours trading should provide consistency of after hours trade reporting, which should help to quell corporate and investor confusion over the closing prices of listed securities as determined at the close of normal market hours.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change be operative on September 21, 2000. 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

Interested person are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-00-54 and should be submitted by October 20, 2000.

Chief, Division of Market Regulation, SEC, dated September 6, 2000.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-25026 Filed 9-28-00; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3290; Amendment #1]

State of Montana

In accordance with a notice from the Federal Emergency Management Agency, dated September 19, 2000, the above-numbered Declaration is hereby amended to include the following counties and Indian Reservations in the State of Montana as a disaster area due to damages caused by wildfires beginning on July 13, 2000 and continuing: Big Horn, Blaine, Carter, Chouteau, Custer, Fallon, Fergus, Garfield, Golden Valley, Hill, Liberty, Musselshell, Petroleum, Phillips, Powder River, Prairie, Rosebud, Toole, Treasure, and Yellowstone Counties, and Fort Belknap, Rocky Boy's, Crow, and Northern Cheyenne Indian Reservations.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Dawson, McCone, Valley, and Wibaux Counties in Montana; Campbell, Crook, and Sheridan Counties in Wyoming; Bowman, Golden Valley, and Slope Counties in North Dakota; and Butte and Harding Counties in South Dakota. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

The economic injury number for the State of North Dakota is 9I8800 and for South Dakota the number is 9I8900.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 29, 2000 and for economic injury the deadline is May 30, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 21, 2000.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 00-24958 Filed 9-28-00; 8:45 am]

BILLING CODE 8025-01-P

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ See letter from Mary N. Revell, Assistant General Counsel, Nasdaq, to Alton Harvey, Office

¹⁵ 17 CFR 200.30-3(a)(12).