

June 15, 2004

Ms. Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-1001

**Re: File No. SR-NASD-2004-093 To Establish A Revised Effective Date For
Amendments to Order Audit Trail System Rules Relating to Execution Reports**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed please find the above-numbered rule filing. Also enclosed is a 3-1/2" disk containing the rule filing in Microsoft Word 7.0 to facilitate production of the Federal Register release.

If you have any questions, please contact Andrea Orr, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8156; e-mail andrea.orr@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Barbara Z. Sweeney
Senior Vice President and
Corporate Secretary

Enclosures

File No. SR-NASD-2004-093
Consists of 10 Pages
June 15, 2004

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C.

Form 19b-4

Proposed Rule Change

by

NASD

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”), the National Association of Securities Dealers, Inc. (“NASD”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to establish October 4, 2004 as the effective date of the amendments to Rule 6954(d) that the SEC approved in April 2004.¹ The amendments require that members record and report the execution price and firm capacity in Order Audit Trail Systems (“OATS”) Execution Reports.

No changes to the text of NASD rules are required by this proposed rule change.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The Board of Directors of NASD Regulation, Inc. approved the rule change at its meeting on July 30, 2003. Counsel for The Nasdaq Stock Market and NASD Dispute Resolution were provided an opportunity to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by the NASD to its Subsidiaries (“Delegation Plan”). The NASD Board of Governors had an opportunity to review the proposed rule change at its meeting on July 31, 2003. No other action by NASD is necessary for the filing of the proposed rule change. Section 1(a)(ii) of Article VII of the NASD By-Laws permits the NASD Board to adopt amendments to NASD Rules without recourse to the membership for approval.

(b) Questions regarding this rule filing may be directed to Andrea Orr, Office of General Counsel, Regulatory Policy and Oversight, at (202) 728-8156.

¹ File No. SR-NASD-2004-023; SEC Release No. 34-49628 (April 29, 2004); 69 F.R. 89 (May 7, 2004).

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

(a) Purpose

NASD is filing the proposed rule change to establish October 4, 2004 as the effective date for the amendments to NASD Rule 6954(d) that the SEC approved in April 2004.² As revised, Rule 6954(d) requires that members record and report the execution price and firm capacity in OATS Execution Reports.

Pursuant to the SEC's approval of SR-NASD-2004-023, the amendments to Rule 6954(d) would go into effect ninety days following publication of the Notice to Members announcing Commission approval. SR-NASD-2004-023 further stated that NASD would issue such Notice to Members within 60 days of Commission approval. Under this implementation schedule, the effective date of the new requirements would have been no later than September 27, 2004.

NASD, however, intends to include the new requirements set forth in SR-NASD-2004-023 as part of its OATS third quarter 2004 release, which is now scheduled to occur on October 4, 2004. Accordingly, NASD seeks to delay implementation of the recently approved amendments to Rule 6954(d) until October 4, 2004. NASD staff believes that having the implementation date of SR-NASD-2004-023 coincide with the OATS third quarter release, which includes other changes to OATS technical specifications, is the most cogent approach for both member firms and NASD. Among other things, this approach will allow NASD to roll out the necessary systems changes in one comprehensive release, thereby resulting in fewer burdens on member firms having to comply with the revised OATS reporting requirements and ensuring that there is sufficient time for all parties to make the necessary system changes. NASD will

² Id.

publish a Notice to Members announcing the effective date within 5 business days of the filing of this rule change.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD rules must 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 will enhance OATS information and will improve NASD's ability to conduct surveillance and investigations relating to compliance with NASD and other applicable rules. NASD further believes that extending the implementation date to October 4, 2004 to coincide with the OATS third quarter release, which includes other changes to OATS technical specifications, will benefit both NASD and member firms by providing adequate time to make all necessary systems changes and enabling members to comply with the OATS changes in a comprehensive manner.

4. 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, as amended.

5. 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.

6. Extension of Time Period for Commission Action

Not applicable.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

The proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act and paragraph (f)(1) of Rule 19b-4 thereunder, 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, NASD Rule 6954, as previously approved by the SEC. The sole purpose of the rule change is to establish an effective date of October 4, 2004 for rules previously approved. NASD will issue a Notice to Members announcing both the Commission's approval of SR-NASD-2004-023 and the effective date of October 4, 2004 within 5 business days of this filing.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

Pursuant to the requirements of the Securities Exchange Act of 1934, NASD has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

NASD

BY: _____
Barbara Z. Sweeney
Senior Vice President and Corporate Secretary

Date: June 15, 2004

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-

; File No. SR-NASD-2004-093)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Establishing a Revised Effective Date For Amendments to Order Audit Trail System Rules Relating to Execution Reports

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on _____, 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 series under paragraph (f)(1) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by 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 is filing a proposed rule change to establish October 4, 2004 as the effective date of the amendments to Rule 6954(d) that the SEC approved in April 2004.⁴ The amendments

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR § 240.19b-4(f)(1).

⁴ File No. SR-NASD-2004-023; SEC Release No. 34-49628 (April 29, 2004); 69 F.R. 89 (May 7, 2004).

require that members record and report the execution price and firm capacity in Order Audit Trail Systems (“OATS”) Execution Reports.

No changes to the text of NASD rules are required by this proposed rule change.

II. SELF-REGULATORY ORGANIZATION'S STATEMENT OF THE PURPOSE OF, AND STATUTORY BASIS FOR, THE PROPOSED RULE CHANGE

In its original rule 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

(a) Purpose

NASD is filing the proposed rule change to establish October 4, 2004 as the effective date for the amendments to NASD Rule 6954(d) that the SEC approved in April 2004.⁵ As revised, Rule 6954(d) requires that members record and report the execution price and firm capacity in OATS Execution Reports.

Pursuant to the SEC’s approval of SR-NASD-2004-023, the amendments to Rule 6954(d) would go into effect ninety days following publication of the Notice to Members announcing Commission approval. SR-NASD-2004-023 further stated that NASD would issue such Notice to Members within 60 days of Commission approval. Under this implementation schedule, the effective date of the new requirements would have been no later than September 27, 2004.

⁵ Id.

NASD, however, intends to include the new requirements set forth in SR-NASD-2004-023 as part of its OATS third quarter 2004 release, which is now scheduled to occur on October 4, 2004. Accordingly, NASD seeks to delay implementation of the recently approved amendments to Rule 6954(d) until October 4, 2004. NASD staff believes that having the implementation date of SR-NASD-2004-023 coincide with the OATS third quarter release, which includes other changes to OATS technical specifications, is the most cogent approach for both member firms and NASD. Among other things, this approach will allow NASD to roll out the necessary systems changes in one comprehensive release, thereby resulting in fewer burdens on member firms having to comply with the revised OATS reporting requirements and ensuring that there is sufficient time for all parties to make the necessary system changes. NASD will publish a Notice to Members announcing the effective date within 5 business days of the filing of this rule change.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that NASD rules must 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 will enhance OATS information and will improve NASD's ability to conduct surveillance and investigations relating to compliance with NASD and other applicable rules. NASD further believes that extending the implementation date to October 4, 2004 to coincide with the OATS third quarter release, which includes other changes to OATS technical specifications, will benefit both NASD and member firms by providing adequate time to make

all necessary systems changes and enabling members to comply with the OATS changes in a comprehensive manner.

(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, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule

Written comments were neither solicited nor received.

III. DATE OF EFFECTIVENESS OF THE PROPOSED RULE CHANGE AND TIMING FOR COMMISSION ACTION

The proposed rule change has been filed by NASD as a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule series under Rule 19b-4(f)(1) under the Act.⁶ Consequently, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(1) thereunder.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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.

⁶ 17 CFR § 240.19b-4(f)(1).

IV. SOLICITATION OF COMMENTS

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-NASD-2004-093. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland
Deputy Secretary