

## 2. Statutory Basis

The amended rule is designed to clarify the information contained in a Directed Order. This proposed rule filing seeks to extend the amended rule's effectiveness from September 30, 2006 to January 31, 2007. This extension will afford the Commission the necessary time to consider the Exchange's corresponding proposal to amend its rule to permit EPs to choose the firms from whom they will accept Directed Orders while providing complete anonymity of the firm entering a Directed Order. Accordingly, the Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>9</sup> in general, and Section 6(b)(5) of the Act,<sup>10</sup> in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose 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

The Exchange has neither solicited nor received comments on the proposed rule change.

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

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the Exchange has given the Commission written notice of its intent to file the proposed rule change prior to the date of filing of the proposed rule change or

31, 2007, the Exchange intends to submit another filing under Rule 19b-4(f)(6) extending this rule and system process.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<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 or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Under Rule 19b-4(f)(6)(iii) of the Act,<sup>13</sup> the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the five day pre-filing requirement and the 30-day operative delay, which would make the rule change effective and operative upon filing. The Commission, consistent with the protection of investors and the public interest, has determined to waive the five day pre-filing requirement and the 30-day operative delay because such waiver would continue to conform to the BOX rules with BOX's current practice and clarify that Directed Orders on BOX are not anonymous.<sup>14</sup> Accordingly, the Commission designates the proposed rule change effective and operative upon filing with the Commission.

## 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-BSE-2006-38 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission,

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>14</sup> For purposes only of waiving the 30-day operative period for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BSE-2006-38. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. 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-BSE-2006-38 and should be submitted on or before October 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. 06-8244 Filed 9-25-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54471; File No. SR-NASD-2006-081]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change To Adopt New NASD Rule 5150 Relating to Trade-Throughs

September 19, 2006.

On July 11, 2006, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the

<sup>15</sup> 17 CFR 200.30-3(a)(12).

Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to adopt a new NASD rule relating to trade-throughs. The proposed rule change was published for comment in the **Federal Register** on July 27, 2006.<sup>3</sup> The Commission received no comment letters on the proposal.

Proposed rule NASD Rule 5150 would require an NASD member that is registered as a market maker with the Nasdaq Stock Market LLC (“Nasdaq Exchange”) in an ITS Security<sup>4</sup> to comply with the provisions of NASD Rule 5262 relating to trade-throughs with respect to that security for trades reported to the NASD. Accordingly, the NASD’s proposed rule will not take effect until the Nasdaq Exchange begins operations as an exchange in such securities.<sup>5</sup> The proposed rule further defines the term “block transaction” for purposes of the rule.

The Commission finds that the proposed rule change is consistent with the requirements of Section 15A of the Act,<sup>6</sup> in general, and with Section 15A(b)(6) of the Act,<sup>7</sup> in particular, in that it is 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. Proposed NASD Rule 5150 will maintain, after the Nasdaq Exchange begins operations as a national securities exchange for ITS Securities, the application of the NASD’s trade-through rule, Rule 5162, to NASD members that are also Nasdaq market makers in ITS Securities to the extent such market makers report transactions in ITS Securities to the NASD.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (SR-NASD-2006-081) be, and hereby is, approved.

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

**Nancy M. Morris,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54456; File No. SR-NASD-2006-064]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Extension of Time Requests

September 15, 2006.

#### I. Introduction

On May 15, 2006, the National Association of Securities Dealers, Inc. (“NASD”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, a proposed rule change seeking to adopt new Rule 3160 (“Extensions of Time under Regulation T and SEC Rule 15c3-3”). NASD filed Amendment Nos. 1 and 2 to the proposed rule change on May 25, 2006 and July 25, 2006, respectively.<sup>3</sup> The proposed rule change, as amended, was published in the **Federal Register** on August 10, 2006.<sup>4</sup> The Commission received one comment letter in response to the proposal.<sup>5</sup> On September 13, 2006, the NASD filed a response to the comment letter.<sup>6</sup> This order approves the proposed rule change, as amended.

#### II. Description

NASD is proposing to adopt new Rule 3160 to require (1) All clearing firm members for which NASD is the designated examining authority (“DEA”) pursuant to Rule 17d-1 under the Act to submit to NASD requests for

extensions of time under Regulation T<sup>7</sup> promulgated by the Federal Reserve Board, or pursuant to Rule 15c3-3(n) under the Act; and (2) each clearing firm member for which NASD is the DEA to file a monthly report with NASD indicating all broker-dealers for which it clears that have overall ratios of requested extensions of time to total transactions for the month that exceed a percentage specified by NASD.

#### Extension of Time Requests

As stated above, proposed NASD Rule 3160(a) would require all clearing firm members for which NASD is DEA to submit to NASD requests for extensions of time under Regulation T and Exchange Act Rule 15c3-3(n). The Commission previously approved NYSE Rule 434 requiring each carrying firm for which the NYSE is the DEA to submit extensions requests to the NYSE.<sup>8</sup> The SRO designated as a member’s DEA has responsibility for examining its members that are also members of another SRO for compliance with applicable financial responsibility rules such as Regulation T and Exchange Act Rule 15c3-3. NASD believes that requiring a member to submit extension requests to its DEA helps to ensure that the DEA receives complete extension information to assist it in performing this function and would ensure uniform application of standards to all customers of firms for which NASD is the DEA.

#### Monthly Reporting Requirement

Proposed NASD Rule 3160(b) would require each clearing firm member for which NASD is the DEA to file a monthly report with NASD, in such format as NASD may require, indicating all broker-dealers for which it clears that have overall ratios of requests for extensions of time under Regulation T and Rule 15c3-3(m) to total transactions for the month that exceed a percentage specified by NASD. The monthly report would require clearing firms subject to proposed NASD Rule 3160(b) to identify, among other things: (1) The broker-dealer’s name; (2) the number of transactions by the broker-dealer for the month; (3) the number of extension requests for the month; and (4) the ratio of the number of extensions requested to total transactions. The rule proposal would require that the reports be submitted no later than five business days following the end of each reporting month. The requirements of the

<sup>7</sup> See 12 CFR 220.1, *et. seq.*

<sup>8</sup> See Exchange Act Release No. 34073 (May 17, 1994), 59 FR 26826 (May 24, 1994) (SR-NYSE-88-35); see also NYSE Information Memo 94-22 (June 10, 1994).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 54186 (July 20, 2006), 71 FR 42698.

<sup>4</sup> The term “ITS Security” is defined in NASD Rule 5210(c) as “any security which may be traded through the [ITS] System by an ITS/CAES Market Maker.”

<sup>5</sup> See Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006); and 54085 (June 30, 2006), 71 FR 38910 (July 10, 2006). Currently, the Nasdaq Exchange operates as a national securities exchange for securities listed on the Nasdaq Exchange and reported to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities on Exchanges on an Unlisted Trading Privileges Basis (“Nasdaq-Listed Securities”).

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

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

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

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

<sup>3</sup> See Amendment No. 1 and Amendment No. 2. Amendment No. 2 replaced and superceded the original rule filing and Amendment No. 1 in their entirety.

<sup>4</sup> Exchange Act Release No. 54265 (August 2, 2006), 71 FR 45879 (August 10, 2006).

<sup>5</sup> See letter from Dennis A. Young, Vice President, Treasurer, Cosse International Securities, Inc., to Nancy Morris, Secretary, Commission, dated August 31, 2006.

<sup>6</sup> See letter from Kathryn M. Moore, Assistant General Counsel, Regulatory Policy and Oversight, to Nancy M. Morris, Secretary, Commission, dated September 13, 2006.