

Proposed Rule Change by National Association of Securities Dealers  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input type="checkbox"/>	Section 19(b)(3)(A) <input checked="" type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input checked="" type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed Rule Change to Amend NASD Rules 4632C and 4632D to Reflect As/Of Trade Reporting and the Automated Reporting of Trade Cancellations to the NASD/NSX Trade Reporting Facility and the NASD/BSE Trade Reporting Facility

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name  Last Name   
 Title   
 E-mail   
 Telephone  Fax

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date   
 By  Vice President and Associate General Counsel  
 (Name) (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**1. Text of Proposed Rule Change**

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> the National Association of Securities Dealers, Inc. (“NASD”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change proposing to amend NASD Rule 4632C (Transaction Reporting) and NASD Rule 4632D (Transaction Reporting) to reflect “as/of” (T+1) trade reporting and the automated reporting of trade cancellations to the NASD/NSX Trade Reporting Facility (the “NASD/NSX TRF”) and the NASD/BSE Trade Reporting Facility (the “NASD/BSE TRF”), respectively. The proposed amendments are identical to the current language of NASD Rule 4632 (Transaction Reporting) relating to the NASD/Nasdaq Trade Reporting Facility (the “NASD/Nasdaq TRF”), which was approved by the Commission on June 30, 2006.<sup>2</sup>

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

\* \* \* \* \*

**4000C. THE NASD/NSX TRADE REPORTING FACILITY**

\* \* \* \* \*

**4632C. Transaction Reporting**

**(a) When and How Transactions are Reported**

(1) No Change.

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

<sup>2</sup> See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087).

(2) Transaction Reporting to the NASD/NSX Trade Reporting Facility

Outside Normal Market Hours

(A) No Change.

(B) Last sale reports of transactions in designated securities executed between the hours of 4:00 p.m. and 6:30 p.m. Eastern Time shall be reported within 90 seconds after execution and be designated as “.T” trades to denote their execution outside normal market hours.

Transactions not reported within 90 seconds also shall be designated as .T trades. Transactions not reported before 6:30 p.m. [cannot be reported through the NASD/NSX Trade Reporting Facility. Participants must use an alternative electronic mechanism to report these trades] shall be reported on an “as/of” basis the following business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time.

(C) No Change.

(D) Last sale reports of transactions executed between 6:30 p.m. and midnight Eastern Time [cannot be reported through the NASD/NSX Trade Reporting Facility. Participants must use an alternative electronic mechanism to report these trades] shall be reported the following business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time and be designated “as/of” trades.

(3) through (8) No Change.

(b) through (e) No Change.

**(f) Reporting Cancelled Trades**

(1) No Change.

(2) Deadlines for Reporting Cancelled Trades

(A) No Change.

(B) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 4:00 p.m. but before 6:30 p.m. on the date of execution, the member responsible under paragraph (f)(1) shall use its best efforts to report the cancellation not later than 6:30 p.m. on the date of execution, and otherwise it shall report the cancellation on the following business day by 6:30 p.m. [In the event that a cancellation is reported on the following business day, the Participant must contact NASD/NSX Trade Reporting Facility Operations to report the cancellation.]

(C) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 6:30 p.m. on the date of execution, the member responsible under paragraph (f)(1) shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/NSX Trade Reporting Facility Operations.]

(D) No Change.

(E) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled after 6:30 p.m. on the date of execution, the member responsible under paragraph (f)(1) shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/NSX Trade Reporting Facility Operations.]

(F) For any trade cancelled on any date after the date of execution,

the member responsible under paragraph (f)(1) shall report the cancellation (i) by 6:30 p.m. on the date of cancellation if the trade is cancelled before 6:30 p.m., or (ii) by 6:30 p.m. on the following business day if the trade is cancelled at or after 6:30 p.m. [by contacting NASD/NSX Trade Reporting Facility Operations.]

(G) No Change.

(g) through (h) No Change.

\* \* \* \* \*

#### **4000D. THE NASD/BSE TRADE REPORTING FACILITY**

\* \* \* \* \*

#### **4632D. Transaction Reporting<sup>3</sup>**

##### **(a) When and How Transactions are Reported**

(1) No Change.

(2) Transaction Reporting to the NASD/BSE Trade Reporting Facility

Outside Normal Market Hours

(A) No Change.

(B) Last sale reports of transactions in designated securities

executed between the hours of 4:00 p.m. and 6:30 p.m. Eastern Time shall

be reported within 90 seconds after execution and be designated as “.T”

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<sup>3</sup> Rule 4632D was adopted pursuant to SR-NASD-2006-115, which was approved by the Commission on December 13, 2006. See Securities Exchange Act Release No. 54931 (December 13, 2006), 71 FR 76409 (December 20, 2006) (order approving SR-NASD-2006-115). The NASD/BSE TRF will commence operation upon successful completion of system testing and certification (currently anticipated to be in the first quarter of 2007).

trades to denote their execution outside normal market hours.

Transactions not reported within 90 seconds also shall be designated as .T trades. Transactions not reported before 6:30 p.m. [cannot be reported through the NASD/BSE Trade Reporting Facility. Participants must use an alternative electronic mechanism to report these trades to NASD] shall be reported on an “as/of” basis the following business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time.

(C) No Change.

(D) Last sale reports of transactions executed between 6:30 p.m. and midnight Eastern Time [cannot be reported through the NASD/BSE Trade Reporting Facility. Participants must use an alternative electronic mechanism to report these trades to NASD] shall be reported the following business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time and be designated “as/of” trades.

(3) through (10) No Change.

(b) through (f) No Change.

**(g) Reporting Cancelled Trades**

(1) No Change.

(2) Deadlines for Reporting Cancelled Trades

(A) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled before 4:00 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation within 90 seconds of the time the trade is cancelled [by contacting NASD/BSE

Trade Reporting Facility Operations].

(B) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 4:00 p.m., but before 6:30 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall use its best efforts to report the cancellation not later than 6:30 p.m. on the date of execution [by contacting NASD/BSE Trade Reporting Facility Operations], and otherwise it shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(C) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 6:30 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(D) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled prior to 6:30 p.m. on the date of execution, the member responsible for reporting under paragraph (g)(1) shall report the cancellation by 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(E) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled after 6:30 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/BSE

Trade Reporting Facility Operations.]

(F) For any trade cancelled on any date after the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation (i) by 6:30 p.m. on the date of cancellation if the trade is cancelled before 6:30 p.m., or (ii) by 6:30 p.m. on the following business day if the trade is cancelled at or after 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(G) No Change.

(h) through (i) No Change.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

**2. Procedures of the Self-Regulatory Organization**

The proposed rule change relating to the NASD/NSX TRF was approved and authorized for filing by the Executive Committee of the Board of Governors of NASD via Unanimous Written Consent on September 15, 2006. The proposed rule change relating to the NASD/BSE TRF was approved and authorized for filing by the Executive Committee of the Board of Governors of NASD via Unanimous Written Consent on November 15, 2006. 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 Board of Governors of NASD to adopt amendments to NASD rules without recourse to the membership for approval.

NASD has filed the proposed rule change for immediate effectiveness and requested a waiver of the 30-day operative delay to ensure that the proposed rules are operative when the system changes have been completed. NASD anticipates that system testing and certification will be completed before the end of the first quarter of 2007. NASD will announce the date that the system changes will be implemented on its website.

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

(a) Purpose

On November 6, 2006, the Commission approved the establishment of the NASD/NSX TRF.<sup>4</sup> On December 13, 2006, the Commission approved the establishment of the NASD/BSE TRF.<sup>5</sup> The NASD/NSX TRF and NASD/BSE TRF provide members additional mechanisms for reporting locked-in trades in exchange-listed securities executed otherwise than on an exchange.

Currently, the NASD/NSX TRF does not accept reports of trades on an “as/of” or next day (T+1) basis and the NASD/BSE TRF rules also do not contemplate the submission of “as/of” trade reports. The rules relating to the NASD/NSX TRF and the

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<sup>4</sup> See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006) (order approving SR-NASD-2006-108). The NASD/NSX TRF commenced operation for the reporting of over-the-counter trades in Nasdaq-listed securities on November 27, 2006 and began accepting reports of over-the-counter trades in non-Nasdaq exchange-listed securities on February 20, 2007.

<sup>5</sup> See Securities Exchange Act Release No. 54931 (December 13, 2006), 71 FR 76409 (December 20, 2006) (order approving SR-NASD-2006-115). The NASD/BSE TRF will commence operation upon successful completion of system testing and certification (currently anticipated to be in the first quarter of 2007).

NASD/BSE TRF expressly provide that members must use an alternative electronic mechanism to report “as/of” trades to NASD.<sup>6</sup>

In addition, members can only electronically report trade cancellations to the NASD/NSX TRF on trade date; members cannot electronically report cancellations on an “as/of” basis. The rules require that for trades that are cancelled after the day of execution of the trade, members must contact NASD/NSX TRF Operations to report the trade cancellation.<sup>7</sup> With respect to the NASD/BSE TRF, members cannot electronically report any trade cancellations, irrespective of whether they occur on or after trade date. The NASD/BSE TRF rules require members to contact NASD/BSE TRF Operations to report any cancellation of a trade previously submitted to the NASD/BSE TRF.<sup>8</sup>

NASD is proposing to amend Rules 4632C and 4632D to reflect a change in the functionality of the NASD/NSX TRF and NASD/BSE TRF, respectively, to support the reporting of trades on an “as/of” (T+1) basis and the automated reporting of trade cancellations. NASD believes that by providing for the reporting of “as/of” trades, the proposed rule change will enhance transparency and the integrity of the audit trail. Additionally, by automating the reporting of trade cancellations, the proposed rule change will facilitate and streamline the correction of trades, as necessary.

As noted in Item 2 of this filing, NASD has filed the proposed rule change for immediate effectiveness and requested a waiver of the 30-day operative delay to ensure

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<sup>6</sup> See paragraphs (a)(2)(B) and (D) of Rule 4632C relating to the NASD/NSX TRF, and paragraphs (a)(2)(B) and (D) of Rule 4632D relating to the NASD/BSE TRF.

<sup>7</sup> See paragraphs (f)(2)(B), (C), (E) and (F) of Rule 4632C.

<sup>8</sup> See paragraphs (g)(2)(A), (B), (C), (D), (E) and (F) of Rule 4632D.

that the proposed rules are operative when the system changes have been completed.

NASD anticipates that system testing and certification will be completed before the end of the first quarter of 2007. NASD will announce the date that the system changes will be implemented on its website.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>9</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 will enhance investor protection by increasing transparency and the integrity of the audit trail.

**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.

**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) of

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<sup>9</sup> 15 U.S.C. 78o-3(b)(6).

the Act and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>10</sup> in that the proposed rule change does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and does not become operative for 30 days after filing. NASD believes that the filing is appropriately designated as “non-controversial” because the proposed rule change is substantially similar to the NASD/Nasdaq TRF rules that were subject to notice and comment and approved by the Commission on June 30, 2006.<sup>11</sup> In accordance with Rule 19b-4, NASD submitted written 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.

NASD requests that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule 19b-4(f)(6)(iii).<sup>12</sup> Waiver of the 30-day waiting period is necessary because NASD anticipates that the system changes for “as/of” trade reporting and the automated reporting of trade cancellations may be completed prior to the end of the 30-day period. NASD believes that it is crucial for a complete and accurate audit trail and market transparency that the NASD/NSX TRF and NASD/BSE TRF be able to process and report trade corrections as quickly as possible and that a delay in implementation of this functionality would not be in the interests of investors.

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

<sup>11</sup> See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087).

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

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

Not applicable.

**9. Exhibits**

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

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34- ; File No. SR-NASD-2007-016)

Self-Regulatory Organizations: National Association Of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend NASD Rules 4632C and 4632D to Reflect “As/Of” Trade Reporting and the Automated Reporting of Trade Cancellations to the NASD/NSX Trade Reporting Facility and the NASD/BSE Trade Reporting 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 , 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 “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,<sup>3</sup> 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 proposing to amend NASD Rule 4632C (Transaction Reporting) and NASD Rule 4632D (Transaction Reporting) to reflect “as/of” (T+1) trade reporting and the automated reporting of trade cancellations to the NASD/NSX Trade Reporting Facility (the “NASD/NSX TRF”) and the NASD/BSE Trade Reporting Facility (the

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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> 17 CFR 240.19b-4.

“NASD/BSE TRF”), respectively. The proposed amendments are identical to the current language of NASD Rule 4632 (Transaction Reporting) relating to the NASD/Nasdaq Trade Reporting Facility (the “NASD/Nasdaq TRF”), which was approved by the Commission on June 30, 2006.<sup>4</sup>

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

**4000C. THE NASD/NSX TRADE REPORTING FACILITY**

\* \* \* \* \*

**4632C. Transaction Reporting**

**(a) When and How Transactions are Reported**

(1) No Change.

(2) Transaction Reporting to the NASD/NSX Trade Reporting Facility

Outside Normal Market Hours

(A) No Change.

(B) Last sale reports of transactions in designated securities

executed between the hours of 4:00 p.m. and 6:30 p.m. Eastern Time shall be reported within 90 seconds after execution and be designated as “.T” trades to denote their execution outside normal market hours.

Transactions not reported within 90 seconds also shall be designated as .T trades. Transactions not reported before 6:30 p.m. [cannot be reported through the NASD/NSX Trade Reporting Facility. Participants must use

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<sup>4</sup> See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087).

an alternative electronic mechanism to report these trades] shall be reported on an “as/of” basis the following business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time.

(C) No Change.

(D) Last sale reports of transactions executed between 6:30 p.m. and midnight Eastern Time [cannot be reported through the NASD/NSX Trade Reporting Facility. Participants must use an alternative electronic mechanism to report these trades] shall be reported the following business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time and be designated “as/of” trades.

(3) through (8) No Change.

(b) through (e) No Change.

**(f) Reporting Cancelled Trades**

(1) No Change.

(2) Deadlines for Reporting Cancelled Trades

(A) No Change.

(B) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 4:00 p.m. but before 6:30 p.m. on the date of execution, the member responsible under paragraph (f)(1) shall use its best efforts to report the cancellation not later than 6:30 p.m. on the date of execution, and otherwise it shall report the cancellation on the following business day by 6:30 p.m. [In the event that a cancellation is reported on the following business day, the Participant must contact NASD/NSX

Trade Reporting Facility Operations to report the cancellation.]

(C) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 6:30 p.m. on the date of execution, the member responsible under paragraph (f)(1) shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/NSX Trade Reporting Facility Operations.]

(D) No Change.

(E) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled after 6:30 p.m. on the date of execution, the member responsible under paragraph (f)(1) shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/NSX Trade Reporting Facility Operations.]

(F) For any trade cancelled on any date after the date of execution, the member responsible under paragraph (f)(1) shall report the cancellation (i) by 6:30 p.m. on the date of cancellation if the trade is cancelled before 6:30 p.m., or (ii) by 6:30 p.m. on the following business day if the trade is cancelled at or after 6:30 p.m. [by contacting NASD/NSX Trade Reporting Facility Operations.]

(G) No Change.

(g) through (h) No Change.

\* \* \* \* \*

**4000D. THE NASD/BSE TRADE REPORTING FACILITY**

\* \* \* \* \*

## 4632D. Transaction Reporting<sup>5</sup>

### (a) When and How Transactions are Reported

(1) No Change.

(2) Transaction Reporting to the NASD/BSE Trade Reporting Facility

#### Outside Normal Market Hours

(A) No Change.

(B) Last sale reports of transactions in designated securities

executed between the hours of 4:00 p.m. and 6:30 p.m. Eastern Time shall be reported within 90 seconds after execution and be designated as “.T” trades to denote their execution outside normal market hours.

Transactions not reported within 90 seconds also shall be designated as .T trades. Transactions not reported before 6:30 p.m. [cannot be reported through the NASD/BSE Trade Reporting Facility. Participants must use an alternative electronic mechanism to report these trades to NASD] shall be reported on an “as/of” basis the following business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time.

(C) No Change.

(D) Last sale reports of transactions executed between 6:30 p.m.

and midnight Eastern Time [cannot be reported through the NASD/BSE

Trade Reporting Facility. Participants must use an alternative electronic

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<sup>5</sup> Rule 4632D was adopted pursuant to SR-NASD-2006-115, which was approved by the Commission on December 13, 2006. See Securities Exchange Act Release No. 54931 (December 13, 2006), 71 FR 76409 (December 20, 2006) (order approving SR-NASD-2006-115). The NASD/BSE TRF will commence operation upon successful completion of system testing and certification (currently anticipated to be in the first quarter of 2007).

mechanism to report these trades to NASD] shall be reported the following business day (T+1) between 8:00 a.m. and 6:30 p.m. Eastern Time and be designated “as/of” trades.

(3) through (10) No Change.

(b) through (f) No Change.

**(g) Reporting Cancelled Trades**

(1) No Change.

(2) Deadlines for Reporting Cancelled Trades

(A) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled before 4:00 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation within 90 seconds of the time the trade is cancelled [by contacting NASD/BSE Trade Reporting Facility Operations].

(B) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 4:00 p.m., but before 6:30 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall use its best efforts to report the cancellation not later than 6:30 p.m. on the date of execution [by contacting NASD/BSE Trade Reporting Facility Operations], and otherwise it shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(C) For trades executed between 9:30 a.m. and 4:00 p.m. Eastern Time and cancelled after 6:30 p.m. on the date of execution, the member

responsible under paragraph (g)(1) shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(D) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled prior to 6:30 p.m. on the date of execution, the member responsible for reporting under paragraph (g)(1) shall report the cancellation by 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(E) For trades executed outside the hours of 9:30 a.m. to 4:00 p.m. Eastern Time and cancelled after 6:30 p.m. on the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation on the following business day by 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(F) For any trade cancelled on any date after the date of execution, the member responsible under paragraph (g)(1) shall report the cancellation (i) by 6:30 p.m. on the date of cancellation if the trade is cancelled before 6:30 p.m., or (ii) by 6:30 p.m. on the following business day if the trade is cancelled at or after 6:30 p.m. [by contacting NASD/BSE Trade Reporting Facility Operations.]

(G) No Change.

(h) through (i) No Change.

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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

On November 6, 2006, the Commission approved the establishment of the NASD/NSX TRF.<sup>6</sup> On December 13, 2006, the Commission approved the establishment of the NASD/BSE TRF.<sup>7</sup> The NASD/NSX TRF and NASD/BSE TRF provide members additional mechanisms for reporting locked-in trades in exchange-listed securities executed otherwise than on an exchange.

Currently, the NASD/NSX TRF does not accept reports of trades on an "as/of" or next day (T+1) basis and the NASD/BSE TRF rules also do not contemplate the submission of "as/of" trade reports. The rules relating to the NASD/NSX TRF and the

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<sup>6</sup> See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006) (order approving SR-NASD-2006-108). The NASD/NSX TRF commenced operation for the reporting of over-the-counter trades in Nasdaq-listed securities on November 27, 2006 and began accepting trade reports for over-the-counter transactions in non-Nasdaq exchange-listed securities on February 20, 2007.

<sup>7</sup> See Securities Exchange Act Release No. 54931 (December 13, 2006), 71 FR 76409 (December 20, 2006) (order approving SR-NASD-2006-115). The NASD/BSE TRF will commence operation upon successful completion of system testing and certification (currently anticipated to be in the first quarter of 2007).

NASD/BSE TRF expressly provide that members must use an alternative electronic mechanism to report “as/of” trades to NASD.<sup>8</sup>

In addition, members can only electronically report trade cancellations to the NASD/NSX TRF on trade date; members cannot electronically report cancellations on an “as/of” basis. The rules require that for trades that are cancelled after the day of execution of the trade, members must contact NASD/NSX TRF Operations to report the trade cancellation.<sup>9</sup> With respect to the NASD/BSE TRF, members cannot electronically report any trade cancellations, irrespective of whether they occur on or after trade date. The NASD/BSE TRF rules require members to contact NASD/BSE TRF Operations to report any cancellation of a trade previously submitted to the NASD/BSE TRF.<sup>10</sup>

NASD is proposing to amend Rules 4632C and 4632D to reflect a change in the functionality of the NASD/NSX TRF and NASD/BSE TRF, respectively, to support the reporting of trades on an “as/of” (T+1) basis and the automated reporting of trade cancellations. NASD believes that by providing for the reporting of “as/of” trades, the proposed rule change will enhance transparency and the integrity of the audit trail. Additionally, by automating the reporting of trade cancellations, the proposed rule change will facilitate and streamline the correction of trades, as necessary.

NASD has filed the proposed rule change for immediate effectiveness and requested a waiver of the 30-day operative delay to ensure that the proposed rules are operative when the system changes have been completed. NASD anticipates that system

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<sup>8</sup> See paragraphs (a)(2)(B) and (D) of Rule 4632C relating to the NASD/NSX TRF, and paragraphs (a)(2)(B) and (D) of Rule 4632D relating to the NASD/BSE TRF.

<sup>9</sup> See paragraphs (f)(2)(B), (C), (E) and (F) of Rule 4632C.

<sup>10</sup> See paragraphs (g)(2)(A), (B), (C), (D), (E) and (F) of Rule 4632D.

testing and certification will be completed before the end of the first quarter of 2007. NASD will announce the date that the system changes will be implemented on its website.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>11</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 will enhance investor protection by increasing transparency and the integrity of the audit trail.

**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**

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change 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, it has become effective pursuant

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<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.<sup>12</sup> NASD believes that the filing is appropriately designated as “non-controversial” because the proposed rule change is substantially similar to the NASD/Nasdaq TRF rules that were subject to notice and comment and approved by the Commission on June 30, 2006.<sup>13</sup> In accordance with Rule 19b-4, NASD submitted written 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.

NASD has requested that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule 19b-4(f)(6)(iii).<sup>14</sup> Waiver of the 30-day waiting period is necessary because NASD anticipates that the system changes for “as/of” trade reporting and the automated reporting of trade cancellations may be completed prior to the end of the 30-day period. NASD believes that it is crucial for a complete and accurate audit trail and market transparency that the NASD/NSX TRF and NASD/BSE TRF be able to process and report trade corrections as quickly as possible and that a delay in implementation of this functionality would not be in the interests of investors.

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.

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

<sup>13</sup> See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

#### **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-2007-016 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-2007-016. 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 Number SR-NASD-2007-016 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>15</sup>

Nancy M. Morris

Secretary

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