



NASD Regulation, Inc.  
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Washington, DC 20006-1500

202-728-8000

May 21, 1998

Katherine A. England  
Assistant Director  
Division of Market Regulation  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, D.C. 20549  
Mail Stop 10-1

Re: **File No. SR-NASD-98-38: Amendments to OATS Rules**

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed herewith is the above-numbered rule filing. Also enclosed is a 3-1/2" disk containing the rule filing in WordPerfect 5.0 to facilitate production of the Federal Register release.

If you have any questions, please contact Mary Revell, Associate General Counsel, Office of General Counsel, NASD Regulation, Inc., at (202) 728-8203; e-mail [revellm@nasd.com](mailto:revellm@nasd.com). The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,

Joan C. Conley  
Secretary

Attachment

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D. C.

Form 19b-4

Proposed Rule Change

by

**NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.**

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)(1) under the Securities Exchange Act of 1934 ("Act"), NASD Regulation, Inc. ("NASD Regulation") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to amend National Association of Securities Dealers, Inc. ("NASD" or "Association") Books and Records Rule 3110 and NASD Order Audit Trail System ("OATS") Rules 6954 and 6957 to (1) require members to record certain information when an order is transmitted to a non-member; (2) explicitly detail the record-keeping requirements that will apply to OATS data; (3) require members to record and maintain information related to "orders" as that term is defined in the OATS rules; (4) indicate effective dates for compliance with the proposed amendments to Rule 3110; and (5) make three non-substantive, technical revisions to Rules 3110 and 6957. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

**CONDUCT RULES**

**3100. BOOKS AND RECORDS, AND FINANCIAL CONDITION**

**3110. Books and Records**

(h)[(c)]**Order Audit Trail System Record-Keeping Requirements**

(1) Each member that is a Reporting Member, as that term is defined in Rule 6951(n), shall record and maintain, with respect to each order, as that term is defined in Rule 6951(j), for such security that is received or executed at its trading department: (A)[(1)] an identification of each registered person who receives the

order directly from a customer; (B)[(2)] an identification of each registered person who executes the order; and (C)[(3)] when [where] an order is originated by the member and transmitted manually to another department, an identification of the department that originated the order.

(2) Each Reporting Member shall maintain and preserve records of the information required to be recorded under paragraph (h)(1) of this Rule for the period of time and accessibility specified in SEC Rule 17a-4(b).

(3) The records required to be maintained and preserved under paragraph (h)(1) of this Rule may be immediately produced or reproduced on “micrographic media” as defined in SEC 17a-4(f)(1)(i) or by means of “electronic storage media” as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form.

## **NASD SYSTEMS AND PROGRAMS**

### **6950. ORDER AUDIT TRAIL SYSTEM**

#### **6954. Recording of Order Information**

**(a) Procedures**

(1) through (3): No change.

(4) (A) Each Reporting Member shall maintain and preserve [retain] records of the information required to be recorded under this Rule for the period of time and accessibility specified in SEC Rule 17a-4(b) [in accordance with Rule 3110].

(B) The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on “micrographic media” as defined in SEC Rule 17a-4(f)(1)(i) or by means of “electronic storage media” as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form.

(b) No change.

(c) **Order Transmittal**

(1) through (5): No change

(6) When a member transmits an order to a non-member, the Reporting Member shall record: (A) the fact that the order was transmitted to a non-member, (B) the order identifier assigned to the order by the Reporting Member, (C) the market participant symbol assigned by the Association to the Reporting Member, (D) the date the order was first originated or received by the Reporting Member, (E) the date and time the order is transmitted, (F) the number of shares to which the transmission applies, and (G) for each manual order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the Reporting Member.

#### **6957. Effective Date**

(a) through (c): No change

(d) **Rule 3110**

The requirements of Rule 3110(h)(1)(A) [Rule 3110(c)(1)] and Rule 3110(h)(1)(B) [Rule 3110(c)(2)] shall be effective on March 1, 1999, and the requirements of Rule 3110(h)(1)(C) [Rule 3110(c)(3)] shall be effective on July 31, 2000. The requirements of Rule 3110(h)(2) and Rule 3110(h)(3) shall be effective on March 1, 1999.

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(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

(a) The proposed rule change was approved by the Board of Directors of NASD Regulation at its meeting on April 30, 1998, which authorized the filing of the rule change with the SEC. The Nasdaq Stock Market has been 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. The NASD Board of Governors had an opportunity to review the proposed rule change at its meeting on May 7, 1998. No other action by the NASD is necessary for the filing of the proposed rule change. Section 1(a)(2) of Article VI of the By-Laws permits the NASD Board of Governors to adopt NASD Rules/amendments to NASD Rules without recourse to the membership for approval.

The NASD will announce the effective date of the proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the Notice to Members announcing Commission approval.

(b) Questions regarding this rule filing may be directed to Mary Revell, Associate General Counsel, NASD Regulation, Office of General Counsel, at (202) 728-8203.

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

(a) **Purpose**

**Background**

The Securities and Exchange Commission (“SEC”) approved NASD OATS Rules 6950 through 6957 on March 6, 1998.<sup>1</sup> The Rules require member firms to capture and record specific information related to the handling or execution of orders in The Nasdaq Stock Market (“Nasdaq”) equity securities to the hour, minute, and second. Firms must then report that information to OATS. The Rules also require members to synchronize the business clocks used to record OATS data. The SEC also approved new Rule 3110(c), which requires members to record and maintain certain information that is relevant to the OATS data reporting requirements.

OATS reporting will be implemented in phases. By March 1, 1999, electronic orders received by Electronic Communications Networks (“ECNs”) or at the trading departments of market makers are subject to reporting. Electronic orders are defined as orders that are captured in an electronic order-routing or execution system. By August 1, 1999, all electronic orders are subject to reporting. By July 31, 2000, all manual or non-electronic orders are subject to reporting.

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<sup>1</sup> See Release No. 34-39729 (March 6, 1998), 63 FR 12559 (March 13, 1998).

The types of orders that must be reported under the rules include those received from a customer for handling or execution, those received from another member firm for handling or execution, and those originated by a department or desk within a firm for execution by another department or desk within that same member firm. Order events that must be reported under the Rules include the receipt, modification, cancellation, execution, or routing of an order to another member firm, another department of the same firm, or an ECN. Orders for a proprietary account generally are exempted.

### **Discussion**

NASD Regulation proposes to amend the OATS Rules and the books and records requirements that apply specifically to OATS data. NASD Regulation also is proposing two non-substantive, technical amendments to the books and records requirements in Rule 3110 and conforming amendments to Rule 6957.

The first three amendments are non-substantive, technical revisions to Rules 3110 and 6957. The first amendment would renumber Rule 3110(c) to Rule 3110(h). The second amendment would revise Rule 6957(d) to refer to Rule 3110(h) instead of to Rule 3110(c). Rule 3110(c) is hereinafter referred to as Rule 3110(h). The third amendment would revise Rule 3110(h) to change the word “where” to “when” because “when” has a more accurate meaning in the context of the sentence in which it appears.

The fourth amendment would revise OATS Rule 6954(c) by adding a new paragraph (6). Rule 6954(c) sets forth the order information that must be recorded under the OATS Rules when an order is transmitted, either from one department to another within a member firm or to another member. Rule 6954(c) does not, however, contain a requirement that a



member record information when an order is transmitted to a non-member, such as a foreign broker/dealer or a foreign exchange. NASD Regulation proposes to add new paragraph (6) to require members to record certain information when an order is transmitted to a non-member, including the fact that it was so transmitted. Members will be required to report this information to OATS pursuant to Rule 6955. This new information will allow NASD Regulation to track what has happened to an order that a member has received and reported to OATS that is then routed to a non-member. Without this new requirement, there is no way to track this information.

The fifth amendment would revise both OATS Rule 6954(a)(4) and Rule 3110(h) to set forth specific record-keeping requirements. OATS Rules 6954(a)(1) and 6954(a)(4) require members to record specified information and to retain records of that information; Rule 3110(h) requires members to record and maintain information required by OATS. However, those rules do not specify how long the records must be maintained or the requirements that apply when members wish to utilize micrographic media or electronic storage media to maintain the records. To provide certainty to member firms on record retention requirements related to OATS data, NASD Regulation proposes to add new language to both Rule 6954(a)(4) and Rule 3110(h) to make explicit the record-keeping requirements related to OATS data. The rules have been revised to specifically reference the record retention period specified in SEC Rule 17a-4(b) and the conditions set forth in SEC Rule 17a-4(f) for reproducing records on micrographic media or by means of electronic storage media.

The sixth amendment would revise Rule 3110(h)(1) to require members to record and maintain information related to “orders” as that term is defined in OATS Rule 6951(j). As stated above, new Rule 3110(h) was adopted to require members to record and maintain information relevant to the OATS data recording and reporting requirements. The OATS rules require firms to record and report to OATS information related to “orders” as defined in OATS Rule 6951(j). For purposes of the OATS rules, the term “order” as defined in Rule 6951(j) means an instruction to effect a transaction in a Nasdaq equity security. NASD Regulation proposes to similarly limit Rule 3110(h) to require members to record and maintain information only with respect to “orders” in Nasdaq equity securities.

Finally, the seventh amendment would revise Rule 6957(d) to indicate the effective dates for compliance with the proposed amendments to Rule 3110(h).

**(b) Statutory Basis**

NASD Regulation 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 the Association’s 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 Regulation believes that requiring members to record certain information when an order is transmitted to a non-member and to record and maintain information related to “orders” as defined in the OATS rules and explicitly detailing the record-keeping requirements that apply to OATS data will further these requirements.

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

NASD Regulation 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

The proposed rule change was reviewed by the NASD Regulation National Adjudicatory Council ("NAC") and the NASD Small Firm Advisory Board ("SFAB"). The NAC did not have any comments on the proposal. The SFAB did not have any comments on the proposed rules, but did express its concerns about the costs that will be required for compliance by small firms with the OATS rules that already have been approved by the SEC and are scheduled to be implemented starting in March, 1999.

6. Extension of Time Period for Commission Action

NASD Regulation does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.

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

The first three amendments, which are non-substantive, technical amendments to Rules 3110 and 6957, are effective upon filing pursuant to Section 19(b)(3)(A) of the Act and Section (e) of Rule 19b-4 promulgated thereunder in that they are concerned solely with the administration of the NASD.

There is no basis for summary effectiveness pursuant to Section 19(b)(3) or for accelerated effectiveness pursuant to Section 19(b)(2) of amendments four through seven.

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

NASD REGULATION, INC.

BY: \_\_\_\_\_

Joan C. Conley, Secretary

Date: May 21, 1998

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34- ; File No. SR-NASD-98-38)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Revisions to NASD Order Audit Trail System and Record-Keeping Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on , NASD Regulation, Inc. ("NASD Regulation") 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 Regulation. 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 Regulation is proposing to amend National Association of Securities Dealers, Inc. ("NASD" or "Association") Books and Records Rule 3110 and NASD Order Audit Trail System ("OATS") Rules 6954 and 6957 to (1) require members to record certain information when an order is transmitted to a non-member; (2) explicitly detail the record-keeping requirements that will apply to OATS data; (3) require members to record and maintain information related to "orders" as that term is defined in the OATS rules; (4) indicate effective dates for compliance with the proposed amendments to Rule 3110; and (5) make three non-substantive, technical revisions to Rules 3110 and 6957. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

## CONDUCT RULES

### 3100. BOOKS AND RECORDS, AND FINANCIAL CONDITION

#### 3110. Books and Records

##### (h)[(c)]Order Audit Trail System Record-Keeping Requirements

(1) Each member that is a Reporting Member, as that term is defined in Rule 6951(n), shall record and maintain, with respect to each order, as that term is defined in Rule 6951(j), for such security that is received or executed at its trading department: (A)[(1)] an identification of each registered person who receives the order directly from a customer; (B)[(2)] an identification of each registered person who executes the order; and (C)[(3)] when [where] an order is originated by the member and transmitted manually to another department, an identification of the department that originated the order.

(2) Each Reporting Member shall maintain and preserve records of the information required to be recorded under paragraph (h)(1) of this Rule for the period of time and accessibility specified in SEC Rule 17a-4(b).

(3) The records required to be maintained and preserved under paragraph (h)(1) of this Rule may be immediately produced or reproduced on “micrographic media” as defined in SEC 17a-4(f)(1)(i) or by means of “electronic storage media” as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form.

## NASD SYSTEMS AND PROGRAMS

### 6950. ORDER AUDIT TRAIL SYSTEM

#### 6954. Recording of Order Information

##### (a) Procedures

(1) through (3): No change.

(4) (A) Each Reporting Member shall maintain and preserve [retain] records of the information required to be recorded under this Rule for the period of time and accessibility specified in SEC Rule 17a-4(b) [in accordance with Rule 3110].

(B) The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on “micrographic media” as defined in SEC Rule 17a-4(f)(1)(i) or by means of “electronic storage media” as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form.

(b) No change.

##### (c) Order Transmittal

(1) through (5): No change

(6) When a member transmits an order to a non-member, the Reporting Member shall record: (A) the fact that the order was transmitted to a non-member, (B) the order identifier assigned to the order by the Reporting Member, (C) the market participant symbol assigned by the Association to the Reporting Member, (D) the date the order was first originated or received by the Reporting Member, (E) the date and time the order is transmitted, (F) the number

of shares to which the transmission applies, and (G) for each manual order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the Reporting Member.

**6957. Effective Date**

(a) through (c): No change

**(d) Rule 3110**

The requirements of Rule 3110(h)(1)(A) [Rule 3110(c)(1)] and Rule 3110(h)(1)(B) [Rule 3110(c)(2)] shall be effective on March 1, 1999, and the requirements of Rule 3110(h)(1)(C) [Rule 3110(c)(3)] shall be effective on July 31, 2000. The requirements of Rule 3110(h)(2) and Rule 3110(h)(3) shall be effective on March 1, 1999.

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 Regulation 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 Regulation 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**



## **Background**

The Securities and Exchange Commission (“SEC”) approved NASD OATS Rules 6950 through 6957 on March 6, 1998.<sup>1</sup> The Rules require member firms to capture and record specific information related to the handling or execution of orders in The Nasdaq Stock Market (“Nasdaq”) equity securities to the hour, minute, and second. Firms must then report that information to OATS. The Rules also require members to synchronize the business clocks used to record OATS data. The SEC also approved new Rule 3110(c), which requires members to record and maintain certain information that is relevant to the OATS data reporting requirements.

OATS reporting will be implemented in phases. By March 1, 1999, electronic orders received by Electronic Communications Networks (“ECNs”) or at the trading departments of market makers are subject to reporting. Electronic orders are defined as orders that are captured in an electronic order-routing or execution system. By August 1, 1999, all electronic orders are subject to reporting. By July 31, 2000, all manual or non-electronic orders are subject to reporting.

The types of orders that must be reported under the rules include those received from a customer for handling or execution, those received from another member firm for handling or execution, and those originated by a department or desk within a firm for execution by another department or desk within that same member firm. Order events that must be reported under the Rules include the receipt, modification, cancellation, execution, or routing

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<sup>1</sup> See Release No. 34-39729 (March 6, 1988), 63 FR 12559 (March 13, 1998).

of an order to another member firm, another department of the same firm, or an ECN. Orders for a proprietary account generally are exempted.

## **Discussion**

NASD Regulation proposes to amend the OATS Rules and the books and records requirements that apply specifically to OATS data. NASD Regulation also is proposing two non-substantive, technical amendments to the books and records requirements in Rule 3110 and conforming amendments to Rule 6957.

The first three amendments are non-substantive, technical revisions to Rules 3110 and 6957. The first amendment would renumber Rule 3110(c) to Rule 3110(h). The second amendment would revise Rule 6957(d) to refer to Rule 3110(h) instead of to Rule 3110(c). Rule 3110(c) is hereinafter referred to as Rule 3110(h). The third amendment would revise Rule 3110(h) to change the word “where” to “when” because “when” has a more accurate meaning in the context of the sentence in which it appears.

The fourth amendment would revise OATS Rule 6954(c) by adding a new paragraph (6). Rule 6954(c) sets forth the order information that must be recorded under the OATS Rules when an order is transmitted, either from one department to another within a member firm or to another member. Rule 6954(c) does not, however, contain a requirement that a member record information when an order is transmitted to a non-member, such as a foreign broker/dealer or a foreign exchange. NASD Regulation proposes to add new paragraph (6) to require members to record certain information when an order is transmitted to a non-member, including the fact that it was so transmitted. Members will be required to report this information to OATS pursuant to Rule 6955. This new information will allow NASD

Regulation to track what has happened to an order that a member has received and reported to OATS that is then routed to a non-member. Without this new requirement, there is no way to track this information.

The fifth amendment would revise both OATS Rule 6954(a)(4) and Rule 3110(h) to set forth specific record-keeping requirements. OATS Rules 6954(a)(1) and 6954(a)(4) require members to record specified information and to retain records of that information; Rule 3110(h) requires members to record and maintain information required by OATS. However, those rules do not specify how long the records must be maintained or the requirements that apply when members wish to utilize micrographic media or electronic storage media to maintain the records. To provide certainty to member firms on record retention requirements related to OATS data, NASD Regulation proposes to add new language to both Rule 6954(a)(4) and Rule 3110(h) to make explicit the record-keeping requirements related to OATS data. The rules have been revised to specifically reference the record retention period specified in SEC Rule 17a-4(b) and the conditions set forth in SEC Rule 17a-4(f) for reproducing records on micrographic media or by means of electronic storage media.

The sixth amendment would revise Rule 3110(h)(1) to require members to record and maintain information related to “orders” as that term is defined in OATS Rule 6951(j). As stated above, new Rule 3110(h) was adopted to require members to record and maintain information relevant to the OATS data recording and reporting requirements. The OATS rules require firms to record and report to OATS information related to “orders” as defined in OATS Rule 6951(j). For purposes of the OATS rules, the term “order” as defined in Rule

6951(j) means an instruction to effect a transaction in a Nasdaq equity security. NASD Regulation proposes to similarly limit Rule 3110(h) to require members to record and maintain information only with respect to “orders” in Nasdaq equity securities.

Finally, the seventh amendment would revise Rule 6957(d) to indicate the effective dates for compliance with the proposed amendments to Rule 3110(h).

**(2) Statutory Basis**

NASD Regulation 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 the Association’s 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 Regulation believes that requiring members to record certain information when an order is transmitted to a non-member and to record and maintain information related to “orders” as defined in the OATS rules and explicitly detailing the record-keeping requirements that apply to OATS data will further these requirements.

**(B) Self-Regulatory Organization's Statement on Burden on Competition**

NASD Regulation 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**

The proposed rule change was reviewed by the NASD Regulation National Adjudicatory Council (“NAC”) and the NASD Small Firm Advisory Board (“SFAB”). The

NAC did not have any comments on the proposal. The SFAB did not have any comments on the proposed rules, but did express its concerns about the costs that will be required for compliance by small firms with the OATS rules that already have been approved by the SEC and are scheduled to be implemented starting in March, 1999.

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

With respect to amendments one through three: The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b-4 thereunder in that it is concerned solely with the administration of the NASD.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, 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.

With respect to amendments four through seven: Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. by order approve such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

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. 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).

Jonathan G. Katz  
Secretary