

## OMB APPROVAL

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SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
Form 19b-4

File No. SR - 2006 - 121

Amendment No. 

Proposed Rule Change by National Association of Securities Dealers

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

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



Exhibit 3 Sent As Paper Document

**Description**

Provide a brief description of the proposed rule change (limit 250 characters).

Proposed rule change to amend Rule 11890(b)(2) to allow NASD to designate officers to take action under the Rule with respect to clearly erroneous transactions

**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.

Date By 

(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 EDFS 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**

Add

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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**

Add

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Exhibit Sent As Paper Document

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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**

Add

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Exhibit Sent As Paper Document

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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**

Add

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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 to amend NASD Rule 11890 (Clearly Erroneous Transactions) to allow any NASD officer designated by an Executive Vice President of NASD’s Market Regulation Department or an Executive Vice President of NASD’s Transparency Services Department to, on his or her own motion, review any transaction in a Nasdaq-listed security or an OTC equity security, as defined in Rule 6610, arising out of or reported through any quotation, communication, or trade reporting system owned or operated by NASD or its subsidiaries.

Below is the text of the proposed rule change. Proposed new language is underlined.

\* \* \* \* \*

**11890. Clearly Erroneous Transactions**

(a) No Change.

**(b) Procedures for Reviewing Transactions on NASD's or Nasdaq's Own Motion**

(1) No Change.

(2) In the event of (i) a disruption or malfunction in the use or operation of any quotation, communication, or trade reporting system owned or operated by NASD or its subsidiaries and approved by the Commission, or (ii) extraordinary

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

market conditions in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, an Executive Vice President of NASD's Market Regulation Department or an Executive Vice President of NASD's Transparency Services Department, or any officer designated by such Executive Vice President, may, on his or her own motion, review any transaction in a Nasdaq-listed security or an OTC equity security, as defined in Rule 6610, arising out of or reported through any such quotation, communication, or trade reporting system. An NASD officer acting pursuant to this subsection may declare any such transaction null and void or modify the terms of any such transaction if the officer determines that (i) the transaction is clearly erroneous, or (ii) such actions are necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest; provided, however, that the officer must take action pursuant to this subsection within thirty (30) minutes of detection of the transaction except in the event of extraordinary circumstances, in which event the officer must take action by 3:00 p.m., Eastern Time, on the next trading day following the date of the trade at issue.

(c) through (d) No Change.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

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

The proposed rule change was approved by the Board of Governors of NASD

("Board") and authorized for filing with the SEC pursuant to a delegation of authority granted by the Board at its meeting on January 23, 2003, to the General Counsel of NASD Regulatory Policy and Oversight (or his officer or designee) ("Delegation of Authority") to file, without further specific Board authorization, administrative, technical, conforming, and non-substantive changes to NASD rules. 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 NASD to its Subsidiaries. The staff will advise the Board of any action taken pursuant to the Delegation of Authority. 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 to adopt amendments to NASD rules without recourse to the membership for approval.

NASD has filed the proposed rule change for immediate effectiveness. The operative date will be the date of filing, October 30, 2006.

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

(a) Purpose

Currently, Rule 11890(b)(2) provides that, in the event of (1) a disruption or malfunction in the use or operation of any quotation, communication, or trade reporting system owned or operated by NASD or its subsidiaries and approved by the Commission, or (2) extraordinary market conditions in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, an Executive Vice President of NASD's Market Regulation Department or an Executive Vice President of NASD's Transparency

Services Department may, on his or her own motion, review any transaction in a Nasdaq-listed security or an OTC equity security, as defined in Rule 6610, arising out of or reported through any such quotation, communication, or trade reporting system.<sup>2</sup>

On October 1, 2005, NASD assumed direct authority for OTC equities operations, in place of a delegation to Nasdaq.<sup>3</sup> At that time, NASD amended Rule 11890(b)(2) to provide NASD (rather than Nasdaq) authority to declare, on its own motion, clearly erroneous transactions in OTC equity securities (e.g., OTCBB and Pink Sheets securities) in the event of a disruption or malfunction in the use of an NASD system or due to extraordinary market conditions. Additionally, pursuant to SR-NASD-2005-087,<sup>4</sup> NASD amended Rule 11890(b)(2) to provide NASD with similar clearly erroneous authority with respect to all transactions in Nasdaq-listed securities reported to NASD.<sup>5</sup> Thus, Rule 11890(b)(2) also provides NASD the authority to declare, on its own motion, clearly erroneous transactions in Nasdaq-listed securities reported to NASD's Alternative

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<sup>2</sup> NASD has filed a proposed rule change that would (1) renumber Rule 11890(b)(2) as Rule 11890(a) and rename it as "Procedures for Reviewing Transactions on NASD's Own Motion;" and (2) expand the scope of the rule to transactions in all securities by deleting the reference to Nasdaq-listed and OTC equity securities. See Exchange Act Release No. 54451 (September 15, 2006), 71 FR 55243 (September 21, 2006) (notice of filing of SR-NASD-2006-104).

<sup>3</sup> See Securities Exchange Act Release No. 52508 (September 26, 2005), 70 FR 57346 (September 30, 2005) (order approving SR-NASD-2005-089).

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

<sup>5</sup> Prior to these amendments, such authority was delegated to Nasdaq with respect to trades reported through Nasdaq's Automated Confirmation Transaction (ACT) Service and there was no such authority with respect to trades reported to NASD's Alternative Display Facility.

Display Facility or an NASD Trade Reporting Facility<sup>6</sup> in the event of a disruption or malfunction in the use of an NASD system or due to extraordinary market conditions.

By its terms, Rule 11890(b)(2) authorizes an Executive Vice President of NASD's Market Regulation Department or an Executive Vice President of NASD's Transparency Services Department to take action with respect to clearly erroneous transactions. Currently, NASD has one Executive Vice President, Market Regulation, and one Executive Vice President, Transparency Services. NASD is proposing to amend Rule 11890(b)(2) to provide that an Executive Vice President of NASD's Market Regulation Department or an Executive Vice President of NASD's Transparency Services Department may also designate any NASD officer (an NASD employee with the title of Vice President or above) to take action under this Rule. Such designation is consistent with current Rules 11890(a)(1) and 11890(b)(1), which authorize officers of Nasdaq designated by its President and any Executive Vice President designated by the President, respectively, to act under the Rule.

NASD applies this authority in only very limited circumstances, for example, where there is an extraordinary event and multiple self-regulatory organizations are canceling or modifying trades. However, since implementation of the aforementioned rule changes, it has become apparent that having just two NASD officers authorized to

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<sup>6</sup> See Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087 relating to the NASD/Nasdaq Trade Reporting Facility); Exchange Act Release No. 54479 (September 21, 2006), 71 FR 56573 (September 27, 2006) (notice of filing of SR-NASD-2006-108 relating to the proposed NASD/NSX Trade Reporting Facility); and Exchange Act Release No. 54591 (October 12, 2006), 71 FR 61519 (October 18, 2006) (notice of filing of SR-NASD-2006-115 relating to the proposed NASD/BSE Trade Reporting Facility).

act under the Rule is insufficient to review and consider promptly potential clearly erroneous transactions as they arise. For example, if the Executive Vice President, Market Regulation, and Executive Vice President, Transparency Services, are unreachable at the same time because they are in meetings or on travel or out of the office for any other reason, potential clearly erroneous transactions cannot be reviewed in a timely manner. NASD staff believes that delays in reviewing these transactions should be avoided and the proposed rule change will allow NASD to take prompt and effective action with respect to clearly erroneous trades.

As noted in Item 2 of this filing, NASD has filed the proposed rule change for immediate effectiveness. The operative date will be the date of filing, October 30, 2006.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>7</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 lessen the impact of clearly erroneous transactions on the market and the public by allowing NASD to empower designated NASD officers with the authority to take prompt action with respect to such transactions.

**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.

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

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 the Act and paragraph (f)(6) of Rule 19b-4 thereunder,<sup>8</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 (subject to waiver by the Commission). 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>9</sup> The requested waiver is necessary to enable NASD to take prompt and effective action with respect to clearly erroneous transactions as they arise. There have been instances where the review of potential clearly erroneous transactions has been delayed because both Executive Vice Presidents authorized under the Rule have been unreachable. NASD wishes to remedy this situation as quickly as possible. If the

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<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 240.19b-4(f)(6)(iii).

Commission grants such waiver, the proposed rule change will become operative on the date of filing.

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-2006-121)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice Of Filing And Immediate Effectiveness Of Proposed Rule Change To Amend NASD Rule 11890(B)(2) To Allow NASD To Designate Officers To Take Action Under The Rule With Respect To Clearly Erroneous Transactions

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 11890 (Clearly Erroneous Transactions) to allow any NASD officer designated by an Executive Vice President of NASD’s Market Regulation Department or an Executive Vice President of NASD’s Transparency Services Department to, on his or her own motion, review any transaction in a Nasdaq-listed security or an OTC equity security, as defined in Rule 6610, arising

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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.

out of or reported through any quotation, communication, or trade reporting system owned or operated by NASD or its subsidiaries. Below is the text of the proposed rule change. Proposed new language is in italics.

\* \* \* \* \*

**11890. Clearly Erroneous Transactions**

(a) No Change.

**(b) Procedures for Reviewing Transactions on NASD's or Nasdaq's Own Motion**

(1) No Change.

(2) In the event of (i) a disruption or malfunction in the use or operation of any quotation, communication, or trade reporting system owned or operated by NASD or its subsidiaries and approved by the Commission, or (ii) extraordinary market conditions in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, an Executive Vice President of NASD's Market Regulation Department or an Executive Vice President of NASD's Transparency Services Department, or any officer designated by such Executive Vice President, may, on his or her own motion, review any transaction in a Nasdaq-listed security or an OTC equity security, as defined in Rule 6610, arising out of or reported through any such quotation, communication, or trade reporting system. An NASD officer acting pursuant to this subsection may declare any such transaction null and void or modify the terms of any such transaction if the officer determines that (i) the transaction is clearly erroneous, or (ii) such actions are necessary for

the maintenance of a fair and orderly market or the protection of investors and the public interest; provided, however, that the officer must take action pursuant to this subsection within thirty (30) minutes of detection of the transaction except in the event of extraordinary circumstances, in which event the officer must take action by 3:00 p.m., Eastern Time, on the next trading day following the date of the trade at issue.

(c) through (d) 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**

Currently, Rule 11890(b)(2) provides that, in the event of (1) a disruption or malfunction in the use or operation of any quotation, communication, or trade reporting system owned or operated by NASD or its subsidiaries and approved by the Commission, or (2) extraordinary market conditions in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest, an Executive Vice President of NASD's Market Regulation Department or an Executive Vice President of NASD's Transparency

Services Department may, on his or her own motion, review any transaction in a Nasdaq-listed security or an OTC equity security, as defined in Rule 6610, arising out of or reported through any such quotation, communication, or trade reporting system.<sup>4</sup>

On October 1, 2005, NASD assumed direct authority for OTC equities operations, in place of a delegation to Nasdaq.<sup>5</sup> At that time, NASD amended Rule 11890(b)(2) to provide NASD (rather than Nasdaq) authority to declare, on its own motion, clearly erroneous transactions in OTC equity securities (e.g., OTCBB and Pink Sheets securities) in the event of a disruption or malfunction in the use of an NASD system or due to extraordinary market conditions. Additionally, pursuant to SR-NASD-2005-087,<sup>6</sup> NASD amended Rule 11890(b)(2) to provide NASD with similar clearly erroneous authority with respect to all transactions in Nasdaq-listed securities reported to NASD.<sup>7</sup> Thus, Rule 11890(b)(2) also provides NASD the authority to declare, on its own motion, clearly erroneous transactions in Nasdaq-listed securities reported to NASD's Alternative Display Facility or an NASD Trade Reporting Facility<sup>8</sup> in the event of a disruption or

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<sup>4</sup> NASD has filed a proposed rule change that would (1) renumber Rule 11890(b)(2) as Rule 11890(a) and rename it as "Procedures for Reviewing Transactions on NASD's Own Motion;" and (2) expand the scope of the rule to transactions in all securities by deleting the reference to Nasdaq-listed and OTC equity securities. See Exchange Act Release No. 54451 (September 15, 2006), 71 FR 55243 (September 21, 2006) (notice of filing of SR-NASD-2006-104).

<sup>5</sup> See Securities Exchange Act Release No. 52508 (Sept. 26, 2005), 70 FR 57346 (Sept. 30, 2005) (order approving SR-NASD-2005-089).

<sup>6</sup> See Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087).

<sup>7</sup> Prior to these amendments, such authority was delegated to Nasdaq with respect to trades reported through Nasdaq's Automated Confirmation Transaction (ACT) Service and there was no such authority with respect to trades reported to NASD's Alternative Display Facility.

<sup>8</sup> See Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087 relating to the NASD/Nasdaq Trade

malfunction in the use of an NASD system or due to extraordinary market conditions.

By its terms, Rule 11890(b)(2) authorizes an Executive Vice President of NASD's Market Regulation Department or an Executive Vice President of NASD's Transparency Services Department to take action with respect to clearly erroneous transactions. Currently, NASD has one Executive Vice President, Market Regulation, and one Executive Vice President, Transparency Services. NASD is proposing to amend Rule 11890(b)(2) to provide that an Executive Vice President of NASD's Market Regulation Department or an Executive Vice President of NASD's Transparency Services Department may also designate any NASD officer (an NASD employee with the title of Vice President or above) to take action under this Rule. Such designation is consistent with current Rules 11890(a)(1) and 11890(b)(1), which authorize officers of Nasdaq designated by its President and any Executive Vice President designated by the President, respectively, to act under the Rule.

NASD applies this authority in only very limited circumstances, for example, where there is an extraordinary event and multiple self-regulatory organizations are canceling or modifying trades. However, since implementation of the aforementioned rule changes, it has become apparent that having just two NASD officers authorized to act under the Rule is insufficient to review and consider promptly potential clearly erroneous transactions as they arise. For example, if the Executive Vice President, Market Regulation, and Executive Vice President, Transparency Services, are

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Reporting Facility); Exchange Act Release No. 54479 (September 21, 2006), 71 FR 56573 (September 27, 2006) (notice of filing of SR-NASD-2006-108 relating to the proposed NASD/NSX Trade Reporting Facility); and Exchange Act Release No. 54591 (October 12, 2006), 71 FR 61519 (October 18, 2006) (notice of filing of SR-NASD-2006-115 relating to the proposed NASD/BSE Trade Reporting Facility).

unreachable at the same time because they are in meetings or on travel or out of the office for any other reason, potential clearly erroneous transactions cannot be reviewed in a timely manner. NASD staff believes that delays in reviewing these transactions should be avoided and the proposed rule change will allow NASD to take prompt and effective action with respect to clearly erroneous trades.

NASD has filed the proposed rule change for immediate effectiveness. The operative date will be the date of filing, October 30, 2006.

2. 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 lessen the impact of clearly erroneous transactions on the market and the public by allowing NASD to empower designated NASD officers with the authority to take prompt action with respect to such transactions.

**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.

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

**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 to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.<sup>10</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 30-day period for the proposed rule change to become operative, as set forth in Rule 19b-4(f)(6).<sup>11</sup> The requested waiver is necessary to enable NASD to take prompt and effective action with respect to clearly erroneous transactions as they arise. There have been instances where the review of potential clearly erroneous transactions has been delayed because both Executive Vice Presidents authorized under the Rule have been unreachable. NASD wishes to remedy this situation as quickly as possible. If the Commission grants such waiver, the proposed rule change will become operative on the date of filing.

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

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

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### **IV. Solicitation of Comments**

Interested 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-2006-121 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-2006-121. 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-2006-121 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>12</sup>

Nancy M. Morris

Secretary

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