

OMB APPROVAL

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

File No. SR - 2006 - 129

Amendment No.

Proposed Rule Change by National Association of Securities Dealers

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

Initial ☒	Amendment ☐	Withdrawal ☐	Section 19(b)(2) ☐	Section 19(b)(3)(A) ☒	Section 19(b)(3)(B) ☐
			Rule		
			☐ 19b-4(f)(1) ☐ 19b-4(f)(4)		
			☐ 19b-4(f)(2) ☐ 19b-4(f)(5)		
			☐ 19b-4(f)(3) ☒ 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 6130C of the NASD/NSX Trade Reporting Facility Rules to Require Use of a Special Indicator Denoting That Certain Transactions are Reported in Accordance with Section 3 of Schedule A to the NASD By-Laws

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 Remove View

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

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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

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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

Add Remove View

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 Remove View

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”),¹ the National Association of Securities Dealers, Inc. (“NASD”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to adopt new paragraph (f) of Rule 6130C (Trade Report Input) to require members reporting odd-lot transactions, sales where the buyer and seller have agreed to a price substantially unrelated to the current market for the security (also referred to as “away from the market sales”), and purchases or sales of securities effected upon the exercise of an over-the-counter (“OTC”) option to the NASD/NSX Trade Reporting Facility (the “NASD/NSX TRF”) to use a special indicator denoting that such transactions are reported in accordance with Section 3 of Schedule A to the NASD By-Laws. Because the systems changes required to enable the NASD/NSX TRF to support the proposed new trade report modifiers have not been completed, proposed Rule 6130C(f) specifies that prior to December 15, 2006, members cannot use the NASD/NSX TRF to report these transactions to NASD and must use another electronic mechanism to satisfy their reporting obligations. The text of proposed Rule 6130C(f) is substantially similar to paragraph (g) of Rule 6130, which was approved by the Commission on June 12, 2006 and will become effective on December 1, 2006. In this proposed rule change, NASD also is proposing technical conforming changes to Rule 6130(g).

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

¹ 15 U.S.C. 78s(b)(1).

* * * * *

6000. NASD SYSTEMS AND PROGRAMS

6100. CLEARING AND COMPARISON RULES

* * * * *

6130. Trade Report Input

(a) through (f) No Change.

(g) Reporting Certain Transactions for Purposes of Regulatory Transaction

Fee Assessment

Reports submitted to the System for [T]the following types of transactions that are assessed a regulatory transaction fee in accordance with Section 3 of Schedule A to the NASD By-Laws must [be reported to the System as prescribed] comply with the requirements set forth below. Transactions must be submitted to the System by 6:30 p.m. Eastern Time (or the end of the System reporting session that is in effect at that time).

(1) Odd-Lot Transactions

Reports of [T]transactions for less than a normal unit of trading shall [be reported to the System with] include a modifier of .RO to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(2) Away From the Market Sales

Reports of [T]transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, and consideration is given, shall [be reported to the System with] include a modifier

of .RA to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws.

Transactions may be entered as clearing or non-clearing.

(3) Exercises of OTC Options

Reports of [T]transactions effected pursuant to the exercise of an OTC option shall [be reported to the System with] include a modifier of .RX to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

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6000C. NASD/NSX TRADE REPORTING FACILITY SYSTEMS AND PROGRAMS

6100C. CLEARING AND COMPARISON RULES

* * * * *

6130C. Trade Report Input

(a) through (e) No Change.

(f) Reporting Certain Transactions for Purposes of Regulatory Transaction

Fee Assessment

Reports submitted to the System for the following types of transactions that are assessed a regulatory transaction fee in accordance with Section 3 of Schedule A to the NASD By-Laws must comply with the requirements set forth below. Transactions must be submitted to the System by 6:30 p.m. Eastern Time (or the end of the System reporting session that is in effect at that time). Prior to December 15, 2006, members

cannot use the NASD/NSX Trade Reporting Facility to report the following transactions to NASD and must use another electronic mechanism to satisfy their reporting obligations.

(1) Odd-Lot Transactions

Reports of transactions for less than a normal unit of trading shall include a modifier of .RO to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(2) Away From the Market Sales

Reports of transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, and consideration is given, shall include a modifier of .RA to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(3) Exercises of OTC Options

Reports of transactions effected pursuant to the exercise of an OTC option shall include a modifier of .RX to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

* * * * *

(b) Not applicable.

(c) Not applicable.

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

The Executive Committee of the Board of Governors of NASD approved and authorized the proposed rule change for filing via Unanimous Written Consent on September 15, 2006. Counsel for The Nasdaq Stock Market and NASD Dispute Resolution have been 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. 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 NASD Rules and amendments to NASD Rules without recourse to the membership for approval.

NASD has filed the proposed rule change for immediate effectiveness. NASD proposes to make the proposed rule change operative on December 1, 2006, which is the date upon which substantially similar amendments to Rule 6130 relating to the NASD/Nasdaq TRF will become effective.

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

(a) Purpose

Background

On June 12, 2006, the SEC approved SR-NASD-2006-055,² pursuant to which NASD amended its By-Laws to require members to report to NASD in an automated manner all transactions that must be reported to NASD and that are subject to a

² See Securities Exchange Act Release No. 53977 (June 12, 2006), 71 FR 34976 (June 16, 2006) (order approving SR-NASD-2006-055).

regulatory transaction fee pursuant to Section 3 of Schedule A to the NASD By-Laws (“Section 3”).³ In addition, as part of SR-NASD-2006-55, NASD adopted Rule 6130(g) requiring members to report to the System, which is defined to include the NASD/Nasdaq Trade Reporting Facility (the “NASD/Nasdaq TRF”), odd-lot transactions, away from the markets sales and OTC option exercises with a special indicator denoting that such transactions are reported in accordance with Section 3. The effective date of SR-NASD-2006-055 is December 1, 2006.

On November 6, 2006, the SEC approved SR-NASD-2006-108,⁴ pursuant to which NASD proposed to establish the NASD/NSX TRF. The NASD/NSX TRF provides members another mechanism for reporting transactions in exchange-listed securities executed otherwise than on an exchange. The rules relating to the NASD/NSX TRF, which are found in the NASD Rule 4000C and 6000C Series, are substantially similar to the rules relating to the NASD/Nasdaq TRF. The NASD/NSX TRF rules became effective on November 27, 2006, the date on which the NASD/NSX TRF commenced operation with respect to certain Nasdaq-listed securities.

Proposed amendments

NASD is proposing to adopt new paragraph (f) of Rule 6130C to require members that submit reports to the NASD/NSX TRF for odd-lot transactions, away from the

³ Pursuant to Section 31 of the Act, NASD and the national securities exchanges are required to pay transaction fees and assessments to the SEC that are designed to recover the costs related to the government’s supervision and regulation of the securities markets and securities professionals. NASD obtains its Section 31 fees and assessments from its membership, in accordance with Section 3.

⁴ See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006) (order approving SR-NASD-2006-108).

market sales, and transactions pursuant to the exercise of an OTC option to use a special indicator denoting that such transactions are reported in accordance with Section 3. The proposed new paragraph specifies that transactions may be entered as clearing or non-clearing. Pursuant to Rule 4632C(e), which was adopted pursuant to SR-NASD-2006-108, these transactions are not to be reported to the NASD/NSX TRF for purposes of publication. Proposed new paragraph (f) of Rule 6130C also specifies the trade report modifiers that must be used when reporting these transactions to the NASD/NSX TRF: (1) .RO for transactions of less than a normal unit of trading; (2) .RA for away from the market sales; and (3) .RX for transactions effected pursuant to the exercise of an OTC option. These trade report modifiers are identical to the modifiers required under Rule 6130(g).

The text of proposed Rule 6130C(f) differs slightly from the text of Rule 6130(g) as approved by the Commission. While members have an affirmative obligation pursuant to Section 3 to report all covered odd-lot transactions, away from the market sales and exercises of OTC options in an automated manner to NASD, they are not required to report such transactions to the NASD/NSX TRF. Members could use any other NASD facility that accepts the electronic reporting of such transactions, e.g., the NASD/Nasdaq TRF or ADF, to satisfy their reporting obligations. The proposed rule text clarifies that if members use the NASD/NSX TRF to report such transactions to NASD, their reports must comply with the requirements set forth in Rule 6130C(f). NASD also is proposing conforming changes to the text of Rule 6130 to maintain consistency among the rules for

the NASD Trade Reporting Facilities and to clarify that members may, but are not required to, use the NASD/Nasdaq TRF to report such transactions.⁵

Finally, the systems changes that will enable the NASD/NSX TRF to support the new trade report modifiers cannot be implemented as of December 1, 2006. As a result, the proposed text of Rule 6130C(f) provides that prior to December 15, 2006, members cannot report these transactions to the NASD/NSX TRF and must use an alternative electronic mechanism to satisfy their reporting obligations under Section 3.

NASD believes that requiring members to report these transactions for regulatory purposes with the appropriate modifier will enhance the audit trail while preventing the dissemination of trade information that could distort the tape.

As noted in Item 2 of this filing, NASD has filed the proposed rule change for immediate effectiveness. NASD proposes to make the proposed rule change operative on December 1, 2006, which is the date upon which amendments to Section 3 and substantially similar amendments to Rule 6130 relating to the NASD/Nasdaq TRF will become effective.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁶ which requires, among other things, that NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and

⁵ NASD notes that “System” is defined for purposes of Rule 6130 to include the OTC Reporting Facility, which is the only mechanism available to members for reporting transactions in OTC equity securities in accordance with Rule 6620.

⁶ 15 U.S.C. 78o-3(b)(6).

equitable principles of trade, and, in general, to protect investors and the public interest.

NASD believes that the proposed rule change will enhance the audit trail while preventing the dissemination of trade information that could distort the tape.

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 the Act and paragraph (f)(6) of Rule 19b-4 thereunder,⁷ 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 proposed rule change is appropriately designated as “non-controversial” because the proposed rule change is substantially similar to amendments to Rule 6130 relating to the NASD/Nasdaq TRF, which amendments were subject to notice and comment and approved by the SEC on June 12,

⁷ 17 CFR 240.19b-4(f)(6).

2006.⁸ 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).⁹ Waiver of the 30-day waiting period is necessary to permit the proposed rule change to become operative on the same date that amendments to Section 3 and Rule 6130 become effective pursuant to SR-NASD-2006-055, which will be December 1, 2006. If such waiver is granted by the Commission, the proposed rule change will be operative on December 1, 2006.

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.

⁸ See Securities Exchange Act Release No. 53977 (June 12, 2006), 71 FR 34976 (June 16, 2006) (order approving SR-NASD-2006-055).

⁹ 17 CFR 240.19b-4(f)(6)(iii).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2006-129)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 6130C of the NASD/NSX Trade Reporting Facility Rules to Require Use of a Special Indicator Denoting That Certain Transactions are Reported in Accordance with Section 3 of Schedule A to the NASD By-Laws

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² 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,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to adopt new paragraph (f) of Rule 6130C (Trade Report Input) to require members reporting odd-lot transactions, sales where the buyer and seller have agreed to a price substantially unrelated to the current market for the security (also referred to as “away from the market sales”), and purchases or sales of securities effected

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4.

upon the exercise of an over-the-counter (“OTC”) option to the NASD/NSX Trade Reporting Facility (the “NASD/NSX TRF”) to use a special indicator denoting that such transactions are reported in accordance with Section 3 of Schedule A to the NASD By-Laws. Because the systems changes required to enable the NASD/NSX TRF to support the proposed new trade report modifiers have not been completed, proposed Rule 6130C(f) specifies that prior to December 15, 2006, members cannot use the NASD/NSX TRF to report these transactions to NASD and must use another electronic mechanism to satisfy their reporting obligations. The text of proposed Rule 6130C(f) is substantially similar to paragraph (g) of Rule 6130, which was approved by the Commission on June 12, 2006 and will become effective on December 1, 2006. In this proposed rule change, NASD also is proposing technical conforming changes to Rule 6130(g).

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

* * * * *

6000. NASD SYSTEMS AND PROGRAMS

6100. CLEARING AND COMPARISON RULES

* * * * *

6130. Trade Report Input

(a) through (f) No Change.

(g) Reporting Certain Transactions for Purposes of Regulatory Transaction Fee Assessment

Reports submitted to the System for [T]the following types of transactions that are assessed a regulatory transaction fee in accordance with Section 3 of Schedule A to the

NASD By-Laws must [be reported to the System as prescribed] comply with the requirements set forth below. Transactions must be submitted to the System by 6:30 p.m. Eastern Time (or the end of the System reporting session that is in effect at that time).

(1) Odd-Lot Transactions

Reports of [T]transactions for less than a normal unit of trading shall [be reported to the System with] include a modifier of .RO to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(2) Away From the Market Sales

Reports of [T]transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, and consideration is given, shall [be reported to the System with] include a modifier of .RA to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(3) Exercises of OTC Options

Reports of [T]transactions effected pursuant to the exercise of an OTC option shall [be reported to the System with] include a modifier of .RX to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

* * * * *

**6000C. NASD/NSX TRADE REPORTING FACILITY SYSTEMS AND
PROGRAMS**

6100C. CLEARING AND COMPARISON RULES

* * * * *

6130C. Trade Report Input

(a) through (e) No Change.

(f) Reporting Certain Transactions for Purposes of Regulatory Transaction

Fee Assessment

Reports submitted to the System for the following types of transactions that are assessed a regulatory transaction fee in accordance with Section 3 of Schedule A to the NASD By-Laws must comply with the requirements set forth below. Transactions must be submitted to the System by 6:30 p.m. Eastern Time (or the end of the System reporting session that is in effect at that time). Prior to December 15, 2006, members cannot use the NASD/NSX Trade Reporting Facility to report the following transactions to NASD and must use another electronic mechanism to satisfy their reporting obligations.

(1) Odd-Lot Transactions

Reports of transactions for less than a normal unit of trading shall include a modifier of .RO to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(2) Away From the Market Sales

Reports of transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security, and

consideration is given, shall include a modifier of .RA to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

(3) Exercises of OTC Options

Reports of transactions effected pursuant to the exercise of an OTC option shall include a modifier of .RX to designate the transaction as submitted for purposes of the regulatory transaction fee under Section 3 of Schedule A to the NASD By-Laws. Transactions may be entered as clearing or non-clearing.

* * * * *

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

Background

On June 12, 2006, the SEC approved SR-NASD-2006-055,⁴ pursuant to which NASD amended its By-Laws to require members to report to NASD in an automated

⁴ See Securities Exchange Act Release No. 53977 (June 12, 2006), 71 FR 34976 (June 16, 2006) (order approving SR-NASD-2006-055).

manner all transactions that must be reported to NASD and that are subject to a regulatory transaction fee pursuant to Section 3 of Schedule A to the NASD By-Laws (“Section 3”).⁵ In addition, as part of SR-NASD-2006-55, NASD adopted Rule 6130(g) requiring members to report to the System, which is defined to include the NASD/Nasdaq Trade Reporting Facility (the “NASD/Nasdaq TRF”), odd-lot transactions, away from the markets sales and OTC option exercises with a special indicator denoting that such transactions are reported in accordance with Section 3. The effective date of SR-NASD-2006-055 is December 1, 2006.

On November 6, 2006, the SEC approved SR-NASD-2006-108,⁶ pursuant to which NASD proposed to establish the NASD/NSX TRF. The NASD/NSX TRF provides members another mechanism for reporting transactions in exchange-listed securities executed otherwise than on an exchange. The rules relating to the NASD/NSX TRF, which are found in the NASD Rule 4000C and 6000C Series, are substantially similar to the rules relating to the NASD/Nasdaq TRF. The NASD/NSX TRF rules became effective on November 27, 2006, the date on which the NASD/NSX TRF commenced operation with respect to certain Nasdaq-listed securities.

Proposed amendments

NASD is proposing to adopt new paragraph (f) of Rule 6130C to require members that submit reports to the NASD/NSX TRF for odd-lot transactions, away from the

⁵ Pursuant to Section 31 of the Act, NASD and the national securities exchanges are required to pay transaction fees and assessments to the SEC that are designed to recover the costs related to the government’s supervision and regulation of the securities markets and securities professionals. NASD obtains its Section 31 fees and assessments from its membership, in accordance with Section 3.

⁶ See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006) (order approving SR-NASD-2006-108).

market sales, and transactions pursuant to the exercise of an OTC option to use a special indicator denoting that such transactions are reported in accordance with Section 3. The proposed new paragraph specifies that transactions may be entered as clearing or non-clearing. Pursuant to Rule 4632C(e), which was adopted pursuant to SR-NASD-2006-108, these transactions are not to be reported to the NASD/NSX TRF for purposes of publication. Proposed new paragraph (f) of Rule 6130C also specifies the trade report modifiers that must be used when reporting these transactions to the NASD/NSX TRF: (1) .RO for transactions of less than a normal unit of trading; (2) .RA for away from the market sales; and (3) .RX for transactions effected pursuant to the exercise of an OTC option. These trade report modifiers are identical to the modifiers required under Rule 6130(g).

The text of proposed Rule 6130C(f) differs slightly from the text of Rule 6130(g) as approved by the Commission. While members have an affirmative obligation pursuant to Section 3 to report all covered odd-lot transactions, away from the market sales and exercises of OTC options in an automated manner to NASD, they are not required to report such transactions to the NASD/NSX TRF. Members could use any other NASD facility that accepts the electronic reporting of such transactions, e.g., the NASD/Nasdaq TRF or ADF, to satisfy their reporting obligations. The proposed rule text clarifies that if members use the NASD/NSX TRF to report such transactions to NASD, their reports must comply with the requirements set forth in Rule 6130C(f). NASD also is proposing conforming changes to the text of Rule 6130 to maintain consistency among the rules for the NASD Trade Reporting Facilities and to clarify that members may, but are not

required to, use the NASD/Nasdaq TRF to report such transactions.⁷

Finally, the systems changes that will enable the NASD/NSX TRF to support the new trade report modifiers cannot be implemented as of December 1, 2006. As a result, the proposed text of Rule 6130C(f) provides that prior to December 15, 2006, members cannot report these transactions to the NASD/NSX TRF and must use an alternative electronic mechanism to satisfy their reporting obligations under Section 3.

NASD believes that requiring members to report these transactions for regulatory purposes with the appropriate modifier will enhance the audit trail while preventing the dissemination of trade information that could distort the tape.

NASD has filed the proposed rule change for immediate effectiveness. NASD proposes to make the proposed rule change operative on December 1, 2006, which is the date upon which amendments to Section 3 and substantially similar amendments to Rule 6130 relating to the NASD/Nasdaq TRF will become effective.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁸ 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 the audit trail while preventing the dissemination of trade information that could distort the tape.

⁷ NASD notes that “System” is defined for purposes of Rule 6130 to include the OTC Reporting Facility, which is the only mechanism available to members for reporting transactions in OTC equity securities in accordance with Rule 6620.

⁸ 15 U.S.C. 78o-3(b)(6).

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 to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.⁹ NASD believes that the proposed rule change is appropriately designated as “non-controversial” because the proposed rule change is substantially similar to amendments to Rule 6130 relating to the NASD/Nasdaq TRF, which amendments were subject to notice and comment and approved by the SEC on June 12, 2006.¹⁰

In accordance with Rule 19b-4,¹¹ 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

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ See Securities Exchange Act Release No. 53977 (June 12, 2006), 71 FR 34976 (June 16, 2006) (order approving SR-NASD-2006-055).

¹¹ 17 CFR 240.19b-4.

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).¹²

Waiver of the 30-day waiting period is necessary to permit the proposed rule change to become operative on the same date that amendments to Section 3 and Rule 6130 become effective pursuant to SR-NASD-2006-055, which will be December 1, 2006. If such waiver is granted by the Commission, the proposed rule change will be operative on December 1, 2006.

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.

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. Please include File Number SR-NASD-2006-129 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary,

¹² 17 CFR 240.19b-4(f)(6)(iii).

Securities and Exchange Commission, 100 F Street, NE, Washington, DC
20549-1090.

All submissions should refer to File Number SR-NASD-2006-129. 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-2006-129 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.¹³

Nancy M. Morris

Secretary

¹³ 17 CFR 200.30-3(a)(12).