

OMB APPROVAL

OMB Number: 3235-0045
Expires: June 30, 2007
Estimated average burden
hours per response.....38

Page 1 of 19

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

File No. SR - 2006 - 135

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) ☐
Pilot ☐			Rule		
Extension of Time Period for Commission Action ☐			☐ 19b-4(f)(1) ☐ 19b-4(f)(4) ☐ 19b-4(f)(2) ☐ 19b-4(f)(5) ☐ 19b-4(f)(3) ☒ 19b-4(f)(6)		
Date Expires 					

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).

Proposal relating to implementation of certain approved rule changes reflecting the complete separation of Nasdaq from NASD

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 EFFF website.

Form 19b-4 Information

[Add](#) [Remove](#) [View](#)

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

[Add](#) [Remove](#) [View](#)

Exhibit Sent As Paper Document

☐

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

Exhibit 3 - Form, Report, or Questionnaire

[Add](#) [Remove](#) [View](#)

Exhibit Sent As Paper Document

☐

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

Exhibit 4 - Marked Copies

[Add](#) [Remove](#) [View](#)

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 relating to a phased implementation of SR-NASD-2006-104, which was approved by the Commission on November 21, 2006.² Specifically, NASD is proposing to implement on December 20, 2006 amendments to the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries (“Delegation Plan”) and the By-Laws of NASD, NASD Regulation and NASD Dispute Resolution, and the deletion of The Nasdaq Stock Market Inc. (“Nasdaq”) By-Laws, which were previously approved in SR-NASD-2006-104, to reflect Nasdaq’s complete separation from NASD, and, on that same date, dissolve NASD’s controlling share in Nasdaq.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved on June 9, 2005 by the Executive Committee of the Board of Governors of NASD, which authorized the filing of the rule change with the Commission. Changes to the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries (“Delegation Plan”), NASD Regulation By-Laws, and NASD Dispute Resolution By-Laws were approved by the Executive Committee on

¹ 15 U.S.C. 78s(b)(1).

² See Securities Exchange Act Release No. 54798 (November 21, 2006), 71 FR 69156 (November 29, 2006) (order approving SR-NASD-2006-104).

the same date. Proposed changes to the NASD By-Laws were previously approved by the Board of Governors of NASD on July 25, 2002, and were submitted to the membership for approval. The consent solicitation process was completed on August 20, 2002, the date on which NASD received consents representing a majority of members eligible to vote. No other action by NASD is necessary for the filing of the proposed rule change. Section 1(a)(ii) of Article VII of the NASD By-Laws permits the Board of Governors of NASD to adopt amendments to NASD rules without recourse to the membership for approval.

NASD has filed the proposed rule change for immediate effectiveness. NASD is proposing that the operative date of the proposed rule change be December 20, 2006, the date on which NASD will effectuate the complete separation of Nasdaq from NASD.

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

(a) Purpose

Background

On June 30, 2006, the Commission approved proposed rule change SR-NASD-2005-087, which, among other things, amended NASD's Delegation Plan, By-Laws and NASD rules to reflect the operation of The NASDAQ Stock Market LLC (the "Nasdaq Exchange") as a national securities exchange for Nasdaq-listed securities.³ For a transitional period that commenced on August 1, 2006, the Nasdaq Exchange has been operating as an exchange for Nasdaq-listed securities only. Nasdaq, as a subsidiary of

³ See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087).

NASD, continues to perform its obligations under the Delegation Plan with respect to over-the-counter (“OTC”) quoting, trading and execution of non-Nasdaq exchange-listed securities, including the operation of, among other things, its SuperIntermarket (“SiM”) trading platform. Nasdaq no longer performs any functions under the Delegation Plan relating to Nasdaq-listed securities.

On November 21, 2006, the Commission approved SR-NASD-2006-104.⁴ Pursuant to SR-NASD-2006-104, NASD proposed to delete the Nasdaq By-Laws and amend the Delegation Plan, the By-Laws of NASD, NASD Regulation and NASD Dispute Resolution, and NASD rules to reflect the separation of Nasdaq from NASD upon the operation of the Nasdaq Exchange as a national securities exchange for non-Nasdaq exchange-listed securities. In addition, NASD proposed to amend NASD rules for OTC quoting and trading in non-Nasdaq exchange-listed securities to reflect the manner in which NASD will be satisfying its regulatory obligations under the Exchange Act and the rules thereunder on a temporary basis until NASD’s Alternative Display Facility (“ADF”) is able to satisfy those obligations (“Modified SiM Rules”).⁵ Finally, NASD proposed to expand the scope of the NASD/Nasdaq Trade Reporting Facility rules to include trade reporting in non-Nasdaq exchange-listed securities and make other

⁴ See Securities Exchange Act Release No. 54798 (November 21, 2006), 71 FR 69156 (November 29, 2006) (order approving SR-NASD-2006-104).

⁵ This is one of the conditions required by the Commission before the Nasdaq Exchange can operate as an exchange for non-Nasdaq exchange-listed securities. The SEC approved the Nasdaq Exchange application on January 13, 2006. See Securities Exchange Act Release No. 53128 (Jan. 13, 2006), 71 FR 3550 (Jan. 23, 2006) (File No. 10-131). See also Securities Exchange Act Release No. 54085 (June 30, 2006), which modified the conditions set forth in the Nasdaq Exchange approval order to allow the Nasdaq Exchange to operate as a national securities exchange solely with respect to Nasdaq-listed securities.

clarifying and conforming changes. As approved, SR-NASD-2006-104 will be effective on the date on which the Nasdaq Exchange operates as a national securities exchange with respect to non-Nasdaq exchange-listed securities. When SR-NASD-2006-104 was originally filed, that date was anticipated to be October 2006; however, it is now anticipated to be in the first quarter of 2007.

Separation of Nasdaq from NASD and Proposed Phased
Implementation of SR-NASD-2006-104

As noted above, Nasdaq continues to exercise regulatory authority under the Delegation Plan. Therefore, NASD retains control of Nasdaq through a single share of Series D Preferred Stock (the “Series D Share”) that allows NASD to cast a majority of the votes in any matter submitted to Nasdaq’s stockholders, including the election of Nasdaq directors. Once the delegation to Nasdaq is no longer necessary, the Series D Share will automatically lose its voting rights and will be redeemed by Nasdaq for \$1.00.

In light of the delay in implementation of portions of SR-NASD-2006-104, NASD is proposing to eliminate its delegation and effectuate complete separation with Nasdaq, including dissolution of the Series D Share, prior to commencement of operation of the Nasdaq Exchange as an exchange for non-Nasdaq exchange-listed securities. However, for a transitional period, Nasdaq will continue to perform the same services it does today, including operation of the SiM trading platform, on NASD’s behalf via the Transitional System and Regulatory Services Agreement. NASD anticipates that this transitional period will be brief, commencing on December 20, 2006 and concluding once SR-NASD-2006-104 is fully implemented in the first quarter of 2007.

To effectuate this phased implementation, NASD is proposing to implement on December 20, 2006 certain portions of SR-NASD-2006-104 to reflect the separation of

Nasdaq from NASD and that Nasdaq will no longer be operating under the Delegation Plan. Specifically, NASD is proposing to: (1) remove references in the Delegation Plan to Nasdaq as a subsidiary and remove the delegation of authority to Nasdaq (Section III) and the delegation of authority relating to Stockwatch (Section IV); (2) revise the NASD By-Laws, NASD Regulation By-Laws and NASD Dispute Resolution By-Laws to remove references to Nasdaq as a subsidiary of NASD; and (3) delete the Nasdaq By-Laws. During this transitional period, references to “Nasdaq” in NASD’s rules shall be deemed to mean “Nasdaq operating on behalf of NASD via the Transitional System and Regulatory Services Agreement.” Additionally, NASD notes that during this transitional period, the Market Operations Review Committee, which was validly constituted pursuant to a delegation by the NASD Board, will continue to exist in its current form and perform the functions set forth in NASD Rules 5265 and 11890. All remaining changes approved in SR-NASD-2006-104 will become effective on the date upon which the Nasdaq Exchange operates as an exchange for non-Nasdaq exchange-listed securities.⁶ As such, during this transitional period, there will be no changes from the perspective of users or participants of NASD facilities operated by Nasdaq.

⁶ As permitted by the terms of the Transitional System and Regulatory Services Agreement, NASD may, in its sole discretion, determine to continue to use Nasdaq as a vendor to operate SiM, even upon the Nasdaq Exchange’s operation as an exchange for non-Nasdaq exchange-listed securities. In that event, the current rules relating to SiM will remain in place and the approved rule changes in SR-NASD-2006-104 relating to Modified SiM Rules will not be implemented. All other rule changes that are part of SR-NASD-2006-104 (e.g., amendments to the NASD/Nasdaq Trade Reporting Facility Rules) will become operative upon the operation of NASD’s ADF for non-Nasdaq exchange-listed securities as approved by the SEC on September 28, 2006. See Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006) (order approving SR-NASD-2006-91). NASD will submit a filing to the SEC to effectuate this.

As noted in Item 2 of this filing, NASD has filed the proposed rule change for immediate effectiveness. NASD is proposing that the operative date of the proposed rule change will be December 20, 2006, the date on which NASD proposes to effectuate the complete separation of Nasdaq from NASD.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁷ 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 provide an effective mechanism and regulatory framework for effectuating Nasdaq's complete separation from NASD.

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 15 U.S.C. 78o-3(b)(6).

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,⁸ 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). NASD believes that the filing is appropriately designated as “non-controversial” because the amendments proposed herein were subject to notice and comment and approved by the SEC on November 21, 2006.⁹ 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).¹⁰ Such waiver is necessary so that the complete separation of Nasdaq from NASD can be effectuated on December 20, 2006. If such waiver is granted by the Commission, the proposed rule change will be operative on December 20, 2006.

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

Not applicable.

⁸ 17 CFR 240.19b-4(f)(6).

⁹ See Securities Exchange Act Release No. 54798 (November 21, 2006), 71 FR 69156 (November 29, 2006) (order approving SR-NASD-2006-104).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

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-2006-135)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposal Relating to Implementation of Certain Approved Rule Changes Reflecting the Complete Separation of Nasdaq from NASD

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 has filed a proposed rule change relating to a phased implementation of SR-NASD-2006-104, which was approved by the Commission on November 21, 2006.⁴ Specifically, NASD is proposing to implement on December 20, 2006 amendments to the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries (“Delegation

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 54798 (November 21, 2006), 71 FR 69156 (November 29, 2006) (order approving SR-NASD-2006-104).

Plan”) and the By-Laws of NASD, NASD Regulation and NASD Dispute Resolution, and the deletion of The Nasdaq Stock Market Inc. (“Nasdaq”) By-Laws, which were previously approved in SR-NASD-2006-104, to reflect Nasdaq’s complete separation from NASD, and, on that same date, dissolve NASD’s controlling share in Nasdaq.

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 30, 2006, the Commission approved proposed rule change SR-NASD-2005-087, which, among other things, amended NASD’s Delegation Plan, By-Laws and NASD rules to reflect the operation of The NASDAQ Stock Market LLC (the “Nasdaq Exchange”) as a national securities exchange for Nasdaq-listed securities.⁵ For a transitional period that commenced on August 1, 2006, the Nasdaq Exchange has been operating as an exchange for Nasdaq-listed securities only. Nasdaq, as a subsidiary of NASD, continues to perform its obligations under the Delegation Plan with respect to over-the-counter (“OTC”) quoting, trading and execution of non-Nasdaq exchange-listed

⁵ See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087).

securities, including the operation of, among other things, its SuperIntermarket (“SiM”) trading platform. Nasdaq no longer performs any functions under the Delegation Plan relating to Nasdaq-listed securities.

On November 21, 2006, the Commission approved SR-NASD-2006-104.⁶ Pursuant to SR-NASD-2006-104, NASD proposed to delete the Nasdaq By-Laws and amend the Delegation Plan, the By-Laws of NASD, NASD Regulation and NASD Dispute Resolution, and NASD rules to reflect the separation of Nasdaq from NASD upon the operation of the Nasdaq Exchange as a national securities exchange for non-Nasdaq exchange-listed securities. In addition, NASD proposed to amend NASD rules for OTC quoting and trading in non-Nasdaq exchange-listed securities to reflect the manner in which NASD will be satisfying its regulatory obligations under the Exchange Act and the rules thereunder on a temporary basis until NASD’s Alternative Display Facility (“ADF”) is able to satisfy those obligations (“Modified SiM Rules”).⁷ Finally, NASD proposed to expand the scope of the NASD/Nasdaq Trade Reporting Facility rules to include trade reporting in non-Nasdaq exchange-listed securities and make other clarifying and conforming changes. As approved, SR-NASD-2006-104 will be effective on the date on which the Nasdaq Exchange operates as a national securities exchange with respect to non-Nasdaq exchange-listed securities. When SR-NASD-2006-104 was

⁶ See Securities Exchange Act Release No. 54798 (November 21, 2006), 71 FR 69156 (November 29, 2006) (order approving SR-NASD-2006-104).

⁷ This is one of the conditions required by the Commission before the Nasdaq Exchange can operate as an exchange for non-Nasdaq exchange-listed securities. The SEC approved the Nasdaq Exchange application on January 13, 2006. See Securities Exchange Act Release No. 53128 (Jan. 13, 2006), 71 FR 3550 (Jan. 23, 2006) (File No. 10-131). See also Securities Exchange Act Release No. 54085 (June 30, 2006), which modified the conditions set forth in the Nasdaq Exchange approval order to allow the Nasdaq Exchange to operate as a national securities exchange solely with respect to Nasdaq-listed securities.

originally filed, that date was anticipated to be October 2006; however, it is now anticipated to be in the first quarter of 2007.

Separation of Nasdaq from NASD and Proposed Phased
Implementation of SR-NASD-2006-104

As noted above, Nasdaq continues to exercise regulatory authority under the Delegation Plan. Therefore, NASD retains control of Nasdaq through a single share of Series D Preferred Stock (the “Series D Share”) that allows NASD to cast a majority of the votes in any matter submitted to Nasdaq’s stockholders, including the election of Nasdaq directors. Once the delegation to Nasdaq is no longer necessary, the Series D Share will automatically lose its voting rights and will be redeemed by Nasdaq for \$1.00.

In light of the delay in implementation of portions of SR-NASD-2006-104, NASD is proposing to eliminate its delegation and effectuate complete separation with Nasdaq, including dissolution of the Series D Share, prior to commencement of operation of the Nasdaq Exchange as an exchange for non-Nasdaq exchange-listed securities. However, for a transitional period, Nasdaq will continue to perform the same services it does today, including operation of the SiM trading platform, on NASD’s behalf via the Transitional System and Regulatory Services Agreement. NASD anticipates that this transitional period will be brief, commencing on December 20, 2006 and concluding once SR-NASD-2006-104 is fully implemented in the first quarter of 2007.

To effectuate this phased implementation, NASD is proposing to implement on December 20, 2006 certain portions of SR-NASD-2006-104 to reflect the separation of Nasdaq from NASD and that Nasdaq will no longer be operating under the Delegation Plan. Specifically, NASD is proposing to: (1) remove references in the Delegation Plan to Nasdaq as a subsidiary and remove the delegation of authority to Nasdaq (Section III)

and the delegation of authority relating to Stockwatch (Section IV); (2) revise the NASD By-Laws, NASD Regulation By-Laws and NASD Dispute Resolution By-Laws to remove references to Nasdaq as a subsidiary of NASD; and (3) delete the Nasdaq By-Laws. During this transitional period, references to “Nasdaq” in NASD’s rules shall be deemed to mean “Nasdaq operating on behalf of NASD via the Transitional System and Regulatory Services Agreement.” Additionally, NASD notes that during this transitional period, the Market Operations Review Committee, which was validly constituted pursuant to a delegation by the NASD Board, will continue to exist in its current form and perform the functions set forth in NASD Rules 5265 and 11890. All remaining changes approved in SR-NASD-2006-104 will become effective on the date upon which the Nasdaq Exchange operates as an exchange for non-Nasdaq exchange-listed securities.⁸ As such, during this transitional period, there will be no changes from the perspective of users or participants of NASD facilities operated by Nasdaq.

NASD has filed the proposed rule change for immediate effectiveness. NASD is proposing that the operative date of the proposed rule change will be December 20, 2006,

⁸ As permitted by the terms of the Transitional System and Regulatory Services Agreement, NASD may, in its sole discretion, determine to continue to use Nasdaq as a vendor to operate SiM, even upon the Nasdaq Exchange’s operation as an exchange for non-Nasdaq exchange-listed securities. In that event, the current rules relating to SiM will remain in place and the approved rule changes in SR-NASD-2006-104 relating to Modified SiM Rules will not be implemented. All other rule changes that are part of SR-NASD-2006-104 (e.g., amendments to the NASD/Nasdaq Trade Reporting Facility Rules) will become operative upon the operation of NASD’s ADF for non-Nasdaq exchange-listed securities as approved by the SEC on September 28, 2006. See Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006) (order approving SR-NASD-2006-91). NASD will submit a filing to the SEC to effectuate this.

the date on which NASD proposes to effectuate the complete separation of Nasdaq from NASD.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,⁹ 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 provide an effective mechanism and regulatory framework for effectuating Nasdaq's complete separation from NASD.

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.¹⁰ NASD believes that

⁹ 15 U.S.C. 78o-3(b)(6).

¹⁰ 17 CFR 240.19b-4(f)(6).

the filing is appropriately designated as “non-controversial” because the amendments proposed herein were subject to notice and comment and approved by the SEC on November 21, 2006.¹¹ In accordance with Rule 19b-4, NASD submitted written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing. NASD has requested that the Commission waive the requirement that the rule change, by its terms, not become operative for 30 days after the date of the filing as set forth in Rule 19b-4(f)(6)(iii).¹² Such waiver is necessary so that the complete separation of Nasdaq from NASD can be effectuated on December 20, 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

¹¹ See Securities Exchange Act Release No. 54798 (November 21, 2006), 71 FR 69156 (November 29, 2006) (order approving SR-NASD-2006-104).

¹² 17 CFR 240.19b-4(f)(6)(iii).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASD-2006-135 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-2006-135. 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-2006-135 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).