

004), as amended, be, and hereby is, approved and declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55410; File No. SR-NASD-2007-020]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise the Implementation Date of Previously Proposed Amendments to NASD Rules 4632(f) and 6130(e)

March 6, 2007.

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 March 5, 2007, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by NASD. NASD has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it effective upon filing with 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 proposes to revise the implementation date of certain amendments to the NASD/Nasdaq Trade Reporting Facility ("NASD/Nasdaq TRF") rules that were previously proposed by NASD pursuant to SR-NASD-2007-002.<sup>5</sup> Specifically, NASD proposes to implement the amendments to Rule 4632(f) and Rule 6130(e) regarding aggregation of trades for

purposes of reporting to the NASD/Nasdaq TRF on the Regulation NMS Trading Phase Date, March 5, 2007.<sup>6</sup> There is no new rule text.

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

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

On January 8, 2007, NASD filed proposed rule change SR-NASD-2007-002, which proposed to make conforming changes to the transaction reporting rules relating to the NASD/Nasdaq TRF consistent with the new requirements of Regulation NMS under the Act. Among other changes, NASD proposed to amend Rule 4632(f) to expressly prohibit a member from aggregating individual executions of orders in a security at the same price into a single transaction report for tape purposes. As stated in SR-NASD-2007-002, NASD has determined that prohibiting the bunching of transactions when reporting to an NASD facility helps ensure greater transparency of individual transactions. However, for purposes of trades that are not printed to the tape, NASD proposed to amend Rule 6130(e) to continue to permit members—for clearing purposes only—to aggregate individual executions of orders in a security at the same price with the identical contra party and submit a single report to the System.<sup>7</sup>

These amendments are consistent with recent amendments to the reporting rules relating to NASD's Alternative Display Facility ("ADF"). Pursuant to SR-NASD-2006-091, NASD proposed to amend Rule 4632A(f) to expressly prohibit aggregation of individual executions of orders in a security at the same price into a single transaction report. The effective date of

SR-NASD-2006-091 is the Regulation NMS Trading Phase Date.<sup>8</sup>

To ensure consistency across NASD facilities, NASD proposes to implement the amendments to Rules 4632(f) and 6130(e) on the Regulation NMS Trading Phase Date, which, as noted above, is the implementation date for similar amendments to the ADF rules.<sup>9</sup> All other changes that were proposed in SR-NASD-2007-002 will become effective on the Pilot Stocks Phase Date, as set forth in that filing.

NASD is clarifying that proposed Rule 4632(f) is intended to prohibit only the aggregation of multiple executions into a single transaction report using the ".B" modifier for purposes of transaction reporting to the NASD/Nasdaq TRF. It will not apply to the matching or crossing of multiple orders in a single execution (e.g., via an alternative trading system or broker-dealer order-management system). Today, such single executions are not submitted to the NASD/Nasdaq TRF as bunched or aggregated transaction reports using the ".B" modifier and, thus, are not affected by the proposed rule change.

NASD has filed the proposed rule change for immediate effectiveness. NASD proposes to implement the amendments to Rules 4632(f) and 6130(e) on the Regulation NMS Trading Phase Date, March 5, 2007.

###### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>10</sup> which requires, among other things, that NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will enhance the consistency of the trade reporting rules applicable to NASD facilities and will ensure greater transparency of individual 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

<sup>8</sup> See Securities Exchange Act Release No. 54537 (September 28, 2006), 71 FR 59173 (October 6, 2006) (SR-NASD-2006-091). See also NASD Notice to Members 06-67 (November 2006) announcing the effective date of SR-NASD-2006-091.

<sup>9</sup> The rules relating to the NASD/NSX Trade Reporting Facility, the NASD/BSE Trade Reporting Facility, and the NASD/NYSE Trade Reporting Facility prohibit the aggregation of trades for purposes of reporting.

<sup>10</sup> 15 U.S.C. 78o-3(b)(6).

<sup>8</sup> 17 CFR 200.30-3(a)(12); 17 CFR 200.30-3(a)(44).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>5</sup> See Securities Exchange Act Release No. 55101 (January 12, 2007), 72 FR 2568 (January 19, 2007) (SR-NASD-2007-002).

<sup>6</sup> See Securities Exchange Act Release No. 55160 (January 24, 2007), 72 FR 4202 (January 30, 2007).

<sup>7</sup> "System" is defined in Rule 6110 to mean the NASD/Nasdaq TRF, the OTC Reporting Facility, and the ITS/CAES System.

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 rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date of this filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

NASD has requested that the Commission waive the 30-day operative delay in this case. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will allow the amendments to Rules 4632(f) and 6130(e) to be implemented on the Regulation NMS Trading Phase Date. For this reason, the Commission designates the proposed rule change to be operative upon filing with the Commission.<sup>13</sup>

At any time within 60 days of the filing of such 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 Comment*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2007-020 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2007-020. 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 the filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2007-020 and should be submitted on or before April 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-55414; File No. SR-NYSEArca-2007-25]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Amending Its Schedule of Fees and Charges in Order To Extend a Pilot Program for Option Strategy Executions for a Period of One Year**

March 7, 2007.

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 February 28, 2007, NYSE Arca, Inc. ("NYSE Arca" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On March 5, 2007, the Exchange submitted Amendment No. 1 to the proposed rule change. NYSE Arca has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

NYSE Arca is proposing to amend its Schedule of Fees and Charges in order to extend the pilot program that applies to Option Strategy Executions until March 1, 2008.

The text of the proposed rule change is available on the Exchange's Web site (<http://www.nyse.com/regulation/rules/1160561784294.html>), at the Exchange's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for,

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission 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 of the proposed rule change, or such shorter time as designated by the Commission. NASD has satisfied the five-day pre-filing requirement.

<sup>13</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).