

Form F-2 is used by foreign private issuers to register securities pursuant to the federal securities laws. It is estimated that approximately 4 respondents will spend 2,240 burden hours annually to comply with Form F-2.

Form F-3 is used by foreign private issuers to register securities pursuant to the federal securities laws. It is estimated that approximately 6 respondents will spend 990 burden hours annually to comply with Form F-3.

Form F-4 is used by foreign private issuers to register securities issues in connection with business combinations pursuant to federal securities laws. It is estimated that approximately 2 respondents will spend 2,622 burden hours annually to comply with Form F-4.

Form SB-1 is used by small business issuers to register securities pursuant to the federal securities laws. It is estimated that approximately 260 respondents will spend 184,600 burden hours annually to comply with Form SB-1.

Form SB-2 is an optional registration form used by small business issuers. It is estimated that approximately 269 respondents will spend 236,182 burden hours annually to comply with Form SB-2.

Form 10 is an Exchange Act registration form that provides material information about the issuer necessary for investors to make an informed investment decision. It is estimated that approximately 110 respondents will spend 10,340 burden hours annually to comply with Form 10.

Form 20-F elicits material information concerning the financial condition and operations of foreign private issuers in order to permit investors to make informed investment decisions. It is estimated that approximately 133 respondents will spend 264,670 burden hours annually to comply with Form 20-F.

Form 10-K elicits material information concerning the financial condition and business operations for each fiscal year for issuers of publicly-traded securities. It is estimated that approximately 6,261 respondents will spend 10,634,308.50 burden hours annually to comply with Form 10-K.

Form 10-KSB elicits material information concerning the financial condition and business operations for each fiscal year for small business issuers of publicly-traded securities. It is estimated that approximately 3,275 respondents will spend 4,021,700 burden hours annually to comply with Form 10-KSB.

Form 10-Q elicits information concerning the financial condition and business operations for issuers of publicly traded securities after the end of the first, second, and third fiscal quarters. It is estimated that approximately 6,282 respondents will spend 3,703,239 burden hours annually to comply with Form 10-Q.

Form 10-QSB is an optional form for quarterly transitional reports of small business issuers under Sections 13 and 15(d) of the Securities Exchange Act of 1934. It is estimated that approximately 3,516 respondents will spend 1,450,350 burden hours annually to comply with Form 10-QSB.

Proposed Rule 135d is a solicitation of Interest document which will permit issuers to solicit interest in their companies prior to the filing of a registration statement. It is estimated that approximately 30 respondents will spend 30 burden hours annually to comply with Rule 135d.

General comments regarding the estimated burden hours should be directed to the OMB Clearance Officer at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Clearance Officer, Project Numbers: 3235-0009 (Reg S-X), 3235-0417 (Reg S-B), 3235-0065 (Form S-1), 3235-0072 (Form S-2), 3235-0073 (Form S-3), 3235-0324 (Form S-4), 3235-0258 (Form F-1), 3235-0257 (Form F-2), 3235-0256 (Form F-3), 3235-0325 (Form F-4), 3235-0423 (Form SB-1), 3235-0418 (Form SB-2), 3235-0064 (Form 10), 3235-0288 (Form 20-F), 3235-0063 (Form 10-K), 3235-0420 (Form 10-KSB), 3235-0070 (Form 10-Q), 3235-0416 (Form 10-QSB) and 3235-new (Proposed Rule 135d), Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: July 18, 1995.

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-36102; File No. S7-24-89]

Joint Industry Plan; Solicitation of Comments and Order Approving Amendment No. 3 to Reporting Plan for Nasdaq/National Market Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., and the Boston, Chicago and Philadelphia Stock Exchanges

August 14, 1995.

On August 10, 1995, the National Association of Securities Dealers, Inc., and the Boston, Chicago, and Philadelphia Stock Exchanges (collectively, "Participants")¹ submitted to the Commission proposed Amendment No. 3 to a joint transaction reporting plan ("Plan") for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis.² The Commission is approving the proposed amendment to the Plan and trading pursuant to the Plan on a temporary basis to expire on September 12, 1995. The Commission also is expanding the number of eligible securities that may be traded by an exchange Participant pursuant to the Plan from 100 to 500 Nasdaq/National Market securities.

¹ The signatories to the Plan, i.e., the National Association of Securities Dealers, Inc. ("NASD"), and the Chicago Stock Exchange, Inc. ("Chx") (previously, the Midwest Stock Exchange, Inc.), Philadelphia Stock Exchange, Inc. ("Phlx"), and the Boston Stock Exchange, Inc. ("BSE"), are the "Participants." The BSE, however, joined the Plan as a "Limited Participant," and reports quotation information and transaction reports only in Nasdaq/National Market (previously referred to as "Nasdaq/NMS") securities listed on the BSE. Originally, the American Stock Exchange, Inc., was a Participant to the Plan, but did not trade securities pursuant to the Plan, and withdrew from participation in the Plan in August 1994.

² The Commission notes that Section 12(f) of the Act describes the circumstances under which an exchange may trade a security that is not listed on the exchange, i.e., by extending unlisted trading privileges ("UTP") to the security. Section 12(f) was amended on October 22, 1994, 15 U.S.C. 78j (1991) (as amended 1994). Prior to the amendment, section 12(f) required exchanges to apply to the Commission before extending UTP to any security. In order to approve an exchange UTP application for a registered security not listed on any exchange ("OTC/UTP"), Section 12(f) required the Commission to determine that various criteria had been met concerning fair and orderly markets, the protection of investors, and certain national market initiatives. These requirements operated in conjunction with the Plan currently under review. The recent amendment to Section 12(f), among other matters, removes the application requirement and permits OTC/UTP only pursuant to a Commission order or rule. The order or rule is to be issued or promulgated under essentially the same standards that previously applied to Commission review of UTP applications. The present order fulfills these Section 12(f) requirements.

I. Extension of the Pilot Program

The Commission originally approved the Plan on June 26, 1990.³ The Plan governs the collection, consolidation and dissemination of quotation and transaction information for Nasdaq/National Market securities listed on an exchange or traded on an exchange pursuant to UTP. The Commission originally approved trading pursuant to the Plan on a one-year pilot basis, with the pilot period to commence when transaction reporting pursuant to the Plan commenced. Consequently, the pilot period commenced on July 12, 1993. As requested by the Participants in Amendment Nos. 1 and 2 to the Plan, the Commission has extended the effectiveness of the Plan twice. Accordingly, the effectiveness of the Plan was scheduled to expire on August 12, 1995.⁴

As originally approved by the Commission, the Plan required the Participants to complete their negotiations regarding revenue sharing during the one-year pilot period. The January 1995 Extension Order approved the effectiveness of the Plan through August 12, 1995, but also stated that the Commission expected the Participants to conclude their financial negotiations before January 31, 1995.⁵ To date, the Participants have not completed their financial negotiations.

Proposed Amendment No. 3 to the Plan would extend the effectiveness and the negotiation period for an additional month through September 12, 1995. The Commission believes it is appropriate to extend the effectiveness of the pilot program for an additional month in place while the Commission awaits the Participants' filing of a proposed Plan amendment concerning revenue sharing pursuant to the Plan. The Commission also is directing the Participants to submit the filing to the Commission on or before August 31, 1995.

II. Extension of Certain Exemptive Relief

In conjunction with the Plan, on a temporary basis scheduled to expire on August 12, 1995, the Commission granted an exemption from Rule 11Ac1-

³ See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 ("1990 Approval Order"). For a detailed discussion of history of UTP in OTC securities, and the events that led to the present plan and pilot program, see 1994 Extension Order, *infra* note 4.

⁴ See Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 ("1994 Extension Order"). See also Securities Exchange Act Release No. 35221, (January 11, 1995), 60 FR 3886 ("January 1995 Extension Order").

⁵ See January 1995 Extension Order, *id.*, at n. 6.

2 under the Act regarding the calculated best bid and offer ("BBO"), and granted the BSE an exemption from the provision of Rule 11Aa3-1 under the Act that requires transaction reporting plans to include market identifiers for transaction reports and last sale data. At the request of the Participants, this order extends these exemptions through September 12, 1995, provided that the Plan continues in effect through that date pursuant to a Commission order.⁶ The Commission continues to believe that exemptive relief from these provisions is appropriate through September 12, 1995, but at that time, the Commission will review the exemptive relief in light of any comments received.

III. Expansion of the Number of Eligible Securities

In our 1994 and January 1995 Extension Orders, the Commission noted several unresolved issues concerning the Plan. These issues include, among other matters, whether the Commission should continue to limit the number of OTC securities that may be traded on exchanges pursuant to UTP. Currently, exchanges may extend UTP up to a maximum of 100 securities.⁷

Prior to the Commission's January 1995 Extension Order, the Commission received a letter from the Chx requesting that the Commission expand the number of eligible securities from 100 to 500.⁸ In the January 1995 Extension Order, the Commission solicited comment specifically on whether it would be appropriate to permit

⁶ In the January 1995 Extension order, the Commission extended these exemptions from July 12, 1995, through August 12, 1995. Pursuant to a request made by letter attached to the present filing, this order further extends the effectiveness of the relevant exemptions from August 12, 1995, through September 12, 1995. See letter from Robert E. Abner, NASD, to Jonathan Katz, Commission, dated August 10, 1995.

⁷ Prior to 1985, the Commission generally did not permit exchanges to extend UTP to OTC securities. In 1985, the Commission determined that it would be appropriate to permit exchanges, on a temporary basis and subject to certain limitations, to extend UTP up to a maximum of 25 OTC securities. These limitations included the requirement that the NASD and exchanges seeking to extend UTP to OTC securities enter into a plan for consolidated transaction and quotation dissemination. See Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640. In 1986, the Midwest Stock Exchange (currently the Chicago Stock Exchange, or "Chx") entered into an interim plan which subsequently was superseded by the Plan currently operating on a pilot basis. In 1990, the Commission expanded the maximum number of eligible securities to 100. See 1990 Approval Order, *supra* note 3.

⁸ See letter from George T. Simon, Foley & Lardner, to Katherine England, Assistant Director, Commission, dated January 9, 1995. This letter also concludes that, when the Plan is finally approved, all NMS stocks would be eligible for trading.

exchanges to extend UTP to a maximum of 500 OTC securities for an interim period, and whether all NMS securities⁹ should be available for extensions of UTP if the Commission determines that permanent approval of the Plan is appropriate.

Thereafter, the Commission received three comment letters on the 100-security limitation, two in favor of expanding the number of eligible securities,¹⁰ and one opposed to the expansion.¹¹ One commenter favored the expansion of securities available for exchange trading because the commenter believes the new automated capabilities developed by the exchanges will add liquidity and depth to the markets.¹² Another commenter, one of the two specialist firms currently trading under the Joint OTC/UTP Plan, supports expanding the number of eligible securities to 500 because the expansion would enhance the firm's ability to market its services, thereby allowing the exchanges to be more competitive with the larger OTC wholesale dealers.¹³

The commenter opposed to the expansion believes that, viewed in isolation, the proposed expansion would be consistent with the Act.¹⁴ The commenter believes, however, that the expansion would be inconsistent with elements of Section 11A(a)(1)(C) of the Act concerning competition¹⁵ because of the continued existence of exchange off-board trading restrictions, limitations on the eligibility of securities to be traded in the Intermarket Trading System, and New York Stock Exchange delisting rules, all of which

⁹ National market system, or "NMS," securities are defined in Rule 11Aa2-1 under the Act.

¹⁰ See letter from William A. Lupien, Chairman, Mitchum, Jones & Templeton, Inc., to Secretary, Commission, dated February 21, 1995 ("Mitchum, Jones & Templeton letter"), and letter from Jack A. Dempsey, Senior Vice President, Dempsey & Company, to Mr. Jonathan G. Katz, Secretary, Commission, dated February 21, 1995 ("Dempsey letter").

¹¹ See letter from Richard G. Ketchum, Executive Vice President & Chief Operating Officer, NASD, to Mr. Jonathan G. Katz, Secretary, Commission, dated February 21, 1995 ("NASD letter"). The NASD letter was submitted to the Commission with an attached statistical report to the Commission that provides data concerning exchange and NASD volume in OTC/UTP, and certain quotation information for securities that are quoted pursuant to the Plan.

¹² See Mitchum, Jones & Templeton letter, *supra* note 9.

¹³ See Dempsey letter, *supra* note 9.

¹⁴ See NASD letter, *supra* note 10.

¹⁵ Section 11A(a)(1)(C) requires the Commission, among other matters, to promote fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets.

the commenter believes to be anti-competitive.

While the Commission does not necessarily find any of the above comments on this topic persuasive, the Commission believes that it is appropriate at this time to expand the number of Nasdaq/National Market securities an exchange Participant may trade. The Commission has not received evidence that expanding the number of securities would have a negative effect on the markets or the protection of investors. Due to the lack of comments concerning the previous effects of OTC/UTP trading on the quality of the affected markets and on investors, the Commission believes this limited expansion from 100 to 500 Nasdaq/National market securities provides a prudent approach that will enable the Participants and the Commission to gain useful, instructive experience concerning operation of the Joint OTC/UTP Plan and on its competitive effects.

IV. Outstanding Concerns

In the January 1995 Extension Order, the Commission also solicited comment on: (1) Whether the BBO calculation for the relevant securities should be based on price and time only (as currently is the case) or if the calculation should include size of the quoted bid or offer; and (2) whether there is a need for an intermarket linkage for order routing and execution and an accompanying trade-through rule.

The Commission received two comments in support of including size in the BBO calculation.¹⁶ These commenters explain that, without including size in the BBO calculation, the BBO does not provide an accurate representation of the depth of the BBO.

The Commission requests further comment on the question of whether size should be included in the BBO. The Commission notes that the comments raised address more whether all inside bid and offer size should be aggregated, thereby displaying the true depth of the bid and offer, than whether size should be included in the BBO calculation. It is not clear whether the commenters actually recommend that aggregation of BBO size as the appropriate result, as compared to inclusion of size in the BBO calculation. For this reason, the Commission continues to solicit comment on whether the BBO calculation should include size, and why the greater size bid (offer) or the first-in-time bid (offer) should be displayed as best.

¹⁶ See Mitchum, Jones & Templeton letter and Dempsey letter, *supra* note 9.

The Commission received one comment on the need for an intermarket linkage for order routing and execution and an accompanying trade-through rule.¹⁷ The commenter believes that a linkage similar to that of the Intermarket Trading System would greatly enhance the effectiveness of the OTC/UTP program, and would give exchanges a great chance at improving the UTP marketplace for all investors. The Commission continues to solicit comment on the need for such a linkage, and also on whether any existing electronic trading system or systems, which may include those currently sponsored by one or more of the Participants to the Plan, could be used to gain the same or similar benefits for investors.

V. Solicitation of Comment

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. All submissions should refer to File No. S7-24-89 and should be submitted by September 12, 1995.

VI. Conclusion

The Commission finds that proposed Amendment No. 3 to the Plan to extend the financial negotiation period for an additional month is appropriate and in furtherance of Section 11A of the Act. The Commission finds further that extensions of the exemptive relief requested through September 12, 1995, as described above, also is consistent with the Act and the Rules thereunder. The Commission also finds that it is consistent with Section 11A of the Act to expand the number of Nasdaq/

¹⁷ See Dempsey letter, *supra* note 9. The Commission notes that the Dempsey letter also comments on the practice of internalization. The Commission did not solicit comment on internalization with respect to the Plan, and the Commission believes that internalization is not under review in the present notice and order. That topic, therefore, is not included in the present analysis.

National Market securities that each exchange participant may trade from 100 to 500 securities. Specifically, the Commission believes that these extensions and the expansions should serve to provide the Participants with more time to conclude their financial negotiations and with more information to evaluate the effects of and proposed course of action for the pilot program. This, in turn, should further the objects of the Act in general, and specifically those set forth in Sections 12(f) and 11A of the Act and in Rules 11Aa3-1 and 11Aa3-2 thereunder.

It is therefore ordered, pursuant to Sections 12(f) and 11A of the Act and (c)(2) of Rule 11Aa3-2 thereunder, that Amendment No. 3 to the Joint Transaction Reporting Plan for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis is hereby approved, and trading pursuant to the Plan is hereby approved on a temporary basis through September 12, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(29).

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-36100; File No. SR-BSE-95-02, Amendment No. 1]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to its Competing Specialist Initiative

August 14, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 10, 1995, the Boston Stock Exchange, Inc. ("BSE" 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 prepared by the self-regulatory organization.¹ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ On February 6, 1995, the BSE filed the proposed rule change being amended herein. It was subsequently published for comment in Securities Exchange Act Release No. 35404 (February 22, 1995), 60 FR 10882 (February 28, 1995).