

Commission, Office of Filings and Information Services, 450 5th Street, NW, Washington, DC 20549-0102.
Extension: Rule 19b-1, SEC File No. 270-312, OMB Control No. 3235-0354

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 19b-1 is entitled "Frequency of Distribution of Capital Gains." The rule prohibits registered investment companies ("funds") from distributing long-term capital gains more than once every twelve months unless certain conditions are met. Rule 19b-1(c) permits unit investment trusts ("UITs") engaged exclusively in the business of investing in certain eligible fixed-income securities to distribute long-term capital gains more than once every twelve months, if (i) the capital gains distribution falls within one of several categories specified in the rule [rule 19b-1(c)(1)] and (ii) the distribution is accompanied by a report to the unitholder that clearly describes the distribution as a capital gains distribution [rule 19b-1(c)(2)] (the "notice requirement"). The purpose of this notice requirement is to ensure that unitholders understand that the source of the distribution is long-term capital gains.

Rule 19b-1(e) permits a fund to apply for permission to distribute long-term capital gains more than once a year if the fund did not forsee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution. An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application. The Commission uses the information required by rule 19b-1(e) to facilitate the processing of requests from funds for authorization to make a distribution that would not otherwise be permitted by the rule.

The Commission staff estimates the time required to comply with the notice requirement of rule 19b-1(c) to be one hour or less for each additional distribution of long-term capital gains. As of December 31, 1998, there were approximately 11,500 UIT portfolios that may be eligible to use the rule. The

staff estimates that on average each UIT may be required to prepare a notice under the rule one time each year. Therefore, the estimated total annual maximum reporting burden is 11,500 hours.

The Commission staff estimates that the time required to prepare an application under rule 19b-1(e) is approximately four hours. The staff estimates that on average six funds each file one application per year under this rule. Based on these estimates, the total paperwork burden is 24 hours for paragraph (e) of rule 19b-1.

Based on these calculations, the total number of respondents for rule 19b-1 is estimated to be 11,506 (11,500 UIT portfolios + 6 funds filing applications) and the total number of burden hours is estimated to be 11,524 (11,500 hours for the notice requirement + 24 hours for applications). This estimate of burden hours represents a decrease of 2651 hours from the current allocation of 14,175 burden hours. This decrease is attributable to a decrease in the estimated total number of respondents to rule 19b-1.

These estimates of average burden hours are made solely for purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Written comments are requested on: (1) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, Mail Stop 0-4, 450 5th Street, NW Washington, DC 20549.

Dated: May 10, 1999.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-12457 Filed 5-17-99; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41390; File No. SR-NASD-99-20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Firm Quotation Requirements

May 12, 1999.

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 April 20, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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

Nasdaq is proposing to amend NASD Rule 4613(b), "Firm Quotations," and IM-4613, "Autoquote policy," to require a market maker to disseminate an inferior quote whenever the market maker fails to execute the full size of an incoming order that is at least one normal unit of trading greater than the market maker's published quotation size. The proposal also will prohibit the use of automatic quote updating in such circumstances. Below is the text of the proposed rule change. Proposed new language is in italics.

4613. Character of Quotations

(a) No changes.

(b) Firm Quotations.

(1) A market maker that receives an offer to buy or sell from another member of the Association shall execute a transaction for at least a normal unit of trading at its displayed quotations as disseminated in The Nasdaq Stock Market at the time of receipt of any such offer. If a market maker displays a quotation for a size greater than a normal unit of trading, it shall, upon receipt of an offer to buy or sell from another member of the Association, execute a transaction at least at the size displayed.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(2) If a market maker, upon receipt of an offer to buy or sell from another member of the Association in any amount that is at least one normal unit of trading greater than its published quotation size as disseminated in *The Nasdaq Stock Market at the time of receipt of any such offer, executes a transaction in an amount of shares less than the size of the offer, then such market maker shall, immediately after such execution, display a revised quotation at a price that is inferior to its previous published quotation. The failure of a market maker to execute the offer in an amount greater than its published quotation size shall not constitute a violation of subparagraph (b)(1) of this rule.*

(c)–(e) No changes.

IM–4613. Autoquote Policy

(a) No changes.

(b) Exceptions to the General Prohibition—Automated updating of quotations is permitted when: (1) the update is in response to an execution in the security by that firm (such as execution of an order that partially fills a market maker's quotation size), and is in compliance with Rule 4613(b)(2); (2) it requires a physical entry (such as a manual entry to the market maker's internal system which then automatically forwards the update to Nasdaq); (3) the update is to reflect the receipt, execution, or cancellation of a customer limit order; or (4) an electronic communications network as defined in SEC Rule 11Ac1–1(a)(8) is required to maintain a two-sided quotation in Nasdaq for the purpose of meeting Nasdaq system design requirements.

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

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq is proposing to modify NASD Rule 4613(b) to require a market maker, when presented with an order that is at

least one normal unit of trading greater than the market maker's published quotation size, to immediately move its published quotation to an inferior price if the market maker fails to execute the full size of the order presented. Nasdaq seeks this modification to correct an inefficient market situation wherein multiple small orders are required to accomplish the objectives of a single larger order. Such inefficiencies occur whenever a market maker enters a minimum quotation size, receives an order larger than its quoted size, fills the order only up to its quoted size (as currently required under NASD Rule 4613(b)), and remains at the inside quote prepared to accept another order at the minimum quotation size.

The following example illustrates this scenario:

Market maker #1 ("MM1") is bidding ABCD security at \$10 for 100 shares. Order Entry Firm #1 ("OE1") sends a preferred SelectNet order to MM1 to sell 1,000 shares of ABCD at \$10. MM1 partially executes OE1's 1,000 share order by buying³ 100 shares of ABCD, and does not move its quotation. Assuming MM1 is alone at the inside, OE1 may be compelled to resend multiple SelectNet messages to MM1, potentially resulting in a total of ten transactions, to complete its 1,000 share order.

In this example, according to Nasdaq, MM1 has acted in conformity with NASD Rule 3320, "Offers at Stated Prices," IM–3320, "Firmness of Quotations," NASD Rule 4613(b), and SEC Rule 11Ac1–1, as they are currently written, by executing a presented order up to its published quotation price and size. However, it is apparent the MM1 was willing to buy more than the 100 shares displayed. Requiring OE1 to send repeated SelectNet messages (or make multiple telephone calls) to MM1 results in increased transaction costs to MM1, OE1, and, eventually, the public customer. Moreover, this situation impedes the price discovery process which would occur through transactions with other market makers at varying prices and precludes other market makers from positioning and executing large orders.

Nasdaq believes that this scenario creates an inefficient marketplace wherein multiple identical small orders must be executed in place of a single larger order. This quotation and trading

activity ultimately degrades market quality and imposes increased costs and burdens on other market participants seeking to executive customer and proprietary orders. Nasdaq also believes that this situation leads to increased instances of locked and crossed markets and hinders price continuity.

For example, if MM1 is bidding 100 shares at \$20, and MM2 wishes to lower its offer (currently \$20^{1/16}) to \$20, MM2 would send MM1 a SelectNet message for 100 shares (or more) in an attempt to exhaust MM1's quote. MM2, after making multiple attempts to take out MM1 by sending SelectNet messages, may thereafter move its quote to \$20, thereby locking the market. MM1's actions, in Nasdaq's view, create questions of market integrity.⁴

Nasdaq believes that the proposed rule change will effectuate the display by market makers of their true and intended quotation size. When a market maker is presented with an order larger than its displayed size and completes the order only at its displayed size, this presents a clear indication that the market maker's interest in trading at that price level has been depleted. The market maker would then adjust its quotation to an inferior price level, thereby permitting another market maker to assume the priority position.

Nasdaq also proposes to modify IM–4613(b) to mandate compliance with proposed NASD Rule 4613(b)(2). IM–4613(a) generally prohibits the use of "autoquote" mechanisms to automatically generate a new quote that would keep a market maker's quote away from the best market. IM–4613(b)(1) provides an exception to this rule that permits the use of autoquote functions when the update is in response to an execution in the security by that firm. Nasdaq proposes to revise IM–4613(b)(1) to require that the market maker comply with proposed NASD Rule 4613(b)(2) by allowing the market maker to automatically update its quote only after fully executing the incoming order. If the order is not executed in full, the autoquote functionality must be discontinued and the quote moved to an inferior price level.

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6),⁵

³ Although the initial proposal mistakenly used the word "selling" in this example, Nasdaq corrected this error. Telephone conversation among Scott W. Anderson, Attorney, Nasdaq, and Yvonne Fraticelli, Special Counsel, Division of Market Regulation ("Division"), SEC, and Joseph Morra, Attorney, Division, SEC, on April 29, 1999.

⁴ Nasdaq notes that the NASD recently amended NASD Rule 4623, "Electronic Communication Networks," to prohibit ECNs from engaging in similar behavior. See Exchange Act Release No. 40455 (September 22, 1998), 63 FR 51978 (September 29, 1998) (Order approving File No. SR–NASD–98–01).

⁵ 15 U.S.C. 78o–3(b)(6).

15A(b)(11),⁶ and Section 11A of the Act.⁷ Section 15A(b)(6) requires that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect that mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. These rules may not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 15A(b)(11) requires that the rules of a registered national securities association be designed to produce fair and informative quotations, prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing, and publishing quotations. Section 11A(a)(1)(C) provides that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) economically efficient execution of securities transactions; (2) fair competition among brokers and dealers; (3) the availability to brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors' orders in the best market; and (5) an opportunity for investors' orders to be executed without the participation of a dealer.

Nasdaq believes that the proposed rule promotes the objectives of Sections 15A(b)(6) and (11) and Section 11A of the Act by producing fair and informative quotations and the economically efficient execution of securities transactions. Nasdaq believes that the proposed rule will encourage market makers to display quotes at their true and intended size, thereby providing increased transparency, fewer transactions and resultant expenses, and a more fair and efficient marketplace, benefiting market participants and public customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such data if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-99-20 and should be submitted by June 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-12458 Filed 5-17-99; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or by July 19, 1999.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, DC 20416. Phone Number: 202-205-6629.

SUPPLEMENTARY INFORMATION:

Title: "Survey of 8(a) Business Development Program Results and Impact".

Form No: 2109.

Description of Respondents: 8(a)

Firms that are current and past program participants.

Annual Responses: 7,463.

Annual Burden: 1,819.

Comments: Send all comments regarding this information collection to Richard Hayes, Associate Deputy Administrator, Office of Government Contacting and Minority Enterprise Development, Small Business Administration, 409 3rd Street SW., Suite 8000, Washington, DC 20416. Phone No: 202-205-6459.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Jacqueline K. White,

Chief, Administrative Information Branch.

[FR Doc. 99-12413 Filed 5-17-99; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3181]

State of Kansas

As a result of the President's major disaster declaration on May 4, 1999, I find that Sedgwick County, Kansas constitutes a disaster area due to damages caused by severe storms and tornadoes beginning on May 3, 1999 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 2, 1999, and for loans

⁶ 15 U.S.C. 78o-3(b)(11).

⁷ 15 U.S.C. 78k-1.

⁸ 17 CFR 200.30-3(a)(12).