

N-23c-3 (17 CFR 274.221), a cover sheet that provides limited information about the fund and the type of offer the fund is making.<sup>1</sup> The fund must describe in its annual report to shareholders the fund's policy concerning repurchase offers and the results of any repurchase offers made during the reporting period. The fund's board of directors must adopt written procedures designed to ensure that the fund's investment portfolio is sufficiently liquid to meet its repurchase obligations and other obligations under the rule. The board periodically must review the composition of the fund's portfolio and change the liquidity procedures as necessary. The fund also must file copies of advertisements and other sales literature with the Commission as if it were an open-end investment company subject to section 24 of the Investment Company Act (15 U.S.C. 80a-24) and the rules that implement section 24.<sup>2</sup>

The requirement that the fund send a notification to shareholders of each offer is intended to ensure that a fund provides material information to shareholders about the terms of each offer, which may differ from previous offers on such matters as the maximum amount of shares to be repurchased (the maximum repurchase amount may range from 5% to 25% of outstanding shares). The requirement that copies be sent to the Commission is intended to enable the Commission to monitor the fund's compliance with the notification requirement. The requirement that the shareholder notification be attached to Form N-23c-3 is intended to ensure that the fund provides basic information necessary for the Commission to process the notification and to monitor the fund's use of repurchase offers. The requirement that the fund describe its current policy on repurchase offers and the results of recent offers in the annual shareholder report is intended to provide shareholders current information about the fund's repurchase policies and its recent experience. The requirement that the board approve and review written procedures designed to maintain portfolio liquidity is intended to ensure that the fund has enough cash or liquid securities to meet its

<sup>1</sup> Form N-23c-3 requires the fund to state its registration number, its full name and address, the date of the accompanying shareholder notification, and the type of offer being made (periodic, discretionary, or both).

<sup>2</sup> Rule 24b-3 under the Investment Company Act (17 CFR 270.24b-3), however, would generally exempt the fund from that requirement when the materials are filed instead with the National Association of Securities Dealers ("NASD"), as nearly always occurs under NASD procedures, which apply to the underwriter of every fund.

repurchase obligations, and that written procedures are available for review by shareholders and examination by the Commission. The requirement that the fund file advertisements and sales literature as if it were an open-end investment company is intended to facilitate the review of these materials by the Commission or the NASD to prevent incomplete, inaccurate, or misleading disclosure about the special characteristics of a closed-end fund that makes periodic repurchase offers.

Compliance with the collection of information requirements of the rule and form is mandatory only for those funds that rely on the rule in order to repurchase shares of the fund. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or e-mail to: [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 1, 2004.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49796; File No. SR-NASD-2004-083]

### Self-Regulatory Organizations; National Association of Securities Dealers; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding Non-Standard Settlement Trades

June 2, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 24, 2004, the National Association of Securities Dealers ("NASD") filed with the Securities and Exchange

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

Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NASD. NASD filed the proposal pursuant to Section 19(b)(3)(A) of the Act<sup>2</sup> and Rule 19b-4(f)(6)<sup>3</sup> thereunder, whereby the proposal is 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

The proposed rule change allows members to submit to the Nasdaq Market Center trade reporting service trades that settle on other than the standard T+3 basis for comparison and transmission to the National Securities Clearing Corporation ("NSCC"). Non-standard settlement trades include cash, next day, and sellers-option transactions.

#### 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.<sup>4</sup>

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

Nasdaq proposes to amend the NASD rules that govern the use of the Nasdaq Market Center trade reporting service to allow members to submit non-standard settlement trades for comparison in the service and to allow Nasdaq to transmit such trades to NSCC. The Commission recently approved a proposal by NSCC to accept non-standard settlement input of over-the-counter trades from, among others, self-regulatory organizations submitting such information on behalf of their members.<sup>5</sup> The current Nasdaq Market Center trade reporting service rules state that non-standard settlement

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> The Commission has modified parts of these statements.

<sup>5</sup> Securities Exchange Act Release No. 49685 (May 11, 2004), 69 FR 27964 (May 17, 2004) [File No. SR-NSCC-2004-02].

trades will not be compared by the service or be transmitted to NSCC. By removing this language, Nasdaq will be able to accept such trades from members for comparison and transmit the trades to NSCC. As a result, NSCC and NASD members will be able to realize the full benefits of NSCC's new service.

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act<sup>6</sup> and with Section 15A(b)(6) in particular because it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The proposed rule change will allow members to submit non-standard settlement trades to the Nasdaq Market Center trade reporting service for comparison and transmission to NSCC, which will improve the comparison of these trades. The proposal also allows NSCC and NASD members to achieve the full benefits of NSCC's new service.

*(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, as amended.

*(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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6)<sup>8</sup> promulgated thereunder because Nasdaq has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. The NASD gave the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. 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.

The NASD has requested a waiver of the 30-day operative delay. The Commission believes that such a waiver is consistent with the protection of investors and the public interest, will permit NASD to put the proposed rule change into effect prior to June 2, 2004, which is the first date that NASD will transmit non-standard settlement trades for comparison to NSCC, and that such a waiver will also permit NASD to provide adequate advance notice of this change to its members prior to that date. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>9</sup>

**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](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2004-083 on the subject line.

*Paper comments:*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NASD-2004-083. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the 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-2004-083 and should be submitted on or before June 29, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-49779; File No. SR-NYSE-2004-16]

**Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 thereto by the New York Stock Exchange, Inc. Relating to Revised Uniform Application for Securities Industry Registration or Transfer (Form U4) and Revised Uniform Termination Notice for Securities Industry Registration (Form U5)**

May 27, 2004.

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 17, 2004, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the NYSE. The NYSE amended the proposed rule change on April 30, 2004.<sup>3</sup> The Commission is

<sup>10</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> See letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated April 29, 2004 ("Amendment No. 1"). In Amendment No. 1, the NYSE amended the proposed rule change to file it pursuant to Section 19(b)(2) of the Act and to request that the

<sup>6</sup> 15 U.S.C. 78c-3.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).