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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–98–12 and should be submitted by January 26, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[38]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–73 Filed 1–4–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40846; File No. SR–NASD–98–97]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc, Relating to Extension of Effectiveness of Pilot Injunctive Relief Rule

December 28, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice of hereby given that on December 22, 1998, the National Association of Securities Dealers, Inc. (''NASD'') or ''Association'') 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 NASD Regulation, Inc. (''NASD Regulation''). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

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

The NASD Regulation is proposing to amend Rule 10335 of the Code of Arbitration (''Code'') of the NASD to extend the pilot injunctive relief rule for six months. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

10335. Injunctions

* * *

(i) Effective Date

This Rule shall apply to arbitration claims filed on after January 3, 1996. Except as otherwise proved in this Rule, the remaining provisions of the Code shall apply to proceedings instituted under this Rule This Rule shall expire on [January 3, 1999] *July 3, 1999*, unless extended by the Association's Board of Governors.

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 NASD Regulation included statement 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 III below. The NASD Regulation 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

(a) Purpose

The NASD's injunctive relief rule, Rule 10335 of the Code, provides a procedure for obtaining injunctive relief in arbitration and for expediting proceedings for injunctive relief in intra-industry disputes. NASD Rule 10335 took effect on January 3, 1996, for a one-year pilot period.[3] The initial pilot period was subsequently extended twice by the Commission to permit the Regulation's Office of Dispute Resolution to gain additional experience with the rule before determining whether the rule should be made permanent, the pilot period should be extended, or the rule should be permitted to terminate by its terms.[4] In July 1998, the NASD filed a proposed rule change that would amend Rule 10335 and make it a permanent part of the Code.[5] The NASD also sought, and the Commission approved, a six-month extension of the pilot rule to provide time for the Commission to take action with respect to the proposed rule change.[6] The rule is currently due to expire on January 3, 1999.

The proposed amendments to Rule 10335 were published for comment, and the NASD filed an amendment to the proposed rule change in response to those comments in December 1998. The Commission has received additional comments regarding the proposed rule change since that amendment was filed. The purpose of the requested six-month extension of the pilot rule is to provide the NASD with time to consider and respond to the additional comments.

(b) Statutory Basis

The NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules must 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. The NASD believes that the current pilot rule serves the public interest by enhancing the satisfaction with the arbitration process afforded by expeditious resolution of certain disputes, and that it is in the interest of members that the effectiveness of the rule remains uninterrupted pending Commission action on the permanent rule filing.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD Regulation 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.

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[38] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 36145 (August 23, 1995), 60 FR 45200 (August 30, 1995).

[4] Securities Exchange Act Release Nos. 38069 (December 20, 1996), 61 FR 68806 (December 30, 1996), and 39458 (December 17, 1997), 62 FR 67423 (December 24, 1997).

[5] Securities Exchange Act Release No. 40441 (September 15, 1998), 63 FR 50611 (September 22, 1998).

[6] Securities Exchange Act Release No. 40124 (June 24, 1998), 63 FR 36282 (July 2, 1998).

III. 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, N.W., Washington, D.C. 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 provision 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 number SR–NASD–98–97 and should be submitted by January 26, 1999.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The NASD Regulation has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act [7] for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of Section 15A(b)(6) of the Act.[8] Rule 10335 is intended to provide a pilot system within the NASD arbitration forum to process requests for temporary injunctive relief. Rule 10335 is intended principally to facilitate the disposition of employment disputes, and related disputes, concerning members who file for injunctive relief to prevent registered representatives from transferring their client accounts to their new firms. The Commission expects that during the pilot's extension the NASD Regulation will consider and respond to the comment letters regarding the proposed rule change to permanently add Rule 10335 to the Code.[9]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate because members will continue to have the benefit of injunctive relief in arbitration without interruption. The Commission is extending the pilot for six months. During that time NASD Regulation will review and respond to comments regarding the proposed rule change to amend and make Rule 10335 a permanent part of the Code. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is consistent with Section 15A of the Act.[10]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change be, and hereby is, approved on an accelerated basis for a six month pilot basis through July 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–74 Filed 1–4–99; 8:45 am]

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[7] 15 U.S.C. 78s(b)(2).

[8] 15 U.S.C. 78*o*(b)(6).

[9] *See supra,* note 6.

[10] 15 U.S.C. 78*o*–3.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40835; File No. SR–NASD–98–85]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. to Establish the Nasdaq Application of the OptiMark System

December 28, 1998.

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 November 13, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq'') 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 the NASD. On December 11, 1998, the Association filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Nasdaq is proposing to establish the Nasdaq Application, a new electronic trading system based on the innovative information processing technology provided by OptiMark Technologies, Inc., together with its wholly-owned subsidiary, OptiMark Services, Inc. (''OptiMark''),[4] as a facility of Nasdaq. In addition, the Association is proposing to adopt NASD Rules 4991–4998 and amend NASD Rule 11890 to govern the use of the Nasdaq Application by its members and non-member Users.

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.

[3] *See* letter from Andrew S. Margolin, Assistant General Counsel, Nasdaq to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated December 11, 1998 (''Amendment No. 1''). In Amendment No. 1, the Association clarifies the definition of the term ''Designated Broker'' to indicate that, to be considered a Designated Broker, a broker must have an effective clearing arrangement in place with a member of a clearing agency registered pursuant to the Act.

[4] OptiMark Technologies, Inc. is a computer technology firm that has developed certain patented technology referred to as ''OptiMark™.'' The Nasdaq Application is one of several different trading services based on this technology that may be available for other markets in the future. One such service already has received SEC approval for operation on the Pacific Exchange. *See* Securities Exchange Act Release No. 39086 (September 17, 1997), 62 FR 50036 (September 24, 1997). While the OptiMark technology is virtually identical to that which has been approved for the PCX Application, the proposed Nasdaq Application and related rules adapts and uses the OptiMark technology within the existing Nasdaq market structure.