

provisions of Section 15A(b)(6)²¹ 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. Based on a mandate by the SEC, the Association has developed a corporate bond reporting facility to create transparency in the debt market and allow for surveillance to better detect fraud and foster investor confidence in the fairness of the corporate bond market. In addition, the NASD believes that the proposed rule is consistent with Section 15A(b)(5)²² of the Act which requires that a national securities association have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using any facility or system which the association operates or controls.²³

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

The NASD 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. Specifically, the NASD believes that the proposal allows for competition in the collection of trade reports, and limits the NASD's role to: (1) Collecting trade reports directly only from members that choose to report directly to the NASD; (2) consolidating trade reports for regulatory purposes; and (3) disseminating the consolidated data to broker-dealers and those interested in reselling the data but not competing in the market for resale of these data. The NASD notes that the proposed fees which the NASD is seeking to impose for performing these functions are subject to Commission review and approval under the standards set forth for these purposes under Sections 11A and 15A of the Exchange 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 Action²⁴

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 date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, 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, as amended, 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-2002-63 and should be submitted by June 14, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁵

Jill M. Peterson,

Assistant Secretary.

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BILLING CODE 8010-01-P

²⁴ The NASD proposes to make the proposed rule change effective on the same date that the NASD Rule 6200 Series relating to TRACE is made effective and FIPS is eliminated.

²⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45965; File No. SR-NASD-2002-56]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Establishing a Uniform Process for Opening Daily Trading in Nasdaq's Upcoming SuperMontage System

May 20, 2002.

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 22, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its 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 Nasdaq. On May 17, 2002, Nasdaq filed Amendment No. 1 to the proposed rule change.³ 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

The NASD, through Nasdaq, proposes to establish a uniform process for opening daily trading in Nasdaq's future Order Display and Collector Facility ("SuperMontage").

The text of the proposed rule change, as amended, is available at the Office of the Secretary, Nasdaq and at the Commission.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ This notice, representing Amendment No. 1, replaces the original Rule 19b-4 filing in its entirety.

²¹ 15 U.S.C. 78o-3(b)(6).

²² 15 U.S.C. 78o-3(b)(5).

²³ The NASD represents that it has generally submitted proposed rule changes relating to member dues, fees and charges pursuant to Rule 19b-4(f)(2) of the Act and Section 19(b)(3)(A) thereunder which would make such a proposed rule change effective immediately upon filing with the Commission. However, because the TRACE system is new, the NASD is recommending that the Commission solicit comments on the proposed rule change.

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

1. Purpose

As part of its ongoing preparation for the launch of SuperMontage, Nasdaq is engaging in a continuing review of the system's functionality and rules with a view to constant improvement. As a result of this review, and in consultation with industry professionals, Nasdaq has determined to alter the method originally approved for opening daily trading in SuperMontage. Through a combination of rules and system processing, Nasdaq's proposed new opening process proposes to cure, and thereafter prevent, locked and crossed market conditions immediately prior to the 9:30 a.m. market open, while allowing the continued execution of pre-market priced orders during that same time period.

Specifically, Nasdaq proposes to:

(1) Clarify that the system will accept market orders prior to 9:30 a.m. Eastern Time;

(2) Modify the opening process by providing for the automatic clearing of locked/crossed quotes beginning at 9:29:30 a.m. Eastern Time, and by matching off of locked/crossed quotes between the most aggressive orders, at the price of the newest of those orders; and

(3) Amend its Trade-or-Move Rule to conform to the changes in the opening process.

a. Expansion of Order Entry During Pre-Market Hours

Currently, the SuperMontage system rules do not explicitly permit the entry of Non-Directed market orders prior to 9:30 a.m. Eastern Time. Under the approved SuperMontage rules, market participants may enter Non-Directed limit orders prior to the market open, subject to certain qualifiers.⁴ Nasdaq proposes to clarify that *all* market participants in SuperMontage may enter both limit orders and market orders prior to 9:30 a.m. Market orders and priced orders designated as IOC, will be held in queue until 9:30 a.m., at which time they will be executed or returned

back to the entering firm if non-marketable.

b. SuperMontage Pre-Open Clearing of Locking and Crossing Quotes and Orders

Currently, SuperMontage's opening process resolves locked and crossed markets by pairing off the oldest in time sell quote/order with the oldest in time buy quote/order, and then executing the buying/selling interest at the price of the oldest quote/order. Under approved SuperMontage rules, this process begins at 9:30 a.m. Eastern Time, and is repeated until an unlocked and uncrossed inside market in Nasdaq is generated.

Nasdaq proposes to change and streamline the above process as follows. At 9:29:30 a.m. Eastern Time, the system will begin an automated process to clear any locked or crossed markets that then exists, using a new matching and pricing formula. First, the system will pair off the most aggressively priced buy quote/order against the most aggressively priced sell quote/orders. Once this "best-priced pair" is determined, the system will execute the two identified orders at the price of the newer order until the older order is fully satisfied. Nasdaq represents that, in essence, price improvement accrues to the older order. If the displayed size becomes exhausted at that price level, SuperMontage will continue to execute against available reserve size at that price level. This process will be repeated until an unlocked and uncrossed market results. Non-Attributable Orders that are displayed under SIZE will also participate in this process and will be subject to execution logic described above.

Once the lock/cross is cleared, any additional locking or crossing quotes/orders entered between 9:29:30 a.m. and 9:30:00 a.m. will be turned into an order and will be executed against the quote/order in Nasdaq that it would lock/cross. The execution will occur at the price of the quote/order that would be locked/crossed consistent with the locking/crossing process applicable during market hours.⁵ Non-Attributable Orders that are displayed under SIZE will also participate in this process and will be subject to execution logic described above.

Since these trades will be executed prior to the 9:30 a.m. market open, these trades will be designated as ".T" to reflect that they were executed outside of normal market hours.⁶ Nasdaq notes

⁵ See NASD Rule 4710(b)(3).

⁶ If at any time a market participant enters a quote that would lock/cross the market in the

that if a market maker or ECN receives an order and its customer has indicated that it does not wish the order to be executed prior to 9:30 a.m., the market participant can enter the order into SuperMontage prior to the open but enter it as either a market order or as an IOC limit order. These orders would not drive a quote, would not participate in the pre-market lock/cross clearing process, and would be held in queue until 9:30 a.m., at which time they will be executed (or canceled if not marketable).

c. Modifications to "Trade-or-Move" Rule Timeframes

Nasdaq proposes to amend its Trade-or-Move Rule to reflect that the system will begin the unlocking/uncrossing process at 9:29:30 a.m., thus market participants would be required to send Trade-or-Move Directed Orders⁷ between 9:20 a.m. and 9:29:29 a.m. (as opposed to 9:29:59 a.m.). Under the proposal the Trade-or-Move will operate as follows. Market participants will have an obligation to send Trade-or-Move Directed Orders beginning at 9:20:00 a.m. to all quotes they would lock/cross (except for SIZE) using a SuperMontage Directed Order. Currently, a market participant will be required to send a Trade-or-Move Directed Order to the party it would lock/cross contemporaneous to entering an Attributable quote/order or Non-Attributable quote/order into SIZE.⁸ Thus, under the proposal if a market participant would actively lock or cross the market by posting an Attributable quote/order or Non-Attributable quote/order in SIZE during 9:20 a.m. and

SuperMontage, the Nasdaq system will send the market participant a warning message. If the market participant chooses to override the warning message, the quote will participate in the unlocking/uncrossing process described above. This is, a locking/crossing quote entered between 9:20 a.m. and 9:29:30 a.m. will be turned into an order and become executable at 9:29:30 a.m. A locking/crossing quote entered at or after 9:29:30 a.m., but before market close, will be turned into an order that will be subject to immediate execution. Quotes entered at or after market close will receive the warning message but will not be subject to execution until 9:29:30 a.m. the following market day.

⁷ Nasdaq proposes to change the term "Trade-or-Move Message" to "Trade-or-Move Directed Order." See proposed NASD Rule 4613(e)(1)(C).

⁸ Under another proposal pending before the Commission, ECNs would be required to send a Trade-or-Move Message before entering a locking or crossing quotation and market makers would be required to send a Trade-or-Move Message immediately after entering a locking or crossing quote. See Securities Exchange Act Release No. 45508 (March 5, 2002), 67 FR 10956 (March 11, 2002) (Notice of Amendment Nos. 2 and 3 for File No. SR-NASD-00-76). This proposal would not alter that aspect of the Trade-or-Move rule, if approved.

⁴ Order-entry firms may enter Non-Directed limit (priced) orders before 9:30 a.m. Eastern Time but these orders must be designated as Immediate or Cancel ("IOC"). Quoting market participants (e.g., registered market makers and ECNs in a security) may enter limit orders, but are not required to designate them exclusively as IOC orders. Accordingly, limit orders from quoting market participants that are not IOC are displayed in the Nasdaq system both during market hours and the pre-market period.

9:29:30 a.m., that market participant will be required to send a Trade-or-Move Directed Order to the party it would lock or cross. However, if at or after 9:20 a.m. there is an order being displayed in SIZE, a market participant will not be obligated to send a Trade-or-Move Directed Order to SIZE if they would actively lock/cross SIZE because the system currently cannot route a Trade-or-Move Directed Order to the market participant representing the Non-Attributed Order behind SIZE.⁹ As noted above, Non-Attributable Orders that are represented under SIZE will participate in the lock/cross clearing process that commences at 9:29:30 a.m., and thus will be subject to execution prior to the market's open.

Accordingly, Nasdaq believes that its proposed process will significantly improve the Nasdaq market opening by ensuring that quotes in Nasdaq securities are not locked or crossed at the start of normal trading. In addition, Nasdaq believes that its proposed approach of basing pre-market executions on the prices of individual quotes/orders provides maximum flexibility for market participants to price and potentially execute their own trading interest, while still maintaining an orderly market going into the open.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,¹⁰ in general and with Section 15A(b)(6) of the Act,¹¹ in particular, in that the proposal is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities, as well as removing impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

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

Nasdaq neither solicited nor received written comments with respect to the proposed rule change.

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 date 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.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2002-56 and should be submitted by June 14, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-13101 Filed 5-23-02; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before June 24, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: Economic Impact Survey of SBA Technical Assistance Clients.

No: 2214.

Frequency: On Occasion.

Description of Respondents: Small Business Client (small business owners & employees, prospective entrepreneurs and other students of enterprise).

Responses: 17,000.

⁹ The Commission notes that Nasdaq is developing the capability to send a Trade-or-Move Directed Order to SIZE and would have to submit a proposed rule change to the Commission to implement this as a SuperMontage feature.

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(b)(6).

¹² Nasdaq has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act to approve the proposed rule change prior to the 30th day after publication in the **Federal Register**. See Amendment No. 1, *supra* note 3.

¹³ 17 CFR 200.30-3(a)(12).