

meaningful access to programs and services (such as timely effective oral interpretation of vital documents), NARA will not find the recipient/covered entity in noncompliance.

[FR Doc. 04-545 Filed 1-9-04; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8838-MLA-2, ASLBP No. 04-819-04-MLA]

United States Army, Jefferson Proving Ground Site; Notice of Reconstitution

Pursuant to the authority contained in 10 CFR 2.722 and 2.1209, Administrative Judge Paul B. Abramson is hereby appointed as a Special Assistant to aid Presiding Officer Administrative Judge Alan S. Rosenthal in the above-captioned 10 CFR Part 2, Subpart L proceeding.

All correspondence, documents, and other material shall be filed with the Special Assistant in accordance with 10 CFR 2.1203. The address of the Special Assistant is: Administrative Judge Paul B. Abramson, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Issued at Rockville, Maryland, this 5th day of January 2004.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 04-549 Filed 1-9-04; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [69 FR 387, January 5, 2004]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

ANNOUNCEMENT OF ADDITIONAL MEETING: Additional Meeting.

A Closed Meeting will be held on Thursday, January 8, 2004 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matter may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or

more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), and (10) and 17 CFR 200.402(a)(5), (7), and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Goldschmid, as duty officer, voted to consider the items listed for the closed meeting in a closed session and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting to be held on Tuesday, January 6, 2004 will be: Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: January 8, 2004.

Jonathan G. Katz,

Secretary.

[FR Doc. 04-676 Filed 1-8-04; 12:11 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 12, 2004:

Closed Meetings will be held on Tuesday, January 13, 2004 at 2 p.m. and Thursday, January 15, 2004 at 2 p.m., and an Open Meeting will be held on Wednesday, January 14, 2004 at 10 a.m. in Room 1C30, the William O. Douglas Room.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (3), (5), (6), (7), (9B), and (10) and 17 CFR 200.402(a) (3), (5), (6), (7), (9ii), and (10), permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Goldschmid, as duty officer, voted to consider the items listed for the closed meetings in closed sessions and that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Tuesday, January 13, 2004 will be:

Formal orders of investigation; Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions; and
Adjudicatory matter.

The subject matter of the Open Meeting scheduled for Wednesday, January 14, 2004 will be:

1. The Commission will consider whether to propose new rule 204A-1 under the Investment Advisers Act of 1940 ("Advisers Act"). The proposed rule would require investment advisers to adopt codes of ethics that would set forth standards of conduct for advisory personnel, safeguard material nonpublic information about client transactions, and address conflicts that arise from personal trading by advisory personnel. The Commission will also consider whether to propose related amendments to Advisers Act rule 204-2, Advisers Act Form ADV, and rule 17j-1 under the Investment Company Act of 1940.

For further information, please contact Robert Tuleya at (202) 942-0719.

2. The Commission will consider whether to propose amendments to rules 0-1, 10f-3, 12b-1, 15a-4, 17a-7, 17a-8, 17d-1, 17e-1, 17g-1, 18f-3, and 23c-3, to require investment companies that rely on certain exemptive rules to adopt certain governance practices. The Commission also will consider whether to propose an amendment to rule 31a-2, the investment company recordkeeping rule, to require that investment companies retain copies of written materials that the directors consider when approving investment advisory contracts.

For further information, please contact Catherine E. Marshall at (202) 942-0719.

3. The Commission will consider whether to propose new rules 15c2-2 and 15c2-3 under the Securities Exchange Act of 1934, and amendments to the confirmation requirements of rule 10b-10 under that Act, to require improved disclosure to investors about costs and conflicts of interest arising from the distribution of open-end investment company shares, unit investment trust interests and municipal fund securities. The proposed new rules and rule amendments would require brokers, dealers and municipal securities dealers to provide investors with specific information about distribution-related costs and conflicts prior to purchase transactions involving those securities, and as part of transaction confirmations. The amendments would also expand confirmation disclosure of call

provisions in debt securities and preferred stock.

The Commission will also consider whether to propose amendments to Form N-1A with respect to the disclosure of sales loads and revenue sharing payments.

For further information, please contact Joshua Kans at (202) 942-0073 concerning rules 15c2-2, 15c2-3 and 10b-10, and Tara Royal at (202) 942-7973 concerning Form N-1A.

The subject matter of the Closed Meeting scheduled for Thursday, January 15, 2004 will be: Report of an investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: January 7, 2004.

Jonathan G. Katz,
Secretary.

[FR Doc. 04-677 Filed 1-8-04; 12:11 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49020; File No. SR-NASD-2003-143]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to a Proposed Rule Change and Amendments Nos. 1, 2, and 3 Thereto to Establish a New "Auto-Ex" Order in Nasdaq's SuperMontage System

January 5, 2004.

I. Introduction

On September 24, 2003, 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 ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to establish an "Auto-Ex" order in Nasdaq's National Market Execution System ("NNMS" or "SuperMontage"). Nasdaq filed Amendment Nos. 1 and 2 to the proposed rule change on October

3, 2003,³ and October 21, 2003,⁴ respectively. The proposed rule change, as amended, was published for comment in the **Federal Register** on October 28, 2003.⁵ The Commission received two comment letters on the proposal.⁶ In addition, Nasdaq submitted a response to comments.⁷ Nasdaq also submitted Amendment No. 3, to the proposed rule change on December 17, 2003.⁸ This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

Nasdaq proposes to establish an Auto-Ex order for use in SuperMontage. Auto-Ex orders may be either priced limit orders or market orders, and all market participants would be permitted to enter Auto-Ex orders. Auto-Ex orders would execute solely against the Quotes/Orders of SuperMontage participants that participate in the system's automatic execution functionality and do not charge a separate quote-access fee to participants accessing their Quotes/Orders through SuperMontage. Auto-Ex orders would access all available liquidity at multiple price levels, but under no circumstances would the order trade-through the Quote/Order of an Order-Delivery electronic communications network ("ECN") or an automatic execution participant that charged an access fee to access liquidity at another price level. Thus, an Auto-Ex order would automatically be designated "Immediate

or Cancel," and the order (or any unexecuted portion thereof) would be cancelled whenever the best price available through SuperMontage solely reflects the Quote/Order of a market participant that is not eligible to receive the Auto-Ex order.

Nasdaq intends to implement the Auto-Ex order as soon as possible following Commission approval, and will inform market participants of the exact implementation date via a Head Trader alert on <http://www.nasdaqtrader.com>.

III. Summary of Comments and Nasdaq's Response

As noted above, the Commission received two comment letters on the proposed rule change.⁹ Both commenters, Inet and Bloomberg, opposed the Commission's approval of the proposed rule change.

Inet and Bloomberg stated that the proposed rule change discriminates against ECNs by creating an order type that would bypass ECNs in favor of automatic execution participants. Both commenters questioned the primary rationale offered by Nasdaq in the Notice that the proposal would benefit market participants that seek speed and certainty of executions. For example, Inet noted that the Auto-Ex order would also bypass automatic execution participants that charged quote access fees, and questioned whether the true motivation of the proposal was to enhance speed of execution for market participants or provide for the systemic discrimination against ECNs in SuperMontage.¹⁰ Inet suggested that Nasdaq should establish criteria to differentiate between Order-Delivery ECNs that have consistently rapid order response times and those that have comparative slow order response times (on a regular or intermittent basis) by creating criteria under the proposal that would establish an acceptable ECN response time. Bloomberg also expressed doubts about Nasdaq's rationale because, in a race condition, a participant entering an order into SuperMontage may not have its order filled against an automatic execution participant if that participant's trading interest (bid or offer) was satisfied a split-second before.

In addition, both commenters stated that implementation of an Auto-Ex order would undercut the principles of price/time priority in SuperMontage. Further, Inet stated that Nasdaq's

⁹ See *supra* note 6.

¹⁰ See also Bloomberg Letter. Bloomberg and Inet also noted that Nasdaq acknowledged that the average ECN response time is one second or less. See *supra* note 6.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, dated October 2, 2003 ("Amendment No. 1").

⁴ See letter to Katherine A. England, Assistant Director, Division, Commission, from John M. Yetter, Associate General Counsel, Nasdaq, dated October 21, 2003 ("Amendment No. 2").

⁵ See Securities Exchange Act Release No. 48675 (October 21, 2003), 68 FR 61528 ("Notice").

⁶ See letters to Jonathan G. Katz, Secretary, Commission, from Kim Bang, Bloomberg Tradebook LLC ("Bloomberg"), dated November 20, 2003 ("Bloomberg Letter"), and Alex Goor, President, Inet ATS, Inc. ("Inet"), dated November 18, 2003 ("Inet Letter").

⁷ See letter to Jonathan G. Katz, Secretary, Commission, from Edward S. Knight, Executive Vice President, Nasdaq, dated December 8, 2003 ("Nasdaq Letter").

⁸ See letter to Katherine A. England, Assistant Director, Division, Commission, from John M. Yetter, Associate General Counsel, Nasdaq, dated December 16, 2003 ("Amendment No. 3"). In Amendment No. 3, Nasdaq amended the proposed rule text to reflect the immediate effectiveness of SR-NASD-2003-150. See Securities Exchange Act Release No. 48798 (November 17, 2003) (Notice of Filing and Immediate Effectiveness of SR-NASD-2003-150). The Commission notes that this is a technical, non-substantive amendment and not subject to notice and comment.