

Policy. Effective December 21, 2001.  
Deputy Executive Secretary to the Executive Secretary. Effective December 26, 2001.

#### *Environmental Protection Agency*

Assistant to the Director of Operations, Office of Communications, Education and Media Relations. Effective December 3, 2001.  
Director of Operations to the Administrator. Effective December 3, 2001.  
Special Assistant to the Associate Administrator for Communications, Education, and Media Relations. Effective December 13, 2001.  
Program Advisor (Publications) to the Associate Administrator for Communications, Education and Media Relations. Effective December 13, 2001.  
Program Advisor to the Assistant Administrator for Policy, Economics and Innovation. Effective December 13, 2001.

#### *Equal Employment Opportunity Commission*

Confidential Assistant to the Chair. Effective December 17, 2001.  
Special Assistant (Speech Writer) to the Director, Office of Communications and Legislative Affairs. Effective December 17, 2001.  
Confidential Assistant to the Director, Office of Communications and Legislative Affairs. Effective December 20, 2001.

#### *Federal Trade Commission*

Consumer Liaison Specialist to the Director, Office of Consumer and Business Education. Effective December 7, 2001.

#### *National Aeronautics and Space Administration*

Staff Support Specialist to the Administrator, National Aeronautics and Space Administration. Effective December 21, 2001.  
Confidential Assistant to the Administrator, National Aeronautics and Space Administration. Effective December 21, 2001.

#### *Office of Management and Budget*

Confidential Assistant to the Associate Director, National Security and International Affairs. Effective December 3, 2001.  
Special Assistant to the Associate Director for Information Technology and E-Government. Effective December 28, 2001.

*Office of National Drug Control Policy*  
Public Affairs Specialist to the Director, Office of National Drug Control Policy. Effective December 3, 2001.

#### *Office of Personnel Management*

White House Liaison to the Chief of Staff. Effective December 12, 2001.  
Special Initiatives Coordinator to the Director, Office of Communications. Effective December 17, 2001.  
Deputy General Counsel to the General Counsel. Effective December 17, 2001.  
Special Assistant to the Director, Office of Communications. Effective December 17, 2001.  
Senior Advisor to the Chief of Staff. Effective December 17, 2001.

#### *President's Commission on White House Fellowships*

Executive Director to the President of the United States. Effective December 3, 2001.  
Outreach Coordinator to the Executive Director. Effective December 13, 2001.

#### *Small Business Administration*

Special Assistant to the Associate Deputy Administrator of Entrepreneurial Development. Effective December 3, 2001.  
Regional Administrator, Region I, Boston, MA to the Associate Administrator for Field Operations. Effective December 28, 2001.  
Regional Administrator, Region 10, Seattle Washington to the Associate Administrator for Field Operations. Effective December 28, 2001.

**Authority:** 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218

Office of Personnel Management.

**Kay Coles James,**

*Director.*

[FR Doc. 02-2675 Filed 2-4-02; 8:45 am]

**BILLING CODE 6325-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-45355; File No. SR-NASD-2001-75]**

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. To Make Permanent a Pilot Amendment to NASD Rule 4120 Relating to Nasdaq's Authority To Initiate and Continue Trading Halts**

January 29, 2002.

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 October 18, 2001, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The 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 Nasdaq. On January 28, 2002, Nasdaq amended the proposal.<sup>3</sup> 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**

Nasdaq proposes to make permanent an amendment to NASD Rule 4120 that the Commission approved on a pilot basis. The amendment clarified Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq. In addition, Nasdaq proposes to make the following amendments to the language of the pilot rule that is currently in effect. Proposed new language is in *italics*; proposed deletions are in brackets.

#### *4120. Trading Halts*

(a) No change.

(1)-(5) No change.

(6) Halt trading in a security listed on Nasdaq when

(i) Extraordinary market activity in the security is occurring, such as the execution of a series of transactions for a significant dollar value at prices substantially unrelated to the current market for the security, as measured by the national best bid and offer, [and] (ii) *Nasdaq determines that such extraordinary market activity is likely to have a material effect on the market for the security, and*

(iii) *Nasdaq believes that such extraordinary market activity may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq.*

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See January 25, 2002 letter from Mary M. Dunbar, Vice President, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, and attachments ("Amendment No. 1"). Amendment No. 1 completely replaces and supersedes the original proposal.

(b) (1)–(5) No change.

(6) (i) *In the case of a trading halt under Rule 4120(a)(6) based on the possible misuse or malfunction of an electronic quotation, communication, reporting, or execution system that is linked to (but not operated by) Nasdaq, Nasdaq will promptly contact the operator of the system in question to ascertain information that will assist Nasdaq in determining whether a misuse or malfunction has occurred, what effect the misuse or malfunction is having on trading in a security, and what steps are being taken by the operator of the system to address the misuse or malfunction. If the operator of the system is unavailable when contacted by Nasdaq, Nasdaq will continue efforts to contact the operator of the system to ascertain information that will assist Nasdaq in determining whether the trading halt should be terminated.*

(ii) A trading halt initiated under Rule 4120(a)(6) shall be terminated as soon as Nasdaq determines either that the system misuse or malfunction that caused the extraordinary market activity [has been corrected] *will no longer have a material effect on the market for the security* or that system misuse or malfunction is not the cause of the extraordinary market activity.

\* \* \* \* \*

## 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

#### 1. Purpose

On May 11, 2001, Nasdaq filed with the Commission a proposed rule change to clarify Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated

by, or linked to, Nasdaq.<sup>4</sup> On July 27, 2001, Nasdaq filed Amendment No. 1 to the proposed rule change, requesting that the Commission approve the proposed rule change on a three-month pilot basis, expiring on October 27, 2001.<sup>5</sup> Also on July 27, 2001, the Commission approved the proposed rule change.<sup>6</sup> On September 27, 2001, Nasdaq filed a proposed rule change extending the pilot until January 27, 2002.<sup>7</sup> Nasdaq again extended the pilot until April 30, 2002.<sup>8</sup>

NASD Rule 4120 provides Nasdaq with authority to halt trading in securities in a number of circumstances in which Nasdaq deems a trading halt necessary to protect investors and the public interest. Before adopting the pilot amendment, the specific bases for initiating a trading halt focused primarily on ensuring that all investors have access to material news about an issuer. The pilot amendment added a new basis for the imposition of a trading halt, focused on aberrational trading in a particular security.

As a result of the decentralized and electronic nature of the market operated by Nasdaq, the price and volume of transactions in a Nasdaq-listed security may be affected by the misuse or malfunction of electronic systems, including systems that are linked to, but not operated by, Nasdaq. In circumstances where misuse or malfunction results in extraordinary market activity, Nasdaq believes that it may be appropriate to halt trading in an affected security until the system problem can be rectified. In the period during which the rule has been in effect, Nasdaq has not had occasion to initiate a trading halt under the pilot rule, and it continues to be Nasdaq's expectation that the rule would be invoked only in rare circumstances. Nevertheless, Nasdaq believes that the rule is an important component of its authority and responsibility to maintain the fairness and orderly structure of the Nasdaq market and should be approved on a permanent basis.

The rule was drafted to be flexible and to permit rapid action, in order to serve the rule's purpose of guarding against disruptive trading conditions.

Thus, the rule allows Nasdaq to halt trading based on a belief that system misuse or malfunction may be the cause of extraordinary market activity.<sup>9</sup> In recognition of the fact that the rule allows Nasdaq to take action in response to problems with systems that Nasdaq does not operate, however, Nasdaq is proposing to amend the rule to specify procedures that Nasdaq will follow in connection with a trade halt based on the misuse or malfunction of a system that is linked to, but not operated by, Nasdaq.

Specifically, Nasdaq will promptly contact the operator of the system in question to ascertain information that will assist Nasdaq in determining whether a misuse or malfunction has occurred, what effect the misuse or malfunction is having on trading in a security, and what steps are being taken by the operator of the system to address the misuse or malfunction. If the operator of the system is unavailable when contacted by Nasdaq, Nasdaq will continue efforts to contact the operator of the system to ascertain information that will assist Nasdaq in determining whether the trading halt should be terminated. In addition, Nasdaq is proposing to amend the rule to require a finding that an observed instance of extraordinary market activity is likely to have a material effect on the market for the security that is the subject of a trading halt.

As is true for all trading halts initiated under NASD Rule 4120, a decision to halt trading requires a determination that the action is necessary to protect investors and the public interest. Moreover, a trading halt initiated under the rule will be terminated as soon as Nasdaq can conclude that the system misuse or malfunction will no longer have a material effect on the market for the security that is the subject of the halt or that system misuse or malfunction is not the cause of an instance of extraordinary market activity.

#### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,<sup>10</sup> which requires, among other things, that

<sup>4</sup> Securities Exchange Act Release No. 44307 (May 15, 2001), 66 FR 28209 (May 22, 2001)(SR–NASD–2001–37).

<sup>5</sup> Letter from Thomas P. Moran, Associate General Counsel, Nasdaq, to Alton Harvey, Division of Market Regulation, SEC (July 27, 2001).

<sup>6</sup> Securities Exchange Act Release No. 44609 (July 27, 2001), 66 FR 40761 (August 3, 2001)(SR–NASD–2001–37).

<sup>7</sup> Securities Exchange Act Release No. 44870 (September 28, 2001), 66 FR 50701 (October 4, 2001)(SR–NASD–2001–60).

<sup>8</sup> SR–NASD–2002–14.

<sup>9</sup> The phrase “extraordinary market activity” is not defined in the rule. Similar phrases, such as “unusual market conditions,” have been used in SEC and self-regulatory organization rules without being specifically defined. *See e.g.*, SEC Rule 11Ac1–1(b)(3); New York Stock Exchange Rule 104, Supplementary Material .10(6)(i)(B); New York Stock Exchange Rule 717. A rule that is designed to respond to aberrational market conditions must be somewhat flexible in its application because of the difficulty of defining *ex ante* all situations in which application of the rule might be necessary.

<sup>10</sup> 15 U.S.C. 78o–3.

a registered national securities association's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and, in general, protect investors and the public interest. Nasdaq believes the proposed amendments to the rule are consistent with the Act because they establish procedures that Nasdaq will follow in connection with a trading halt that is based on the misuse or malfunction of a system that is not operated by Nasdaq, and will therefore help to ensure that the rule is applied in an appropriate manner.

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

Nasdaq believes that the proposed rule change will impose no 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*

Instinet Corporation ("Instinet") commented on the proposed rule change as originally proposed, expressing concerns about trading halts that might be premised on the misuse or malfunction of systems that are not operated by Nasdaq.<sup>11</sup> Nasdaq believes that the amendments to the rule proposed in this filing respond to the concerns expressed by Instinet without impairing the flexibility that the rule must retain in order for the rule to assist Nasdaq in meeting its overarching responsibility to maintain the fairness and orderly structure of the Nasdaq market. Written comments on the proposed rule change 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 date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD 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.

<sup>11</sup> See July 27, 2001 letter from Jon Kroeper, First Vice President-Regulatory Policy/Strategy, Instinet, to Jonathan G. Katz, Secretary, SEC.

### **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 Nasdaq. All submissions should refer to file number SR-NASD-2001-75 and should be submitted by February 26, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-2654 Filed 2-4-02; 8:45 am]

**BILLING CODE 8010-01-P**

### **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:** Submit comments on or before April 8, 2002.

**ADDRESSES:** Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Ruthie Abney, Office Automation Assistant, Office of Business Development, Small Business

<sup>12</sup> 17 CFR 200.30-3(a)(12).

Administration, 409 3rd Street, SW., Suite 8000, Washington DC 20416.

#### **FOR FURTHER INFORMATION CONTACT:**

Ruthie Abney, Office Automation Assistant, (202) 205-6410 or Curtis B. Rich, Management Analyst, (202) 205-7030.

#### **SUPPLEMENTARY INFORMATION:**

*Title:* 8(a) Annual Update.

*Form No:* 1450.

*Description of Respondents:* 8(a) Program Participants.

*Annual Responses:* 5,000.

*Annual Burden:* 13,000.

*Title:* Semiannual Report on Representatives and Compensation Paid for Services in Connection with Obtained Federal Contracts.

*Form No:* 1790.

*Description of Respondents:* 8(a) Program Participants.

*Annual Responses:* 9,000.

*Annual Burden:* 9,000.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 02-2725 Filed 2-4-02; 8:45 am]

**BILLING CODE 8025-01-P**

### **DEPARTMENT OF TRANSPORTATION**

#### **Office of the Secretary**

#### **Agency Information Collection; Other Than Those Contained In Proposed Rules or In Current Rules; Transportation for Individuals With Disabilities-Accessibility of Over-the-Road Buses (OTRBs)**

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Department of Transportation's (DOT) amendment of its Americans with Disabilities Act and Final Rule on Accessibility of Over-the-Road Buses.

**DATES:** Comments on this notice must be received by April 8, 2002.

**ADDRESSES:** Comments should be directed to the Assistant General Counsel for Regulation and Enforcement, Office of the Secretary, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

#### **FOR FURTHER INFORMATION CONTACT:**

Linda A. Lasley, Attorney-Advisor, Regulation and Enforcement, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202)366-4723.