

the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

**Jonathan G. Katz,**

Secretary.

[FR Doc. 97-10436 Filed 4-22-97; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38520; File No. 4-208]

### Intermarket Trading System; Notice of Filing of Proposed Twelfth Amendment to the ITS Plan Relating To Amending the Pre-Opening Application, Deleting Text That Is No Longer Applicable, and To Make Technical Amendments

April 17, 1997.

Pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on January 31, 1997, the Intermarket Trading System ("ITS") submitted to the Securities and Exchange Commission ("Commission") an amendment ("Twelfth Amendment") to the restated ITS Plan.<sup>1</sup> The purpose of the amendment is to amend the Pre-Opening Application, to delete text that, by its terms, is no longer applicable, and to make several technical amendments to the Plan. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

The ITS is a communications and order routing network linking eight national securities exchanges and the electronic over-the-counter ("OTC") market operated by the National Association of Securities Dealers, Inc. ("NASD"). The ITS was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets.

Participants to the ITS Plan include the American Stock Exchange, Inc. ("Amex"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Chicago Stock Exchange, Inc. ("CHX"), the Cincinnati Stock Exchange, Inc. ("CSE"), the NASD, the New York Stock Exchange, Inc. ("NYSE"), the Pacific

Stock Exchange, Inc. ("PSE"), and the Philadelphia Stock Exchange, Inc. ("PHLX").

### I. Description of the Amendment

The purpose of the amendment is to trigger the use of the Pre-Opening whenever an "indication of interest" (i.e., an opening price range) is sent to the Consolidated Tape System ("CTS") prior to the opening or reopening of trading in a System security, to delete text that, by its terms, is no longer applicable, and to make technical revisions to update the rules. The amended language is as follows.

*To cause Section 1(4) to read as follows:*

(4) ("CAES") means the "Computer Assisted Execution System", the computerized order routing and execution facility, as from time to time modified or supplemented, that is operated by The Nasdaq Stock Market, Inc. ("Nasdaq"), a wholly-owned subsidiary of the NASD, and that is supervised and surveilled by the NASD and made available to NASD members by Nasdaq. CAES is not part of the System.

*To cause Section 1(5) to read in full as follows:*

(5) "CAES Supervisory Center" means the premises of Nasdaq at which is located the ITS supervisory station that monitors the ITS/CAES Third Market as described in section 5(a)(i).

*To cause Section 1(11) to read in full as follows:*

(11) "Exchange (Participant's) Market" means the floor(s) of an Exchange Participant, except that, in the case of the CSE, "Exchange (Participant's) Market" means in addition to the premises on which NSTS terminals are located, NSTS and ITS stations located in the NSTS Supervisory Center.

*To cause Section 1(17) to read in full as follows:*

(17) "ITS/CAES security (stock)" means a security (stock) (a) that is a System security, (b) that is a 19c-3 security and (c) as to which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of the Applications. When used with reference to a particular ITS/CAES Market Maker, "ITS/CAES security" means any such security (stock) as to which the particular ITS/CAES Market Maker is so registered.

*To delete Section 1(24):*

(24) "NASD Pilot Phase." [Deleted]

*To delete Section 1(27A):*

(27A) "NSTS/ITS Automated Linkage Commencement Date." [Deleted]

*To cause Section 5(b)(ii) to read in full as follows:*

(ii) *Selection of System Securities.* The System is designed to accommodate trading in any Eligible Security in the case of Exchange Participants and, in the case of any ITS/CAES Market Maker, trading in the one or more ITS/CAES securities in which he is registered as such with the NASD for the purposes of the Applications. The particular securities that may be traded through the System at any time ("System securities") shall be selected by the Operating Committee. The Operating Committee may add or delete System securities as it deems appropriate and may delay the commencement of trading in any Eligible Security if capacity or other operational considerations shall require such delay. ITS/CAES securities may be traded by Exchange Participants and ITS/CAES Market Makers as provided in the ITS Plan and other System securities may be traded by Exchange Participants as provided in the ITS Plan.

*To cause the first paragraph of Section 6(a)(i)(B) to read in full as follows:*

(B) *Furnishing of Quotations.* As to each System security that is traded on its floor or otherwise in its Exchange Market, each Exchange Participant shall furnish, or cause to be furnished, to each "receiving Participant Market" as defined below, or to a person acting therefor, the current bid-asked quotation emanating from its trading floor or otherwise from its Exchange Market. The NASD, as to each ITS/CAES security, agrees to collect, or cause to be collected, from each ITS/CAES Market Maker registered as such with the NASD for the purposes of the Applications each current bid price and each current offer price as made by such ITS/CAES Market Maker, each such bid and offer to be accompanied by size. For each ITS/CAES security, the NASD or its agent (1) shall select the best bid price and the best offer price from the bid prices and offer prices so collected and (2) shall furnish, or cause to be furnished, to each Receiving Participant, or to a person acting therefor, such best bid price and best offer price, together with the sum of the sizes accompanying the bids and offers at the best bid price and best offer price (the "ITS/CAES BBO"). As to any System security, a Participant Market is a "receiving Participant Market" if (1) it is an Exchange Market in which the security is traded or (2) it is the ITS/CAES Third Market and the security is an ITS/CAES security in which one or more ITS/CAES Market Makers are registered as such with the NASD for the purposes of the Applications.

<sup>1</sup> The ITS is a National Market System ("NMS") plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3-2. Securities Exchange Act Release No. 19456 (January 27, 1993), 48 FR 4938.

*To cause the second paragraph of Section 6(a)(ii) to read in full as follows:*

If a trade involves the CSE, the commitment to trade or a response thereto destined for or originating from the CSE will leave and enter the System through the NSTS Switch. In the foregoing example, a trade involving the CSE would occur as follows. Assume that the stock in question is also one of the stocks traded in the CSE's Exchange Market. Assume also that the continuously updated quotation display at the appropriate NYSE trading post shows that the best offer from other Participant Markets is one of 40 $\frac{1}{8}$  on the CSE, rather than on the PSE. Having learned this information, the NYSE member may decide to attempt to buy the 100 shares for his customer from the 40 $\frac{1}{8}$  offer on the CSE. By using an ITS station located on the NYSE trading floor, the broker would send, or cause to be sent, to NSTS a commitment to buy 100 shares of the stock at 40 $\frac{1}{8}$ .

*To cause Section 6(b)(i) to read in full as follows:*

(b) *Technical Matters.* (i) *Commitment Information, Expiration.* A commitment to trade shall, at a minimum:

(A) include the number or symbol which identifies both (1) one clearing member if originating in an Exchange Market or, if originating with an ITS/CAES Market Maker, the ITS/CAES Market Maker or the broker-dealer through whom he clears System trades and (2) the clearing corporation through which the trade shall be settled,

(B) direct the commitment to a particular Participant Market,

(C) specify the security which is the subject of the commitment,

(D) designate the commitment as either a commitment to buy or a commitment to sell,

(E) specify the amount of the security to be bought or sold, which amount shall be for one unit of trading or any multiple thereof,

(F) specify (1) a price equal to the offer or bid price then being furnished by the destination Participant Market, which price shall represent the price at or below which the security is to be bought or the price at or above which the security is to be sold, respectively, (2) a price at the clean-up price in the case of a commitment to trade sent in compliance with a Participant's block trade policy adopted pursuant to section 8(d)(iii) or (3) that the commitment is a commitment to trade "at the market",

(G) designate the commitment "short" or "short exempt" whenever it is a commitment to sell short; this will permit the short sale rule as in effect in the destination Participant Market to apply, and

(H) specify the time period during which the commitment shall be irrevocable (if the time period is not specified in the commitment, the longer of the two available options shall be assumed by ITS).

The commitment shall be irrevocable for that time period following acceptance by the System as is chosen

by the sender of the commitment. ITS provides two time period options, known as "T-1" (one minute) and "T-2" (two minutes). The sender of the commitment may designate which of the two options is to apply. The Operating Committee may from time to time change the length of the time period of either or both options.

*To cause the first paragraph of Section 6(b)(v) to read in full as follows:*

(v) *Response Validation; Partial Executions.* Each response to a commitment to trade must also be validated by the System when entered. The CID must compare with that of the original commitment. The response, if an execution, must represent the contra side of the original commitment. The response must (A) identify as the contra side one or more clearing members, (B) indicate that all of the one or more clearing members (or the rest of the clearing members, if one or more, but not all, clearing members are identified in the response) will be identified to the System through a subsequent "names later" message. If an execution is reported, the size executed must be equal to or smaller than the committed size. The execution price must equal or better the committed price. The validation process also assures that the commitment associated with the response has not been previously executed and has not expired through passage of time.

*To cause the second paragraph of Section 7(a) to read in full as follows:*

The Pre-Opening Application applies in two instances. First, it applies whenever a market maker in any Participant Market, in arranging an opening transaction in his market in a System stock, anticipates that the opening transaction will be at a price that represents a change from the stock's "previous day's consolidated closing price" of more than the "applicable price change". Second, it applies whenever an "indication of interest" (i.e., an anticipated opening price range) is sent to the CTA Plan Processor as required or permitted by the CTA Plan or a Participant Market's rules.

*To delete Section 7(d):*

(d) *Commencement of Revised Pre-Opening Application.* [Deleted]

*To cause Section 8(a) (ii) and (iii) to read in full as follows:*

(ii) *CSE.* No ITS station shall be located on the CSE floor except at the NSTS Supervisory Center, where it shall be accessible only to CSE employees. The components of NSTS other than NSTS terminals located on the CSE floor or on the premises of a particular NSTS User shall be accessible only to employees of the CSE or its facilities

manager. Each NSTS terminal located otherwise than on the CSE floor or in the NSTS Supervisory Center shall be accessible only to and under the control of the NSTS User on whose premises the station is located and to his employees. The CSE shall assure that only Designated Dealers to whom a security is assigned receive pre-opening notifications in the security.

(iii) *NASD.* Each ITS/CAES station shall be accessible only to the ITS/CAES Market Maker on whose premises the station is located and to his employees. The ITS station located at the CAES Supervisory Center, and components of CAES and of any other NASD-sponsored facility linked to the System other than those located on the premises of ITS/CAES Market Makers, shall be accessible only to employees of the NASD or its subsidiaries.

*To cause the first paragraph of Section 8(b) to read in full as follows:*

(b) *Participant Trading Rules.* The trading rules applicable in destination Participant Markets shall apply to commitments to trade received in such market and executions of commitments therein. For example, if a commitment to sell marked "short" is received in the NYSE, the commitment can result in an execution only in accordance with the short sale rule as in effect on the NYSE. A commitment to sell marked "short" and sent to the BSE can result in an execution only in accordance with the short sale rule as in effect on the BSE.

*To cause Section 8(e)(iv)(A)(3) to read in full as follows:*

(3) The calculation components are:

A = "NSTS/ITS-Outgoing Agency Interest"; i.e., the number of shares entered in NSTS by NSTS Users during the calculation quarter that are reformatted by NSTS as commitments to trade and routed through the NSTS/ITS automated linkage to and executed in another Participant Market. Excluded from A are shares sent (a) as obligations to trade included in pre-opening responses, (b) pursuant to the CSE block trade policy adopted as anticipated by section 8(d)(iii) or (c) for the proprietary accounts of Approved Dealers in stocks assigned to them or in which they are registered.

B = "NSTS-Originating Agency Interest"; i.e., the number of shares entered in NSTS by NSTS Users during the calculation quarter that are either executed in NSTS or reformatted by NSTS as commitments to trade and routed through the NSTS/ITS automated linkage to and executed in another Participant Market. Excluded from B are shares entered in NSTS for the proprietary accounts of Approved Dealers in stocks assigned to them or in which they are registered that are either (e) executed in NSTS as a consequence of trading either with

a commitment to trade received from another Participant Market or with shares entered in NSTS for the account of another Approved Dealer in stocks assigned to him or in which he is registered or (f) reformatted by NSTS as commitments to trade and routed through the NSTS/ITS automated linkage to and executed in another Participant Market.

CC = "NSTS/ITS-Incoming Dealer Executions (Constant Constant)"; i.e., a constant that equals one-fourth of the number of shares entered and executed in NSTS for the proprietary accounts of Approved Dealers and Contributing Dealers in stocks assigned to them or in which they are registered against commitments to trade received from other Participant Markets in 1985.

IC = "NSTS/ITS-Incoming Dealer Executions (Incremental Constant)"; i.e., the larger of (h) CC and (i) one-half CC plus one-half of the number of shares entered and executed in NSTS during the calculation quarter for the proprietary accounts of Approved Dealers in stocks assigned to them or in which they are registered against commitments to trade received from other Participant Markets.

The CSE may elect to participate "manually" as to all or some stocks during all or part of a calendar quarter by arranging for CSE employees, acting on behalf of NSTS Users, to use either (j) the NSTS terminal located in the NSTS Supervisory Center to enter into NSTS interest that can result in the generation of commitments to trade and responses or (k) the ITS station located in the NSTS Supervisory Center as described in the sixth paragraph of section 6(a)(ii). If it does so during the calculation quarter, shares in those stocks executed during any period of "manual" participation are excluded from A, B and IC in calculating the Applicable Share Ceiling (but not in calculating the CSE/CTA Level) for the calculation quarter. Any development costs incurred to accommodate "manual" participation as described in clause (k) benefit the CSE alone for the purposes of section 11(a)(iii)(B).

To cause Section 8(e)(iv)(A)(6) to read in full as follows:

(6) Subsections (1) and (5) shall not apply so long as the CSE/CTA Level has never exceeded 1.25 percent unless, first, the NSTS/ITS-Outgoing Agency Interest ("A") has exceeded its Applicable Share Ceiling during any calendar quarter (a "nominal excess") and, second, during the first "Periodic Review" (referred to below) that follows both the nominal excess and April 1, 1986, the CSE fails reasonably to justify the nominal excess and thereby to rebut the presumption that subsections (1) and (5) should apply thereafter in view of the occurrence of the nominal excess.

To cause the first sentence of Section 8(e)(iv)(B) to read in full as follows:

(B) *Periodic Reviews*. During the calendar quarter following each anniversary of April 1, 1986, the Participants shall assess whether to amend the ITS Plan to adjust the Applicable Share Ceilings, their application, any component of their calculation and the consequences of exceeding them.

To cause Section 8(f)(v) to read in full as follows:

(v) *Nasdaq Clearing Corporation Arrangement*. In order to enable the NASD to perform its settlement obligations as provided in section 9(d), Nasdaq shall maintain an arrangement with a registered clearing corporation meeting the criteria of section 5(b)(i) that provides that such clearing corporation shall book to an account of Nasdaq each side of System trade that (A) is identified as attributable to the ITS/CAES Third Market but (B) is not identified as constituted by one or more ITS/CAES Market Makers or clearing members acting on his or their behalf.

To delete Section 8(f)(vi):

(vi) *CAES Modifications for Short Commitments*. [Deleted]

To cause Section 8(f)(vii) to read in full as follows:

(vii) *Nasdaq Representation*. The NASD represents that Nasdaq, the operator of CAES, is a wholly-owned subsidiary of the NASD. The NASD shall cause Nasdaq to operate CAES in a manner consistent with the ITS Plan and to fulfill Nasdaq's obligations under the ITS Plan.

To delete Section 10(d):

(d) *NASD Pilot Phase*. [Deleted]

To delete Section 10(e)(ii) (A) and (B):

(ii) *CSE Linkage*. (A) *Capacity Relief*. [Deleted]

(B) *Terminal Interface Development Costs*. [Deleted]

To delete Section (a)(x) of Exhibit A: (x) "Trading Halt" [Deleted]

To cause Section (b)(i)(B) of Exhibit A to read in full as follows:

(B) *Tape Indications*—If the CTA Plan or the Exchange's rules require or permit that an "indication of interest" (i.e., an anticipated opening price range) in a security be furnished to the consolidated last sale reporting system prior to the opening of trading, or the reopening of trading following a halt or suspension in trading in one or more Eligible Listed Securities, then the furnishing of an indication of interest in such situations shall, without any other additional action required of the specialists, (1) initiate the Pre-Opening process, and, (2) if applicable, substitute for and satisfy the requirements of paragraphs (b)(i)(A)(1), (b)(i)(A)(2)(I) and (b)(i)(A)(2)(II). (While the furnishing of an indication of interest to the

consolidated last sale reporting system satisfies the notification requirements of this rule, a specialist should also transmit the indication through the System in the format of a standardized pre-opening administrative message.) In any such situation, the specialist shall not open or reopen the security until not less than three minutes after his transmission of the opening or reopening indication of interest. For the purposes of paragraphs (b)(ii)(A), (b)(ii)(B), (b)(iii) and (c), "pre-opening notification" includes an indication of interest furnished to the consolidated last sale reporting service.

To cause Section (b)(ii)(B) of Exhibit A to read in full as follows:

(B) *Pre-Opening Responses from Open Markets*—An Exchange specialist must accept only those pre-opening responses sent to the Exchange by market makers in other Participant markets prior to the opening of their markets for trading in the security.\* Following a halt or suspension in trading on the Exchange, a specialist must accept only those pre-opening responses sent by market makers to the Exchange from other Participant markets that halted trading in the security contemporaneously with the Exchange and that had not resumed trading in the security at the time the pre-opening response is sent

In the event that one or more market makers from Participant markets that have already opened trading in a security or, with respect to a halt or suspension in trading, either did not halt trading in a security contemporaneously with the Exchange, or has already resumed trading in a security, respond to a pre-opening notification in that security, the specialist need not, but may in his discretion, accept such responses for the purpose of inclusion in the opening or reopening transaction. In the event that a Participant market opens or, with respect to a halt or suspension in trading, resumes trading in a security subsequent to a market maker in that Participant market sending a pre-opening response but prior to the opening or reopening transaction on the Exchange, the market maker who sent the pre-opening response to the Exchange must confirm the pre-opening response by sending an administrative message through the System stating that the response remains valid; if the market maker fails to so confirm the pre-opening response, the specialist need not, but may in his discretion, accept the original response for the purpose of inclusion in the opening or reopening transaction.

\* For the purposes of this section, the market in a security is opened (or reopened) with either a trade or quotation, if trades are being reported to the Consolidated Tape and quotes are being disseminated on the Consolidated Quotation System.

To cause Section (c)(ii) of Exhibit A to read in full as follows:

(ii) *Responses When the Exchange is Open*—Notwithstanding paragraph (c)(i), an Exchange specialist who has received a pre-opening notification in any Eligible Listed Security in which he is registered as a specialist should not send a pre-opening response to the originator of such notification if (A) the market for trading in the security is open on the Exchange or (B) the Participant market from which the notification emanated had declared a halt or suspension in trading in such security, and the Exchange either had not halted trading in the security contemporaneously with the Participant Market or had resumed trading during the halt or suspension in trading. [\*]

\* **Note:** The NASD shall implement a comparable provision in its rules to conform the restrictions on responses by ITS/CAES Market Makers to the provisions of paragraph (b)(ii)(B) above.

To cause Section (c)(v) of Exhibit A to read in full as follows:

(v) *Use of System before Opening or Reopening*—No Exchange member, whether acting as principal or agent, shall send an obligation to trade, commitment to trade or order in any security from the Exchange through the System to any other Participant market prior to the opening of trading in the security in the Participant market (or prior to the resumption of trading in the security in the Participant market following the initiation of a halt or suspension in trading in the security) until a pre-opening notification in the security has been issued from the other Participant market or, if no pre-opening notification is required, until the market in the security has opened in such other Participant market.

To cause Section (c)(vii) of Exhibit A to read in full as follows:

(vii) *Request for Participation Reports*—The ITS Plan anticipates that an Exchange member who has sent one or more obligations to trade in response to a pre-opening notification will request a report through the System as to his participation if he does not receive a report as required promptly following the opening. If, on or following trade date, he does request a report through the System as to his participation before [4:00 p.m. eastern time \*], and he does not receive a response by [9:30 a.m. eastern time \*\*] on the next trading day, he need not

accept a later report. If he fails to so request a report, he must accept a report until [4:00 p.m. eastern time \*] on the third trading day following the trade (i.e., on T+3). The Exchange does not intend this paragraph (c)(vii) to relieve him of the obligation, when he does not receive a report as soon as he reasonably should expect to have received it.

## II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., 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 provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ITS. All submissions should refer to File No. 4-208 and should be submitted by May 14, 1997.

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

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 97-10517 Filed 4-22-97; 8:45 am]

BILLING CODE 8010-01-M

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Collection Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), in compliance with PL. 104-13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

Questionnaire for Children Claiming SSI Benefits—0960-0499. The information collected on form SSA-3881 is used by the Social Security Administration to evaluate disability in children who apply for supplement security income payments. The respondents are individuals who apply for supplement security income benefits for a disabled child.

*Number of Respondents:* 151,667.

*Frequency of Response:* 1.

*Average Burden Per Response:* 20 minutes.

*Estimated Annual Burden:* 151,667 hours.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd., 1-A-21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965-4123 or write to her at the address listed above.

Dated: April 6, 1997.

**Judith T. Hasche,**

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97-10428 Filed 4-22-97; 8:45 am]

BILLING CODE 4190-29-P

## SOCIAL SECURITY ADMINISTRATION

### Privacy Act of 1974, As Amended; Computer Matching Program (SSA/Railroad Retirement Board (RRB)—SSA Match Number 1006)

**AGENCY:** Social Security Administration.  
**ACTION:** Notice of Computer Matching Program.

**SUMMARY:** In accordance with the provisions of the Privacy Act, this notice announces a computer matching program that SSA plans to conduct with RRB.

**DATES:** SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

**ADDRESSES:** Interested parties may comment on this notice by either telefax to (410) 966-2935, or writing to the Associate Commissioner for Program