

effective date of a PSP recipient's next scheduled increase. The addition of language required by the Paperwork Reduction Act of 1995 and minor nonburden impacting editorial and reformatting changes are also proposed. The RRB also proposes a change to Form G-212 to add an item requesting the effective date of a PSP recipient's next scheduled cost-of-living increase. Minor nonburden impacting editorial and reformatting changes are also proposed. The completion time for the G-208 is estimated at 10 minutes. The completion time for the G-212 is estimated at 3 minutes. The RRB estimates that approximately 7,000 G-208's and 700 G-212's are completed annually.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38849; File No. SR-NASD-97-50]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change by the NASD Clarifying the Operation of SOES

July 17, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 14, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association") 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 the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The NASD is submitting this rule filing to clarify the operation of The Nasdaq Stock Market's ("Nasdaq") Small Order Execution System ("SOES") during non-locked and crossed market situations. Specifically, the NASD proposes to amend NASD Rule 4730(b)(1) to more explicitly state the process by which unpreferred market orders are executed in SOES. In particular, Rule 4730(b)(1) is being amended to clarify that once SOES executes an unpreferred market or marketable limit order against a SOES market maker, that market maker is not required to execute another unpreferred SOES order at the same bid or offer in the same security until seventeen seconds has elapsed, absent a quotation update by the market maker within such seventeen second period. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

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NASD Rule 4730. Participant Obligations in SOES

* * * * *

(b) Market Makers

(1) A SOES Market Maker shall commence participation in SOES by initially contacting the SOES Operation Center to obtain authorization for the trading of a particular SOES security and identifying those terminals on which the SOES information is to be displayed and thereafter by an appropriate keyboard entry which obligates the firm, so long as it remains a Market Maker in SOES:

(A) for any security for which it is a SOES Market Maker, to execute individual orders in sizes equal to or smaller than the maximum order size; and

(B) for any NNM security for which it is a Market Maker, to execute individual orders equal in the aggregate to the minimum exposure limit.

After SOES has executed an order against a Market Maker, that Market Maker[s] shall not be [have a period of time following their receipt of an execution report in which to update their quotation in the security in question before being] required to execute another unpreferred order at the same bid or offer in the same security until a predetermined time period has elapsed from the time the order was executed, as measured by the time of execution in the Nasdaq system, provided the Market Maker has not updated its quotation (bid, offer, or size) within such time period, in which case the Market Maker will become immediately eligible to receive another execution of an

unpreferred order. This period of time shall initially be established as 17 [15] seconds, but may be modified upon *Commission approval* and appropriate notification to SOES participants. All entries in SOES shall be made in accordance with the requirements set forth in the SOES User Guide.

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 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. The NASD 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

The NASD is submitting this proposal to clarify the process by which SOES executes unpreferred market and marketable limit orders. Presently, NASD Rule 4730(b)(1) provides that:

Market Makers shall have a period of time following their receipt of an execution report in which to update their quotation in the security in question before being required to execute another unpreferred order at the same bid or offer in the same security. This period of time shall initially be established as 15 seconds, but may be modified upon appropriate notification to SOES participants. . . .

This rule language was added to the NASD's rules in October 1991 so that SOES market makers would be afforded a brief fifteen-second opportunity to update their quotations in response to executions received through SOES ("15-Second SOES Execution Response Period"). As the current language of Rule 4730(b) reflects, the "15-Second SOES Execution Response Period" commences when a market maker has received notification of a SOES execution through the system. Indeed, the description of the "15-Second SOES Execution Response Period" in the SEC's order approving the provision provides that "[f]ollowing receipt of an execution report of an unpreferred purchase or sale through SOES, a market maker will have a quote of time (15 seconds) to update its quote prior to executing any subsequent transaction on the same side of the market at the same

price.” (footnote omitted).¹ Because SOES does not have the capability to determine the exact time when a market maker receives a SOES execution report, at the time this rule was implemented Nasdaq estimated that it took up to five seconds for SOES to execute an order against a market maker and for the market maker to receive a report of the execution (the “SOES Execution Report Communication Period”). As a result, SOES was programmed to uniformly add a five-second period to the “15-Second SOES Execution Response Period,” with the effect that the system executes unpreferred market orders against a market maker in twenty-second intervals, absent a quotation update by the market maker.

Recently, Nasdaq undertook to estimate the time its takes for a market maker to receive a SOES execution report. This analysis indicates that on average, the SOES Execution Report Communication Period is between two and three seconds, although actual time can and does vary depending on activity and communications traffic during different periods of the day. It was determined to be appropriate to assign a two-second period to the SOES Execution Report Communications Period for purposes of the rule.

With this rule filing, therefore, the NASD proposes to explicitly incorporate this two-second period into Rule 4730. Specifically, the NASD proposes to amend Rule 4730 to provide that a market maker shall not be required to execute another unpreferred SOES order at the same bid or offer in the same security until seventeen seconds have elapsed from the time of execution. The proposed rule change is designed to retain the ability of a market maker to respond to SOES executions while recognizing that, under normal circumstances, a minimal period of time is necessary for reports of those executions to be received by the market maker. The proposed amendments to Rule 4730(b) also clarify: (1) That a market maker becomes immediately eligible to receive another execution through SOES if it updates its quote (its bid, offer, or size) during the seventeen second period;² and (2) that the

seventeen second period arises regardless of whether the market maker executes an unpreferred market order or an unpreferred marketable limit order. By amending the rule in this fashion, the rule will eliminate any ambiguities among market participants concerning the manner in which unpreferred orders are executed in SOES. These amendments will also address a concern about the rule noted by the SEC in its Report Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding the NASD and the Nasdaq Market (“SEC Report”).³

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act and SEC Rule 11Ac1-1. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, by clarifying the process by which unpreferred SOES orders are executed in the NASD’s rules, the NASD believes the proposal will promote fair and orderly markets and the protection of investors.

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

The NASD believes that the proposed rule change will not 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

Comments 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.

IV. 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, 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 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 number SR-NASD-97-50 and should be submitted by August 14, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,
Deputy Secretary.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Tariff-Rate Quota for Imports of Beef

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that USTR has determined that Uruguay, pursuant to its request, is a participating country for purposes of the export certification program for imports of beef under the tariff-rate quota.

DATES: The action is effective August 1, 1997.

⁴ 17 CFR 200.30-3(a)(12).

¹ Securities Exchange Act Release No. 29810 (October 10, 1991), 56 FR 52098, 52099 (order approving file SR-NASD-91-18).

² The proposed amendments to Rule 4730(b) do not change in any way the current functionality of SOES whereby preferred orders are continuously executed against a market maker without any delay between executions. In addition, as is presently the case during locked and crossed markets, SOES will execute orders (both preferred and unpreferred) against those market makers that are locked or crossed in five second intervals. See NASD Rule 4730(b)(4).

³ The SEC stated that “[t]he NASD should have set forth in its filings with the Commission seeking approval for the [SOES execution] delay that the time between executions had been set at twenty seconds, but did not do so.” See Appendix to the SEC Report, at 76.