

Applicant incurred no expenses in connection with the reorganization.

*Filing Date:* The application was filed on August 31, 2001.

*Applicant's Address:* 5800 Corporate Dr., Pittsburgh PA 15237-7000.

#### **The Harvest Funds [File No. 811-9211]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On March 29, 2001, applicant transferred its assets to Calvert South Africa Fund, a series of Calvert Impact Fund, Inc., based on net asset value. Expenses of \$19,770 incurred in connection with the reorganization were paid pro rata by applicant and the surviving fund.

*Filing Date:* The application was filed on August 29, 2001.

*Applicant's Address:* 112 Ballymeade Dr., Wilmington, DE 19810.

#### **Automated Cash Management Trust [File No. 811-3351]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On October 28, 1994, applicant transferred its assets to Money Market Obligations Trust based on net asset value. Applicant incurred no expenses in connection with the reorganization.

*Filing Date:* The application was filed on August 31, 2001.

*Applicant's Address:* 5800 Corporate Dr., Pittsburgh, PA 15237-7000.

#### **New York Municipal Cash Trust [File No. 811-3432]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On September 2, 1994, applicant transferred its assets to Federated Municipal Trust based on net asset value. Applicant incurred no expenses in connection with the reorganization.

*Filing Dates:* The application was filed on August 6, 2001, and amended on September 26, 2001.

*Applicant's Address:* Federated Investors Tower, 1001 Liberty Avenue, Pittsburgh, PA 15222-3779.

#### **Beacon Global Advisors Trust [File No. 811-7879]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On May 31, 2000, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of \$7250 incurred in connection with the liquidation were paid by applicant and its advisor, Beacon Global Advisors, Inc.

*Filing Dates:* The application was filed on August 29, 2001, and amended on September 21, 2001.

*Applicant's Address:* Beacon Global Advisors, Inc., 4550 Montgomery Ave., Suite 302N, Bethesda, MD 20814.

#### **Targeted Duration Trust [File No. 811-6085]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. By November 14, 1991, all shareholders of applicant had voluntarily redeemed their shares at net asset value. Applicant incurred no expenses in connection with the liquidation.

*Filing Dates:* The application was filed on June 6, 2001, and amended on September 26, 2001.

*Applicant's Address:* 5800 Corporate Dr., Pittsburgh, PA 15237-7000.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 01-24807 Filed 10-3-01; 8:45 am]

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-44867; File No. SR-NASD-2001-58]

#### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending NASD Code of Procedure Rule 9216 and NASD Code of Procedure Rule 9270 To Substitute the Office of Disciplinary Affairs for the Office of General Counsel for Review of Proposed Acceptance, Waivers and Consents, Proposed Minor Rule Violation Letters, and Offers of Settlement**

September 27, 2001.

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 September 24, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation") 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 NASD Regulation. The commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.<sup>3</sup>

#### **1. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Change**

NASD Regulation proposes to amend NASD Code of Procedure Rule 9216 and NASD Code of Procedure Rule 9270. The proposed amendments would substitute review by the Office of General Counsel ("OGC") of proposed Acceptance, Waivers and consents ("AWCs"), proposed violation letters under the minor rule violation plan pursuant to NASD Code of Procedure Rule 9216 and Offers of Settlement pursuant to NASD Code of Procedure Rule 9270 (hereinafter referred to collectively as "settlements") with review by the Office of Disciplinary Affairs ("ODA").

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*  
9200. Disciplinary Proceedings  
\* \* \* \* \*

9216. Acceptance, Waiver, and Consent; Plan Pursuant to SEC Rule 19d-1(c)(2)

(a) Acceptance, Waiver, and Consent Procedures

(1) No change  
(2) No change  
(3) If the member or associated person executes the letter of acceptance, waiver, and consent, it shall be submitted to the National Adjudicatory Council. The Review Subcommittee or the [General Counsel] *Office of Disciplinary Affairs* may accept such letter or refer it to the National Adjudicatory Council. The Review Subcommittee may reject such letter or refer it to the National Adjudicatory Council for acceptance or rejection by the National Adjudicatory Council.

(4) If the letter is accepted by the National Adjudicatory Council, the Review Subcommittee, or the [General Counsel] *Office of Disciplinary Affairs*, it shall be deemed final and shall constitute the complaint, answer, and decision in the matter. If the letter is rejected by the Review Subcommittee or the National Adjudicatory Council, NASD Regulation may take any other appropriate disciplinary action with

<sup>3</sup> The Commission made various typographical and formatting changes and one change to the rule language of NASD Code of procedure Rule 9270(e)(3) at the request of the NASD. The changes are reflected in this notice. Telephone discussion between Shirley H. Weiss, Office of General Counsel, NASD Regulation, and Christopher B. Stone, Attorney Advisor, Division of Market Regulation, Commission (Sept. 25, 2001).

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

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

respect to the alleged violation or violations. If the letter is rejected, the member or associated person shall not be prejudiced by the execution of the letter of acceptance, waiver, and consent under subparagraph (a)(1) and the letter may not be introduced into evidence in connection with the determination of the issues set forth in any complaint or in any other proceeding.

(b) Procedure for Violation Under Plan Pursuant to SEC Rule 19d-1(c)(2)

(1) No change

(2) No change

(3) If the member or associated person executes the minor rule violation plan letter, it shall be submitted to the National Adjudicatory Council. The Review Subcommittee or the [General Counsel] *Office of Disciplinary Affairs* may accept such letter or refer it to the National Adjudicatory Council for acceptance or rejection by the National Adjudicatory Council. The Review Subcommittee may reject such letter or refer it to the National Adjudicatory Council for acceptance or rejection by the National Adjudicatory Council.

(4) If the letter is accepted by the National Adjudicatory Council, the Review Subcommittee, or the [General Counsel] *Office of Disciplinary Affairs*, it shall be deemed final and the Association shall report the violation to the Commission as required by the Commission pursuant to a plan approved under SEC Rule 19d-1(c)(2). If the letter is rejected by the Review Subcommittee or the National Adjudicatory Council, NASD Regulation may take any other appropriate disciplinary action with respect to the alleged violation or violations. If the letter is rejected, the member or associated person shall not be prejudiced by the execution of the minor rule violation plan letter under subparagraph (b)(1) and the letter may not be introduced into evidence in connection with the determination of the issues set forth in any complaint or in any other proceeding.

\* \* \* \* \*

9270. Settlement Procedure

(a) through (d) No change

(e) Uncontested Offers of Settlement  
No change

(1) No change

(2) Before an offer of settlement and an order of acceptance shall become effective, they shall be submitted to and accepted by the National Adjudicatory Council. The Review Subcommittee of the [General Counsel] *Office of Disciplinary Affairs* may accept such offer of settlement and order of acceptance or refer them to the National Adjudicatory Council for acceptance or

rejection by the National Adjudicatory Council. The Review Subcommittee may reject such offer of settlement and order of acceptance or refer them to the National Adjudicatory Council for acceptance or rejection by the National Adjudicatory Council.

(3) If the offer of settlement and order of acceptance are accepted by the National Adjudicatory Council, the Review Subcommittee, or the [General Counsel] *Office of Disciplinary Affairs*, they shall become final and the [General Counsel] *Director of the Office of Disciplinary Affairs* shall issue the order and notify the Office of Hearing Officers.

(f) through (j) No change

\* \* \* \* \*

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

In its filing with the Commission, NASD Regulations included statements concerning the purpose of and the 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. NASD Regulation 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

The purpose of the proposed rule change is to substitute OGC review of settlements with ODA review of settlements. This change in administrative practice would reduce certain duplications of effort in part of staff of ODA and OGC in the settlement review process, and it would also shorten the time that it generally takes to accept or reject a settlement. The proposed rule change would give ODA the sole responsibility for reviewing and approving proposed settlements and for referring selected proposed settlements to the National Adjudicatory Council ("NAC"), via the Review Subcommittee ("RSC"). Pursuant to Article V, Section 5.11 of the NASD Regulation By-Laws, the RSC is appointed by the NAC to determine whether disciplinary and membership proceedings decisions should be called for review by the NAC under the Rules of the Association and to perform any other function authorized by the Rules of the Association. The RSC is composed of no

fewer than two and no more than four members of the NAC, and the number of non-industry members equals or exceeds the number of industry members. OGC will continue to act in its role as counsel to the NAC and the RSC.

Currently, all proposed settlements receive at least two layers of independent staff review in addition to the internal supervisory processes of the Departments of Enforcement and Market Regulation. ODA conducts the first review. ODA (formerly called the Office of Disciplinary Policy) was established in 1997 within the Office of the President. Its purpose is to participate in the case authorization process as an independent reviewer of complaints and settlements developed by the Departments of Enforcement and Market Regulation.<sup>4</sup> ODA currently has the authority either to (1) authorize a proposed settlement, in which case it is forwarded to the NAC (via OGC) for acceptance under NASD Code of Procedure Rule 9216 or NASD Code of Procedure Rule 9270, or (2) refuse to authorize a proposed settlement, in which case the matter is sent back to Enforcement or Market Regulation for further consideration.<sup>5</sup>

OGC serves as counsel to the NAC (via the RSC) in its review of proposed settlements authorized by ODA. NASD Code of Procedure Rule 9216 and NASD Code of Procedure Rule 9270 provide that OGC (on behalf of the NASD Regulation General Counsel) may accept settlements on behalf of the NAC or refer them to the RSC for acceptance or rejection, and the RSC may accept or reject settlement on behalf of the NAC.

The proposed rule change will revise the Code of Procedure to substitute ODA for OGC in the settlement process and give ODA the authority to accept, but not reject, settlements. If ODA determines not to accept a settlement, the Departments of Enforcement and Market Regulation will have the option either to renegotiate the settlement based on ODA's input or to submit the proposed settlement to the RSC. When matters are presented to the RSC, ODA and Enforcement and Market Regulation attorneys will present their positions to the RSC (in writing and orally), and

<sup>4</sup> In 1997 and 1998, ODA reviewed all complaints and proposed settlements for policy issues but formal authorization was handled by a Case Authorization Unit in the Department of Enforcement. The policy review and authorization functions were consolidated within ODA in January 1999. Securities Exchange Act Release No. 40864 (Dec. 30, 1998), 64 FR 1050 (Jan. 7, 1999) (File No. SR-NASD-98-90).

<sup>5</sup> In practice, the NAC generally does not review settlements, leaving that functions to OGC and the RSC.

OGC staff will act as advisor to the RSC. As is the case under the current system, the RSC will either accept or reject. ODA will also refer matters to the RSC that raise significant policy issues.

Pursuant to the proposal, OGC will continue to serve as counsel to the NAC and RSC on all adjudicative matters. OGC will advise the NAC and/or RSC on particular settlements as necessary, and it will bring significant policy issues to the NAC as required. OGC will also meet with ODA and Enforcement and Market Regulation management on a regular basis to discuss these significant issues. OGC will review all accepted settlements and identify trends, issues, and evidentiary and legal problems for the NAC.

## 2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) <sup>6</sup> of the Act, which requires, among other things, that the NASD'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. NASD Regulation believes that the proposed rule change will reduce the current duplication of effort by ODA and OGC and shorten the time that it generally takes to accept or reject a settlement.

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

NASD Regulation 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.

### *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 Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) <sup>7</sup> of the Act and Rule 19b-4(f)(3) thereunder <sup>8</sup> as being concerned solely with the administration of the NASD. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

necessary or appropriate, in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the act.<sup>9</sup>

## 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 the NASD. All submissions should refer to File No. SR-NASD-2001-58 and should be submitted by October 25, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-24808 Filed 10-3-01; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44870; File No. SR-NASD-2001-60]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend Pilot Program Clarifying Nasdaq's Authority To Initiate and Continue Trading Halts**

September 28, 2001.

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 September 27, 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") the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 Change**

Nasdaq proposes to extend a three-month pilot program regarding NASD Rule 4120, which 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. The purpose of this proposal is to extend the pilot for an additional three months, through January 27, 2002. There is no new proposed rule language. Nasdaq proposes no substantive changes to the existing pilot, other than to extend its operation through January 27, 2002.

### **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 its proposal and discussed any comments it received regarding the proposal. 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

<sup>6</sup> 15 U.S.C. 78o-3(b)(6).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(3).

<sup>9</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> Nasdaq asked, and the Commission agreed, to waive the 5-day pre-filing notice requirement. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).