

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-2002-15 and should be submitted by May 22, 2002.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-10716 Filed 4-30-02; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45813; File No. SR-NASD-2002-55]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Minimum Life of Directed Orders in Nasdaq's SuperMontage System and the Minimum Life of SelectNet Orders

April 24, 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 April 18, 2002, 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 ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. 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

The NASD proposes to: (1) establish a minimum life of five seconds for Directed Orders in Nasdaq's future Order Display and Collector Facility ("NNMS" or "SuperMontage"), and (2) reduce from ten seconds to five seconds the minimum time period before an order entered into Nasdaq's SelectNet system may be cancelled by the entering party. If approved, Nasdaq will implement both rule changes on July 1, 2002.

Proposed new language is *italicized*; proposed deletions are in [brackets].

\* \* \* \* \*

#### 4706. Order Entry Parameters

(a) No Change.

(b) Directed Orders: A participant may enter a Directed Order into the NNMS to access a specific Attributable Quote/Order displayed in the Nasdaq Quotation Montage, subject to the following conditions and requirements:

(1) through (3) No Change.

(4) *a Directed Order entered into the system may not be cancelled until a minimum of five seconds has elapsed after the time of entry. This five second time period shall be measured by NNMS.*

\* \* \* \* \*

#### 4720. SelectNet Service

(a) Cancellation of a SelectNet Order

No member shall cancel or attempt to cancel an order, whether preferenced to a specific market maker or electronic communications network, or broadcast to all available members, until a minimum time period of [ten] *five* seconds has expired after the order to be canceled was entered. Such [ten] *five* second time period, shall be measured by the Nasdaq processing system processing the SelectNet order.

(b) through (c) 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, 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

As part of its ongoing analysis of its current and future trading systems, Nasdaq continuously reviews system functionality and rules with a view to constant improvement. As a result of this review, and in consultation with industry professionals, Nasdaq has determined to: (1) establish a five-second minimum life for Directed Orders in SuperMontage, and (2) reduce from ten seconds to five seconds the minimum time period before an order entered into SelectNet may be cancelled by the entering party. Because the SuperMontage Directed Order Process will utilize an enhanced version of the current SelectNet system, Nasdaq is jointly proposing these rule changes because it believes that the rules must become effective simultaneously to ensure uniformity of minimum order life parameters across both systems during the phase-in period.<sup>3</sup>

#### a. Creation of Five-Second Minimum Life for Directed Orders in SuperMontage

Directed Orders are orders at any price that have been specifically dispatched to a particular market participant by the sender through the SuperMontage's Directed Order Process. Recipients of Directed Orders have an option to elect to receive such orders as either liability orders with which they must interact consistent with the Commission's Firm Quote Rule,<sup>4</sup> or as non-liability orders that create no obligation to respond by the recipient under the Commission's Firm Quote Rule, and instead may serve as the basis for negotiating a trade.

The minimum life of a Directed Order is the shortest period of time that a Directed Order must remain active and available for a response before an entering party may cancel it. Currently, there is no minimum life for Directed Orders in SuperMontage. Directed Orders may be cancelled immediately after entry, well before a recipient has

<sup>3</sup> Nasdaq intends to introduce SuperMontage through a phased roll-out process where limited numbers of securities will transition to trading in the new SuperMontage environment under new rules, while the remainder will continue to trade in Nasdaq's current environment. Nasdaq represents that, during this transition, both SuperMontage and SelectNet will continue to operate, and a single uniform minimum order cancellation time parameter will be needed governing both systems.

<sup>4</sup> See Rule 11Ac1-1 under the Act, 17 CFR 240.11Ac1-1.

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

<sup>11</sup> 15 U.S.C. 78s(b)(1).

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

had an opportunity to interact or respond to them.<sup>5</sup>

Currently, in SelectNet an order cancellation can occur even if the order has been accepted and executed by the recipient, if the cancellation message from the entering party reaches the Nasdaq system before the recipient's acceptance and execution. The SuperMontage will also operate in this manner. Thus, if after the five-second minimum life of a Directed Order the entering party submits a cancellation but the order has been accepted and executed by the recipient, the system would recognize whichever message, cancellation or execution, that it receives first. However, Nasdaq anticipates that, in most cases, the proposed five-second minimum life for Directed Orders will provide the recipient with ample time to accept and execute the order before the sender is eligible to submit a cancellation message.<sup>6</sup>

In order to ensure that recipients are given a reasonable opportunity to answer or otherwise process incoming Directed Orders, Nasdaq proposes to establish a five-second minimum life for those orders. Under this proposed rule change, a party entering a Directed Order into SuperMontage cannot cancel that order for at least five seconds. Nasdaq believes that minimum order life parameters reduce the potential for electronic gaming and system burdens that can result when orders are entered and are thereafter immediately cancelled in rapid succession, and therefore do not represent true trading interest. Conversely, Nasdaq believes that having too long a time period in which such orders must remain in force before cancellation exposes order-entry parties to the potential for inferior executions during rapid price movements. Balancing these considerations, Nasdaq proposes to adopt the five-second minimum life standard for Directed Orders. Nasdaq believes that a five-second minimum life for Directed Orders should create a proper balance between the needs of market participants to respond to the

rapid, more automated nature of trading in a SuperMontage environment and the prevention of inappropriate order-entry and cancellation activity. In connection with the introduction of a five-second Directed Order minimum life parameter, Nasdaq proposes to reduce the minimum life of SelectNet orders, as set forth below.

#### *b. Reduction of SelectNet Minimum Time Period Before Order Cancellation*

Currently, market participants entering SelectNet orders must wait a minimum of ten seconds after entry before they may cancel them. Like the minimum life standards proposed above for SuperMontage Directed Orders, this ten-second time period was designed to give the recipients of SelectNet messages time to process and respond to those messages.

Nasdaq represents that SuperMontage's Directed Order Process will rely on a substantially improved version of Nasdaq's current SelectNet system architecture and processing functionality, including the parameter dictating the minimum life of orders. The parameter dictating the minimum life of orders is a single integrated functional and timing standard that will be shared simultaneously by both the SelectNet and SuperMontage systems. Therefore, in order for Nasdaq to implement the five-second order cancellation parameter for SuperMontage Directed Orders, it will be necessary, prior to the launch of SuperMontage, to adopt a single uniform minimum time period before orders (both SelectNet orders and SuperMontage Directed Orders) may be cancelled by entering market participants. Nasdaq therefore proposes to reduce the SelectNet pre-cancellation waiting period from ten seconds to five seconds, and use that same five-second cross-system standard going forward for Directed Orders when SuperMontage becomes operational. Nasdaq notes that the average SelectNet message response time of the overwhelming majority of order-delivery market participants is currently less than two seconds. As such, Nasdaq believes that a five-second SelectNet minimum order time period is more than sufficient to allow time for a response to incoming messages both during the transition period from SelectNet to SuperMontage, and thereafter for the Directed Order Process.

Nasdaq proposes to implement the reduction of the SelectNet order pre-cancellation minimum on July 1, 2002. As stated above, Nasdaq proposes to make the five-second pre-cancellation minimum for SuperMontage Directed Orders effective on that same date and

proposes to implement the rule change upon launch of the SuperMontage system.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(6)<sup>7</sup> of the Act, in that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with person 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.

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

Nasdaq 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.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange neither solicited nor received written comments with respect to the proposed rule change.

## 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 self-regulatory organization 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, 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.,

<sup>5</sup> Nasdaq notes that the SuperMontage Directed Order Process operates differently than the process for Non-Directed Orders. If a Non-Directed Order is "in delivery" (delivered to a recipient), SuperMontage prevents the entering party from cancelling that order. Directed Orders in SuperMontage are not subject to that processing restriction and can, under current SuperMontage rules, be cancelled immediately after entry, even if they have been already delivered to a market participant.

<sup>6</sup> Telephone conversation between Thomas P. Moran, Associate General Counsel, Nasdaq, and Sapna C. Patel, Attorney, Division of Market Regulation, Commission, on April 23, 2002.

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

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-2002-55 and should be submitted by May 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

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

[FR Doc. 02-10717 Filed 4-30-02; 8:45 am]

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## DEPARTMENT OF STATE

[Public Notice 3999]

### Developing Department of State Information Quality Guidelines Pursuant to OMB Information Quality Guidelines Under Section 515 of the Treasury and General Government Appropriations Act for FY 2001 (Public Law 106-554; HR 5658)

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State (DOS) is now soliciting comments through its website on proposed Information Quality Guidelines Pursuant to OMB Information Quality Guidelines under Section 515 of the Treasury and General Government Appropriations Act for FY 2001 (Public Law 106-554; HR 5658). From May 1 through May 31, 2002, the public is invited to comment on these draft guidelines, which may be found at <http://www.state.gov/r/pa/ei/rls/infoguide/>. All comments will be considered as DOS develops Information Quality Guidelines pursuant to Office of Management and Budget Final Guidelines issued on February 22, 2002 (67 FR 8451-8460). Comments submitted in response to this notice may be disclosed in whole or part to OMB in conjunction with the DOS submission of revised guidelines for

OMB review. The submitted comments become a matter of public record. Notice of the availability of DOS guidelines, as revised, will be published in the **Federal Register** and the revised guidelines will be available on the DOS web site no later than October 1, 2002.

**Authority:** Section 515 of the Treasury and General Government Appropriations Act for FY 2001 (Public Law 106-554; HR 5658) and the Office of Management and Budget Final Guidelines issued on January 3, 2002 (67 FR 369-378), as corrected and reprinted on February 22, 2002 (67 FR 8451-8460).

**DATES:** The public is invited to submit comments relative to the proposed guidelines from May 1 through May 31, 2002.

**ADDRESSES:** Comments may be submitted by electronic mail to [dnewman@pd.state.gov](mailto:dnewman@pd.state.gov).

**FOR FURTHER INFORMATION CONTACT:** David S. Newman, Attorney-Adviser, Office of the Legal Adviser, Department of State (telephone: 202/619-6982; e-mail: [dnewman@pd.state.gov](mailto:dnewman@pd.state.gov)). The address is Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: April 26, 2002.

**William A. Eaton,**

*Assistant Secretary for Administration  
Department of State.*

[FR Doc. 02-10882 Filed 4-30-02; 8:45 am]

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Determinations Under the African Growth and Opportunity Act

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** The United States Trade Representative (USTR) has determined that Senegal has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress towards implementing and following, the customs procedures required by the African Growth and Opportunity Act (AGOA). Therefore, imports of eligible products from Senegal qualify for the textile and apparel benefits provided under the AGOA. In addition, this notice modifies the Harmonized Tariff Schedule of the United States (HTS) to add Swaziland to the list of "lesser

developed beneficiary sub-Saharan African countries."

**DATES:** Effective April 23, 2002.

**FOR FURTHER INFORMATION CONTACT:** Chris Moore, Director for African Affairs, Office of the United States Trade Representative, (202) 395-9514.

**SUPPLEMENTARY INFORMATION:** The AGOA (Title I of the Trade and Development Act of 2000, Pub. L. No. 106-200) provides preferential tariff treatment for imports of certain textile and apparel products of "beneficiary sub-Saharan African countries," provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 (Oct. 2, 2000), the President designated Senegal as a "beneficiary sub-Saharan African country." Proclamation 7350 delegated to the United States Trade Representative the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the HTS. Based on actions that Senegal has taken, I have determined that Senegal has satisfied these two requirements.

In Proclamation 7400 (Jan. 17, 2001), the President proclaimed Swaziland a lesser developed beneficiary sub-Saharan African country for purposes of section 112(b)(3)(B) of the AGOA. Due to a technical error, Swaziland was not added to U.S. note 2(d) to subchapter XIX of chapter 98 of the HTS. USTR determined that Swaziland qualified for the textile and apparel benefits of the AGOA effective July 26, 2001. See 66 FR 41648.

According, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 to subchapter XIX of chapter 98 of the HTS are each modified by inserting "Senegal" in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries

<sup>8</sup> 17 CFR 200.30-3(a)(12).