

seeks, on a three month pilot basis, to reduce these charges by \$0.08 for equity options and \$0.18 for QQQ options. In order for a specialist or ROT to qualify for the fee reduction, the option trades must be between market makers,<sup>5</sup> *i.e.* the other side of the trade must be a specialist, ROT or away market maker.<sup>6</sup> The Exchange believes that a three month pilot program for this fee reduction program is appropriate so that it is able to monitor and evaluate the effectiveness of the fee reduction.

This proposed change is expected to reduce the overall option transaction fee for specialists and ROTs to \$0.28 for both equity and QQQ options in connection with market maker to market maker trades. In the case of equity option market maker to market maker trades, the new fee breakdown after the fee reduction will consist of a \$0.18 transaction fee, a \$0.05 comparison fee and a \$0.05 brokerage fee. For QQQ option market maker to market maker trades, the new fee breakdown after the fee reduction will consist of a \$0.08 transaction fee, a \$0.10 licensing fee, a \$0.05 comparison fee and a \$0.05 brokerage fee. The Amex believes that the proposed fee reduction of transaction costs for market maker to market maker trades is reasonable and will help to make the Exchange's fees more attractive and competitive with the other options exchanges.

## 2. Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,<sup>7</sup> in general, and with section 6(b)(4)<sup>8</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

<sup>5</sup> Section 3(a)(38) of the Act defines "market maker" as any specialist permitted to act as a dealer, any dealer acting in the capacity of block positioner, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.

<sup>6</sup> An "away market maker" is a member of another national securities exchange registered as a market maker in an options class(es). An "away market maker" is considered to be a "broker-dealer" for purposes of the Exchange's fee schedule. Thus, "away market makers" would pay a \$0.19 transaction fee for equity options, including the QQQ options; a \$0.04 comparison fee; and a \$0.03 floor brokerage fee. Telephone Call between Jeffrey P. Burns, Associate General Counsel, Amex, Kelly Riley, Senior Special Counsel, Division, Commission, and Sonia Trocchio, Special Counsel, Division, Commission (June 16, 2003).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(4).

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and Rule 19b-4(f)(2)<sup>10</sup> thereunder. 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 the furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 Amex. All submissions should refer to File No. SR-Amex-2003-52 and should be submitted by July 29, 2003.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

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

[FR Doc. 03-17144 Filed 7-7-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48113; File No. SR-NASD-2003-99]

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Proposed Amendment to Rule 6260 Regarding New Issue Notification Procedures for TRACE-Eligible Securities

June 30, 2003.

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 June 19, 2003, the National Association of Securities Dealers, Inc. ("NASD") 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 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 Change

NASD is proposing to amend Rule 6260(a) and (b) to require members to provide additional, descriptive information in the notice that is sent to NASD and identifies the basic terms of a new TRACE-eligible security ("new issue notification"), and to provide the information required in Rule 6250(b) by e-mail or facsimile. Rule 6260 is one of the Trade Reporting and Compliance Engine ("TRACE") rules. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

\* \* \* \* \*

## 6200. Trade Reporting and Compliance Engine (TRACE)

## 6260. Managing Underwriter Obligation To Obtain CUSIP

(a) In order to facilitate trade reporting and dissemination of secondary transactions in TRACE-eligible securities, the member that is the

<sup>11</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.

managing underwriter of any newly issued TRACE-eligible security must obtain and provide information *by e-mail or facsimile* to the TRACE Operations Center as required under paragraph (b). If a managing underwriter is not appointed, the group of underwriters must comply with paragraph (b).

(b) For such TRACE-eligible securities, the managing underwriter must provide to the TRACE Operations Center, *by email or facsimile*: (1) the CUSIP number; (2) the issuer name; (3) the coupon rate; (4) the maturity; (5) whether Rule 144A applies; and (6) a brief description of the issue (e.g., senior subordinated note, senior note); and, (7) information, as determined by NASD, that is required to determine if a TRACE-eligible security must be disseminated under Rule 6250 (e.g., size of issue and rating), or if any of items (2) through (7) has not been determined, such other information as NASD deems necessary. The managing underwriter must obtain the CUSIP number and provide it and the information listed as (2) through (7) not later than 5 p.m. on the business day preceding the day that the registration statement becomes effective, or, if registration is not required, the day before the securities will be priced. If an issuer notifies a managing underwriter, or the issuer and the managing underwriter determine, that the TRACE-eligible securities of the issuer shall be priced, offered and sold the same business day in an intra-day offering under Rule 415 of the Securities Act of 1933 or Rule 144A of the Securities Act of 1933, the managing underwriter shall provide the information not later than 5 p.m. on the day that the securities are priced and offered, provided that if such securities are priced and offered on or after 5 p.m., the managing underwriter shall provide the information not later than 5 p.m. on the next business day. The managing underwriter must make a good faith determination that the security is a TRACE-eligible security before submitting the information to the TRACE Operations Center.

\* \* \* \* \*

## 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 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. 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

#### 1. Purpose

NASD Rule 6260 currently requires a member that is the managing underwriter of the initial offering of a TRACE-eligible security to notify NASD and provide certain descriptive information about the security at the time of the initial offering of the security ("new issue notification"). Specifically, Rule 6260(b) currently requires that the new issue notification include: (a) The CUSIP number; (2) the issuer name; (3) the coupon rate; (4) the maturity; (5) whether Rule 144A applies; and (6) a brief description of the issue (e.g., a senior subordinated note, a senior note). In addition, the rule provides, if such information has not been determined, the member must provide such other information as NASD deems necessary. The purpose of Rule 6260 is to require members that are acting in a capacity of managing underwriter or are otherwise designated in the course of an offering of a TRACE-eligible security to notify NASD by certain times set forth in the rule so that the TRACE system is able to capture, and, when applicable, disseminate transaction information as soon as secondary trading begins.

NASD is proposing to amend Rule 6260(a) and (b) to explicitly require that members provide information relating to dissemination eligibility in the new issue notification. The additional information to be required is the information needed to determine if a new TRACE-eligible security is subject to dissemination.

The current "phasing-in" of dissemination was developed in response to industry concerns that dissemination might adversely affect the bond markets.<sup>3</sup> Certain market participants urged that dissemination occur over time, by phasing in the requirement for specifically defined groups of securities with certain characteristics. To properly administer dissemination, NASD must obtain and assess information about a TRACE-eligible security to determine if dissemination is required under Rule 6250 at the same time that NASD obtains identifying information about a

new TRACE-eligible security to properly and timely enter the security into the TRACE system.

The proposed additional information requirements in Rule 6260 are directly related to the increasing complexity of the dissemination requirements in effect and anticipated under Rule 6250.<sup>4</sup> Recently, the SEC approved amendments to Rule 6250 that established additional criteria for determining dissemination.<sup>5</sup> NASD must review the additional criteria, such as the original issue size and the ratings of a new TRACE-eligible security, to determine if the transaction information for a security must be disseminated under Rule 6250.<sup>6</sup> This information is

<sup>4</sup> On July 1, 2002, when TRACE began, under Rule 6250, NASD was required to disseminate transaction information on only two categories of TRACE-eligible securities: (1) Investment Grade securities having an initial issuance size of \$1 billion or greater; and (2) 50 Non-Investment Grade securities designated by NASD according to a variety of criteria set forth in the Rule. See Rule 6250(a)(1) and (2), respectively.

<sup>5</sup> On January 31, 2003, the SEC approved amendments to Rule 6250, requiring NASD to disseminate transaction information on two additional categories of debt securities. Under new paragraph (a)(3) of Rule 6250, NASD disseminates transaction information on any TRACE-eligible security that is Investment Grade, is rated by Moody's Investors Service, Inc. as "A3" or higher, and by Standard & Poor's, a division of McGraw Hill Co., Inc. as "A-" or higher, and has an original issue size of \$100 million or greater. Under new paragraph (a)(4), NASD disseminates transaction information on approximately 120 TRACE-eligible securities designated by NASD that are rated "Baa/BBB" at the time of designation. See Securities Exchange Act Release No. 47302 (January 31, 2003), 68 FR 6233 (February 6, 2003) (order approving SR-NASD-2002-174), and Securities Exchange Act Release No. 47566 (March 25, 2003), 68 FR 15490 (March 31, 2003) (notice of filing and immediate effectiveness of SR-NASD-2003-41).

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<sup>6</sup> For example, to administer the current dissemination provisions of Rule 6250, when a member provides NASD a new issue notification, generally NASD would expect the member to include both the original issue size of the offering and the rating of the security.

<sup>3</sup> See Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131, 8133-8135, 8141-8142 (January 29, 2001) (order approving SR-NASD-99-65).

readily available to members responsible for compliance with Rule 6260 in a particular offering, and members would be able to provide this additional information as part of the Rule 6260 compliance process with little difficulty. Moreover, in the future, NASD may propose additional standards for dissemination to the SEC under Rule 6250. If additional standards are proposed and adopted, NASD would be required to identify and analyze additional characteristics of a security to determine if the security is subject to dissemination immediately before trading begins. The proposed amendment to Rule 6260(b), as drafted, will allow NASD to require members to submit the descriptive information that is then relevant in making a dissemination determination under Rule 6250.

NASD is also proposing that the new issue notification be submitted via email or facsimile to NASD. Currently, many members e-mail the new issue notification to NASD. Some members have provided the new issue notification by telephone. Members that provide the new issue notification by telephone would be required to provide it by email or a facsimile in order to comply with the proposed amendment.

## 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,<sup>7</sup> which requires, among other things, that 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 believes that the proposed rule change, if approved, will enhance transparency in the debt securities markets and will provide NASD, as the self-regulatory organization designated to regulate the over-the-counter markets, with heightened capabilities to regulate and provide surveillance of the debt securities markets to prevent fraudulent and manipulative acts and practices for the protection of investors and the public interest.

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

NASD 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**

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, 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 NASD. All submissions should refer to file number SR-NASD-2003-99 and should be submitted by July 29, 2003.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-17143 Filed 7-7-03; 8:45 am]

**BILLING CODE 8010-01-P**

## **DEPARTMENT OF STATE**

### **[Public Notice 4394]**

### **Bureau of Nonproliferation; Nonproliferation Measures Imposed on an Entity in China, Including a Ban on U.S. Government Procurement**

**AGENCY:** Bureau of Nonproliferation, Department of State.

**ACTION:** Notice.

The U.S. Government has determined that the effective date of Public Notice 4370 (68 Federal 28314), concerning the imposition of measures on North China Industries Corporation (NORINCO), is the date of publication of that Notice in the **Federal Register**, May 23, 2003.

**FOR FURTHER INFORMATION CONTACT:** On general issues: Vann H. Van Diepen, Office of Chemical, Biological, and Missile Nonproliferation, Bureau of Nonproliferation, Department of State, (202-647-1142). On import ban issues, Rochelle E. Stern, Chief, Policy Planning and Program Management Division, Office of Foreign Assets Control, Department of the Treasury, (202-622-2500). On U.S. Government procurement ban issues: Gladys Gines, Office of the Procurement Executive, Department of State, (703-516-1691).

Dated: July 1, 2003.

**Andrew K. Semmel,**

*Acting Assistant Secretary of State for Nonproliferation, Department of State.*

[FR Doc. 03-17203 Filed 7-7-03; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

### **Availability of Changes to Advisory Circular 27-1B, Certification of Normal Category Rotorcraft, and Advisory Circular 29-2C, Certification of Transport Category Rotorcraft**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability of Advisory Circular (AC) changes.

**SUMMARY:** This notice announces the availability of changes to AC 27-1B, Certification of Normal Category Rotorcraft, and AC 29-2C, Certification of Transport Category Rotorcraft. These changes revise AC paragraph 27.602, Critical Parts; AC paragraph 29.547A, Main Rotor and Tail Rotor Structure; AC paragraph 29.602, Critical Parts; and AC paragraph 29.917A, Design. These AC paragraphs are final and replace the existing paragraphs AC 27.602, AC

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

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