

calculating the *pro rata* loss allocation, the average daily margin calculation for each member will be determined without regard to the interim margin procedures except that any daily margin calculation for a special member that exceeds the special member's base requirement shall be considered as the base requirement.

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>5</sup> and the rules and regulations thereunder because it will facilitate the prompt and accurate clearance and settlement of securities transactions.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

EMCC does not believe that the proposed rule change will have an impact on or impose a 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 relating to the proposed rule change have been solicited or received. EMCC will notify the Commission of any written comments it receives.

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

Section 17A(b)(3)(F) of the Act<sup>6</sup> requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule change should provide EMCC with margin that is adequate to protect EMCC from financial exposure if an interdealer broker or clearing firm experiences financial difficulty while still providing a clearing fund framework which does not deter interdealer brokers and clearing firms from joining EMCC. Therefore, the Commission believes that the proposed rule change is consistent with EMCC's safeguarding obligations under Section 17A(b)(3)(F) of the Act.

EMCC has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval should immediately encourage

additional participation in EMCC which should in turn reduce risk to those involved in emerging market debt transactions.

**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. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of EMCC. All submissions should refer to File No. SR-EMCC-98-04 and should be submitted by August 27, 1998.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-EMCC-98-04) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-21059 Filed 8-5-98; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-40286; File No. SR-NASD-98-38]

**Self-Regulatory Organizations; National Association of Securities Dealers, Inc; Order Approving Proposed Rule Change Relating to NASD's Order Audit Trail System and Recordkeeping Rules**

July 31, 1998.

**I. Introduction**

On May 22, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASD"), submitted to the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposed rule change to amend NASD Books and Records Rule 3110 and NASD Order Audit Trail System ("OATS") Rules 6954 and 6957 to clarify and modify the recordkeeping requirements associated with the OATS rules.

On June 10, 1998, the proposed rule change was published for comment in the **Federal Register** and notice was given that three non-substantive, technical revisions to NASD Rules 3110 and 6957, which were concerned solely with the administration of the NASD, had become effective pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and subparagraph (e)(3) of Rule 19b-4<sup>4</sup> thereunder<sup>5</sup>. This order approves the portions of the proposal relating to substantive amendments to the OATS recordkeeping requirements.

**II. Background and Description of the Proposal**

On March 6, 1998, the Commission approved NASD OATS Rules 6950 through 6957.<sup>6</sup> The OATS rules require member firms to capture and record specific information related to the handling or execution of orders for equity securities in The Nasdaq Stock Market ("Nasdaq"). Firms must then report that information to the NASD through OATS. The rules also require members to synchronize their business

<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 19b-4(e)(3).

<sup>5</sup> See Securities Exchange Act Release No. 40069 (June 4, 1998) 63 FR 31820.

<sup>6</sup> See Securities Exchange Act Release No. 39729 (March 6, 1998) 63 FR 12559 (March 13, 1998) (order approving File No. SR-NASD-97-56).

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 15 U.S.C. 78q-1(b)(93)(F).

<sup>7</sup> CFR 200.30-3(a)(12).

clocks to one time source. At the same time, the Commission also approved new NASD Rule 3110(h), which requires members to record and maintain certain information that is relevant to the OATS data reporting requirement.

The NASDR proposes to amend the OATS Rules and the books and records requirements that apply specifically to OATS data. The proposal would revise OATS Rule 6954(c) by adding a new paragraph (6). Rule 6954(c) sets forth the order information that must be recorded under the OATS rules when an order is transmitted, either from one department to another within a member firm or to another member. Rule 6954(c) does not, however, presently contain a requirement regarding the transmission of an order to a non-member such as a foreign broker-dealer or a foreign exchange. The NASDR proposes to add new paragraph (6) to Rule 6954(c) to require members to record certain information when an order is transmitted to a non-member, including the fact that it was so transmitted. NASD members will be required to report this information to OATS pursuant to NASD Rule 6955. This additional information will enable the NASDR to track an order that a member has received and reported to OATS that is then routed to a non-member.

The NASDR also proposes to revise both OATS Rule 6954(a)(4) and Rule 3110(h) to set forth specific record-keeping requirements. OATS Rules 6954(a)(1) and (a)(4) require members to record specified information and to retain records of that information; Rule 3110(h) requires members to record and maintain information required by OATS. However, these rules presently do not specify how long the records must be maintained or the requirements that apply when members wish to utilize micrographic media or electronic storage media to maintain such records. The NASDR proposes to add new language to both Rule 6954(a)(4) and Rule 3110(h) to make explicit the record-keeping requirements related to OATS data. The rules have been revised to specifically reference the record retention period specified in SEC Rule 17a-4(b) and the conditions set forth in SEC Rule 17a-4(f) for reproducing records on micrographic media or by means of electronic storage media.

In addition, the NASDR proposes to revise Rule 310(h)(1) to require members to record and maintain information related to an "order," as that term is defined in OATS Rule 6951(j). As stated above, new Rule 3110(h) was adopted to require members to record and maintain

information relevant to the OATS data recording and reporting requirements. The NASDR proposes to limit Rule 3110(h) to require members to record and maintain information only with respect to an "order" in Nasdaq equity securities, as defined by OATS Rule 6951(j).

Finally, the NASDR proposes to revise Rule 6957(d) to indicate the effectiveness dates for compliance with the proposed amendments to Rule 3110(h).

### III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.<sup>7</sup> Specifically, the Commission believes the proposal is consistent with the requirements of Section 15A(b)(6) of the Act<sup>8</sup> in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.

The Commission notes that the proposed addition of paragraph (6) to Rule 6954(c) will require member firms to record information relating to the transmission of orders to non-members, such as foreign broker-dealers and foreign exchanges. The Commission believes that this information, which will be reported to OATS pursuant to Rule 6955, should enhance the NASDR's ability to track transactions in Nasdaq equity securities. OATS was designed primarily to improve the NASDR's ability to monitor member firms' transactions in Nasdaq equity securities for possible violations of NASD rules or of the federal securities laws, a purpose that is consistent with Section 15A of the Act.<sup>9</sup> Because the current proposal will enhance the NASD's ability to gather information required by the OATS rules, it too is consistent with the Act.

The proposed amendments relating to the recordkeeping requirements applicable to OATS are designed to provide more specific information regarding the permissible maintenance of required records. Specifically, the proposal specifies the length of time required records must be maintained and the requirements applicable to the use of micrographic or electronic storage media. The proposal also specifically references the record retention period and conditions set forth in the

<sup>7</sup> In approving this rule, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

<sup>9</sup> 15 U.S.C. 78o-3.1.

Commission's Rule 17a-4. The Commission believes that the proposed amendments should help to clarify member firms' record retention requirements related to OATS data.

The Commission notes that the proposal would reference in NASD Rule 3110(h) the definition of the term "order" set forth in OATS Rule 6951(j). The Commission believes that the NASDR's efforts to achieve consistency and uniformity in the definitions used in the NASD rules are reasonable and should ease the compliance burdens of member firms.

Finally, the Commission notes that the proposal would establish effective dates for compliance with the proposed amendments to Rule 3110(h). The Commission believes that the proposed deadlines for compliance are reasonable, given the implementation schedule of the OATS rules, set forth in NASD Rule 6957(a)-(c).

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-NASD-98-38) is approved.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-20968 Filed 8-5-98; 8:45 am]

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## DEPARTMENT OF STATE

[Public Notice 2866]

### Bureau of Political-Military Affairs; Imposition of Nonproliferation Measures Against Entities in Russia

AGENCY: Department of State.

ACTION: Notice.

**SUMMARY:** The Acting Secretary of State has determined that seven entities in Russia have engaged in missile technology proliferation activities that require the imposition of measures pursuant to Executive Order No. 12938 of November 14, 1994, as amended by Executive Order No. 13094 of July 28, 1998.

**EFFECTIVE DATE:** July 30, 1998.

**FOR FURTHER INFORMATION CONTACT:** On general issues; Vann H. Van Diepen, Director, Office of Chemical, Biological and Missile Nonproliferation, Bureau of Political-Military Affairs, Department of State (202-647-1142). On import ban issues; John T. Roth, Director, Policy Planning and Program Management,

<sup>9</sup> 15 U.S.C. 78s(b)(2).

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