

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42515; File No. SR-NASD-00-09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Extension of the Effective Date of Phase Three of Order Audit Trail System Rules

March 10, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4, thereunder,² notice is hereby given that on March 9, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASDR") 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 NASDR. The NASDR has designated this proposal as one constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon the Commission's receipt of this filing. 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

NASDR proposes to amend NASD Rule 6957 to extend the effective date of the implementation of Phase Three of the Order Audit Trail System ("OATS") Rules from July 31, 2000 to October 31, 2000. The text of the proposed rule change is available at the NASD and at the Commission.

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 NASDR 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 NASDR 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 March 6, 1998, the Commission approved the NASD's OATS Rules 6950 through 6957.⁴ OATS provides a substantially enhanced body of information regarding orders and transactions that improves the NASDR's ability to conduct surveillance and investigations of member firms for violations of Association rules. In addition, OATS is intended to fulfill one of the undertakings contained in the order issued by the Commission relating to the settlement of an enforcement action against the NASD for failure to adequately enforce its rules.⁵ Pursuant to the SEC Order, OATS was required, at a minimum, to: (1) Provide an accurate, time-sequenced record of orders and transactions, beginning with the receipt of an order at the first point of contact between the broker/dealer and the customer or counterparty and further documenting the life of the order through the process of execution, and (2) provide for market-wide synchronization of clocks used in connection with the audit trail.⁶

In general, OATS imposes obligations on member firms to record in electronic form and to report to the NASDR certain information with respect to orders originated, received, transmitted, modified, canceled, or executed ("reportable events") by NASD members relating to equity securities traded on The Nasdaq Stock Market, Inc. ("Nasdaq"). This information is integrated with quote information and transaction information reported to the Automated Confirmation Transaction Service ("ACT")⁷ to provide the Association with an accurate, time-sequenced record of orders and other transactions.

The effective dates for OATS requirements are set forth in NASD Rule 6957, which provides for different phases of implementation. All members were required to synchronize their computer system clocks and all mechanical clocks that record times for regulatory purposes by August 7, 1998, and July 1, 1999, respectively. In

addition, the implementation schedule required that electronic orders received at the trading department of a member that is a market maker in the subject securities and those received by electronic communications networks ("ECNs") be entered into OATS as of March 1, 1999 ("Phase One"). Not all information relating to electronic orders received by market makers was required to be reported to OATS during Phase One. Information items relating to all electronic orders, however, was required to be reported to OATS by August 1, 1999 ("Phase Two").

Under the current implementation schedule, the OATS rules will apply to all manual orders on July 31, 2000 ("Phase Three"). With respect to manual orders and all orders received by ECNs, however, the data required to be electronically recorded and transmitted to the OATS is limited to information that is expected to be readily available at the trading desk.⁸

Since the implementation of OATS, NASDR has been closely reviewing OATS activities with the goal of identifying ways in which to improve OATS and enhance the effectiveness of OATS as a regulatory tool. In this regard, NASDR is considering certain changes to OATS that it believes will enhance NASDR's automated surveillance for compliance with trading and market making rules such as the NASD's Limit Order Protection Interpretation, the SEC's Order Execution Rules and a member firm's best execution obligations.

Several of these enhancements that the staff is considering would change the requirements that will become effective as part of Phase Three under current OATS rules. To provide NASDR

⁸ Specifically, with respect to manual orders, information item (18) (type of account for which the order is submitted) of NASD Rule 6954(b) would be required to be reported only to the extent that such information item is available. Information items (4) (identification of any department or the identification number of any terminal where an order is received) and (5) (identification of the department of the member originating an order) of Rule 6954(b) and (1) (recordkeeping requirements for orders transmitted to another department within the member) specified in Rule 6954(c) would not be required to be recorded and reported with respect to manual orders. In addition, information items (4) (identification of any department or identification number of any terminal where an order is received), (5) (the identification of the department of the member that originates the order), (9) (the designation of the order as a short sale), (14) (any request by a customer that an order not be displayed or that a block size order be displayed, pursuant to Rule 11Ac1-4(c)), (17) (the identification of the order as related to a Program trade or an Index Arbitrage Trade), and (18) (the type of account for which the order is submitted) specified in Rule 6954(b) would not be required to be recorded and reported by ECNs receiving orders either electronically or manually.

⁴ See Securities Exchange Act Release No. 39729, 63 FR 12559 (March 13, 1998) (order approving File No. SR-NASD-97-56).

⁵ See In the Matter of the National Association of Securities Dealers, Inc., Securities Exchange Act Release No. 37538, August 8, 1996; Administrative Proceeding File No. 3-9056 ("SEC Order").

⁶ *Id.*

⁷ ACT is an automated system owned and operated by Nasdaq that captures transaction information in real-time.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

adequate time to fully analyze and consider these changes and determine whether further proposed rule changes are appropriate, the NASDR is proposing that the effective date of Phase Three implementation be extended from July 31, 2000 to October 31, 2000. In addition, the NASDR believes this extension is particularly important in light of the increased constraints on member technology and systems due to other impending regulatory initiatives, such as decimalization.

2. Statutory Basis

The NASDR believes the proposed rule change is consistent with Section 15A(b)(6) of the Act,⁹ which requires, among other things, that the Association's rules 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. The NASDR believes that extending the effective date of Phase Three implementation of OATS will provide NASDR adequate time to fully analyze and consider certain potential enhancements to OATS and determine whether further proposed rule changes are appropriate.

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

The NASDR does not believe that the proposed rule change will impose a 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 proposed rule change has been filed by the Association as a "non-controversial" rule change under Rule 19b-4(f)(6) under the Act.¹⁰ Consequently, because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and does not become operative until 30 days after the date on which it was filed, and because NASDR provided the Commission with written notice of its intent to file the proposed

rule change prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and Rule 19b-4(f)(6) thereunder.¹²

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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.

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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. Copies of the submissions, 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 also will be available for inspection and copying at the NASD. All submissions should refer to File No. SR-NASD-00-09 and should be submitted by April 7, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-6607 Filed 3-16-00; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No.: 09/09-5370]

Notice of Surrender of License

Notice is hereby given that Astar Capital Corporation, located at 9537 E. Gidley Street, Temple City, CA 91780, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Astar

Capital Corp. was licensed by the Small Business Administration on 11/06/86.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was acted on this date, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: March 10, 2000.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 00-6695 Filed 3-16-00; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3245 (Amendment #1)]

State of West Virginia

In accordance with notices received from the Federal Emergency Management Agency on March 8, 2000, the above-numbered Declaration is hereby amended to include Preston, Randolph, Taylor, and Tucker Counties in the State of West Virginia as a disaster area due to damages caused by flooding, severe storms, and landslides. This Declaration is further amended to establish the incident period for this disaster as beginning on February 18, 2000 and continuing through February 22, 2000.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Grant, Pendleton, and Pocahontas Counties in West Virginia, and Garrett County, Maryland. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

The economic injury number for the State of Maryland is 9G9200.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is April 28, 2000 and for economic injury the deadline is November 28, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: March 10, 2000.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 00-6697 Filed 3-16-00; 8:45 am]

BILLING CODE 8025-01-P

⁹ 15 U.S.C. 78o-3(b)(6).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 200.30-3-(a)(12).