and the need for a fair and orderly method of executing odd-lot orders. The NASD and Nasdaq believe this proposed change would prevent fraudulent and manipulative acts, since it would reduce the opportunity for gaming. Additionally, the proposed changes to the five-second interval delay, provide a balance between the need of institutional investors and market professionals for speed, while providing greater price continuity for individual investors. Thus, the NASD and Nasdaq believe the proposal is consistent with Sections 15A(b)(6) and (b)(11),[23] as well as Section 11A(a)(1)(C) of the Act.[24]

The NASD and Nasdaq believe the proposed changes to the order execution algorithm addresses competitive concerns raised by some ECNs, in that all ECNs that do not charge a quote-access fee (whether they accept automatic execution or order delivery) would be treated in time priority. Additionally, the change as it relates to ECNs that charge a fee addresses concerns about best execution. Specifically, this change ensures that an investor's order would be routed to the market participant in Nasdaq that is displaying the best price, when considering quote access fees. Accordingly, the NASD and Nasdaq believe that these changes are consistent with Sections 15A(b)(6) and (b)(11) of the Act,[25] and Sections 11A(a)(1)(C) and 11A(a)(1)(D).[26]

The NASD and Nasdaq believe that the changes regarding the handling of agency orders from UTP Exchanges is consistent with Congress view of a national market system. That is, this approach assures that a customer's order in a Nasdaq security, no matter where it is entered in the National Market System, would be executed on a price/time priority basis. Accordingly, the NASD and Nasdaq believe the proposal is consistent with Sections 11A(a)(1)(C) and 11A(a)(1)(D) of the Act.[27]

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

The NASD and Nasdaq do 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.

[23] 15 U.S.C. 78o–3(b)(6) and (b)(11).

[24] 15 U.S.C. 78k–1(a)(1)(C).

[25] 15 U.S.C. 78o–3(b)(6) and (b)(11).

[26] 15 U.S.C. 78k–1(a)(1)(C) and (a)(1)(D).

[27] 15 U.S.C. 78k–1(a)(1)(C) and (a)(1)(D).

(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 Amendment No. 4, including whether Amendment No. 4 is consistent with the Act. Persons making written submissions 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 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 Amendment No. 4 to file number NASD–99–53 and should be submitted by April 20, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7840 Filed 3–29–00; 8:45 am]

BILLING CODE 8010–01–P

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42571; File No. SR–NASD–99–37]

Self Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Use of Hard To Borrow Lists

March 23, 2000.

I. Introduction

On August 4, 1999, 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''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Rule 3370. The proposal permits the use of a ''Hard to Borrow'' list to comply with affirmative determination requirements for short sales. The NASD submitted Amendment No. 1 to the proposed rule change on November 1, 1999.[3] Notice of the proposed rule change, as amended, was published in the **Federal Register** on January 7, 2000.[4] The Commission received no comments on the proposal.[5] This order approves the proposed rule change.

II. Description of the Proposal

NASD Rule 3370 was designed to prevent abusive short selling and ensure that short sellers satisfy their settlement obligations. The rule currently requires a member or associated person to make an affirmative determination prior to executing certain short sales that it will receive delivery of the subject security, or be able to borrow or otherwise provide delivery of the security, by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Alden Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated October 26, 1999.

[4] *See* Securities Exchange Act Release No. 42306 (January 3, 2000), 64 FR 49261 (''Notice'').

[5] Per the Commission's request, NASD submitted an additional, technical amendment to the proposed rule change deleting a sentence from the descriptive portion of the Notice. The sentence stated that member firms that rely on ''Hard to Borrow'' lists would be required under the proposed rule change to maintain such lists. This requirement is not stated in the actual text of the proposed rule change, which was published as part of the Notice. *See* Letter from Mary N. Revell, Associate General Counsel, NASD Regulation, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated March 14, 2000.

settlement date. The rule also provides that the member or associated person must record the identity of both the individual and the firm contacted who offered assurances that the subject security would be delivered by settlement date or be available for borrowing by settlement date. The rule does not specify the manner in which compliance with its requirements must be recorded.

NASD Rule 3370 currently permits members and associated persons to rely on ''blanket'' or standing assurances that securities will be available for borrowing on settlement date to satisfy their affirmative determination obligations, provided that the information used to generate the ''blanket'' or standing assurance is less than 24 hours old and the member delivers the security on settlement date.[6] ''Blanket'' assurances are commonly referred to as ''Easy to Borrow'' lists. The rule further provides that if a member relying on a blanket or standing assurance fails to deliver the security on settlement date, the NASD will deem such conduct inconsistent with the terms of the rule, absent mitigating circumstances adequately documented by the member.

A ''Hard to Borrow'' list is a list that includes all securities of a given category that are difficult to borrow or unavailable for borrowing. A user of such list may believe it reasonable to infer, under appropriate circumstances, that a specific security absent from the list is easy to borrow. Currently, however, NASD Rule 3370 does not specifically allow a member to rely on a ''Hard to Borrow'' list in this way.

The proposed rule change will permit members and associated persons to rely on a ''Hard to Borrow'' list for any short sales executed in The Nasdaq Stock Market (''Nasdaq'') National Market (''NM'') or exchange-listed securities, provided that (a) the creator of the list attests in writing that any Nasdaq NM or exchange-listed securities not included on the list are easy to borrow or are available for borrowing, and (b) any securities restricted pursuant to Uniform Practice Code (''UPC'') 11830 are included on the list.

Securities restricted pursuant to UPC 11830 are Nasdaq securities that, as published by the NASD, show an aggregate clearing short position of 10,000 shares or more and that are equal to at least 0.5% of the total shares outstanding of the issue. The NASD represents that in practice, securities falling into this category are difficult to borrow. By explicit terms of the proposal, a ''Hard to Borrow'' list must include all such securities in order to qualify for use.

Under the proposed rule change, the member will be able to refer to the ''Hard to Borrow'' list before executing a short sale in a given security. If that security is not on the list, the member or associated person will be considered to have made the requisite affirmative determination and will be permitted to execute the short sale without taking any further steps to satisfy the affirmative determination rule. Conversely, if the security is on the list, then a member or associated person will not be permitted to execute the short sale without taking additional steps to ensure the security's availability.

As with the current rule's provisions with respect to ''Easy to Borrow'' lists, a member or associated person will be permitted to use a ''Hard to Borrow'' list under the proposal only if the information used to generate the list is less than 24 hours old and the member delivers the security on settlement date. The proposal provides that if the member does not deliver the security on settlement date, the NASD shall consider such conduct—absent documented mitigating circumstances—inconsistent with the terms of NASD Rule 3370.

The proposed rule change will permit the use of ''Hard to Borrow'' lists only for Nasdaq NM and exchange-listed securities. For Nasdaq SmallCap and other over-the-counter equity securities not in this category, members will continue to be required to take active steps to determine stock availability. According to NASD Regulation, Nasdaq NM and exchange-listed securities are liquid and highly capitalized, and are less likely to be subject to shore sale abuses than Nasdaq SmallCap and other over-the-counter equity securities, which generally are more thinly traded and illiquid and potentially more vulnerable to short sale abuses.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder, and, in particular, with the requirements of Section 15A[7] of the Act applicable to a registered securities association.[8] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 15A(b)(6)[9] of the Act, 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 Commission believes that the proposal is likely to reduce the time and effort required for a member or associated person to make the requisite determination that a security is available for borrowing. This is because a person using a ''Hard to Borrow'' list needs to check the security against what is usually a relatively short roster of unavailable issues rather than locate it in a long ''Easy to Borrow'' list that may include thousands of names.

Thus the Commission finds that the proposed rule change will promote the objectives of Section 15A(b)(6) by reducing the administrative burdens on members in complying with the affirmative determination rule, thereby expediting the execution of short sales on behalf of investors and possibly affording them better executions.

At the same time, the Commission believes that NASD Rule 3370 as amended under the proposal will continue to assure that short sales are effected only when the securities being sold are in fact readily available for borrowing, and will continue to protect against conduct inconsistent with the purposes of the rule.

When the creator of a ''Hard to Borrow'' list attests in writing, as the proposal requires, that any securities not included on the list are available for borrowing or are easy to borrow, reliance on such ''Hard to Borrow'' list is substantially similar to reliance on an ''Easy to Borrow'' list, which is already permitted under NASD Rule 3370.[10] The proposed rule change further stipulates that in order to qualify for use, a ''Hard to Borrow'' list must

[6] *See* Securities Exchange Act Release No. 36859 (February 20, 1996), 61 FR 7127 (February 26, 1996) (File No. SR–NASD–95–62), approving reliance on ''blanket'' assurances.

[7] 15 U.S.C. 78*o*–3

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] According to NASD Regulation, it will be the responsibility of the member or associated person using the list to determine that the creator of the list is reliable. As noted below, if the security is not delivered by settlement date, the member or associated person will be deemed to have acted in a manner inconsistent with the terms of the rule, absent mitigating circumstances. In addition, NASD Regulation may investigate whether the creator of the list, if a member, has acted in a manner inconsistent with NASD Rule 2110 regarding standards of commercial honor and principles of trade. Telephone conversation between Thomas R. Gira, Vice President, Market Regulation, Mary N. Revell, Associate General Counsel, NASD Regulation, *et al.*, and Gordon Fuller, Special Counsel, and Ira Brandriss, Attorney, Division of Market Regulation, Commission (February 18, 2000).

include any Nasdaq security that has a clearing short position large enough to warrant the special requirements of UPC 11830.[11]

As in the case of reliance on an ''Easy to Borrow'' list, a member or associated person will be permitted to rely upon a ''Hard to Borrow'' list only when the information on the list is no more than 24 hours old. Likewise, the member or associated person will be obligated to maintain a written record of the determination that the security was available for borrowing, including the identity of the individual and firm that offered the assurance that securities absent from the list were available for borrowing or easy to borrow.

Moreover, NASD Rule 3370, as amended, will put members on notice that even if they have relied on the information provided by a ''Hard to Borrow'' list, if they in fact fail to deliver the security by settlement date, they will be deemed to have acted in a manner inconsistent with the rule.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 15A(b)(6).

It is Therefore Ordered, pursuant to Section 19(b)(2)[12] of the Act, that the proposed rule change (SR–NASD–99–37) is hereby approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–7843 Filed 3–29–00; 8:45 am]

BILLING CODE 8010–01–M

[11] The Commission notes that because UPC 11830 applies only to Nasdaq securities, this extra measure of protection is provided only for Nasdaq securities.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before May 30, 2000.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Cynthia Pitts, Program Analyst, Office of Disaster Assistance, Small Business Administration, 409 3rd Street, S.W., Suite 6050.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, Program Analyst, 202–205–6098 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Disaster Home Loan Application''.

Form No's: 5C and 739.

Description of Respondents: Applicant's Requesting SBA Disaster Home Loan.

Annual Responses: 56,418.

Annual Burden: 89,140.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Linda M. Roberts, Director, Office of Security Operations, Small Business Administration, 409 3rd Street, S.W., Suite 5600.

FOR FURTHER INFORMATION CONTACT: Linda M. Roberts, Director, 202–205–6223 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Statement of Personal History''.

Form No: 912.

Description of Respondents: Applicant's for Assistance or Temporary Employment in Disaster.

Annual Responses: 50,000.

Annual Burden: 12,500.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to James Hammersley, Director, Office of Secondary Market & 504, Small Business Administration, 409 3rd Street, S.W., Suite 8300 .

FOR FURTHER INFORMATION CONTACT: James Hammersley, Director, 202–205–7505 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''7(a) Loan Closing Forms''.

Form No's: 147, 148, 159, 160, 160A, 529B, 928 and 1059.

Description of Respondents: SBA Loan Applicants.

Annual Responses: 45,000.

Annual Burden: 135,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 00–7845 Filed 3–29–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3271]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Galleries for Cypriot Art''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Galleries for Cypriot Art,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY from on or about April 3, 2000, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/619–5997). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 24, 2000.

William B. Bader,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 00–7865 Filed 3–29–00; 8:45 am]

BILLING CODE 4710–08–P