rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(F) of the Act, which requires that the rules of a clearing agency be designed to safeguard securities and funds in its custody or control or for which it is responsible.[8] The Commission finds that by having the ability to require an additional clearing fund deposit or deposits in the form of letters of credit in circumstances as described above, the proposed rule change will help to ensure that GSCC has adequate clearing fund assets available to it in the event that it must liquidate the collateral of an insolvent participant. Additionally, the change to GSCC's insolvency rule to include references to certain insolvency proceedings against foreign members will better equip GSCC to handle the financial difficulties of foreign members and should help GSCC to assure the safeguarding of securities and funds in the its custody or control or for which it is responsible. Therefore, the proposed rule change is consistent with GSCC safeguarding obligations under section 17A(b)(3)(F).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–00–12) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–14831 Filed 6–11–03; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47993; File No. SR–NASD–2003–81]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by National Association of Securities Dealers, Inc. Relating to Quote Decrementation in SuperMontage

June 5, 2003.

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 May 12, 2003, 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. On May 29, 2003, Nasdaq filed Amendment No. 1 to the proposal.[3] The Commission is publishing this notice, as amended, 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

Nasdaq proposes to modify how the quotes of order-delivery Electronic Communication Networks (''ECNs'') in Nasdaq's National Market Execution System (''NNMS'' or ''SuperMontage'') will be decremented after they decline an order shipped to them, or partially fill an order sent to them, or fail to respond to the delivery within 30 seconds.[4] Under the proposal, order-delivery ECNs that decline an order, partially fill an order, or fail to respond within 30 seconds to orders sent to them (''time-out'') by SuperMontage will no longer have all of their trading interest at or better than the declined price level removed from the system. Instead, the system after a decline, partial fill, or time-out, will remove the entire amount of each individual quote(s)/order(s) to which the orders was delivered to by NNMS. The proposed rule text is as follows:

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

4710. Participant Obligations in NNMS

(b) Non-Directed Orders

(1) General Provisions—A Quoting Market Participant in an NNMS Security, as well as NNMS Order Entry Firms, shall be subject to the following requirements for Non-Directed Orders:

(A) through (B)—No Change.

(C) Decrementation Procedures—The size of a Quote/Order displayed in the Nasdaq Order Display Facility and/or the Nasdaq Quotation Montage will be decremented upon the delivery of a Liability Order or the delivery of an execution of a Non-Directed Order or Preferenced Order in an amount equal to the system-delivered order or execution.

(i) If an NNMS Auto-Ex ECN has its bid or offer Attributable Quote/Order and Reserve Size decremented to zero without transmission of another Attributable Quote/Order to Nasdaq, the system will zero out the side of the quote that is exhausted. If both the bid and offer are decremented to zero without transmission of a revised Attributable Quote/Order, the ECN will be placed into an excused withdrawal state until the ECN transmits to Nasdaq a revised Attributable Quote/Order.

(ii) If an NNMS Order-Delivery ECN declines or partially fills a Non-Directed Order without immediately transmitting to Nasdaq a revised Attributable Quote/Order that is at a price inferior to the previous price, or if an NNMS Order-Delivery ECN fails to respond in any manner within 30 seconds of order delivery, the system will cancel the delivered order and send the order (or remaining portion thereof) back into the system for immediate delivery to the next [Quoting Market Participant] *eligible Quote/Order* in queue. The system then will zero out [the] *those* ECN['s] Quote/Orders *to which the Non-Directed Order was delivered.* [at that price level on that side of the market,] *If there are no other Quote/Orders at the declined price level*, [and] the ECN's quote on that side of the market will remain at zero until the ECN transmits to Nasdaq a revised Attributable Quote/Order. If both the bid and offer are zeroed out, the ECN will be placed into an excused withdrawal state until the

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

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 29, 2003 (''Amendment No. 1''). In Amendment No. 1, Nasdaq replaced the proposed rule change in its entirety.

[4] Nasdaq's original target date for implementation of this proposal, if approved by the Commission, was June 16, 2003. Nasdaq has revised its intended implementation time-frame for mid-July 2003, and will notify the Commission and market participants when a firm date has been set. Telephone conversation between Thomas Moran, Associate General Counsel, Nasdaq, and Marc McKayle, Special Counsel, Division, Commission on June 5, 2003.

ECN transmits to Nasdaq a revised Attributable Quote/Order.

(iii) If an NNMS ECN's Quote/Order has been zeroed out or if the ECN has been placed into excused withdrawal as described in subparagraphs (b)(1)(C)(i) and (ii) of this rule, the system will continue to access the ECN's Non-Attributable Quotes/Orders that are in the NNMS, as described in rule 4707 and subparagraph (b) of this rule.

* * * * *

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

Currently, the rules of the SuperMontage provide that if an NNMS Order Delivery ECN declines,[5] partially fills, or fails to respond within 30 seconds to a non-directed order delivered to it by the system, without immediately transmitting a revised Attributable Quote/Order at an inferior price, NNMS will zero out all the Quotes/Orders of that ECN on the same side of the market at the price level of the declined order or better.[6] This processing was incorporated into SuperMontage to ameliorate locked or crossed markets[7] that had previously occurred in Nasdaq when ECNs declined to trade with other market participants, usually based on a dispute over the imposition, or the amount, of an ECN's quote-access fee. The following example illustrates how the quote/order reduction process currently operates for an ECN alone at the inside that elected to enter three separate bid quotes/orders at the same price level in SuperMontage:

ECN Quote (#1)—1000 shares @ 20.00
ECN Order (#2)—500 shares @ 20.00
ECN Order (#3)—300 shares @ 20.00
The inside aggregated bid shows 1800 shares @ 20.00.

1. SuperMontage receives an 800 share market sell order.

2. In response, SuperMontage sends an 800 share order to ECN Quote (#1). Upon dispatch, SuperMontage decrements ECN Quote (#1) by the amount of the delivery (800 shares) leaving a display quote of 1000 shares (including 200 shares in ECN Quote (#1)) that remains available for execution.

3. The ECN declines to execute the 800 share order delivered to ECN Quote (#1), and does not immediately transmit a revised Attributable Quote/Order at an inferior price.

4. If not yet executed against by a subsequent incoming order, the ECN's decline results in the removal of ECN Quote (#1) (*i.e.*, the 800 shares originally decremented and the 200 share remainder of ECN Quote (#1)), and Orders (#2) and (#3) from the system.

5. The inside moves to the next best bid less than 20.00 and the system reallocates the 800 shares from the incoming order received in Step 1.

In response to concerns raised by some NNMS Order Delivery ECNs that the above quote decrementation method disadvantages Quotes/Orders entered by them that would otherwise be executed but for the elimination of all the ECN's trading interest on the same side of the market at the declined price level,[8] Nasdaq has determined to modify the SuperMontage quote/order reduction process. Under the new approach to ECN quote/order decrementation after a decline, partial-fill, or time-out, will no longer result in an ECN's entire trading interest at the declined price level or better being removed from the system. Instead, SuperMontage will only remove the total amount of each individual quote(s)/order(s) to which the orders were delivered by SuperMontage. That is, SuperMontage will remove in their entirety only those Quotes/Orders with which the system attempts to trade with an order delivery ECN, but fails to do because of a decline, partial fill, or time-out. The following example illustrates how the new quote/order reduction process would operate for an ECN alone at the inside that elected to enter three separate bid quotes/orders at the same price level in SuperMontage:

ECN Quote (#1)—1000 shares @ 20.00
ECN Order (#2)—500 shares @ 20.00
ECN Order (#3) 300 shares @ 20.00
The inside aggregated bid shows 1800 shares @ 20.00.

1. SuperMontage receives an 800 share market sell order.

2. In response, SuperMontage sends an 800 share delivery to ECN Quote (#1). Upon dispatch, SuperMontage decrements ECN Quote (#1) by the amount of the delivery (800 shares) leaving a display quote of 1000 shares in ECN Quote (#1) that remains available for execution.

3. The ECN declines to execute the 800 share delivery to ECN Quote (#1).

4. If not executed against by a subsequent incoming order, the ECN's decline results only in the removal of ECN Quote (#1), *i.e.*, the 800 shares originally decremented and the 200 share remainder of ECN Quote (#1). Orders (#2) and (#3) remain in the system and continue to be eligible for execution.

5. The system reallocates the 800 shares from the incoming order in Step 1 against ECN orders (#2) and (#3) before moving, if necessary, to the next best bid.

In short, only individual Quotes/Orders are removed in full by a decline, partial-fill, or a time-out where no revised Attributable Quote/Order is immediately transmitted at an inferior price; not all trading interest at the declined price level or better. Other ECN Quotes/Orders at a particular price level that are not part of a SuperMontage delivery resulting in a decline or a time-out are retained in the system and remain available for execution and are not traded through. Nasdaq notes that nothing in this new processing of Order Delivery ECN Quotes/Orders after declines, partial-fills, or time-outs allows the creation of a locked or crossed market during the trading day in SuperMontage. As such, Nasdaq believes that the above approach draws an appropriate balance between its need to ensure the smooth operation of its market and the desire of NNMS Order Delivery ECNs to maximize the potential for execution for Quotes/Orders they submit to NNMS.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the

[5] An ECN's decline to a delivered order must be the result of an access fee-dispute, or otherwise be permitted under the SEC Firm Quote rule. NASD Regulation surveils for violations of the Firm Quote rule.

[6] Nasdaq notes that it recently filed a proposed rule change to reduce the maximum 30-second response time to a 7 second response time. *See* Securities Exchange Act Release No. 34–47883 (May 16, 2003), 68 FR 28312 (May 23, 2003) (Notice of File No. NASD–2003–72).

[7] *See* Securities Exchange Act Release No. 34–43863 (January 19, 2001), 66 FR 8020 (January 26, 2001).

[8] For example, Nasdaq notes the concern that the removal of all the ECN's trading interest at the declined price level may prevent other Quotes/Orders that did not specifically decline a delivery from SuperMontage from potentially executing with market participants that have arrangements with the ECN to pay an access fee.

provisions of section 15A of the Act,[9] in general and with section 15A(b)(6) of the Act,[10] in particular, in that the proposal is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons 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

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, as amended, 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 NASD. All submissions should refer to File No. SR–NASD–2003–81 and should be submitted by July 3, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–14830 Filed 6–11–03; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78*o*–3.

[10] 15 U.S.C. 78o–3(6).

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0623]

Zon Capital Partners, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Zon Capital Partners, L.P. (''Zon''), 5 Vaughn Drive, Suite 104, Princeton, New Jersey 08540, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the proposed financing of a small concern is seeking an exemption under section 312 of the Act and § 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730 (2002)). Zon proposes to provide equity financing to HR Technologies, 2700 Westchester Avenue, Purchase, New York 10577. The financing is contemplated for funding growth and acquisitions.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Early Stage Enterprises L.P., an Associate of Zon, owns greater than 10 percent of HRT and therefore HRT is considered an Associate of Zon as defined in § 107.50 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of publication of this notice, submit written comments on the proposed transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of this notice shall be published, in accordance with § 107.730 (g), in the **Federal Register** by SBA.

Dated: June 6, 2003.

Jeffrey D. Pierson,

Associate Administrator for Investment.

[FR Doc. 03–14854 Filed 6–11–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3496, Amdt. 3]

State of Kansas

In accordance with notices received from the Department of Homeland Security—Federal Emergency Management Agency, effective May 30 and June 2, 2003, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on May 4, 2003, and continuing through May 30, 2003. This declaration is also amended to include Allen County in the State of Kansas as a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on May 4, 2003, and continuing through May 30, 2003.

All other counties contiguous to the above named primary county have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is July 7, 2003, and for economic injury the deadline is February 6, 2004.

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

Dated: June 4, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–14853 Filed 6–11–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3508]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on June 3, 2003, I find that Anderson, Boyd, Breckinridge, Boyle, Bullitt, Caldwell, Carter, Crittenden, Elliott, Fleming, Garrard, Grayson, Greenup, Hardin, Hart, Henderson, Hopkins, Jefferson, Jessamine, Larue, Lewis, Lawrence, Mason, McLean, Meade, Mercer, Nelson, Rowan, Union, Washington, Webster and Woodford Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused