

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. 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, N.W., Washington, D.C. 20549-0609. Copies of the submission, all subsequent amendments, all written statement 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 at 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-00-47 and should be submitted by September 19, 2000.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with sections 15A(b)(5) and 15A(b)(6) of the Act,⁸ and the rules and regulations thereunder applicable to a national securities association.⁹ Specifically, the proposal should provide for the equitable allocation of reasonable fees among members and other persons using any facility or system that the Association operates or controls. In addition, the Commission believes the proposal does not unfairly discriminate between customers, issuers, brokers or dealers.

The NASD's fee reduction is the latest in a series of reductions designed to lower the cost and concurrently increase the dissemination of real-time market data to individual investors. For the investor to make sound financial decisions, efficient and inexpensive access to this type of market data is vital. Thus, the Commission believes

that reducing the NQDS market data fees should enhance investor access, and may encourage increased investor participation in the securities markets.

Pursuant to section 19(b)(2) of the Act,¹⁰ the Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will allow Nasdaq to expeditiously implement the pilot program to reduce NQDS market data fees without any unnecessary delay and should confer a benefit upon those firms that provide real-time data to their customers and subscribers.

It is therefore Ordered, pursuant to section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-NASD-00-47), establishing a one-year pilot program from September 1, 2000 until August 31, 2001, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43195; File No. SR-NASD-00-31]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. to Apply Nasdaq's Recently Amended Independent Director and Audit Committee Listing Requirements to Limited Partnerships

August 22, 2000.

I. Introduction

On May 26, 2000, the National Association of Securities Dealers, Inc. ("NASD") through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission"), 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 apply Nasdaq's recently amended independent director and audit

committee listing requirements to limited partnerships.

The proposed rule change was published in the **Federal Register** on June 27, 2000.³ No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

A. Independent Director and Audit Committee Listing Requirements

In 1993, Nasdaq established corporate governance standards, including independent director and audit committee requirements, for limited partnerships that were similar to those for other issuers. Last year, the Commission approved amendments to the independent director and audit committee listing requirements for corporations quoted on Nasdaq.⁴ Nasdaq believes that although there are few limited partnerships currently quoted on Nasdaq, the new independent director and audit committee requirements should also be applied to limited partnerships in order to provide investors in limited partnerships with the same protections enjoyed by the shareholders of corporations. Therefore, Nasdaq proposes to extend the recent amendments to its independent director and audit committee listing standards for corporations to limited partnerships.

B. Implementation

In order to minimize disruption to existing limited partnership audit committees, to permit current audit committee members to serve out their terms, and to allow adequate time for the recruitment of the requisite members, Nasdaq proposes to provide limited partnerships eighteen months from the date of this approval to meet the audit committee structure and membership requirements. Additionally, Nasdaq proposes that limited partnerships listed on the effective date of the rule be provided with six months following the date of this approval order to adopt a formal written audit committee charter.

Further, Nasdaq proposes that limited partnerships that applied for listing prior to the effective date of the rule be able to qualify for listing under the listing standards in force at the time of their application, and receive the same grace period provided to current limited partnerships. Also, limited partnerships that transfer to Nasdaq from the

⁸ *Id.*

⁹ In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁰ *Id.*

¹¹ *Id.*

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 42970 (June 21, 2000), 65 FR 39642.

⁴ See Securities Exchange Act Release No. 42231 (December 14, 1999), 64 FR 71523 (December 21, 1999).

American Stock Exchange LLC and the New York Stock Exchange, will be subject to, and afforded, the same grace periods they would have received under their previous market's implementation schedule.⁵

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,⁶ and in particular, the requirements of section 15A(b)(6) of the Act.⁷ The proposed rule change applies Nasdaq's recently amended independent director and audit committee listing requirements to limited partnerships. As noted above, the Commission approved those requirements on December 14, 1999.⁸

The Commission believes it appropriate for Nasdaq to extend the recent amendments to its independent director and audit committee listing standards to limited partnerships, and that these standards should provide investors in limited partnerships the same protections as the shareholders of other issuers. As the Commission noted in its order with respect to the amendments approved on December 14, 1999, the proposed rule change will protect investors by improving the effectiveness of audit committees of limited partnerships listed on Nasdaq, and should enhance the reliability and credibility of their financial statements by making it more difficult for limited partnerships to inappropriately distort their true financial performance.

Specifically, the Commission notes that directors without financial, familial, or other material personal ties to management will be more likely to objectively evaluate the propriety of management's accounting, internal control, and financial reporting practices. The Commission also believes that the proposal's resulting prohibition against employees serving on the audit committee is appropriate. The Commission further believes that the proposed rule change's application of requirements for the qualifications of audit committee members will enhance the effectiveness of the audit committee and help to ensure that audit committee

members are able to adequately fulfill their responsibilities.

IV. Conclusion

For the foregoing reasons, the Commission finds that Nasdaq's proposal to apply its independent director and audit committee listing requirements to limited partnerships is consistent with the requirements of the Act and rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-NASD-00-31) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43193; File No. SR-PCX-00-28]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Minor Rule Plan Citation Authority

August 22, 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 August 16, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The proposed rule change has become effective on filing with the Commission pursuant to Section 19(b)(3)³ of the Act and subparagraph (f)(3) of Rule 19b-4⁴ under the Act because it is concerned solely with the administration of the Exchange. 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

The Exchange proposes to amend its Minor Rule Plan ("Plan") to allow any PCX Regulatory Staff designated by the PCX to have the authority to issue a Floor Citation pursuant to the Plan. The text of the proposed rule change is below. Additions are italicized; deletions are bracketed.

6133 Minor Rule Plan

Rule 10.13.(a)—(f) No Change.

(g) Floor Citations. A Floor Official, [and/or] an Options Order Book Official *or any PCX Regulatory Staff designated by the Exchange* may issue a Floor Citation to any member, member organization or person associated with a member or member organization, when it appears to such Official(s) that a Minor Rule Plan violation specified in subsections (h) or (i) of this Rule has occurred. In issuing a Floor Citation, the Floor Official, [and/or] an Options Order Book Official *or any PCX Regulatory Staff designated by the Exchange* [shall] *must*:

- (1) Apprise the person cited of the alleged violation;
- (2) Ask the person cited to indicate by signature on the citation acknowledgment of receipt of the citation; provided that the requested signature is for receipt purposes only and a failure or unwillingness to sign is not to be considered as invalidating the issuance of the citation;
- (3) Give the top copy of the citation to the person alleged to have committed the violation; and
- (4) Give the remaining copies of the citation to the Order Book Official or an appropriate staff person, who will then forward such copies to the Regulation Department for processing.

Except as provided in Rule 10.14 (Summary Sanction Procedure), the circumstances underlying the issuance of each floor citation shall be reviewed by a designated committee for a determination of whether the evidence is sufficient to find a violation of Exchange rules.⁵

(h)—(k)—No Change.

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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

⁵ Telephone conversation between John Nachmann, Attorney, Office of General Counsel, NASDAQ, and Andrew Shipe, Attorney, Division of Market Regulations, SEC, on August 22, 2000.

⁶ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

⁷ 15 U.S.C. 78o(b)(6).

⁸ See *supra* note 4.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4(f)(2).

³ 15 U.S.C. 78s(b)(3).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ This paragraph is being removed pursuant to SR-PCX-99-48.