

incurs for the Fund Operations personnel, who are required to review, record, and input each fund into the MFQS system to be available for update and subsequent dissemination to the electronic or newspaper subscribers.

Nasdaq proposes to amend NASD Rule 7090 to assess application and annual fees for the inclusion of UITs in the same manner as it currently assesses those fees for funds, in all but one respect. Nasdaq proposes to eliminate the MFQS application fee in the limited circumstances where a UIT currently listed in MFQS expires and is replaced within a three-month period of time by a trust that is materially the same. This fee-waiver recognizes the fact that UITs, unlike open or closed-end funds, often exist in the market for finite periods of time, ranging from 12 months to 30 years.

A replacement UIT will be deemed to be materially similar to an expiring UIT if it is of the same share class and objective of the trust it is replacing. Nasdaq's Fund Operations staff will be responsible for reviewing, validating and approving trusts to determine whether they meet these criteria. If the expiring trust is not replaced by a trust of the same material nature within three months after expiration, or if Nasdaq staff determines that the trust is not materially similar, the listing firm will be required to pay the application fee upon listing the new UIT. The fee-waiver will operate as follows:

- January 2001: Trust A originally lists with MFQS. Termination date for this trust is February 2002. This fund pays its application fee of \$250.00 and annual listing fee of \$275.00 for 2001.
- January 2002: Trust A pays its annual fee for 2002.
- February 2002: Trust A expires.
- March 2002: Trust A is replaced by Trust B, which is determined to be materially like Trust A. Trust B will not incur any application fee and will assume the annual listing fee paid by Trust A.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(6)<sup>3</sup> and Section 11A<sup>4</sup> of the Act. Section 15A(b)(6) requires that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to 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; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In section 11A(a)(1)(C), Congress found that is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure: (1) Economically efficient execution of securities transactions; (2) fair competition among brokers and dealers; (3) the availability to brokers, dealers and investors of information with respect to quotations and transactions in securities; (4) the practicability of brokers executing investors orders in the best market; and (5) an opportunity for investors orders to be executed without the participation of a dealer.

Nasdaq believes that the proposed rule change is consistent with the provisions of Sections 15A(b)(6) and 11A(a)(1)(C) of the Act because the proposal protects investors and the public interest by promoting better processing of price information in UITs. Nasdaq believes that the proposed listing fees will encourage the listing of UITs, thereby providing greater pricing information for a broader base of investments for which there is significant investor interest. Nasdaq also believes that the proposed listing fees will enable Nasdaq to identify, screen and list *bona fide* UITs with a meaningful investor base and trading 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.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Nasdaq has neither solicited nor received written comments on the proposed rule change.

### **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 NASD 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 is consistent with the Act. Person 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-00-82 and should be submitted by March 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-43953; File No. SR-NASD-01-12]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend a Pilot Program Making Available Certain Nasdaq Services and Facilities Until 6:30 p.m. Eastern Time**

February 12, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

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

<sup>4</sup> 15 U.S.C. 78k-1.

<sup>5</sup> 17 CFR 200.30-2(a)(12).

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 6, 2001, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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**

Nasdaq proposes to extend, through March 1, 2002, its pilot program making available several Nasdaq services and facilities until 6:30 p.m.<sup>6</sup>

#### **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 its proposal and discussed any comments it received regarding the proposal. 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**

Nasdaq proposes to extend, through March 1, 2002, its pilot program that makes available certain Nasdaq systems and facilities until 6:30 p.m. The Commission originally approved the pilot on October 13, 1999.<sup>7</sup> The pilot will continue to operate under the same terms and conditions as set forth in the

Commission's original approval order, including mandating 90-second trade reporting until 6:30 p.m. The pilot is currently scheduled to terminate on March 1, 2001.<sup>8</sup>

###### **2. Statutory Basis**

Nasdaq believes that the proposed extension is consistent with the provisions of section 15A(b)(6) of the Act<sup>9</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

##### **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**

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and Rule 19b-4(f)(6)<sup>11</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change 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.

Nasdaq has requested that the Commission accelerate the operative date. The Commission finds good cause to waive the 30-day operative waiting

period, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow Nasdaq to continue the pilot without interruption, so that investors may reap the benefits of increased transparency and oversight of trading that occurs after-hours. For these reasons, the Commission finds good cause to waive both the 5-day pre-filing requirement and the 30-day operative waiting period.<sup>12</sup>

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 number SR-NASD-01-12 and should be submitted by March 13, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### **SOCIAL SECURITY ADMINISTRATION**

##### **Agency Information Collection Activities: Proposed Request and Comment Request**

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with

<sup>12</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<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 240.19b-4(f)(6).

<sup>5</sup> Nasdaq has asked the Commission to waive the 5-day pre-filing and the 30-day operative waiting period requirements. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> All references to time are Eastern Time.

<sup>7</sup> See Securities Exchange Act Release No. 42003 (October 13, 1999), 64 FR 56554 (October 20, 1999) (SR-NASD-99-57).

<sup>8</sup> See Securities Exchange Act Release No. 43302 (September 19, 2000), 65 FR 57852 (September 26, 2000) (SR-NASD-00-56).

<sup>9</sup> 15 U.S.C. 78o-3(b)(6).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).