

increasing the per share charge for orders entered and executed in the NNMS from \$0.001 per share to \$0.002 per share, in keeping with Nasdaq's ongoing efforts to align charges with costs and benefits.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5) of the Act,<sup>6</sup> which requires that the rules of the NASD provide for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and Section 15A(b)(6) of the Act,<sup>7</sup> which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that the level of fees charged to market participants under the proposal is reasonable. Nasdaq anticipates that overall fees for the NNMS, SelectNet, and SOES, net of the liquidity provider rebate, will be comparable to overall fees for the NNMS, SelectNet, and SOES under the pricing changes contained in SR-NASD-2001-63<sup>8</sup> and SR-NASD-2001-64.<sup>9</sup> Such fees are, in turn, estimated to be slightly lower than overall fees for SelectNet and SOES prior to the introduction of the NNMS.

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

Nasdaq does not believe that the proposed rule change will impose 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

Nasdaq did not solicit or receive 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., 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 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-2001-68 and should be submitted by November 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-25936 Filed 10-15-01; 8:45 am]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44915; File No. SR-NASD-2001-65]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Extending the Pilot Term of the Nasdaq International Service and the Effectiveness of Nasdaq International Service Rules

October 9, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October

2, 2001, 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 ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.<sup>3</sup>

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD proposes to extend for one year (1) the pilot term of the Nasdaq International Service ("Service"), and (2) the effectiveness of certain rules ("International Rules") that are unique to the Service. This rule change does not entail any modification of the International Rules. The present authorization for the Service and the International Rules expires on October 9, 2001. With this filing, the pilot period for the Service and the International Rules would be extended until October 9, 2002.

### 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 NASD 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 III below. The Exchange 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

The NASD proposed to extend for an additional year, until October 9, 2002, the pilot operation of the Service and the effectiveness of the International Rules governing broker-dealers' access to and use of the Service. The Commission originally approved the

<sup>3</sup> The Commission made a typographical and formatting change at the request of the NASD. The changes are reflected in this notice. Telephone discussion between Peter R. Geraghty, Associate General Counsel, Nasdaq, and Christopher B. Stone, Attorney Advisor, Division of Market Regulation, Commission (Oct. 5, 2001).

<sup>6</sup> 15 U.S.C. 78o-3(b)(5).

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

<sup>8</sup> See SR-NASD-2001-63, *supra* note 5.

<sup>9</sup> See SR-NASD-2001-64, *supra* note 5.

<sup>10</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.

existing pilot operation of the Service and the International Rules in October 1991.<sup>4</sup> The Service was launched on January 20, 1992. The pilot has since been extended and is currently set to expire on October 9, 2001.<sup>5</sup>

The Service supports an early trading session running from 3:30 a.m. to 9:00 a.m., Eastern Time, on each U.S. business day ("European Session") that overlaps the business hours of the London financial markets. Participation in the Service is voluntary and is open to any authorized NASD member firm or its approved broker-dealer affiliate in the U.K. A member participates as a Service market maker either by staffing its trading facilities in the U.S. or the facilities of its approved affiliate during the European Session. The Service also has a variable opening feature that permits Service market makers to elect to participate starting from 3:30 a.m., 5:30 a.m. or 7:30 a.m., Eastern Time. The election is required to be made on a security-by-security basis at the time a firm registers with the NASD as a Service market maker.<sup>6</sup> At present, there are no Service market makers participating in the Service.

As noted above, the NASD is seeking to extend the pilot term for one year. During this period, the NASD will continue to reevaluate the Service's operation and consider possible enhancements to the Service to broaden market participation. The NASD continues to view the Service as a significant experiment in expanding potential opportunities for international trading via systems operated by Nasdaq. Accordingly, the NASD believes that this pilot operation warrants an extension to permit possible enhancements that will increase the Service's utility and attractiveness to the investment community.<sup>7</sup> The NASD maintains its belief that it is extremely important to preserve this facility and the opportunities it provides, especially in light of the increasingly global nature

of the securities markets and the trend of cross-border transactions generally.

In addition, the Service still serves an invaluable role as a critical early warning mechanism in the context of significant changes involving Nasdaq software and hardware systems. Specifically, because the Service operates in the early morning hours prior to the opening of trading in the domestic session of Nasdaq, the Service has provided for the early detection of systems or communications problems when Nasdaq implements these systems changes.

## 2. Statutory Basis

The NASD believes that the proposed rule change is consistent with Sections 11A(a)(1)(B) and (C) and 15A(b)(6) of the Act. Subsections (B) and (C) of Section 11A(a)(1) set forth the Congressional goals of achieving more efficient and effective market operations, broader availability of information with respect to quotations for securities, and the execution of investor orders in the best market through the use of advanced data processing and communications techniques. Section 15A(b)(6) requires, among other things, that the NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The NASD believes that the proposed extension of the Service and the International Rules is fully consistent with these statutory provisions.

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

The NASD does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

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

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

## 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 submission 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 data 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 inspecting 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-2001-65 and should be submitted by November 6, 2001.

## 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 11A(a)(1)(B) and (C) and 15A(b)(6) of the Act.<sup>8</sup> The Commission believes that, in connection with the globalization of securities markets, the Service provides an opportunity to advance the statutory goals of (1) Achieving more efficient and effective market operations; (2) broader availability of information with respect to quotations for securities; (3) the execution of investor orders in the best market through the use of advanced data processing and communications techniques; and (4) fostering cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities.

The Commission views the Service as providing potential opportunities for international trading via a system operated by Nasdaq. The Service is intended to promote additional commitments of member firms' capital to market making and to attract commitments from firms based in Europe that currently do not function as Nasdaq market makers. Although there are no Service market makers participating in the Service, the NASD plans to reevaluate the plans to reevaluate the Service's operation and consider possible enhancements to the Service to broaden market maker participation. Additionally, the Service provides an early warning system when

<sup>4</sup> See Securities Exchange Act Release No. 29812 (Oct. 11, 1991), 56 FR 52082 (Oct. 17, 1991) (File No. SR-NASD-90-33).

<sup>5</sup> See Securities Exchange Act Release No. 43218 (Aug. 29, 2000), 65 FR 54095 (Sept. 6, 2000) (File No. SR-NASD-00-51).

<sup>6</sup> Regardless of the opening time chosen by the Service market maker, the Service market maker is required to fulfill all the obligations of a Service market maker from that time (i.e., either 3:30 a.m., 5:30 a.m. or 7:30 a.m.) until the European Session closes at 9:00 a.m., Eastern Time. See Securities Exchange Act Release No. 32471 (June 16, 1993), 58 FR 33965 (June 22, 1993) (File No. SR-NASD-92-54).

<sup>7</sup> Assuming that the pilot term is extended, the NASD will continue to supply the Commission with the statistical reports prescribed in the initial approval order for the Service at six-month intervals.

<sup>8</sup> In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f)

Nasdaq implements significant changes involving its hardware and software systems. Because the Service operates before the opening of the domestic session of Nasdaq, the Service allows for the early detection of systems or communication problems. Accordingly, the Commission believes that this pilot operation warrants an extension to permit possible enhancements that will increase the Service's utility and attractiveness to the investment community. Any changes to the operation of the Service will be filed pursuant to Section 19(b)(2) of the Act.<sup>9</sup>

Pursuant to Section 19(b)(2) of the Act,<sup>10</sup> the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that it is appropriate to approve on an accelerated basis the one-year extension of the Service, until October 9, 2002, to ensure the continuous operation of the Service, which is set to expire on October 9, 2001.

#### V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-NASD-2001-65) is hereby approved an accelerated basis.<sup>12</sup>

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-25955 Filed 10-15-01; 8:45 am]

**BILLING CODE 8010-01-M**

#### SMALL BUSINESS ADMINISTRATION

[License No. 09/09-5332]

##### Notice of Surrender of License

Notice is hereby given that First American Capital Funding, Inc. located at 10840 Warner Avenue, Suite 202, Fountain Valley, California 92708, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). First American Capital Funding, Inc. was licensed by the Small Business Administration on May 2, 1984.

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: October 4, 2001.

**Harry E. Haskins,**

*Acting Associate Administrator for Investment.*

[FR Doc. 01-25962 Filed 10-15-01; 8:45 am]

**BILLING CODE 8025-01-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Highway Administration

##### Environmental Impact Statement: Bertie and Hertford Counties, NC

**AGENCY:** Federal Highway Administration, Transportation.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Bertie and Hertford Counties, North Carolina.

**FOR FURTHER INFORMATION CONTACT:** Ms. Emily Lawton, Operations Engineer, Federal Highway Administration, P.O. Box 26806, Raleigh, North Carolina 27611. Telephone: (919) 856-4350.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposal to improve the existing United States Route (US) 13 corridor in the area of the Town of Ahoskie in Bertie and Hertford Counties.

The purposes of the proposed action include:

- Improving traffic flow and levels of service on the section of US 13 in the project study area.
- Relieving congestion on US 13 in the Town of Ahoskie, thereby improving safety and reducing the number of accidents.
- Improving high-speed regional travel along the US 13 intrastate corridor.
- Enhance economic development opportunities for the local area.

Alternatives under consideration include:

1. No-Build Alternative
2. Transportation Systems Management (TSM) Measures
3. Mass Transit Alternative
4. Improving the existing facility
5. Constructing a facility on new location east of existing US 13

6. Constructing a facility on new location west of existing US 13
7. A combination of widening and new location improvements.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State, and local agencies. A series of public meetings and a public hearing will be held. Public notice will be given of the times and places of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Emily Lawton,**

*Operations Engineer, Federal Highway Administration, Raleigh, North Carolina.*

[FR Doc. 01-25932 Filed 10-15-01; 8:45 am]

**BILLING CODE 4910-22-M**

#### DEPARTMENT OF THE TREASURY

##### Submission for OMB Review; Comment Request

October 5, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before November 15, 2001 to be assured of consideration.

##### Internal Revenue Service (IRS)

*OMB Number:* 1545-1360.

*Regulation Project Number:* PS-102-88 Final.

*Type of Review:* Extension.

*Title:* Income, Gift and Estate Tax.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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