

### 3. Credits for Qualified Market Makers Registered in Cabinet Securities

No change to text.

\* \* \* \* \*

## 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 proposed rule change. The text of these statements may be examined at the places specified in Item IV 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 CHX proposes to amend the Schedule by (1) reducing the Tape A and Tape B credits provided to Exchange specialists; (2) reducing the earned credits available to Exchange floor brokers; and (3) increasing the fixed fees charged to specialists who trade OTC securities. These changes apply for the period from September through December 2002.

The Exchange, like other business entities, sets financial goals for its operations, and attempts, throughout the year, to make decisions that permit it to meet or exceed those goals. To help meet the Exchange's goals for 2002, the Exchange has decided to temporarily reduce certain credit programs and to increase certain fees.

In doing so, the CHX has designed the proposed changes to the credit and fee arrangements to have an equal effect on the Exchange's specialist firms, as a group, and its floor broker firms, as a group. Within each of these two groups, the fee changes are designed to impact specific firms based on the level of their current participation in the credit and/or fee programs.<sup>5</sup> The Exchange believes that its member firms are in agreement with this proposal.

The changes in the credit section of the Schedule (Section M) decrease the credits from the levels that were set in

July 2002 as a result of discussions with Commission staff.<sup>6</sup> Among other things, the Tape B transaction credits outlined in the Schedule continue to be 50% or less.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act<sup>7</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>9</sup> because it involves a due, fee, or other charge. 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.<sup>10</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 Exchange. All submissions should refer to file number SR-CHX-2002-28, and should be submitted by October 30, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-25670 Filed 10-8-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46589; File No. SR-NASD-2002-130]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to an Extension of the Nasdaq International Service Pilot Program

October 2, 2002.

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 September 26, 2002, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons described below, the Commission is granting accelerated approval to the proposed rule change.

### 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

<sup>5</sup> For example, for each of the months from September to December 2002, the Exchange's specialists that trade securities reported on Tape A of the Consolidated Tape Association, will be assessed a credit reduction charge that is based on their share of the total Tape A transaction credit for those months.

<sup>6</sup> See Securities Exchange Act Release No. 46231 (July 19, 2002), 67 FR 48687 (July 25, 2002)(SR-CHX-2002-22).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>10</sup> See footnote 3, *supra*.

<sup>11</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.

entail any modification of the International Rules. The present authorization for the Service and the International Rules expires on October 9, 2002. With this filing, the pilot period for the Service and the International Rules would be extended until October 9, 2003.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item III below. NASD 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 proposes to extend for an additional year, until October 9, 2003, 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 existing pilot operation of the Service and the International Rules in October 1991.<sup>3</sup> The Service was launched on January 20, 1992. The pilot has since been extended and is currently set to expire on October 9, 2002.<sup>4</sup>

The Service supports an early trading session running from 3:30 a.m. to 9 a.m. E.T. 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>5</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-maker 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. 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.

#### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of sections 11A(a)(1)(B) and (C) and 15A(b)(6) of the Act.<sup>6</sup> 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 principals 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

NASD 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. 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, 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-2002-130 and should be submitted by October 30, 2002.

## IV. Commission's Findings and Order Granting Accelerated Approval of the 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>7</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

<sup>3</sup> See Securities Exchange Act Release No. 29812 (October 11, 1991), 56 FR 52082 (October 17, 1991) (File No. SR-NASD-90-33).

<sup>4</sup> See Securities Exchange Act Release No. 44915 (Oct. 9, 2001), 66 FR 52650 (Oct. 16, 2001) (File No. SR-NASD-01-65).

<sup>5</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 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>6</sup> 15 U.S.C. 78k-1(a)(1)(B), (C); 78o-3(b)(6).

<sup>7</sup> 15 U.S.C. 78k-1(a)(1)(B), (C); 78o-3(b)(6). In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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 Service's operation and consider possible enhancements to the Service to broaden market maker participation. 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>8</sup>

Pursuant to Section 19(b)(2) of the Act,<sup>9</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, 2003, to ensure the continuous operation of the Service, which is otherwise set to expire on October 9, 2002.

## V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-NASD-2002-130) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-25673 Filed 10-8-02; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46559; File No. SR-NASD-2002-125]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. To Extend a Pilot Amendment to NASD Rule 4120 Regarding Nasdaq's Authority To Initiate and Continue Trading Halts

September 26, 2002.

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 September 20, 2002, 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 the Substance of the Proposed Rule Change

Nasdaq proposes to extend a pilot amendment to NASD Rule 4120, which clarified Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq. The purpose of this filing is to extend the pilot until November 15, 2002.<sup>6</sup> Accordingly, there is no new proposed rule language.

<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 asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> Nasdaq confirmed that this proposed rule change only extends the operation of the pilot, and does not change the pilot substantively. Telephone conversation between John Yetter, Assistant General Counsel, Office of the General Counsel, Nasdaq, and Joseph Morra, Special Counsel, and Marc McKayle, Special Counsel, Division of Market Regulation ("Division"), Commission on September 25, 2002.

Nasdaq will implement the proposed rule change immediately.

#### 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

On May 11, 2001, Nasdaq filed with the Commission a proposed rule change to clarify Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq.<sup>7</sup> On July 27, 2001, Nasdaq filed Amendment No. 1 to the proposed rule change, which requested that the Commission approve the proposed rule change on a three-month pilot basis expiring on October 27, 2001.<sup>8</sup> Also on July 27, 2001, the Commission approved the proposed rule change and Amendment No. 1 on a pilot basis<sup>9</sup> after finding that the proposed rule change was consistent with the requirements of the Act, including Section 15A of the Act.<sup>10</sup> Since that time, the pilot period for the rule has been extended on several occasions.<sup>11</sup>

According to Nasdaq, as a result of the decentralized and electronic nature of

<sup>7</sup> See Securities Exchange Act Release No. 44307 (May 15, 2001), 66 FR 28209 (May 22, 2001) (Notice for SR-NASD-2001-37).

<sup>8</sup> See Letter from Thomas P. Moran, Associate General Counsel, Nasdaq, to Alton Harvey, Office Head of MarketWatch, Division, Commission dated July 27, 2001. (Amendment No. 1 to SR-NASD-2001-37).

<sup>9</sup> See Securities Exchange Act Release No. 44609 (July 27, 2001), 66 FR 40761 (Aug. 3, 2001) (Order granting approval of SR-NASD-2001-37 on a pilot basis).

<sup>10</sup> 15 U.S.C. 78o-3.

<sup>11</sup> See Securities Exchange Act Release No. 44870 (Sept. 28, 2001), 66 FR 50701 (Oct. 4, 2001); Securities Exchange Act Release No. 45344 (Jan. 28, 2002), 67 FR 5022 (Feb. 3, 2002); Securities Exchange Act Release No. 45851 (Apr. 30, 2002), 67 FR 31858 (May 10, 2002).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

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

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

<sup>11</sup> 17 CFR 200.30-3(a)(12).