

with a Reporting Agent to provide the information on the member's behalf.

Second, Pink Sheets expressed concern that quotation information provided to the NASD pursuant to the proposed rule could be used to compete against Pink Sheets. Pink Sheets also suggested that the NASD might use the quotation information in some way to advantage its OTC Bulletin Board, to the detriment of EQS. The Commission notes that NASD Regulation specifically represented that it requires access to this quotation data for regulatory purposes and intends to use the data only for this purpose²⁷ and that quotation data submitted to the NASD or NASD Regulation under the proposed rule change will not be provided to The Nasdaq Stock Market by the NASD or NASD Regulation.²⁸ Also, in Amendment No. 3, the NASD represented that to the extent the member's Reporting Agent calculates an inside bid and/or offer and submits that inside bid and/or offer to the NASD, the NASD will not use this inside bid and/or offer for any commercial purposes.²⁹

V. Accelerated Approval of Amendment Nos. 1, 2, and 3

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Under Amendment No. 1, the NASD clarified when a member must withdraw its quotes from an inter-dealer quotation system under the rule.

The Commission also finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. By expressly excluding from application of the proposed rule quotations entered into inter-dealer quotation systems that are operated by a registered national securities association or national securities exchange, Amendment No. 2 clarifies the proposed rule's scope. In addition, the Commission finds good cause for approving Amendment No. 3 to the proposed rule change prior to the thirtieth day after the date of publication of filing thereof in the **Federal Register**. By clarifying that the terms "prevailing inside bid" and "prevailing inside offer" refer to the prevailing inside bid and offer of the system under which the participant has

a responsibility to provide quotation activity under the proposed rule, Amendment No. 3 makes it clear that it is not necessary for a member to consolidate quotation information from other systems or markets that are quoting the same security. Amendment No. 3 also clarifies that the NASD will not use the inside bid/offer quotations collected and submitted by the Reporting Agent for any commercial purposes.

For these reasons, the Commission finds good cause, consistent with sections 15A(b)(2), 15A(b)(6) and 19(b)(2) of the Act, to accelerate approval of Amendment Nos. 1, 2, and 3 to the proposed rule change.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, and 3, including whether Amendment Nos. 1, 2, and 3 are 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-2000-42 and should be submitted by April 24, 2003.

VII. Conclusion

It is therefore Ordered, pursuant to section 19(b)(2) of the Act,³⁰ that the proposed rule change (SR-NASD-00-42) be and hereby is, approved, and Amendment Nos. 1, 2, and 3 are approved on an accelerated basis.³¹

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-8037 Filed 4-2-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47592; File No. SR-NASD-2003-03]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Waive Fees Assessed Under NASD Rule 7010(s) for New Subscribers to Nasdaq PostData

March 28, 2003.

I. Introduction

On January 9, 2003, 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"), 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 waive for two months the fees assessed under NASD Rule 7010(s) for each new subscriber to Nasdaq PostData. The proposed rule change was published for notice and comment in the **Federal Register** on January 27, 2003.³ The Commission received one comment on the proposal.⁴ On March 20, 2003, Nasdaq responded to the comment letter.⁵ This order approves the proposed rule change.

³² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 47209 (January 17, 2003), 68 FR 3911.

⁴ See February 7, 2003 letter from Joseph L. Magill, Managing Director AutEx, Thomson Financial Banking and Brokerage ("Thomson"), to Jonathan G. Katz, Secretary, Commission, and attachments ("Thomson Letter"). The Thomson Letter includes as an attachment a January 10, 2003 letter, also from Joseph L. Magill to Jonathan G. Katz, commenting on SR-NASD-2002-184, a proposed rule change the NASD filed and later withdrew. Because the issues Thomson raised in its January 10, 2003 letter are also raised in the instant proposed rule change, Thomson submitted its January 10, 2003 letter as an attachment to its February 7, 2003 letter as a comment to SR-NASD-2003-03. When citing to page numbers of the Thomson Letter in this order, the Commission is referencing the page numbers of Thomson's January 10, 2003 letter.

⁵ See March 19, 2003 letter from Jeffrey S. Davis, Nasdaq, to Alden S. Adkins, Associate Director, Division of Market Regulation, Commission ("Nasdaq Letter").

²⁷ See NASD Response to Comments and Amendment No. 1, *supra* note 3.

²⁸ See NASD Letter, *supra* note 6.

²⁹ See Amendment No. 3, *supra* note 8.

³⁰ 15 U.S.C. 78s(b)(2).

³¹ In approving the proposed rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation.