

Amex's comments.<sup>15</sup> Pending final Commission action on SR-NASD-2001-75, however, Nasdaq believes that the pilot period of the current rule should be extended to allow the rule to remain in effect on an uninterrupted basis.

### 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>16</sup> and rule 19b-4(f)(6) thereunder.<sup>17</sup> 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 asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative delay. The Commission believes waiving the five-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest. Such waivers will allow the pilot to operate without interruption through August 15, 2003. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>18</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-2003-82 and should be submitted by June 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47912; File Nos. SR-NYSE-2002-49; SR-NASD-2002-154]

### Self-Regulatory Organizations: Notice of Filing of Amendment No. 2 to Proposed Rule Changes by the New York Stock Exchange, Inc. Relating to Exchange Rules 344 ("Supervisory Analysts"), 345A ("Continuing Education for Registered Persons"), 351 ("Reporting Requirements") and 472 ("Communications With the Public") and by the National Association of Securities Dealers, Inc. Relating to NASD Rule 2711 ("Research Analysts and Research Reports")

May 22, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 16, 2003, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") Amendment No. 2 to its proposed rule change ("NYSE Amendment No. 2"), which it originally filed on October 9, 2002 and subsequently amended on December 4, 2002.<sup>3</sup>

<sup>19</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> See Letter from Darla Stuckey, Corporate Secretary, NYSE, to James A. Brigagliano, Assistant Director, Division of Market Regulation ("Division"), Commission ("NYSE Amendment No. 1"). NYSE Amendment No. 1 conformed aspects of the proposed NYSE rules to those of NASD (See

On May 20, 2003, the National Association of Securities Dealers, Inc. ("NASD") filed Amendment No. 2 to its proposed rule change ("NASD Amendment No. 2"), which it originally filed on October 25, 2002 and subsequently amended on December 18, 2002.<sup>4</sup> The proposed rule changes, incorporating NYSE Amendment No. 1 and NASD Amendment No. 1, were published for comment in the **Federal Register** on January 7, 2003.<sup>5</sup>

NYSE Amendment No. 2 and NASD Amendment No. 2 are described in Items I, II, and III below, which Items have been prepared by the respective self-regulatory organizations ("SROs"). The Commission is publishing this notice to solicit comments on NYSE Amendment No. 2 and NASD Amendment No. 2 from interested persons.

### I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

The NYSE is filing with the SEC proposed amendments to NYSE Rule 472 ("Communications with the Public") to conform to the requirements of the Sarbanes-Oxley Act of 2002 ("SOA"),<sup>6</sup> and providing for an interpretation to the public appearance and print media disclosure requirements of NYSE Rule 472.

NASD is submitting an amendment to SR-NASD-2002-154, a proposed rule change to strengthen rules that govern analyst conflicts of interest by amending NASD Rules 1120 and 2711 and creating a new NASD Rule 1050. NASD Amendment No. 2 would implement provisions of the SOA related to analyst conflicts of interest, create an exemption from some provisions of NASD Rule 2711 for certain smaller firms, and make certain other changes to the current rule.

Below is the text of the proposed rule changes. Proposed new language is in

SR-NASD-2002-154), and proposed effective dates for the various rule provisions.

<sup>4</sup> See Letter from Philip Shaikun, Assistant General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission ("NASD Amendment No. 1"). NASD Amendment No. 1 clarified that only research analysts who are directly responsible for the preparation of research reports would be required to register with NASD and pass a qualification examination (See proposed NASD Rule 1050). NASD Amendment No. 1 also conformed NASD's proposed research analyst compensation provisions to comparable NYSE provisions. NASD Amendment No. 1 also amended the definition of "research report" to conform it to the definition in the Sarbanes-Oxley Act of 2002. NASD Amendment No. 1 also revised certain language that was contained in the discussion of the proposed amendment concerning print media interviews and articles.

<sup>5</sup> See Securities Exchange Act Release No. 47110 (December 31, 2002), 68 FR 826 ("Original Notice").

<sup>6</sup> Pub. L. 107-204, 116 Stat. 745 (2002).

<sup>15</sup> See April 11, 2003 letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division, Commission.

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

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

<sup>18</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).