

provide regulators with heightened capabilities to regulate and provide surveillance of the debt securities markets to prevent fraudulent and manipulative acts and practices. In addition, the Commission believes that this reduction is an important step in achieving the ultimate goal of reducing the reporting period to 15 minutes after the industry acquires greater experience with reporting.¹⁹

As previously noted, the Commission received one comment letter from TBMA on the proposed rule change.²⁰ TBMA strongly supports the proposal because they believe it will provide timelier and therefore more useful trade information to investors and other market participants that will support and increase the efficiency of the markets for the bonds that are subject to the transparency requirements. TBMA's Letter also noted that they support further efforts to enhance the timeliness of trade reports contingent on further efforts to develop reporting mechanisms that make such efforts feasible. The Commission supports NASD's goals for increasing timeliness of trade reporting and believes that setting goals may provide incentive for market participants to enhance reporting mechanisms if necessary to facilitate those goals. The Commission believes the current reduction "from 75 minutes to 45 minutes—is an important step toward achieving the NASD's goal of 15-minute reporting.

TBMA's Letter also stated that it should be clear that narrowing the time requirements for reporting trade information does not presuppose that all information reported should be disseminated, or that all information that is disseminated should be disseminated on a "real-time" basis. The Commission agrees that the reduction in the reporting interval in this proposal does not presuppose real-time dissemination of reported transaction information on all corporate bonds. The issues of further reductions in reporting intervals and expanded dissemination are expected to be addressed in the context of future filings with the Commission, but those issues are not before the Commission at this time.

Accordingly, the Commission finds good cause, pursuant to section 19(b)(2) of the Act,²¹ for approving the proposed rule change prior to the thirtieth day after the date of publication of notice

thereof in the **Federal Register**. The Commission believes that granting accelerated approval will allow member firms to receive prior notification, by several months, of the deadline to implement the reduced reporting period on October 1, 2003.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act²², that the proposed rule change (SR-NASD-2003-78), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48061; File No. SR-NASD-2003-93]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Amend the Trading Activity Fee To Adjust the Rates for Covered Equity Securities

June 19, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 11, 2003, the National Association of Securities Dealers, Inc. ("NASD") 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 the NASD. 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

The NASD proposes to amend its Trading Activity Fee ("TAF"). The NASD is amending the TAF to adjust the rates for covered equity securities. In addition, the NASD is renumbering certain subsections included in Section 1. The text of the proposed rule change

is below. Proposed new language is in italics; proposed deletions are in brackets.

Schedule A to NASD By-Laws

* * * * *

Section 1—Member Regulatory Fees

(a) No Change.

(b) Each member shall be assessed a Trading Activity Fee for the sale of covered securities.

(1) Covered Securities. For purposes of the rule, covered securities shall mean:

[(i)](A) All exchange registered securities wherever executed (other than bonds, debentures, and other evidence of indebtedness);

[(ii)](B) All other equity securities traded otherwise than on an exchange; and

[(iii)](C) All security futures wherever executed.

(2) Transactions exempt from the fee. The following shall be exempt from the Trading Activity Fee:

[(i)](A) Transactions in securities offered pursuant to an effective registration statement under the Securities Act of 1933 (except transactions in put or call options issued by the Options Clearing Corporation) or offered in accordance with an exemption from registration afforded by Section 3(a) or 3(b) thereof, or a rule thereunder;

[(ii)](B) Transactions by an issuer not involving any public offering within the meaning of Section 4(2) of the Securities Act of 1933;

[(iii)](C) The purchase or sale of securities pursuant to and in consummation of a tender or exchange offer;

[(iv)](D) The purchase or sale of securities upon the exercise of a warrant or right (except a put or call), or upon the conversion of a convertible security;

[(v)](E) Transactions that are executed outside the United States and are not reported, or required to be reported, to a transaction reporting association as defined in Rule 11Aa3-1 and any approved plan filed thereunder;

[(vi)](F) Proprietary transactions by a firm that is a member of both NASD and a national securities exchange, effected in its capacity as an exchange specialist or market maker, that are subject to Securities Exchange Act of 1934, Section 11(a) and Rule 11a1-1(T)(a) thereunder; however this exemption does not apply to other transactions permitted by Section 11(a) such as bona fide arbitrage or hedge transactions;

[(vii)](G) Transactions by a firm that is a floor based broker and that is a member of both NASD and a national

¹⁹ See Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001) (File No. SR-NASD-1999-65).

²⁰ See *supra*, note 4.

²¹ 15 U.S.C. 78s(b)(2).

²² *Id.*

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.