

side would be identified as the reporting party.

Finally, it should be noted that the proposed rule change applies only to transactions that are reported to ACT, since Nasdaq does not have authority to establish rules governing the reporting of trades to non-Nasdaq systems. Thus, in circumstances where an ECN has the option to report trades to ACT or to another trade reporting system, such as the NASD's TRACS system, the rule does not mandate that the ECN use ACT for trade reporting. However, to the extent that the ECN or its subscribers opt to use ACT to report a particular transaction, all provisions of the proposed rule change would apply to that transaction.⁸ In addition to the above changes, Nasdaq is also removing references to "Select Net Service" and the "SmallCap Small Order Execution System" from NASD Rule 5430(b)(8) because these systems are no longer in place.⁹

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,¹⁰ in general, and with section 15A(b)(6) of the Act,¹¹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to protect investors and the public interest. Nasdaq purports that the proposed rule change will clarify the trade reporting obligations associated with transactions conducted through ECNs. Nasdaq believes that the adoption of clear, enforceable rules will provide guidance to market participants and thereby provide greater assurance of comprehensive reporting of ECN transactions.

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

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

⁸ The proposed rule change also corrects several typographical errors in IM-6420.

⁹ Telephone call between John Polise, Senior Special Counsel, Sonia Trocchio, Special Counsel, and Leah Mesfin, Attorney, Division, Commission, and John Yetter, Assistant General Counsel, and Peter Geraghty, Associated Vice President and Associate General Counsel, Office of the General Counsel, Nasdaq on July 9, 2003.

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(6).

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. 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 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 proposal, as amended, 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-2003-98, and should be submitted by August 25, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-19724 Filed 8-1-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48252; File No. SR-NASD-2002-154; SR-NYSE-2002-49]

Self-Regulatory Organizations; Order Approving 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 Research Analyst Conflicts of Interest and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 to the Proposed Rule Change by the New York Stock Exchange, Inc. and Amendment No. 3 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Research Analyst Conflicts of Interest

July 29, 2003.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² on October 9, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), and on October 25, 2002, the National Association of Securities Dealers ("NASD"), filed with the Securities and Exchange Commission ("SEC" or "Commission") proposed rule changes relating to research analyst conflicts of interest.

On December 4, 2002, NYSE submitted Amendment No. 1 to its proposed rule change³ and on December 18, 2002, NASD submitted Amendment No. 1 to its proposed rule change.⁴ The proposed rule changes, as

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 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 SR-NASD-2002-154), and proposed effective dates for the various rule provisions.

⁴ 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

Continued

¹² 17 CFR 200.30-3(a)(12).