

implementation of additional enhancements to the service in the near future, Nasdaq proposes to increase the subscription fee for the service. Specifically, Nasdaq proposes to increase the subscription fee for the "basic" level from \$75 to \$100 per month and increase the fee for the "premium" level from \$100 to \$130 per month. As previously mentioned, this increase in subscription fees will be the first such increase since the launch of the Data Package service in December 1998.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,⁵ in general, and with section 15A(b)(5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Specifically, use of the Data Package service is voluntary and the subscription fees will be imposed on all member firms equally based on the level of service selected. In addition, the increase in fees will help cover the costs associated with maintaining and enhancing the Data Package service.

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

Nasdaq 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, as amended.

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act⁷ and subparagraph (f)(2) of rule 19b-4 thereunder,⁸ because it establishes or changes a due, fee, or other charge imposed by the Association. 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.

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 Association. All submissions should refer to file number SR-NASD-2003-129 and should be submitted by September 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-21823 Filed 8-25-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48365; File No. SR-NYSE-98-14]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1, 2, and 3 by the New York Stock Exchange, Inc. Relating to Margin Requirements

August 19, 2003.

I. Introduction

On April 28, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and rule

19b-4 thereunder,² a proposal to amend NYSE rule 431, "Margin Requirements." The NYSE's proposed rule change was published for comment in the **Federal Register** on August 5, 1998.³

The NYSE filed Amendment Nos. 1, 2, and 3 to the proposal on January 5, 1999, November 6, 2002, and May 12, 2003, respectively. In addition, on March 6, 2000, the NYSE filed an Information Memo ("Information Memo") that sets forth the general requirements for the written risk analysis methodology that members will be required to maintain in connection with good faith securities transactions in exempt accounts. Amendment Nos. 1, 2, and 3, as well as the Information Memo, were published for comment in the **Federal Register** on July 14, 2003.⁴

The Commission received one comment regarding the proposal,⁵ as initially published, and the NYSE submitted a response to that comment.⁶ As described more fully below, the Commission received two additional comment letters following the publication of the 2003 Release.⁷ This order approves the proposed rule change, as amended.

II. Description of the Proposal

A. Background

Section 7 of the Exchange Act⁸ authorizes the Board of Governors of the Federal Reserve System ("Federal Reserve Board") to establish requirements for the purchase or carrying of securities on margin.

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 40278 (July 29, 1998), 63 FR 41882.

⁴ See Securities Exchange Act Release No. 48133 (July 7, 2003), 68 FR 41672 (July 14, 2003) ("2003 Release").

⁵ See letter from Paul Saltzman, Senior Vice President and General Counsel, The Bond Market Association ("TBMA") and Patricia Brigantic, Vice President and Senior Associate General Counsel, TBMA, to Jonathan Katz, Secretary, Commission, dated August 26, 1998 ("TBMA I").

⁶ See letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, dated April 5, 1999. TBMA I supported the proposal but raised questions regarding the definition of "exempt account" and the treatment of accounts that currently qualify as exempt but that would not satisfy the proposal's financial threshold for exempt accounts. The NYSE answered the questions raised in TBMA I in its response. TBMA I and the NYSE's response are described more fully in the 2003 notice, *supra* note 4.

⁷ See letter from H. Lake Wise, Executive Vice President and Chief Legal Officer, Daiwa Securities America Inc., to Jonathan Katz, Secretary, Commission, dated August 4, 2003 ("Daiwa Letter"); and letter from Paul Saltzman, Executive Vice President and General Counsel, TBMA, to Jonathan G. Katz, Secretary, Commission, dated August 8, 2003 ("TBMA II").

⁸ 12 U.S.C. 78(g).

⁵ 15 U.S.C. 78o-3.

⁶ 15 U.S.C. 78o-3(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240.19b-4(f)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).