

general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The Exchange believes that the proposed rule change will impose no burden on competition and, in fact, may enhance competition among markets and market makers to the benefit of investors. Modifying the Exchange's stabilization rules will eliminate regulatory restrictions on Amex specialists that are not imposed upon their market maker competitors. Thus, the Exchange believes that the proposed rule change actually will reduce competitive burdens rather than imposing them. The Exchange also believes that the revisions also will facilitate the ability of Amex specialists to provide prompt execution of customer orders. The Exchange notes that these enhancements at the Amex may create new incentives for market makers in other market centers to compete more aggressively with Amex specialists to provide better service, thus benefiting investors generally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

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 the self-regulatory organization 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 proposed rule change, 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 Amex. All submissions should refer to File No. SR-Amex-2002-116 and should be submitted by December 16, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.²⁰

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48798; File No. SR-NASD-2003-150]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a "Pegged" Order in Nasdaq's SuperMontage System

November 17, 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 November 7, 2003, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), submitted to the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. 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

Nasdaq proposes to establish a new voluntary order type, known as pegged orders, for use within the Nasdaq National Market Execution System ("NNMS" or "SuperMontage"). Nasdaq proposes to implement this new order type on or about December 8, 2003, and will inform market participants of the exact implementation date via a Head Trader Alert on <http://www.nasdaqtrader.com>.

The text of the proposed rule change appears below. New text is italicized.⁵

* * * * *

4700. NASDAQ NATIONAL MARKET EXECUTION SYSTEM (NNMS)

4701. Definitions

Unless stated otherwise, the terms described below shall have the following meaning:

(a)-(jj) No Change.

(kk)-(ll) Reserved.

(mm) *The term "Pegged" shall mean, for priced limit orders so designated, that after entry into the NNMS, the price of the order is automatically adjusted by NNMS in response to changes in the Nasdaq inside bid or offer, as appropriate. The NNMS Participant entering a Pegged Order may specify that the price of the order will either equal the inside quote on the same side of the market (a "Regular Pegged Order") or equal a price that deviates from the inside quote on the contra side of the market by \$0.01 (i.e., \$0.01 less than the inside offer or \$0.01 more than the inside bid) (a "Reverse Pegged Order"). The market participant entering a Pegged Order may (but is not required to) specify a cap price, to define a price at which pegging of the order will stop and the order will be*

⁵ The Commission recently published for notice and public comment proposed rule changes filed by Nasdaq that propose to modify the rules governing the operation of SuperMontage. See Securities Exchange Act Release Nos. 48501 (September 17, 2003), 68 FR 56358 (September 30, 2003) (Notice of Filing of SR-NASD-2003-128); 48606 (October 8, 2003), 68 FR 59659 (October 16, 2003) (Notice of Filing of SR-NASD-2003-134); 48671 (October 21, 2003), 68 FR 61531 (October 28, 2003) (Notice of Filing of SR-NASD-2003-135); 48674 (October 21, 2003), 68 FR 61508 (October 28, 2003) (Notice of Filing of SR-NASD-2003-149); 48675 (October 21, 2003), 68 FR 61528 (October 28, 2003) (Notice of Filing of SR-NASD-2003-143). See also File No. SR-NASD-2003-165. The text of the proposed rule change is shown as marked against the text of the SuperMontage rules as currently in effect, rather than as they are proposed to be amended. Nasdaq represents that it will file such amendments to pending filings as Commission staff may request to reflect the approval, disapproval, immediate effectiveness, or withdrawal of filings.

²⁰ 17 CFR 200.30(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).