

Acquisition Order and any and all other orders of the Commission applicable to LG&E Energy.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-29763 Filed 11-28-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48817; File No. SR-CSE-2003-10]

### Self-Regulatory Organizations; The Cincinnati Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change by The Cincinnati Stock Exchange, Inc. To Eliminate Market Order Exposure Requirements

November 21, 2003.

#### I. Introduction

On August 7, 2003, The Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend CSE Rule 11.9(u) to eliminate Interpretation .01, concerning market order exposure requirements ("Market Order Exposure Requirement").<sup>3</sup> The proposed rule change would also amend CSE Rule 8.15 to remove a reference to Interpretation .01 of Rule 11.9(u). The proposed rule change was published for comment in the **Federal Register** on September 19, 2003.<sup>4</sup>

The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>5</sup> In particular, the

Commission believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>7</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Commission finds that the proposed rule change is reasonably designed to accomplish these ends because the elimination of the CSE's Market Order Exposure Requirement is consistent with the narrowing of spreads since the advent of decimal pricing. The Commission notes, and the CSE acknowledges, that the best execution responsibilities of preferencing designated dealers will continue to apply. Moreover, the proposed rule change is the second of two filings intended by the CSE to codify existing CSE practices set forth in various regulatory circulars<sup>8</sup> and conform its rules to industry standards.<sup>9</sup> The Commission notes that, while it is approving the proposed rule change at the present time, the Commission makes no determination as to whether it would have approved the proposed rule change had it been filed at the time that the regulatory circulars setting forth the CSE's practices with respect to the Market Order Exposure Requirement were issued.

#### III. Conclusion

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-CSE-2003-10), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-29801 Filed 11-28-03; 8:45 am]

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impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> See *supra* note 3.

<sup>9</sup> See also Securities Exchange Act Release No. 48388 (August 21, 2003), 68 FR 51820 (August 28, 2003) (SR-CSE-2003-09).

<sup>10</sup> 15 U.S.C. 78(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48823; File No. SR-NASD-2003-154]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 by the National Association of Securities Dealers, Inc. Concerning Late Trade Reports, Reports of Trades Executed Outside Normal Market Hours, and Clarifying NASD Rule 6420

November 21, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 7, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. Nasdaq amended the proposed rule change on November 12, 2003.<sup>3</sup> On November 20, 2003, Nasdaq again amended the proposed rule change.<sup>4</sup> Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A)(i) of the Act,<sup>5</sup> and Rule 19b-4(f)(1) thereunder,<sup>6</sup> as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, which renders the proposed rule change effective upon filing with the Commission. The Commission is

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See November 10, 2003 letter from Peter R. Geraghty, Associate Vice President ("AVP") and Associate General Counsel ("AGC"), Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission ("Amendment No. 1"). In Amendment No. 1, Nasdaq added language to the proposed rule indicating that Nasdaq will append the .T modifier automatically in the circumstances described in the filing, and clarifies that the language governs the appending of the .T and .SLD modifiers in the circumstances described in the instant proposed rule change as well as in SR-NASD-2003-83. Securities Exchange Act Release No. 48120 (July 2, 2003), 68 FR 41032 (July 9, 2003).

<sup>4</sup> See November 19, 2003 letter from Peter R. Geraghty, AVP and AGC, Nasdaq, to Katherine A. England, Assistant Director, Division, Commission ("Amendment No. 2"). Amendment No. 2 does not propose any substantive modifications to the proposed rule change. It provides in a single document the proposed rule language, as modified by Amendment No. 1. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have begun on November 20, 2003, the day Nasdaq filed Amendment No. 2.

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>6</sup> 17 CFR 240.19b-4(f)(1).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The CSE has represented that the Commission's approval of the proposed rule change will constitute the repeal of the interpretations and policies with respect to the Market Order Exposure Requirement set forth in CSE Regulatory Circulars 01-07, 99-03, 98-06, 97-07, 96-04.

<sup>4</sup> Securities Exchange Act Release No. 48491 (September 12, 2003), 68 FR 54924.

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's