

The Commission also finds that the prohibitions and Amendment No. 4 strike an appropriate balance. The proposed rule change and the amendment refrain from imposing a specific standard on descriptions (*i.e.*, removing the prohibition against use of a single symbol, number, or letter) or calculations of ratings in recognition of the fact that there is no specified or uniform range of information used by all rating entities, and that rating entities should be allowed to develop competing methods and models of assessing volatility. The amendment also eliminates the use of subject factors from the volatility calculation, thereby reducing the potential variability of ratings, and limiting the ability of funds to "shop around" for the most favorable rating.

The proposal, however, also imposes certain disclosure requirements that should assist investors in determining whether a fund is appropriate for them based on their investment objectives. The disclosure required by subsections (c)(3)(C)(i)–(vii) of the rule will help inform investors of certain potential limitations of a rating (*e.g.*, that a rating may have been paid for, may measure only a certain type of risk or volatility, may not reflect a comparison with all funds of a given class or peer group, and may not reflect a fund's current portfolio). The Commission believes that the requirement that any change in the rating and the reasons for the change be disclosed is important for investors in making informed investment decisions. Thus, the Commission finds that the proposed rule change, in providing access to this supplemental information, should enable investors to obtain answers to questions regarding the meaning of the rating or how it is calculated or derived.⁷⁵

The Commission also finds that the requirement that sales literature containing volatility ratings be filed at least 10 days prior to use should provide the Department with sufficient time to review the sales material for compliance with the proposal's requirements. The Commission expects a thorough review of all sales literature to be conducted and accurate records to be maintained by the NASDR to facilitate the possible assessment of the rating process.

Finally, the Commission believes this proposal represents the best mechanism for disseminating information about bond mutual funds risk to investors.

Risk ratings are an important source of information for investors because they can potentially determine the likelihood of gains or losses in the market value of a particular fund. As such, the Commission believes they can be useful tools for investors to aid in making informed investment decisions. Thus, the Commission finds that it is in the public interest to facilitate the dissemination of this information in an environment that encourages disclosure and enhances competition.

The Commission also finds good cause for approving proposed Amendment Nos. 3 and 4 prior to the thirtieth day after the date of the publication of notice of filing thereof in the **Federal Register**. The amendments remove ambiguous language that could hinder understanding of the proposal's applicability by clarifying which types of funds can be subject to the ratings process. The amendments also specify what types of criteria can be used to determine the ratings, while simultaneously providing some flexibility in how the rating agencies provide their services. The Commission believes that these amendments should help make the ratings provided more objective and enhance the disclosures made in the sales literature. Furthermore, the Commission finds that these amendments should enhance competition among those entities issuing the ratings. Thus, the Commission believes the approval of the amendments should not be delayed. For these reasons, the Commission finds good cause for accelerating approval of the proposed rule change, as amended.

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 3 and 4, including whether the amendments are 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, D.C. 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 offices of the NASD. All submissions should refer to the file

number in the caption above and should be submitted by March 29, 2000.

VI. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 15A(b)(6).

It is Therefore Ordered, pursuant to Section 19(b)(2) ⁷⁶ of the Act, that the proposed rule change (SR–NASD–97–89), be, and hereby is, approved for an 18 month trial period, which ends on August 31, 2001. Amendment Nos. 3 and 4 are also approved on an accelerated basis for an 18 month trial period, which also ends on August 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42481; File No. SR–NASD–00–7]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Extension of Certain Nasdaq Services and Facilities Until 6:30 P.M. Eastern Time

March 1, 2000.

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 February 29, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III 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

⁷⁶ 15 U.S.C. 78s(b)(2).

⁷⁷ 17 CFR 200.30–3(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).

⁷⁵ The Commission emphasizes that sales literature is no substitute for a fund's prospectus and, if investors have not received one, they should request a current prospectus to review in conjunction with the sales materials.

Commission.⁵ 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 filed the proposed rule change to extend, through October 1, 2000, its pilot program which makes available several Nasdaq services and facilities until 6:30 p.m. Eastern Time. Nasdaq has designated this proposal as non-controversial, and requests that the Commission waive both the 5-day pre-filing notice requirement and the 30-day pre-operative waiting period contained in Rule 19b-4(f)(6)(iii) under the Act,⁶ to allow the proposal to be both effective and operative immediately upon filing with the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq proposes to extend, through October 1, 2000, its after-hours pilot program that makes available certain Nasdaq systems and facilities until 6:30 p.m. Eastern Time.⁷ The Commission approved the pilot on October 13, 1999. The pilot will continue to operate under the same terms and conditions as set forth in SR-NASD-99-57.⁸

2. Statutory Basis

Nasdaq believes that the proposal is consistent with the provisions of Section 15A(b)(6) of the Act⁹ 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, and processing information with respect to, and facilitating transactions in securities.

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.

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

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and
- (iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and rule 19b-4(f)(6) thereunder.¹¹ 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.

Nasdaq has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become immediately operative upon filing, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow Nasdaq's after-hours pilot to operate without interruption through October 1, 2000, thereby allowing Nasdaq to continue to make available services and facilities that increase the transparency and oversight of trading taking place outside of traditional market hours. For these reasons, the Commission finds good

cause to waive the 5-day pre-filing requirement, and to designate that the proposal become operative immediately.¹²

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 NASD. All submissions should refer to file number SR-NASD-00-07 and should be submitted by March 29, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, these notices announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before May 8, 2000.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the

⁵ Nasdaq provided written notice to the Commission on February 28, 2000, that it intended to file this proposal. The Commission agreed to waive the 5-day pre-filing notice requirement. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

⁶ 17 CFR 240.19b-4(f)(6)(iii).

⁷ See Securities Exchange Act Release No. 42003 (October 13, 1999), 64 FR 56554 (October 20, 1999) (SR-NASD-99-57).

⁸ *Id.*

⁹ 15 U.S.C. 78o-3(b)(6).

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² In reviewing this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 17 CFR 200.30-3(a)(12).