

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 CHX 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 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 CHX. All submissions should refer to File No. SR-CHX-2001-14 and should be submitted by August 6, 2001.

For the Commission, by the division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44529; File No. SR-NASD-2001-43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed rule Change by the National Association of Securities Dealers, Inc., To Extend the Pilot for Limit Order Protection of Securities Priced in Decimals

July 9, 2001.

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 July 6, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), 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 filed the proposal pursuant to section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6)⁴ thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change for interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to extend through November 5, 2001 the current pilot price-improvement standards for decimalized securities contained in NASD Interpretative Material 2110-2—Trading Ahead of Customer Limit Order ("Manning Interpretation" or "Interpretation"). Without such an extension these standards would terminate on July 9, 2001. Nasdaq does not propose to make any substantive changes to the pilot; the only change is an extension of the pilot's expiration date through November 5, 2001. Nasdaq requests that the Commission waive both the 5-day notice and 30-day pre-operative requirements contained in Rule 19b-4(f)(6)(iii)⁵ of the Act. If such waivers are granted by the Commission, Nasdaq will implement this rule change immediately.

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).

⁵ 17 CFR 240.19b-4(f)(6)(iii).

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 Items 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

NASD's Manning Interpretation requires NASD member firms to provide a minimum level of price improvement to incoming orders in NMS and Small Cap securities if the firm chooses to trade as principal with those incoming orders at prices superior to customer limit orders they currently hold. If a firm fails to provide the minimum level of price improvement to the incoming order, the firm must execute its held customer limit orders. Generally, if a firm fails to provide the requisite amount of price improvement and also fails to execute its held customer limit orders, it is in violation of the Manning Interpretation.

On April 6, 2001,⁶ the Commission approved, on a pilot basis, Nasdaq's proposal to establish the following price improvement standards whenever a market maker wished to trade proprietarily in front of its held customer limit orders without triggering an obligation to also execute those orders:

(1) For customer limit orders priced at or inside the best inside market displayed in Nasdaq, the minimum amount of price improvement required is \$0.01; and

(2) For customer limit orders priced outside the best inside market displayed in Nasdaq, the market maker must price improve the incoming order by executing the incoming order at a price at least equal to the next superior minimum quotation increment in Nasdaq (currently \$0.01).⁷

⁶ See Securities Exchange Act Release No. 44165 (April 6, 2001), 66 FR 19268 (April 13, 2001). (Order approving proposed rule change modifying NASD's Interpretative Material 2110-2—Trading Ahead of Customer Limit Order).

⁷ Pursuant to the terms of the Decimals Implementation Plan for the Equities and Options Markets, the minimum quotation increment for Nasdaq securities (both National Market and

⁶ 17 CFR 200.30-3(a)(12).

Since approval, these standards have operated on a pilot basis and are currently scheduled to terminate on July 9, 2001. Nasdaq originally selected the July 9, 2001, termination date of its Manning pilot to coincide with deadline for submitting rule filings related to decimalization contained in the Commission's June 8, 2000 Order directing the submission of a Decimals Implementation Plan For the Equities and Options Markets (Implementation Plan or Plan).⁸

Subsequent to the Interpretation pilot's approval, the Commission extended the deadline for the submission of decimal-related rule filing to November 5, 2001.⁹ As such, Nasdaq has determined to seek an extension of its current Manning Interpretation pilot until that date. Nasdaq believes that such an extension will provide needed additional time for Nasdaq and the Commission to analyze data and the many complex issues related to customer limit order protection in a decimalized Nasdaq.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act¹⁰ in that it is designed to: (1) Promote just and equitable principles of trade; (2) foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities; (3) perfect the mechanism of a free and open market and a national market system; and (4) protect investors and the public interest.

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

Nasdaq does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

Written comments were neither solicited or received.

⁸ SmallCap) at the outset of decimal pricing is \$0.01. As such, Nasdaq displays priced quotations to two places beyond the decimal point (to the penny). Quotations submitted to Nasdaq that do not meet this standard are rejected by Nasdaq systems. See Securities Exchange Act Release No. 43876 (January 23, 2001) 66 FR 8251 (January 30, 2001).

⁹ See Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000).

¹⁰ See Securities Exchange Act Release No. 44336 (May 22, 2001), 66 FR 29368 (May 30, 2001).

¹¹ 15 U.S.C. 78o-3.

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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 Act¹¹ and Rule 19b-4(f)(6) thereunder.¹² 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 the Commission waive both the 5-day notice and 30-day pre-operative requirements contained in Rule 19b-4(f)(6)¹³ and has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become operative immediately because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to continue uninterrupted through November 5, 2001, the deadline for which self-regulatory organizations must file proposed rule changes to set the minimum price variation for quoting in a decimals environment. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.¹⁴

IV. Solicitation of Comments

Interested persons are invited to submit written date, 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

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f)(6).

¹³ *Id.*

¹⁴ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 Nasdaq. All submissions should refer to file number SR-NASD-2001-43 and should be submitted by August 6, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44533; File No. SR-Phlx-00-20]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 1 to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Trading Certain Over-the-Counter Securities

July 10, 2001.

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 16, 2000, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change regarding the trading of certain over-the-counter ("OTC") securities. Notice of the proposed rule change was published in the **Federal Register** on December 14, 2000.³ On May 14, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change, as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended by Amendment No. 1, from interested persons.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 43692 (December 8, 2000), 65 FR 78240.