

### *National Aeronautics and Space Administration*

Legislative Affairs Specialist to the Associate Administrator for Legislative Affairs. Effective July 23, 2001.

### *Occupational Safety and Health Review Commission*

Confidential Assistant to a Member (Commissioner). Effective July 23, 2001.

### *Office of Management and Budget*

Deputy to the Associate Director for Legislative Affairs (House). Effective June 22, 2001.

Executive Assistant to the Director, Office of Management and Budget. Effective June 22, 2001.

Confidential Assistant to the Executive Associate Director. Effective June 26, 2001.

Public Affairs Specialist to the Associate Director for Communications. Effective June 28, 2001.

Senior Advisor and Assistant General Counsel to the General Counsel. Effective July 31, 2001.

Confidential Assistant to the Associate Director for Legislative Affairs. Effective July 31, 2001.

### *Office of the United States Trade Representative*

Director of Scheduling to the United States Trade Representative. Effective July 13, 2001.

Writer (Speechwriter) to the United States Trade Representative. Effective July 27, 2001.

### *United States Trade and Development Agency*

Congressional Liaison Officer to the Director, Trade and Development Agency. Effective July 31, 2001.

Director of External Relations to the Director, Trade and Development Agency. Effective July 31, 2001.

**Authority:** 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954-1958 Comp., P. 218

Office of Personnel Management.

**Kay Coles James,**  
*Director.*

[FR Doc. 01-23299 Filed 9-18-01; 8:45 am]

**BILLING CODE 6325-38-P**

## **PRESIDIO TRUST**

### **The Presidio of San Francisco, California; Rescheduled Public Hearing Regarding the Draft Presidio Trust Implementation Plan and Draft Environmental Impact Statement**

**AGENCY:** The Presidio Trust.

**ACTION:** Rescheduled public hearing.

**SUMMARY:** Due to the national crisis on Tuesday, September 11, 2001, the Presidio Trust (Trust) cancelled on short notice the first of two public hearings regarding the draft Presidio Trust Implementation Plan (PTIP) and draft Environmental Impact Statement (EIS). The first hearing, previously scheduled for September 11, 2001 by notice of hearing published in the **Federal Register** on July 26, 2001 (66 FR 39058-59), will now be held on Tuesday, October 16, 2001, beginning at 6:00 p.m., at the Officers' Club, 50 Moraga Avenue, The Presidio of San Francisco (Presidio), California. The public meeting of the Trust's Board of Directors and second public hearing on the PTIP, noticed in the **Federal Register** on August 21, 2001 (66 FR 43921-22) and scheduled for Monday, September 17, 2001 from 1:00 p.m. to 4:00 p.m., at the Officers' Club, 50 Moraga Avenue, Presidio, will be held as planned. At these two hearings, members of the public may offer oral comment on the PTIP and the EIS that will be received for the record and responded to by the Trust when a final PTIP and EIS are issued.

**FOR FURTHER INFORMATION:** Contact John Pelka, NEPA Compliance Coordinator, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052. Telephone: (415) 561-5414.

Dated: September 13, 2001.

**Karen A. Cook,**  
*General Counsel.*

[FR Doc. 01-23322 Filed 9-18-01; 8:45 am]

**BILLING CODE 4310-4R-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-44804; File No. S7-24-89]**

### **Joint Industry Plan; Solicitation of Comments and Order Approving Request To Extend Temporary Effectiveness of Reporting Plan for Nasdaq/National Market Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., the Pacific Exchange, Inc. and the Boston, Chicago, Philadelphia, and Cincinnati Stock Exchanges**

September 17, 2001.

#### **I. Introduction**

On September 14, 2001, the Cincinnati Stock Exchange, Inc. ("CSE") on behalf of itself and the National Association of Securities Dealers, Inc.

("NASD"), the Boston Stock Exchange, Inc. ("BSE"), the Chicago Stock Exchange, Inc. ("CHX"), Pacific Exchange, Inc. ("PCX"), and the Philadelphia Stock Exchange, Inc. ("Phlx") (hereinafter referred to as the "Participants")<sup>1</sup> submitted to the Securities and Exchange Commission ("Commission" or "SEC") a proposal to extend the operation of the Plan<sup>2</sup> for Nasdaq/National Market ("Nasdaq/NM") securities traded on an exchange on an unlisted or listed basis.<sup>3</sup> The September 2001 Extension Request would extend the effectiveness of the Plan through October 19, 2001, and also would extend certain exemptive relief as described below. The September 2001 Extension Request does not seek permanent approval of the Plan because the Participants currently are negotiating certain amendments to the Plan for which they will seek approval in the future.<sup>4</sup>

#### **II. Background**

The Plan governs the collection, consolidation, and dissemination of quotation and transaction information for Nasdaq/NM securities listed on an exchange or traded on an exchange

<sup>1</sup> The CSE was elected chair of the Operating Committee for the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Exchange-Listed Nasdaq/National Market System Securities and for Nasdaq/National Market System Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("Plan") by the Participants.

<sup>2</sup> See letter from Jeffrey T. Brown, Vice President Regulation and General Counsel, CSE, to Jonathan G. Katz, Secretary, Commission, dated September 13, 2001 ("September 2001 Extension Request"). The signatories to the Plan are the Participants for purposes of this release; however, the BSE joined the Plan as a "limited participant" and reports quotation information and transaction reports only in Nasdaq/National Market securities listed on the BSE. Originally, the American Stock Exchange Inc. ("Amex") was a Participant but withdrew its participation from the Plan in August 1994.

<sup>3</sup> Section 12 of the Securities Exchange Act of 1934 ("Act") generally requires an exchange to trade only those securities that the exchange lists, except that Section 12(f) of the Act permits unlisted trading privileges ("UTP") under certain circumstances. For example, Section 12(f) of the Act, among other things, permits exchanges to trade certain securities that are traded over-the-counter ("OTC/UTP"), but only pursuant to a Commission order or rule. The present order fulfills this Section 12(f) requirement. For a more complete discussion of the Section 12(f) requirement, see November 1995 Extension Order, *infra* note 7.

<sup>4</sup> In accordance with the Commission's statements in its order approving the establishment of the Nasdaq Order Display Facility and Order Collector Facility ("SuperMontage"), the Participants represent that they are revising the Plan. See Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001). The Participants submitted the 12th amendment to the Plan ("Interim Plan") on August 30, 2001.

pursuant to a grant of UTP.<sup>5</sup> The Commission originally approved the Plan on a pilot basis on June 26, 1990.<sup>6</sup> The parties did not begin trading until July 12, 1993, accordingly, the pilot period commenced on July 12, 1993. The Plan has since been in operation on an extended pilot basis.<sup>7</sup>

### III. Description of the Plan

The Plan provides for the collection from Plan Participants, and the consolidation and dissemination to vendors, subscribers and others, of quotation and transaction information in "eligible securities."<sup>8</sup> The Plan contains various provisions concerning its operation, including: Implementation of the Plan; Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information; Reporting Requirements (including hours of operation); Standards and Methods of Ensuring Promptness, Accuracy and Completeness of Transaction Reports; Terms and Conditions of Access;

<sup>5</sup> See Section 12(f)(2) of the Act, 15 U.S.C. 78l(f)(2).

<sup>6</sup> See Securities Exchange Act Release No. 28146, 55 FR 27917 (July 6, 1990) ("1990 Plan Approval Order").

<sup>7</sup> See Securities Exchange Act Release Nos. 34371 (July 13, 1994), 59 FR 37103 (July 20, 1994); 35221 (January 11, 1995), 60 FR 3886 (January 19, 1995); 36102 (August 14, 1995), 60 FR 43626 (August 22, 1995); 36226 (September 13, 1995), 60 FR 49029 (September 21, 1995); 36368 (October 13, 1995), 60 FR 54091 (October 19, 1995); 36481 (November 13, 1995), 60 FR 58119 (November 24, 1995) ("November 1995 Extension Order"); 36589 (December 13, 1995), 60 FR 65696 (December 20, 1995); 36650 (December 28, 1995), 61 FR 358 (January 4, 1996); 36934 (March 6, 1996), 61 FR 10408 (March 13, 1996); 36985 (March 18, 1996), 61 FR 12122 (March 25, 1996); 37689 (September 16, 1996), 61 FR 50058 (September 24, 1996); 37772 (October 1, 1996), 61 FR 52980 (October 9, 1996); 38457 (March 31, 1997), 62 FR 16880 (April 8, 1997); 38794 (June 30, 1997), 62 FR 36586 (July 8, 1997); 39505 (December 31, 1997), 63 FR 1515 (January 9, 1998); 40151 (July 1, 1998), 63 FR 36979 (July 8, 1998); 40896 (December 31, 1998), 64 FR 1834 (January 12, 1999); 41392 (May 12, 1999), 64 FR 27839 (May 21, 1999) ("May 1999 Approval Order"); 42268 (December 23, 1999), 65 FR 1202 (January 6, 2000); 43005 (June 30, 2000), 65 FR 42411 (July 10, 2000); 44099 (March 23, 2001), 66 FR 17457 (March 30, 2001); and 44348 (May 24, 2001), 66 FR 29610 (May 31, 2001); 44552 (July 13, 2001), 66 FR 37712 (July 19, 2001); 44694 (August 14, 2001), 66 FR 43598 (August 20, 2001).

<sup>8</sup> The Plan defines "eligible security" as any Nasdaq/NM security as to which unlisted trading privileges have been granted to a national securities exchange pursuant to Section 12(f) of the Act or that is listed on a national securities exchange. On May 12, 1999, in response to a request from the CHX, the Commission expanded the number of eligible Nasdaq/NM securities that may be traded by the CHX pursuant to the Plan from 500 to 1000. See May 1999 Approval Order, *supra* note 7. On November 9, 2000, the Commission noticed and requested comment on a proposal by the PCX to expand the maximum number of securities eligible to trade to include all Nasdaq/NM securities. See Securities Exchange Act Release No. 43545, 65 FR 69581 (November 17, 2000).

Description of Operation of Facility Contemplated by the Plan; Method and Frequency of Processor Evaluation; Written Understandings of Agreements Relating to Interpretation of, or Participation in, the Plan; Calculation of the Best Bid and Offer ("BBO"); Dispute Resolution; and Method of Determination and Imposition, and Amount of Fees and Charges.<sup>9</sup>

### IV. Exemptive Relief

In conjunction with the Plan, on a temporary basis, the Commission granted an exemption to vendors from Rule 11Ac1-2<sup>10</sup> under the Act regarding the calculation of the BBO<sup>11</sup> and granted the BSE an exemption from the provision of Rule 11Aa3-1<sup>12</sup> under the Act that requires transaction reporting plans to include market identifiers for transaction reports and last sale data. In the September 2001 Extension Request, the Participants ask that the Commission grant an extension of the exemptive relief described above to vendors until the BBO calculation issue is fully resolved. In addition, in the September 2001 Extension Request, the Participants request that the Commission grant an extension of the exemptive relief described above to the BSE until October 19, 2001.

### V. Solicitation of Comment

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether it is consistent with the Act. The Commission continues to solicit comment regarding the BBO calculation, the trade-through rule and any issues presented by changes occurring in the market place. 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 proposal that are filed with the Commission, and

<sup>9</sup> The full text of the Plan, as well as a "Concept Paper" describing the requirements of the Plan, are contained in the original filing, which is available for inspection and copying in the Commission's public reference room.

<sup>10</sup> 17 CFR 240.11Ac1-2.

<sup>11</sup> Rule 11Ac1-2 under the Act requires that the best bid or best offer be computed on a price/size/time algorithm in certain circumstances. Specifically, Rule 11Ac1-2 under the Act provides that "in the event two or more reporting market centers make available identical bids or offers for a reported security, the best bid or offer \* \* \* shall be computed by ranking all such identical bids or offers \* \* \* first by size \* \* \* then by time." The exemption permits vendors to display the BBO for Nasdaq securities subject to the Plan on a price/time/size basis.

<sup>12</sup> 17 CFR 240.11Aa3-1.

all written communications relating to the proposal 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 at the Commission's Public Reference Room. All submissions should refer to File No. S7-24-89 and should be submitted by October 10, 2001.

### VI. Discussion

The Commission finds that an extension of temporary approval of the operation of the Plan, as amended, through October 19, 2001, is appropriate and in furtherance of Section 11A<sup>13</sup> of the Act.<sup>14</sup> The Commission had previously stated that a revised Plan must be filed with the Commission by July 19, 2001, or the Commission will amend the Plan directly.<sup>15</sup> The Participants submitted an Interim Plan to the Commission on August 30, 2001, which, among other things, includes a process for selecting an alternative securities information processor. Therefore, to enable the Commission to consider and to solicit comment on the Interim Plan, the Commission believes that it is appropriate to extend the current Plan.

The Commission notes that the revised final Plan must provide for either (1) a fully viable alternative exclusive securities information processor ("SIP") for all Nasdaq securities, or (2) a fully viable alternative non-exclusive SIP in the event that the Plan does not provide for an exclusive SIP. If the revised Plan provides for an exclusive consolidating SIP, a function currently performed by Nasdaq, the Commission believes that, to avoid conflicts of interest, there should be a presumption that a Plan Participant, and in particular Nasdaq, should not operate such exclusive consolidating SIP. The presumption may be overcome if: (1) the Plan processor is chosen on the basis of bona fide competitive bidding and the Participant submits the successful bid; and (2) any decision to award a contract to a Plan Participant, and any ensuing review or renewal of such contract, is

<sup>13</sup> 15 U.S.C. 78k-1.

<sup>14</sup> In approving this extension, the Commission has considered the extension's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

<sup>15</sup> See *supra* note 4. The Commission notes that the SuperMontage order directed the Participants to produce a revised plan by July 19, 2001. The Commission, however, provided for a 3-month extension of the July 19, 2001, deadline if requested by the Participants for good cause. The Commission recognizes that the Participants have been meeting to discuss the alternatives for a new plan.

made without that Plan Participant's direct or indirect voting participation. If a Plan Participant is chosen to operate such exclusive SIP, the Commission believes there should be a further presumption that the Participant-operated exclusive SIP shall operate completely separate from any order matching facility operated by that Participant and that any order matching facility operated by that Participant must interact with the plan-operated SIP on the same terms and conditions as any other market center trading Nasdaq-listed securities. Further, the Commission will expect the NASD to provide direct or indirect access to the alternative SIP, whether exclusive or non-exclusive, by any of its members that qualify, and to disseminate transaction information and individually identified quotation information for these members through the SIP.

Furthermore, the revised final Plan should be open to all SROs, and the Plan should share governance of all matters subject to the Plan equitably among the SRO Participants. The Plan also should provide for sharing of market data revenues among SRO Participants. Finally, the Plan should provide a role for participation in decision making to non-SROs that have direct or indirect access to the alternative SIP provided by the NASD. The Commission expects the parties to continue to negotiate in good faith on the above matters<sup>16</sup> as well as any other issues that arise during Plan negotiations.

The Commission also finds that it is appropriate to extend the exemptive relief from Rule 11Ac1-2<sup>17</sup> under the Act until the earlier of October 19, 2001, or until such time as the calculation methodology of the BBO is based on a mutual agreement among the Participants approved by the Commission. The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Aa3-1<sup>18</sup> under the Act to the BSE through October 19, 2001. The Commission believes that the temporary extensions of the exemptive relief provided to vendors and the BSE, respectively, are consistent with the Act, the rules thereunder, and specifically with the objectives set forth in Sections 12(f)<sup>19</sup>

and 11A<sup>20</sup> of the Act and in Rules 11Aa3-1<sup>21</sup> and 11Aa3-2<sup>22</sup> thereunder.

## VII. Conclusion

*It is therefore ordered*, pursuant to Sections 12(f)<sup>23</sup> and 11A<sup>24</sup> of the Act and paragraph (c)(2) of Rule 11Aa3-2<sup>25</sup> thereunder, that the Participants' request to extend the effectiveness of the Plan, as amended, for Nasdaq/NM securities traded on an exchange on an unlisted or listed basis through October 19, 2001, and certain exemptive relief through October 19, 2001, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>26</sup>

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 01-23457 Filed 9-17-01; 1:24 pm]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting.

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 66 FR 47930, September 14, 2001.

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE PREVIOUSLY ANNOUNCED:** September 10, 2001.

**CHANGE IN THE MEETING:** Cancellation of Meeting.

The closed meeting scheduled for Monday, September 17, 2001 at 10:00 a.m. has been cancelled.

Dated: September 14, 2001.

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 01-23443 Filed 9-17-01; 12:30 pm]

**BILLING CODE 8010-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44787; File No. SR-NASD-2001-53]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending Rule 11870, Customer Account Transfer Contracts

September 12, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange of 1934 ("Act"),<sup>1</sup> notice is hereby given that on August 16, 2001, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD-R") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by NASD-R. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval.

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

NASD Regulation proposes to amend NASD Uniform Practice Code Rule 11870(c) and 11870(d) in order to expedite the transfer of customer accounts that contain proprietary or third party products (e.g., mutual funds or money market funds) that the receiving member cannot receive or carry.

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

In its filing with the Commission, NASD-R included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD-R has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.<sup>2</sup>

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by NASD.

<sup>20</sup> 15 U.S.C. 78k-1.

<sup>21</sup> 17 CFR 240.11Aa3-1.

<sup>22</sup> 17 CFR 240.11Aa3-2.

<sup>23</sup> 15 U.S.C. 78l(f).

<sup>24</sup> 15 U.S.C. 78k-1.

<sup>25</sup> 17 CFR 240.11Aa3-2(c)(2).

<sup>26</sup> 17 CFR 200.30-3(a)(29).

<sup>16</sup> See also discussion in the SuperMontage order, *supra* note 4.

<sup>17</sup> 17 CFR 240.11Ac1-2.

<sup>18</sup> 17 CFR 240.11Aa3-1.

<sup>19</sup> 15 U.S.C. 78l(f).