

provide regulators with heightened capabilities to regulate and provide surveillance of the debt securities markets to prevent fraudulent and manipulative acts and practices. In addition, the Commission believes that this reduction is an important step in achieving the ultimate goal of reducing the reporting period to 15 minutes after the industry acquires greater experience with reporting.<sup>19</sup>

As previously noted, the Commission received one comment letter from TBMA on the proposed rule change.<sup>20</sup> TBMA strongly supports the proposal because they believe it will provide timelier and therefore more useful trade information to investors and other market participants that will support and increase the efficiency of the markets for the bonds that are subject to the transparency requirements. TBMA's Letter also noted that they support further efforts to enhance the timeliness of trade reports contingent on further efforts to develop reporting mechanisms that make such efforts feasible. The Commission supports NASD's goals for increasing timeliness of trade reporting and believes that setting goals may provide incentive for market participants to enhance reporting mechanisms if necessary to facilitate those goals. The Commission believes the current reduction "from 75 minutes to 45 minutes—is an important step toward achieving the NASD's goal of 15-minute reporting.

TBMA's Letter also stated that it should be clear that narrowing the time requirements for reporting trade information does not presuppose that all information reported should be disseminated, or that all information that is disseminated should be disseminated on a "real-time" basis. The Commission agrees that the reduction in the reporting interval in this proposal does not presuppose real-time dissemination of reported transaction information on all corporate bonds. The issues of further reductions in reporting intervals and expanded dissemination are expected to be addressed in the context of future filings with the Commission, but those issues are not before the Commission at this time.

Accordingly, the Commission finds good cause, pursuant to section 19(b)(2) of the Act,<sup>21</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of notice

thereof in the **Federal Register**. The Commission believes that granting accelerated approval will allow member firms to receive prior notification, by several months, of the deadline to implement the reduced reporting period on October 1, 2003.

## V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act<sup>22</sup>, that the proposed rule change (SR-NASD-2003-78), be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>23</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-15974 Filed 6-24-03; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34-48061; File No. SR-NASD-2003-93]**

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Amend the Trading Activity Fee To Adjust the Rates for Covered Equity Securities

June 19, 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 June 11, 2003, the National Association of Securities Dealers, Inc. ("NASD") 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 the NASD. 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

The NASD proposes to amend its Trading Activity Fee ("TAF"). The NASD is amending the TAF to adjust the rates for covered equity securities. In addition, the NASD is renumbering certain subsections included in Section 1. The text of the proposed rule change

is below. Proposed new language is in italics; proposed deletions are in brackets.

#### Schedule A to NASD By-Laws

\* \* \* \* \*

#### Section 1—Member Regulatory Fees

(a) No Change.

(b) Each member shall be assessed a Trading Activity Fee for the sale of covered securities.

(1) Covered Securities. For purposes of the rule, covered securities shall mean:

[(i)](A) All exchange registered securities wherever executed (other than bonds, debentures, and other evidence of indebtedness);

[(ii)](B) All other equity securities traded otherwise than on an exchange; and

[(iii)](C) All security futures wherever executed.

(2) Transactions exempt from the fee. The following shall be exempt from the Trading Activity Fee:

[(i)](A) Transactions in securities offered pursuant to an effective registration statement under the Securities Act of 1933 (except transactions in put or call options issued by the Options Clearing Corporation) or offered in accordance with an exemption from registration afforded by Section 3(a) or 3(b) thereof, or a rule thereunder;

[(ii)](B) Transactions by an issuer not involving any public offering within the meaning of Section 4(2) of the Securities Act of 1933;

[(iii)](C) The purchase or sale of securities pursuant to and in consummation of a tender or exchange offer;

[(iv)](D) The purchase or sale of securities upon the exercise of a warrant or right (except a put or call), or upon the conversion of a convertible security;

[(v)](E) Transactions that are executed outside the United States and are not reported, or required to be reported, to a transaction reporting association as defined in Rule 11Aa3-1 and any approved plan filed thereunder;

[(vi)](F) Proprietary transactions by a firm that is a member of both NASD and a national securities exchange, effected in its capacity as an exchange specialist or market maker, that are subject to Securities Exchange Act of 1934, Section 11(a) and Rule 11a1-1(T)(a) thereunder; however this exemption does not apply to other transactions permitted by Section 11(a) such as bona fide arbitrage or hedge transactions;

[(vii)](G) Transactions by a firm that is a floor based broker and that is a member of both NASD and a national

<sup>19</sup> See Securities Exchange Act Release No. 43873 (January 23, 2001), 66 FR 8131 (January 29, 2001) (File No. SR-NASD-1999-65).

<sup>20</sup> See *supra*, note 4.

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> *Id.*

<sup>23</sup> 17 CFR 200.30-3(a)(12).

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

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

securities exchange provided that the floor based broker qualifies for exemption from NASD membership under Exchange Act Rule 15b9-1;

[(viii)](H) Transactions in conventional options;

[(ix)](I) Transactions in options and futures involving narrow and broad based indexes;

[(x)](J) Transactions in security futures held in futures accounts; and

[(xi)](K) Transactions in exchange listed options effected by a member when NASD is not the designated options examining authority for that member. NASD may exempt other securities and transactions as it deems appropriate.

(3) Fee Rates \*

[(i)](A) Each member shall pay to NASD a fee per share for each sale of a covered equity security.

[(ii)](B) Each member shall pay to NASD a fee per contract for each sale of an option.

[(iii)](C) Each member shall pay to NASD a fee for each round turn transaction (treated as including one purchase and one sale of a contract of sale for future delivery) of a security future.

\* Trading Activity Fee rates are as follows: Each member shall pay to NASD [\$0.00005] \$0.0001 per share for each sale of a covered equity security, with a maximum charge of [\$5] \$10 per trade; \$0.002 per contract for each sale of an option; and \$0.04 per contract for each round turn transaction of a security future. In addition, if the execution price for a covered security is less than the Trading Activity Fee rate ([\$0.00005] \$0.0001 for covered equity securities, \$0.002 for covered option contracts, or \$0.04 for a security future) on a per share, per contract, or round turn transaction basis then no fee will be assessed.

(4) No Change.

(c) through (d) No Change.

\* \* \* \* \*

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

In its filing with the Commission, the NASD 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. The NASD 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

On May 30, 2003, the Commission approved the last component of a series of changes to NASD's member regulatory fee structure. Under the new fee structure, there are now three types of fees and assessments used to fund NASD's member regulatory activities: (1) Trading Activity Fee ("TAF");<sup>3</sup> (2) Personnel Assessment; and (3) Gross Income Assessment.<sup>4</sup> These fees, assessed upon and paid by member firms, are used by NASD to fund NASD's member regulatory activities, including the regulation of members through examinations, processing of membership applications, financial monitoring, policy making, rulemaking, and enforcement activities. The new member regulatory fee structure was designed to be revenue neutral to NASD and to better align NASD's regulatory fees with its functions, efforts, and costs.

Today, NASD is filing a proposal to adjust the TAF rate, and related maximum charge and minimum price exceptions, for equity securities only. NASD has been collecting the TAF for transactions effected after October 1, 2002 on a pilot basis, and has determined that the equity rate needs to be increased to ensure adequate funding levels for its member regulatory program. Therefore, NASD is proposing that the TAF be increased from 0.00005 per share to 0.0001 per share for covered equity securities, effective the first day of the month following Commission approval.

The proposed rate change is driven by lower than expected TAF revenues, not increased or unexpected member regulatory costs. NASD originally had proposed a rate of 0.0001 per share for equity securities (announced on Sept. 27, 2002 and published on NASD's Web site at [http://www.nasd.com/trading\\_fee2.asp](http://www.nasd.com/trading_fee2.asp) but after informal feedback from the membership about the level of volume meeting the definition of "covered equity security," decided to reduce the rate to 0.00005.<sup>5</sup> Six months' experience with the TAF

has demonstrated that the initially proposed rate is more accurate to ensure revenue neutrality and adequate funding.

Although the current proposed rate change is driven by the need for NASD to remain revenue neutral in its transition from the old member regulatory funding structure, consistent with its stated policy, NASD periodically will analyze rates, volumes, and regulatory responsibilities to ensure adequate funding levels for its member regulatory programs.<sup>6</sup> NASD also will perform an analysis for the annual Personnel Assessment and Gross Income Assessment, to ensure adequate contributions from each component fee, as well as adequate levels of funding overall. In addition, NASD previously stated its intent to reduce the percentage that the TAF contributes to the overall funding structure in 2004 and again in 2005 (increasing the percentage funded by the PA and holding the GIA percentage static). NASD remains committed to that program, and should regulatory costs and market volumes remain constant, fee levels for 2004 could be expected to drop by approximately 20%. Of course, NASD will analyze all relevant factors prior to making that filing.

#### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act, which requires, among other things, that NASD's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that NASD operates or controls. The TAF is objectively allocated to NASD members. Moreover, the NASD believes the level of the fee is reasonable because it relates directly to the recovery of the costs of regulating members.

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

The NASD 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, as amended.

<sup>3</sup> Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 34012 (June 6, 2003) (approval order).

<sup>4</sup> Securities Exchange Act Release No. 47106 (December 30, 2002), 68 FR 819 (January 7, 2003) (approval order).

<sup>5</sup> See Securities Exchange Act Release Nos. 46818 (Nov. 12, 2002), 67 FR 69782 (Nov. 19, 2002) (approving SR-NASD-2002-147) and 47946 (May 30, 2003), 68 FR 34021 (June 6, 2003) (approving SR-NASD-2002-148).

<sup>6</sup> Specifically, NASD stated in the text of the TAF rule language that it will "periodically review these revenues in conjunction with these costs to determine the applicable rate." NASD By-Laws, Schedule A, Section 1(a).

*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 on the current proposal.

**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 NASD 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 NASD. All submissions should refer to file number SR-NASD-2003-93 and should be submitted by July 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-16007 Filed 6-24-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48060; File No. SR-NYSE-2003-11]

**Self-Regulatory Organizations; the New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the NYSE Broker Volume Web Service**

June 19, 2003.

On April 22, 2003, the New York Stock Exchange, Inc. ("NYSE" 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 establish fees to make NYSE Broker Volume information available via a new web-based service ("NYSE Broker Volume Web Service"). The proposal was published for comment in the **Federal Register** on May 14, 2003.<sup>3</sup> The Commission received no comments on the proposal.

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>4</sup> and, in particular, the requirements of Section 6 of the Act<sup>5</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with sections 6(b)(4) and (5) of the Act.<sup>6</sup> Section 6(b)(4)<sup>7</sup> requires the rules of an exchange to provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that the exchange operates or controls. Section 6(b)(5)<sup>8</sup> requires that the rules of a national securities exchange be designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Commission finds that the proposal is

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

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

<sup>3</sup> See Securities Exchange Act Release No. 47813 (May 8, 2003), 68 FR 25923.

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78f.

<sup>6</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

consistent with these Sections of the Act.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-NYSE-2003-11) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-16008 Filed 6-24-03; 8:45 am]

**BILLING CODE 8010-01-P**

**DEPARTMENT OF STATE**

[Public Notice 4352]

**Shipping Coordinating Committee; Notice of Meeting**

The Shipping Coordinating Committee (SHC), Subcommittee on the Prevention of Marine Pollution, will conduct an open meeting at 9:30 a.m. on Tuesday, July 8, 2003, in Room 2415 of the United States Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, DC 20593-0001. The primary purpose of the meeting is to prepare for the 49th Session of the International Maritime Organization (IMO) Marine Environment Protection Committee (MEPC) to be held at IMO Headquarters in London, England from July 14 to 18, 2003.

The primary matters to be considered include:

- Harmful aquatic organisms in ballast water;
- Recycling of ships;
- Prevention of air pollution from ships;
- Consideration and adoption of amendments to mandatory instruments;
- Harmful anti-fouling systems for ships;
- Implementation of the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) Convention and the OPRC-Hazardous Noxious Substance Protocol and relevant conference resolutions;
- Identification and protection of Special Areas and Particular Sensitive Sea Areas;
- Inadequacy of reception facilities;
- Promotion of implementation and enforcement of the International Convention on the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78) and related instruments;

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>7</sup> 17 CFR 200.30-3(a)(12).