

of approximately \$9.1 million (as of year end 2001) and include approximately 4,300 poles, less than 800 miles of primary and secondary wires attached to those poles, approximately 2,400 pad-mounted and pole-mounted transformers, street lights, underground conduit, customer service lines, and customer meters. Applicants state that detailed field inventory work is being done to identify the exact figures of the various types of assets to be transferred. Also being sold or transferred incidental to the sales transaction are accounts receivable from the transferred customers, various pole attachment agreements with third parties who have equipment attached to the transferred poles, easements and rights of way, and approximately 11 acres of unimproved land.

The total consideration for the transaction is \$23.9 million, of which \$9.1 million was the approximate net book value as of year-end 2001 of the assets to be transferred. Applicants are in the process of determining additions, prior retirements and post 2001 depreciation. A significant, but not specifically quantified, portion of the consideration is for the loss of future income from the customers being transferred.

The transaction is proposed following a condemnation action initiated by Vineland in a New Jersey state court. Various pleadings were filed by the city and ACE in which expert testimony was offered by both parties on the value of what was sought to be condemned based on a variety of valuation methods, including depreciated book value of the assets, replacement costs of the assets, the present value analyses of the future stream of income from the transferred customers, and other considerations. A settlement of the condemnation action was negotiated and executed on March 13, 2002. The settlement provided for the sale of assets and transfer of the customers from ACE to VMEU, effective as of a condemnation date to be selected. Between March 13, 2002, and the present, ACE has been constructing the facilities necessary to reconfigure its system and doing other work necessary to permit a smooth transition of customer records, customer billing and similar matters.

Under the transition plan, customers are being transferred to VMEU in advance of the transfer of title to the utility assets. Under the settlement agreement and the transition plan, Vineland has made payments to ACE totaling \$12.4 million and is expected to make an additional payment of \$11 million sometime in April 2004. Title to the utility assets has not been

transferred but is expected to be transferred in early June 2004. A final payment of approximately \$500,000 will be made six months after the transfer date.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-7604 Filed 4-2-04; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### Vaso Active Pharmaceuticals, Inc.; Order of Suspension of Trading

April 4, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vaso Active Pharmaceuticals, Inc. ("VAPH") because of questions regarding the accuracy of assertions by VAPH and by others, in press releases, its annual report, its registration statement and public statements to investors concerning, among other things: (1) FDA approval of certain key products, and (2) the regulatory consequences of the future application of their primary product.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EST on Thursday, April 1, 2004 through 11:59 p.m. EDT, on Thursday, April 15, 2004.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 04-7786 Filed 4-1-04; 1:48 pm]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49496; File No. SR-CHX-2003-25]

### Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change and Amendments No. 1 and No. 2 Thereto Relating to Stop Order Handling Rules

March 29, 2004.

On August 11, 2003, the Chicago Stock Exchange, Incorporated ("CHX" 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 CHX Article XXX, Rule 22, which governs the handling of stop orders. On January 29, 2004, the Exchange filed Amendment No. 1 to the proposed rule change,<sup>3</sup> and on February 17, 2004, the Exchange filed Amendment No. 2 to the proposed rule change.<sup>4</sup>

The proposed rule change, as amended, was published for comment in the **Federal Register** on February 26, 2004.<sup>5</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>6</sup> and, in particular, the requirements of Section 6 of the Act<sup>7</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act<sup>8</sup> which

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

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

<sup>3</sup> See letter from Kathleen M. Boege, Associate General Counsel, CHX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated January 28, 2004 ("Amendment No. 1"). Amendment No. 1 replaced the originally filed proposal in its entirety.

<sup>4</sup> See letter from Kathleen M. Boege, Associate General Counsel, CHX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated February 13, 2004 ("Amendment No. 2"). Amendment No. 2 replaced the originally filed proposal, as superceded by Amendment No. 1, in its entirety.

<sup>5</sup> See Securities Exchange Act Release No. 49283 (February 19, 2004), 69 FR 8998.

<sup>6</sup> In approving this proposed rule change, as amended, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f.

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

requires that the Exchange's rules be 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 believes that the CHX's proposal to explicitly codify its policy for handling stop orders should help to provide guidance for its members regarding the handling and execution of such orders. The Commission also believes that defining and confirming that a stop order, once elected by a price penetration on a national securities exchange or association, will be treated as a market order for purposes of determining the execution price due the order, should conform the CHX's stop order handling rules to those of other markets, including the New York Stock Exchange, Inc. ("NYSE"), the American Stock Exchange LLC ("Amex"), and the Pacific Exchange, Inc.<sup>9</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (File No. SR-CHX-2003-25), as amended, 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. 04-7601 Filed 4-2-04; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49497; File No. SR-NASD-2003-184]

### Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc., To Require Members To Review and Update Executive Representative Contact Information on a Quarterly Basis

March 29, 2004.

#### I. Introduction

On December 8, 2003, the National Association of Securities Dealers, Inc.

("NASD") filed with the Securities and Exchange Commission ("Commission" or "SEC"), 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 require members to conduct a review, and, if necessary, update their executive representative contact information on a quarterly basis, specifically within 17 business days after the end of each calendar quarter. The proposed rule change was published for notice and comment in the **Federal Register** on January 27, 2004.<sup>3</sup> The Commission received two comment letters on the proposal.<sup>4</sup> On March 17, 2004, the NASD filed a response to comments.<sup>5</sup> This order approves the proposed rule change.

#### II. Summary of Comments

The Commission received two comment letters on the NASD's proposal.<sup>6</sup> One commenter expressed full support for the proposal, but suggested the information become a line item on the quarterly FOCUS report, because "small firms seldom have executive management changes."<sup>7</sup> The other commenter found it "difficult to not agree" with the NASD's proposal, but noted a lack of instructions on how the NASD will implement the proposed rule change, and a concern that the costs of the proposed rule change might outweigh the benefits of the new requirement.<sup>8</sup> The commenter raised a number of specific questions, including:

- Is the lack of current information a quarterly problem?
- Do contact persons change that often?
- Is this a significant problem with small broker-dealers?
- What is the penalty if a member fails to comply for one quarter?
- If there is no response from the designated person, can the local district follow up to see if there has been a change?<sup>9</sup>

NASD, in response to the comments, stated the proposal "is essential to its

ability to regulate the marketplace."<sup>10</sup> NASD believes that requiring members to review and update such information will "help ensure the accuracy of the information."<sup>11</sup>

NASD stated it will collect the information through NASD's Contact System ("NCS"), with all quarterly reviews and updates being performed on a central location in NCS. Additionally, NASD will require members "to perform all quarterly reviews and updates on the same schedule (*i.e.*, within 17 business days after the end of each quarter)."<sup>12</sup>

In response to a commenter's suggestion that NASD add the executive representative contact information directly to the FOCUS report, NASD "notes that the FOCUS report is an SEC document, requiring SEC action to be amended, and that any amendments to such form tend to be related to financial reporting requirements."<sup>13</sup> Instead, to help members comply with this new requirement, NASD is considering different methods of notifying members of the need to update their executive representative designation and contact information, including (1) reminders that are contemporaneous with the act of filing a quarterly FOCUS report; (2) periodic e-mail broadcasts distributed to members' executive representatives; and (3) individual e-mails to executive representatives.<sup>14</sup>

The NASD explained that failure to provide the requisite information during the 17 business days following each calendar quarter can result in disciplinary action by NASD.<sup>15</sup> NASD noted that, in SR-NASD-2004-025,<sup>16</sup> NASD seeks to amend its minor rule violation plan to address violations of the requirement that members provide or update contact information.

#### III. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule change, the

<sup>10</sup> NASD letter at 1.

<sup>11</sup> NASD has proposed similar quarterly contact information review requirements. See Securities Exchange Act Release Nos. 49246 (February 13, 2004), 69 FR 8255 (February 23, 2004) (SR-NASD-2003-183) (order approving continuing education contact person(s) quarterly update requirement), and 46444 (August 30, 2002), 67 FR 57257 (September 9, 2002) (SR-NASD-2002-108) (proposing quarterly update of emergency contact information).

<sup>12</sup> NASD letter at 2.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> NASD letter at 3 ("NASD may use informal or formal means to enforce violations of its rules").

<sup>16</sup> The Commission has not yet published notice of SR-NASD-2004-025. Copies of the proposed rule change are available at the Commission and at the NASD.

<sup>9</sup> See NYSE Rule 13; Amex Rule 131; and Archipelago Exchange Facility Rule 7.31.

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

<sup>11</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.

<sup>3</sup> See Securities Exchange Act Release No. 49110 (January 21, 2004), 69 FR 3973.

<sup>4</sup> See February 4, 2004 letter from Bradley C. McCurtain, Maine Securities Corporation ("MSC letter") (via e-mail), and February 16, 2004 letter from John J. Dardis, President, Jack Dardis & Associates, LTD ("Dardis letter") (via e-mail).

<sup>5</sup> See March 17, 2004 letter from Grace Yeh, Assistant General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission ("NASD letter").

<sup>6</sup> See footnote 4, *supra*.

<sup>7</sup> MSC letter.

<sup>8</sup> Dardis letter.

<sup>9</sup> *Id.*