does not impose any significant burden on competition, and that does not have the effect of limiting the access to or availability of the system, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (f)(5) of the Rule 19b–4 thereunder.[7] 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.

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, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are fled 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 CBOE. All submissions should refer to File No. CBOE–2001–12 and should be submitted by May 29, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11474 Filed 5–7–01; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(5).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44243; File No. SR–NASD–2001–14]

Self-Regulatory Organizations; Notice of Filing and Order Accelerating Partial Approval of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. To Modify Certain Initial and Continued Listing Standards on Nasdaq

May 1, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on March 8, 2001, the National Association of Securities Dealers, Inc. (''NASD''), 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. On April 26, 2001, Nasdaq submitted Amendment No. 1 to the proposal.[3] The proposal would modify certain initial and continued listing standards on Nasdaq. Nasdaq has also proposed a pilot program that would give immediate effectiveness to certain of the new listing standards. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to that portion of the proposal relating to the pilot program.

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

Nasdaq has filed with the Commission a proposal to amend NASD Rules 4200, 4310, 4320, 4420, and 4450 and thereby modify certain quantitative initial and continued listing standards on Nasdaq. Nasdaq proposes to implement a pilot program that would allow issuers, with respect to certain of the new standards, to comply with either the existing standards or the proposed new standards. The pilot program is designed to ensure that issuers that meet the new standards but not the existing standards are not delisted before the Commission takes final action on the proposed rule change. The standards that would be included in the pilot are: (1) The new bid price requirement found in NASD Rule 4450(b)(4); and (2) the new equity standard, which replaces the old net tangible assets standard, found in NASD Rules 4310(c)(2)(A)(i), 4310(c)(2)(B)(i), 4320(e)(2)(A)(i), 4320(e)(2)(B)(i), 4420(a)(5), 4420(b)(1), and 4450(a)(3). Nasdaq has proposed that the pilot program would expire on July 1, 2001, or such earlier time as the Commission takes action on the overall proposal.

Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

4200. Definitions

(a) For purposes of the Rule 4000 Series, unless the context requires otherwise:

(1)–(27) No change.

(28) *Reserved* [''Net Tangible Assets'' shall mean total assets (including the value of patents, copyrights and trade marks but excluding the value of goodwill) less total liabilities.]

(29)–(36) No change.

4310. Qualification Requirements for Domestic and Canadian Securities

To qualify for inclusion in Nasdaq, a security of a domestic or Canadian issuer shall satisfy all applicable requirements contained in paragraphs (a) or (b), and (c) hereof.

(a)–(b) No change.

(c) In addition to the requirements contained in paragraph (a) or (b) above, and unless otherwise indicated, a security shall satisfy the following criteria for inclusion in Nasdaq:

(1) For initial inclusion, the issue shall have three registered and active market makers, and for continued inclusion, the issue shall have two registered and active market makers, one of which may be a market maker entering a stabilizing bid.

(2) (A) For initial inclusion, the issuer shall have:

(i) [net tangible assets of $4 million] *stockholders' equity of $5 million;*

(ii) market capitalization of $50 million (*currently traded issuers must meet this requirement and the bid price requirement under Rule 4310(c)(4) for 90 consecutive trading days prior to applying for listing);* or

(iii) net income of $750,000 (*excluding extraordinary or non-recurring items*) in the most recently completed fiscal year or in two of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Sara Nelson Bloom, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission (April 25, 2001). In Amendment No. 1, Nasdaq provided a chart that clarifies the proposed schedule for implementing the new listing standards and made certain technical corrections to the proposal.

last three most recently completed fiscal years.

(B) For continued inclusion, the issuer shall maintain:

(i) [net tangible assets of $2 million] *stockholders' equity of $2.5 million;*

(ii) market capitalization of $35 million; or

(iii) net income of $500,000 (*excluding extraordinary or non-recurring items*) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(3)–(29) No change.

(d) No change.

4320. Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

To qualify for inclusion in Nasdaq, a security of a non-Canadian foreign issuer, an American Depositary Receipt (ADR) or similar security issued in respect of a security of a foreign issuer shall satisfy the requirements of paragraphs (a), (b) or (c), and (d) and (e) of this Rule.

(a)–(d) No change.

(e) In addition to the requirements contained in paragraphs (a), (b) or (c), and (d), the security shall satisfy the following criteria for inclusion in Nasdaq:

(1) No change.

(2) (A) For initial inclusion, the issuer shall have:

(i) [net tangible assets of U.S. $4 million] *stockholders' equity of $5 million;*

(ii) market capitalization of U.S. $50 million (*currently traded issuers must meet this requirement for 90 consecutive trading days prior to applying for listing;*) or

(iii) net income of U.S. $750,000 (*excluding extraordinary or non-recurring items*) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(B) For continued inclusion, the issuer shall maintain:

(i) [net tangible assets of U.S. $2 million] *stockholders' equity of $2.5 million;*

(ii) market capitalization of U.S. $35 million; or

(iii) net income of U.S. $500,000 (*excluding extraordinary or non-recurring items*) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(C) An issuer's [net tangible assets] *qualifications* will be determined on the basis of [a balance sheet] *financial statements* prepared in accordance with U.S. generally accepted accounting principles or those accompanied by detailed schedules quantifying the differences between U.S. generally accepted accounting principles and those of the issuer's country of domicile.

(D)–(E) No change.

(3)–(25) No change.

(f) No change.

4420. Quantitative Designation Criteria

In order to be designated for The Nasdaq National Market, an issuer shall be required to substantially meet the criteria set forth in paragraphs (a), (b), (c), (d), (e), (f), or (g) below. Initial Public Offerings substantially meeting such criteria are eligible for immediate inclusion in The Nasdaq National Market upon prior application and with the written consent of the managing underwriter that immediate inclusion is desired. All other qualifying issues, excepting special situations, are included on the next inclusion date established by Nasdaq.

(a) Entry Standard 1

(1) The issuer of the security had annual pre-tax income of at least $1,000,000 (*excluding extraordinary or non-recurring items*) in the most recently completed fiscal year or in two of the last three most recently completed fiscal years.

(2) There are at least 1,100,000 publicly held shares.

(3) The market value of publicly held shares is at least $8 million.

(4) The bid price per share is $5 or more.

(5) The issuer of the security has [net tangible assets of at least $6 million] *stockholders' equity of $15 million.*

(6) The issuer has a minimum of 400 round lot stockholders.

(7) There are at least three registered and active market makers with respect to the security.

(b) Entry Standard 2

(1) The issuer of the security has [net tangible assets of at least $18 million] *stockholders' equity of at least $30 million.*

(2) There are at least 1,100,000 publicly held shares.

(3) The market value of publicly held shares is at least $18 million.

(4) The bid price per share is $5 or more.

(5) There are at least three registered and active market makers with respect to the security.

(6) The issuer has a two-year operating history.

(7) The issuer has a minimum of 400 round lot stockholders.

(c) Entry Standard 3

An issuer designated under this paragraph does not also need to be in compliance with the quantitative criteria for initial inclusion in the Rule 4300 series.

(1) There are at least 1,100,000 publicly held shares.

(2) The market value of publicly held shares is at least $20 million.

(3) The bid price per share is $5 or more.

(4) There are at least four registered and active market makers with respect to the security.

(5) The issuer has a minimum of 400 round lot stockholders.

(6) The issuer has:

(A) a market capitalization of $75 million *(currently traded issuers must meet this requirement and the bid price requirement under Rule 4420(c)(3) for 90 consecutive trading days prior to applying for listing)*; or

(B) total assets and total revenue of $75 million each for the most recently completed fiscal year or two of the last three most recently completed fiscal years.

(d)–(h) No change.

4450. Quantitative Maintenance Criteria

After designation as a Nasdaq National Market security, a security must substantially meet the criteria set forth in paragraphs (a) or (b), and (c), (d), (e), and (f) below to continue to be designated as a national market system security. A security maintaining its designation under paragraph (b) need not also be in compliance with the quantitative maintenance criteria in the Rule 4300 series.

(a) Maintenance Standard 1—Common Stock, Preferred Stock, Shares or Certificates of Beneficial Interest of Trusts and Limited Partnership Interests in Foreign or Domestic Issues

(1) 750,000 shares publicly held;

(2) Market value of publicly held shares of $5 million;

(3) The issuer has [net tangible assets of at least $4 million] *stockholders' equity of at least $10 million*;

(4) 400 stockholders of round lots; and

(5) Minimum bid price per share of $1.

(b) Maintenance Standard 2—Common Stock, Preferred Stock, Shares or Certificates of Beneficial Interest of Trusts and Limited Partnership Interests in Foreign or Domestic Issues

(1) The issuer has:

(A) a market capitalization of $50 million; or

(B) total assets and total revenue of $50 million each for the most recently completed fiscal year or two of the last three most recently completed fiscal years.

(2) 1,100,000 shares publicly held;

(3) Market value of publicly held shares of $15 million;

(4) Minimum bid price per share of [$5] *$3*;

(5) 400 stockholders of round lots; and

(6) At least four registered and active market makers.

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 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. 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

The proposed rule change would: (1) Replace the net tangible assets standard with an equity standard; (2) require that currently trading issuers applying for initial listing under the market capitalization alternative demonstrate 90 days of sustained compliance with the bid price and market capitalization requirements before they are eligible to apply to become listed; (3) clarify the Nasdaq will exclude extraordinary or non-recurring items for purposes of determining compliance with the income standard; and (4) adjust the bid price requirement associated with continued listing on the Nasdaq National Market under the market capitalization standard from $5 or $3. Nasdaq states that these changes were designed to have minimal impact on issuers in the marketplace while providing greater transparency and consistency.

In addition, Nasdaq has proposed a pilot program that will allow issuers that meet the new original listing and maintenance standards but not the old standards to remain listed on Nasdaq for a short period while the Commission considers the overall proposal.[4]

The Equity Standard

Companies may qualify for initial or continued inclusion on the Nasdaq National Market or the Nasdaq SmallCap Market based, in part, on their net tangible assets. Net tangible assets are defined as total assets less total liabilities less goodwill. Nasdaq proposes to change from this net tangible assets standard to an equity standard for several reasons. First, the equity standard is more transparent to investors, as it is reflected in issuer financial statements, as opposed to the net tangible assets standard which must be manually calculated. For this reason, the equity standard will also provide a better framework for complimentary standards in Nasdaq's developing international markets. Second, the change would respond to recent accounting developments which may tend to require an increase in the booking of goodwill. Finally, the use of an equity standard is consistent with listing standards on the New York Stock Exchange (''NYSE'') and the American Stock Exchange.[5]

With respect to the Nasdaq National Market, the $6 million net tangible assets requirement for initial listing under Entry Standard 1 (for companies with pre-tax income of at least $1 million in the latest fiscal year or two of the last three years) would be changed to a $15 million stockholders' equity requirement, and the $18 million net tangible assets requirement under Entry Standard 2 (for companies without the above-referenced pre-tax income) would be changed to $30 million in stockholders' equity. In addition, the $4 million net tangible assets continued listing requirement would be changed to $10 million in stockholder's equity. With respect to the Small Cap Market, the $4 million net tangible assets initial inclusion requirement would be changed to $5 million in stockholders' equity, and the $2 million net tangible assets continued inclusion requirement would be changed to $2.5 million in stockholders' equity.

Seasoning Period for Applicants Relying on the Market Capitalization Standard

Companies may qualify for listing on Nasdaq based, in part, on their market capitalization. The market capitalization listing standards were originally adopted in 1997 to permit the inclusion of certain financially sound issuers that could not qualify under the net tangible assets requirement as a result of accounting conventions such as the booking of goodwill associated with various merger and acquisition activities or significant depreciation charges.[6] These standards permit an issuer to list with a bid price of $5 and a market capitalization of $75 million (in the case of the Nasdaq National Market) or a bid price of $4 and a market capitalization of $50 million (in the case of the Nasdaq SmallCap Market).

Since the adoption of the rule, Nasdaq has noted certain instances where publicly traded companies (including companies quoted on the OTC Bulletin Board) have applied to list on Nasdaq based on the market capitalization listing standards. In these circumstances, companies may be able to evidence compliance based on short-term price reaction to favorable news, which price increase may not be sustainable over the long term. Accordingly, Nasdaq proposes a ''seasoning'' period of 90 days of currently traded issuers, such that an issuer must maintain the required bid price and market capitalization for that period prior to applying for listing. Nasdaq believes that this seasoning period, especially when coupled with the time necessary to review and process any such application, would provide assurance that a company would be unable to secure a Nasdaq listing based on an unsustainable, short-term run-up in its stock price.[7]

Extraordinary and Non-Recurring Income Items

The income standards for the Nasdaq Stock Market currently make no provision for the exclusion of extraordinary or non-recurring items when assessing an issuer's compliance with the income requirements for listing on Nasdaq. However, Nasdaq believes that it is appropriate to exclude extraordinary and non-recurring income items because they do not provide a continuing benchmark of the issuer's financial performance. Accordingly, Nasdaq proposes that the National Market and SmallCap Market rules relating to the income standards be amended to indicate that the income determination will exclude extraordinary and non-recurring items.

[4] *See infra* Section V.

[5] *See* NYSE Rules 102 and 103 (initial listing standards), 802 (continued listing standards); Amex Listing Rules 102 (initial listing standards) and 1003 (continued listing standards.)

[6] *See* Securities Exchange Act Release No. 38961 (August 22, 1997), 62 FR 45895 (August 29, 1997) (approving SR–NASD–97–16).

[7] Nasdaq has stated that this requirement would not apply to an issuer listing as part of its initial public offering, because the same concerns do not exist.

Bid Price Standard for Issuers Qualifying Under the Market Capitalization Standard

Issuers that seek to qualify for the Nasdaq National Market pursuant to the market capitalization alternative [8] must demonstrate a $5 bid price for both initial and continued inclusion. Nasdaq proposes to adjust the continued inclusion standard, applicable to Nasdaq National Market companies qualifying under the market capitalization standard, from $5 to $3. This would harmonize this standard with other standards by providing a differential between the initial inclusion and continued inclusion requirements.

Implementation

To minimize disruption to existing issuers and to allow adequate time for necessary corporate action to comply with the stockholders' equity standard, Nasdaq proposes to provide its issuers with 18 months following Commission approval of the proposed pilot to come into compliance with the new standard. During this time, issuers that do not meet the new stockholders' equity standard could qualify for continued listing under the net tangible assets standard.

Similarly, for issuers that applied for listing prior to the effective date of the rule, Nasdaq proposes that they continue to be able to qualify for listing under the listing standards in force at the time of their application for a period of 90 days from the effective date of the proposed rule change, and thereafter receive the same grace periods provided to current issuers to come into compliance with the new equity test. Alternatively, such issuers may qualify for listing under the new stockholders' equity test for initial inclusion.

The graph below illustrates the proposed schedule for implementation of the new listing standards.[9] The pilot program is effective as of the date of this release and will terminate upon the earlier of July 1, 2001, or such time that the Commission takes action on the overall proposal. Implementation will be complete 18 months following the date of the Commission's approval of the pilot program.

PROPOSED IMPLEMENTATION SCHEDULE FOR SR–NASD–2001–14

Qualification standards	Pilot program	90 Days following SEC approval order of permanent rule	During 18 months following SEC approval order of the pilot program	At expiration of 18 months following SEC approval order of the pilot program
Initial Listing Criteria:				
Original Standards	Available (for net tangible assets requirement only).	Available (for net tangible assets requirement only).	Not available	Not available.
New Standards	Available	Available	Available	Available.
Continued Listing Criteria:				
Original Standards	Available (for net tangible assets requirement only).	Available (for net tangible assets requirement only).	Not available..	
New Standards	Available	Available	Available	Available.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act [10] in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. As noted above, Nasdaq states that the proposed rule change is designed to have minimal impact on issuers in the marketplace while providing greater transparency and consistency in its listing standards.

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

Nasdaq does not believe that the proposed rule change would 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

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 reason for so finding, or (ii) as to which the Nasdaq 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 and Amendment No. 1 thereto 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, 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 No. SR–NASD–2001–14 and should be submitted by May 29, 2001.

V. Accelerated Approval for Pilot Program

Nasdaq has proposed a pilot program that will operate for a short period while the Commission considers the overall proposal. During the pilot period, currently listed issuers on Nasdaq that might have difficulty meeting the old maintenance standards would have the

[8] *See* NASD Rules 4420(c) and 4450(j).

[9] This table sets forth an implementation schedule *proposed by Nasdaq.* It should not be interpreted as suggesting that the Commission is predisposed to approving the new standards on a permanent basis.

[10] 15 U.S.C. 78o–3(b)(6).

option instead of meeting the new maintenance standards. Similarly, issuers that are applying for listing could, during the pilot period, choose to meet the proposed original listing standards rather than the existing original listing standards. The standards that would be included in the pilot are: (1) The new bid price requirement found in NASD Rule 4450(b)(4); and (2) the new stockholders' equity standard, which replaces the old net tangible assets standard, found in NASD Rules 4310(c)(2)(A)(i), 4310(c)(2)(B)(i), 4320(e)(2)(A)(i), 4320(e)(2)(B)(i), 4420(a)(5), 4420(b)(1), and 4450(a)(3). Nasdaq has proposed that the pilot program would operate until July 1, 2001, or such earlier time as the Commission acts on Nasdaq's request for permanent approval of the proposal.[11]

The Commission finds that the proposed pilot program is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD.[12] In particular, the Commission believes that the proposal is consistent with Section 15A(b)(6) of the Act.[13] Section 15A(b)(6) requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; 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.

With respect to the pilot proposal to lower the bid price requirement in Maintenance Standard 2 of NASD rule 4450 from $5 to $3, the Commission notes that the bid price requirement for initial listing will remain $5.[14] Nasdaq's listing rules generally establish a higher initial requirement and a somewhat lower continued requirement to allow for market fluctuations.[15] Establishing a new bid price requirement of $3 for continued listing would make this standard similar to other existing standards that require issuers to comply with maintenance requirements that are more flexible than the original listing requirements. Accordingly, the Commission believes it is reasonable and consistent with the Act to approve this aspect of the pilot program while the Commission continues to study the overall proposal by, among other things, considering any public comments that may be submitted.

With respect to the pilot proposal to replace the net tangible assets standard with a stockers' equity standard, the Commission notes that it has previously approved a similar proposal to institute market capitalization and stockholders' equity requirements on the NYSE.[16] In that case, the Commission stated that the amount of stockholders' equity is not an inappropriate measure of a company's suitability for listing on an exchange.[17] Accordingly, the Commission believes it is reasonable and consistent with the Act to approve this aspect of the pilot program while the Commission continues to study the overall proposal by, among other things, considering any public comments that may be submitted.

Pursuant to Section 19(b)(2) of the Act,[18] the Commission finds good cause for approving the pilot program prior to the thirtieth day after publication of the filing of this proposal in the **Federal Register**. The Commission believes that accelerated approval of the pilot will enable the Commission and Nasdaq to gain experience with the new standards before the Commission considers granting them permanent approval. Furthermore, the Commission notes that accelerated approval of the pilot program will allow certain issuers that meet the proposed standards to remain listed even if they might fail to meet the existing standards. These companies, in the absence of the pilot, would immediately be subject to delisting as required by the existing maintenance criteria. If the Commission were subsequently to approve the proposal on a permanent basis, these companies would be eligible to relist under the new standards but only after delisting had disrupted trading in their securities. However, if the Commission were to approve the pilot but not permanently approve the proposal, these companies would still have to be delisted, but the timing of their delisting would have far less potential for market disruption. In the interests of reducing market disruption, the Commission believes that the better course of action would be to approve the pilot program on an accelerated basis. The Commission also notes that it has approved similar pilot programs on the NYSE relating to the implementation of new listing standards.[19] Finally, the Commission notes that the pilot will be of only short duration, and the public will have an opportunity to offer comments on all aspects of the overall proposal.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–NASD–2001–14) is partially approved with respect to the pilot program which will bend on the earlier of July 1, 2001, or when the Commission takes final action on the overall proposal.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–11473 Filed 5–7–01; 8:45am]

BILLING CODE 8010–01–M

[11] By approving the pilot, the Commission permits Nasdaq, for the duration of the pilot period, to replace the existing bid price and net tangible assets standards with the new proposed standards. However, if the pilot expires before the Commission takes action on the proposed rule change, the old standards would have to be reinstated because Nasdaq would no longer have authority for the new standards.

[12] For purposes of approving the pilot program on an accelerated basis, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78o–3(b)(6).

[14] *See* NASD Rules 4420(a)(5), 4420(b)(4), and 4420(c)(3).

[15] *Compare* NASD Rule 4420 (giving issuers of Nasdaq National Market securities the option of meeting one of three entry standards which include requirements that the market value of publicly held shares be at least $8 million, $18 million, or $20 million, respectively) with NASD Rule 4450 (giving issuers of Nasdaq national Market securities the option of meeting one of two maintenance standards which include requirements that the market value of publicly held shares be at least $5 million or $15 million, respectively).

[16] *See* Securities Exchange Act Release No. 42194 (December 1, 1999), 64 FR 69311 (December 10, 1999) approving SR–NYSE–99–29).

[17] *See id.,* 64 FR at 69314.

[18] 15 U.S.C. 78s(b)(2).

[19] *See* Securities Exchange Act Release No. 41648 (July 26, 1999), 64 FR 41986 (August 2, 1999) (publishing notice of SR–NYSE–99–29 and approving on an accelerated basis a pilot program relating to continued listing criteria); Securities Exchange Act Release No. 41459 (May 27, 1999), 64 FR 30088 (June 4, 1999) (publishing notice of SR–NYSE–99–17 and approving on an accelerated basis a pilot program relating to original listing criteria).

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44246; File No. SR–NASD–2001–29]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish the Nasdaq ReSource SM Service

May 2, 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 April 24, 2001, the National Association of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.