

propose a rule change to the Commission defining the circumstances under which stock may be stopped on the Exchange and specifying appropriate conduct by CHX specialists.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-CHX-2003-07), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4-3081 Filed 11-8-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50621; File No. SR-NASD-2004-151]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Making Technical Modifications to the NASD Trade Reporting Rules

November 2, 2004.

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 October 12, 2004, 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. Nasdaq has designated this proposal as one concerned solely with the administration of the self-regulatory organization under Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(3) thereunder,⁴ which renders the rule effective upon Commission receipt of this filing. 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

Nasdaq proposes to make technical modifications to the NASD trade reporting rules. These modifications do not in any way alter members' trade reporting obligations. The changes merely reflect technical language changes necessitated by the fact that SR-NASD-2004-076 (the "name change" filing)⁵ was filed without including the language changes previously approved as part of SR-NASD-2003-159.⁶ In addition, the filing makes two technical corrections to the text of NASD Rules 5430(b)(10) and 6620(e)(5) to correct placement errors made in SR-NASD-2004-076.⁷ The text of the proposed rule change is available at the NASD and at the Commission.

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. 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

Nasdaq proposes to make technical modifications to the NASD trade reporting rules. These modifications do not in any way alter members' trade reporting obligations. The changes merely reflect technical language changes necessitated by the fact that SR-NASD-2004-076⁸ was filed without including the language previously approved as part of SR-NASD-2003-159.⁹

On April 19, 2004, the Commission approved SR-NASD-2003-159,¹⁰ which filing created several new trade report modifiers and expanded the use of certain existing modifiers. For example, Nasdaq created the .ST modifier, which it will attach to late reports of pre-open

and after-hours trades. The filing also proposed expanding use of the .W modifier to identify Stop Stock Transactions, and allowing the .PRP modifier to be used for exchange-listed securities. These modifications pertain only to reports submitted to Nasdaq's Automated Confirmation Transaction Service ("ACT"), and do not affect reports submitted to the NASD's alternative display facility. The appropriate language changes were included in the filing—SR-NASD-2003-159.¹¹

Subsequent to the Commission approving SR-NASD-2003-159, Nasdaq filed, as effective upon filing, SR-NASD-2004-076,¹² re-naming certain Nasdaq systems. For example, Nasdaq's trade reporting system and its execution system were known as ACT and SuperMontage, respectively. SR-NASD-2004-076¹³ eliminated the individual names of these systems, which are referred to collectively now as the Nasdaq Market Center. However, Nasdaq deliberately did not incorporate in the name-change filing the rule language changes approved in SR-NASD-2003-159¹⁴ because, at that time, there were some questions as to when, or if, some of the new modifiers would be implemented.

The .ST modifier, while approved by the Commission, could not be implemented until the respective participants of the Nasdaq UTP Plan and Consolidated Tape Association Plan ("CTA Plan") approved the changes, which approval had not been obtained when the name-change filing was submitted. Nasdaq believed incorporating the rule language changes approved in SR-NASD-2003-159¹⁵ in the name-change filing would create confusion because the language was not effective.

Since the filing of SR-NASD-2004-076,¹⁶ Nasdaq has obtained approval from the Nasdaq UTP Plan and CTA Plan participants to implement the .ST modifier and other modifiers approved in SR-NASD-2003-159.¹⁷ Because of these developments, Nasdaq believes it is appropriate to include the language associated with these modifiers in the NASD rules. However, given that implementation of some of the changes will be delayed for an additional period of time, Nasdaq is adding footnotes after affected text to indicate that the rule

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹³ 15 U.S.C. 78s(b)(1).

² 7 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(3).

⁵ Securities Exchange Act Release No. 50074 (July 23, 2004), 69 FR 45866 (July 30, 2004).

⁶ Securities Exchange Act Release No. 49581 (April 19, 2004), 69 FR 22578 (April 26, 2004).

⁷ See footnote 5, *supra*.

⁸ *Id.*

⁹ See footnote 6, *supra*.

¹⁰ *Id.*

¹¹ *Id.*

¹² See footnote 5, *supra*.

¹³ *Id.*

¹⁴ See footnote 6, *supra*.

¹⁵ *Id.*

¹⁶ See footnote 5, *supra*.

¹⁷ See footnote 6, *supra*.

language modifications will become effective at a later date. These footnotes were not included in SR–NASD–2003–159,¹⁸ and thus are new language being added by the current filing.

Nasdaq also is adding new language to avoid confusion about when the time of execution must be included on all reports submitted to the Nasdaq Market Center. In SR–NASD–2003–159,¹⁹ the Commission approved Nasdaq's proposal to require the time of execution on all reports submitted to the Nasdaq Market Center, but Nasdaq also requested that the effective date of this obligation be delayed for one year after Commission approval. The filing contained the changes to the NASD rules that would be appropriate when the obligation is effective. For example, Nasdaq proposed removing language that indicated the time of execution is necessary only when a trade is reported late, and added language indicating that the time of execution is necessary on all reports. Including these language changes in the name-change filing also would have created confusion because the actual effective date of the obligation is not until April 25, 2005. To prevent such confusion, Nasdaq is adding interpretive material indicating that members will be required to provide the time of execution on all trade reports beginning on April 25, 2005, and that the necessary language changes will be made to the NASD rules at a later time.

Finally, Nasdaq is making non-substantive changes to NASD Rules 5430(b)(10) and 6620(e)(5) to correct text placement errors made in SR–NASD–2204–076.²⁰ In particular, the language of section (10) of NASD Rule 5430(b) will be moved in its entirety to its correct location under subparagraph (a) of that same rule in conformity with SR–NASD–2003–154,²¹ the rule filing that created it. For NASD Rule 6620, Nasdaq proposes to remove the incorrectly placed language of subparagraph (e)(5) that duplicates the correct rule language already in place in subparagraph (b)(5) of that same rule.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,²² in general, and with Section 15A(b)(6) of the Act,²³ in particular, in that it is designed to prevent fraudulent and

manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to protect investors and the public interest. Nasdaq believes the proposal is consistent with these obligations because it consolidates the rule language changes of two previously approved NASD filings and clarifies the effective date of certain of the proposals.

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

Nasdaq 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.

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

Nasdaq neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act,²⁴ and Rule 19b–4(f)(3) thereunder,²⁵ in that it is concerned solely with the administration of the self-regulatory organization.

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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR–NASD–2004–151 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NASD–2004–151. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2004–151 and should be submitted on or before November 30, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁶

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–3074 Filed 11–8–04; 8:45 am]

BILLING CODE 8010–01–P

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See footnote 5, *supra*.

²¹ 21 Securities Exchange Act Release No. 48823 (November 21, 2003), 68 FR 67249 (December 1, 2003).

²² 15 U.S.C. 78o–3.

²³ 15 U.S.C. 78o–3(b)(6).

²⁴ 15 U.S.C. 78s (b)(3)(A)(iii).

²⁵ 17 CFR 240.19b–4(f)(3).

²⁶ 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50627; File No. SR-NASD-2004-163]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Extension of Pilot for Bond Trade Dissemination Service ("BTDS") Professional Delayed-Time Data Display Fee

November 3, 2004.

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 October 27, 2004, the National Association of Securities Dealers, Inc. ("NASD"), filed

with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by NASD. The NASD has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ 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

NASD is proposing to amend Rule 7010(k)(3)(A)(ii) to extend the pilot program for the Bond Trade

Dissemination Service ("BTDS") Professional Delayed-Time Data Display Fee for the Trade Reporting and Compliance Engine ("TRACE"), prior to its expiration on October 31, 2004, for nine months through July 31, 2005. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in brackets.

* * * * *

7010. System Services

(a) through (j) No change.

(k) Trade Reporting and Compliance Engine

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine ("TRACE"):

System fees	Transaction reporting fees	Market data fees
Level I Trade Report Only Web Browser Access—\$20/month per user ID. Level II Full Service Web Browser Access—\$80/month per user ID.	Trades up to and including \$200,000 par value—\$0.475/trade; Trades between \$201,000 and \$999,999 par value—\$0.002375 times the number of bonds traded/trade; Trades of \$1,000,000 par value or more—\$2.375/trade BTDS Professional Real-Time Data Display—\$60/month per terminal, exempt. Cancel/Correct—\$1.50/trade "As of" Trade Late—\$3/trade	BTDS Professional Delayed-Time Data Display—\$15/month per terminal. BTDS Internal Usage Authorization—\$500/month per application/service for Real-Time and Delayed-Time Data. BTDS External Usage Authorization—\$1,000/month per application/service for Real-Time and Delayed-Time Data. BTDS Non-Professional Real-Time Data Display—\$1/month per terminal.
CTCI/Third Party—\$25/month/per firm		

(1) through (2) No change.

(3) Market Data Fees

Professionals and non-professionals may subscribe to receive Real-Time and Delayed-Time TRACE data disseminated by NASD in one or more of the following ways for the charges specified. Members, vendors and other redistributors shall be required to execute appropriate agreements with NASD.

(A) Professional Fees.

Professionals may subscribe for the following:

(i) No change.

(ii) For a pilot period commencing February 1, 2004, and lasting [until October 31, 2004,] *through July 31, 2005*, BTDS Professional Delayed-Time Data Display Fee of \$15 per month, per terminal charge for each interrogation or display device receiving Delayed-Time TRACE transaction data; provided, that subscribers to the BTDS Professional Real-Time Data Display Fee described above shall not be charged this additional fee. Subject to the execution of appropriate agreements with NASD, certain summary market information of Delayed-Time TRACE transaction data

may be published or distributed by newspapers, press associations, newsletters, or similar media sources without charge.

(iii) through (iv) No change.

(B) through (D) No change.

(l) through (u) No change.

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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 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 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**

Currently, NASD charges a BTDS Professional Delayed-Time Data Display Fee of \$15.00 per month, per terminal, for each interrogation or display device receiving Delayed-Time TRACE transaction data under Rule 7010(k)(3)(A)(ii). The fee was established for a pilot period, which will expire on October 31, 2004. NASD is proposing to extend the pilot program and the \$15.00 fee for the BTDS Professional Delayed-Time Data Display through July 31, 2005. NASD is not proposing to revise the fee during the extended pilot period.

NASD is proposing to extend the pilot program because it intends to undertake a comprehensive review of TRACE fees and wants to evaluate the BTDS Professional Delayed-Time Data Display Fee as part of this review.

As discussed below, NASD is filing the proposed rule change for immediate

¹ 15 U.S.C. 78s(b)(1).² 17 CFR 240.19b-4.³ 15 U.S.C. 78s(b)(3)(A)(iii).⁴ 17 CFR 240.19b-4(f)(6).⁵ The NASD asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).