

organization 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 the file number in the caption above and should be submitted by December 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 99-29601 Filed 11-10-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42095; File No. SR-NASD-99-59]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Transaction Credits

November 3, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, notice is hereby given that on October 13, 1999, the National Association of

Securities, Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "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 constituting the establishment or change of a due, fee or other charge imposed by the Association under Section 19(b)(3)(A)(ii)³ of the Act which renders the rule effective upon the Commission's 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 is filing a proposed rule change to amend Rule 7010 of the NASD. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

7010 System Services

(a)-(b) No Change.

(c).

(1) Consolidated Quotation Service, Existing Paragraph remains the same.

(2) Listed Securities Transaction Credit. For a pilot period, qualified NASD members that trade securities listed on the NYSE and Amex in over-the-counter transactions reported by the NASD to the Consolidated Tape Association may receive from the NASD transaction credits based on the number of trades so reported. [To qualify for the credit with respect to either Tape A reports or Tape B reports, An NASD member must have accounted for 500 or more average daily Tape A or Tape B reports of over-the-counter transactions (but not in combination) as reported to the Consolidated Tape by the NASD over the period of July 1, 1998 to December 31, 1998, and must continue to average either 500 or more daily Tape A or 500 or more daily Tape B reports (but not in the combination) of over-the-counter transactions reported to the Consolidated Tape by the NASD during the term of the pilot.] *To qualify for the credit with respect to Tape A reports, an NASD member must account for 500 or more average daily Tape A reports of over-the-counter transactions as reported to the Consolidated Tape during the concurrent calendar quarter. To qualify for the credit with respect to*

Tape B reports, an NASD must account for 500 or more average daily Tape B reports of over-the-counter transactions as reported to the Consolidated Tape during the concurrent calendar quarter. If an NASD member is so qualified to earn credits based either on its Tape A activity, or its Tape B activity, or both, that member may earn credits from one or both pools maintained by the NASD, each pool representing 40% of the revenue paid by the Consolidated Tape Association to the NASD for each of Tape A and Tape B transactions. A qualified NASD member may earn credits from such pools according to the member's pro rata share of the NASD's over-the-counter trade reports in each of Tape A and Tape B for each calendar quarter starting with [October 1, 1998, and ending with the calendar quarter starting on April 1, 1999.] *July 1, 1999, and ending with the calendar quarter starting on October 1, 1999.*⁴

* * * * *

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

Nasdaq is proposing to extend, for an additional six months (from July 1, 1999 through December 31, 1999), its pilot program to provide a transaction credit⁵ to NASD members who exceed certain levels of trading activity in exchange-listed securities. The NASD established its transaction credit pilot to assist in finding ways to lower investor costs associated with trading listed securities, and to respond to steps taken by other

⁴ Pursuant to a telephone conversation between Thomas P. Moran, Assistant General Counsel, Office of General Counsel, The Nasdaq Stock Market, Inc. and Jennifer L. Colihan, Staff Attorney, Division of Market Regulation, SEC on November 4, 1999, NASD Rule 7010(c)(2) as written in the original filing was deleted. NASD Rule 7010(c)(3) as identified in the original filing was renumbered as NASD Rule 7010(c)(2).

⁵ The transaction credit can be applied to any and all charges imposed by NASD or its non-SRO affiliates. Any remaining balance may be paid directly to the member.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 USC 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 USC 78S(B)(3)(A)(ii).

exchanges that compete with Nasdaq for investor order flow in those issues.

1. Background

Nasdaq's Third Market is a quotation, communication and execution system which allows NASD members to trade stocks listed on the New York Stock Exchange ("NYSE") and the American Stock Exchange ("AMEX"). The Third Market competes with regional exchanges like the Chicago Stock Exchange ("CHX") and the Cincinnati Stock Exchange ("CSE") for retail order flow in stocks listed on the NYSE and AMEX exchanges.⁶ The NASD collects quotations from broker-dealers that trade these securities over-the-counter ("OTC") and provides such quotations to the Consolidated Quotation System for dissemination. Additionally, the NASD collects trade reports from these broker-dealers trading such securities in the OTC market and provides the trade reports to the Consolidated Tape Association ("CTA/CQA") for inclusion in the Consolidated Tape. As a participant in the CTA/CQA, the NASD earns a share of those organizations' revenue from trades that it reports in NYSE-listed securities ("Tape A") and in AMEX-listed securities ("Tape B"). It is from the NASD's share of these revenues that Nasdaq created the credit pools for qualified pilot participants.

Nasdaq's original transaction credit pilot and the proposed extension are intended to lower costs for Third Market Makers, and their customers, who execute trades in exchange-listed stocks through NASD members and Nasdaq facilities. The NASD believes that lowering the cost of trading increases competition among market centers trading listed securities. Continuation of the pilot will also allow Nasdaq to continue to evaluate the efficacy of its revenue sharing model and continue to effectively compete for the retention of Third Market participants with other regional exchanges who have adopted similar revenue distribution methodologies.

2. Pilot Program

Under the original pilot proposal, Nasdaq first calculated two separate pools of revenue from which credits could have been earned. One pool represents 40% of the gross revenues received from the CTA/CQA for

providing trade reports in NYSE-listed securities executed in the Third Market for dissemination by CTA/CQA ("Tape A"). The other pool represents 40% of the gross revenue received from CTA/CQA for reporting AMEX trades ("Tape B"). These revenue pools will remain at the same 40% level during the pilot's extension.

In response to requests from market participants to expand eligibility for Tape A and B transaction credits, the NASD has chosen to change the transaction credit program for these transactions. Unlike the original pilot, eligibility for transaction credits during the pilot's extension will not be based on historical trading levels derived from previous calendar quarter measures of trading activity, but instead will be expanded to give new participants the potential to receive transaction credits based on concurrent quarterly trading activity. For example, a Third Market participant that newly entered the market for Tape A or Tape B securities during the third quarter of 1999 and printed either an average of 500 daily trades of Tape A securities, or one who averaged 500 daily Tape B prints during the third quarter, would be eligible to receive transaction credits based on its trades during that quarter. As in the original pilot, only those NASD members who continue to average an appropriate daily execution level during the term of the pilot's extension will be eligible for transaction credits and thus, will be able to receive a pro-rata portion of the 40% revenue pools.⁷ The NASD has chosen to create these thresholds to permit the NASD to recover appropriate administrative costs related to NASD members that do not exceed the threshold and to encourage NASD members to actively trade in these securities.

If an NASD member qualifies for a transaction credit, it will be calculated by taking the members' percentage of total Third Market Transactions during the applicable calculation period and providing an equivalent percentage from the appropriate Tape A or B revenue pool. Thus, for each calendar quarter beginning July 1, 1999, the NASD will measure a qualified member's trade reports for that calendar quarter in each of Tape A and B transactions and create a credit for that member based upon such activity. For example, should a qualifying NASD member's transactions represent 10% of the NASD's Tape A transactions, that member would receive

a 10% share of the Tape A 40% revenue pool.

It must again be noted that Nasdaq's transaction credit program is being proposed on a pilot basis only. There can be no guarantee that transaction credits will be available to qualifying NASD members beyond the term of the pilot.⁸

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)⁹ of the Act in that the proposal is designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanism of a national market system and, in general, to protect investors and the public interest. Nasdaq's pilot is also consistent with Section 15A(b)(5)¹⁰ of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the association operates or controls.

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.

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

The foregoing rule change has become immediately effective pursuant to Section 19(b)(3)(A)(ii)¹¹ of the Act and subparagraph (f)(2) of Rule 19b-4 thereunder¹² in that it establishes or changes a due, fee or other charge imposed by the Association.

At any time within 60 days of the filing of such 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 purpose of the Act.

⁸ Nasdaq also reserves the right to terminate the transaction credit pilot at any time.

⁹ 15 USC 78o-3(b)(6).

¹⁰ USC 78o3(b)(5).

¹¹ 15 USC 78s(b)(A)(ii).

¹² 17 CFR 240.19-b4(f)(2).

⁶ CHX and CSE have established similar programs. See Securities Exchange Act Release No. 38237 (February 4, 1997), 2 FR 6592 (February 12, 1997); and Securities Exchange Act Release No. 39395 (December 3, 1997), 62 FR 65113 (December 10, 1997). To remain competitive with these markets, the NASD believes that it must evaluate programs designed to effectively respond to other markets' approaches to trading the same securities.

⁷ As explained in Nasdaq's original pilot filing, the qualification thresholds were selected based on Nasdaq's belief that such numbers represent clear examples of a member's commitment to operating in the Third Market and competing for order flow.

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 the File Number SR-NASD-99-59 and should be submitted by December 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-29602 Filed 11-10-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42093; International Series Release No. 1209; File No. SR-Phlx-99-30]

Self-Regulatory Organizations; Notice of Filing of the Proposed Rule Change and Order Granting Partial Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Non-Customized Cross-Rate Foreign Currency Options Margin Levels

November 3, 1999.

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 August 5, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" and "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Item I, II, and III below which Items have been prepared by the Exchange. On October 26, 1999, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant partial accelerated approval to permit the continued use of the existing four percent add-on margin for non-customized Cross-Rate FCOs until February 4, 2000.

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

The Exchange proposed to amend Phlx Rule 722(d) to determine the add-on margin levels for non-customized cross-rate foreign currency options ("Cross-Rate FOCs") using the

methodology outlined in Commentary .16 to that Rule, in lieu of the fixed four percent rate that the Exchange currently uses. In the interim, the Exchange requests that the Commission approve, on an accelerated basis, the continued use of the existing four percent add-on margin for non-customized Cross-Rate FCOs until February 4, 2000.⁴

The text of the proposed rule change follows. Proposed new language is *italicized*; proposed deletions are in [brackets].

Margin Accounts

Rule 722 (a)-(c)—No change.

(d) 1-2—No change.

3. Short Positions—Listed Options and Currency, Currency Index or Stock Index Warrants. Subject to the exceptions set forth below, the margin on any put or call option listed or traded on a registered national securities exchange or association and issued by a registered clearing corporation or any currency warrant, currency index warrant or stock index warrant which is issued, guaranteed or carried "short" in a customer's account shall be 100% of the current market value of the option or warrant plus the percentage of the current market value of the underlying security, foreign currency or index specified in column II below.

Notwithstanding the margin required below, the minimum margin on any put or call or any warrant issued, guaranteed or carried "short" in a customer's account may be reduced by any "out-of-the-money-amount" (as defined below), but shall not be less than 100% of the current market value of the option or warrant plus the percentage of the current market value of the underlying security, foreign currency or index specified in column III below with the exception that the minimum margin required on each such put option contract shall not be less than the current option market value plus the minimum percentage set forth in column III of the option's aggregate exercise price amount.

I Type of option	II Initial and/ or maintenance margin required (percent)	III Minimum margin re- quired(percent)	IV Underlying component value
(1) Stock	20	10	The equivalent number of shares at current market prices.
(2) Industry Index Stock Group	20	10	The product of the current index group value and the applicable index multiplier.
(a) Super Cap Index	20	10	The product of the current index group value and the applicable index multiplier.
(3) Broad Index stock group	15	10	The product of the current index group value and the applicable index multiplier.
(4) Foreign Currencies	¹	³ / ₄	The product of Units per foreign currency contract and the closing spot price.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange requested accelerated approval from the Commission to temporarily extend the 4% add-on margin for all

non-customized cross-rate foreign currency options until February 4, 2000; provided statistical data to substantiate the proposed rule change; and made substantive rule changes to the proposed rule text. See Letter from Nandita Yagnik, Counsel, Phlx, to Hong-anh Tran, Attorney, Division of Market

Regulation ("Division"), Commission, dated October 25, 1999 ("Amendment No. 1").

⁴ See Amendment No. 1, *supra* note 3. Non-customized options carry specific contract terms for features such as contract size, strike price intervals, expiration date, price quoting and premium settlement.