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SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company organized as a trust under the laws of the State of New York. On July 6, 1993, applicant filed a notification of registration on Form N-8A and a registration statement on Form N-1A. Applicant's registration statement has not been declared effective.

2. Applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

4. Applicant has terminated its existence under New York law.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97-7646 Filed 3-25-97; 8:45 am]

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[Release No. 34-38417; File No. SR-NASD-97-17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Fees Charged for the Nasdaq Level 1 Service

March 18, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 3, 1997, the National Association of Securities Dealers, Inc. ("NASD") and the Nasdaq Stock Market, Inc. ("Nasdaq") (hereinafter referred to collectively as "Nasdaq" or the "Nasdaq Stock Market") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by

Nasdaq. On March 18, 1997, the Nasdaq Stock Market filed Amendment No. 1 to the proposal.¹ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The proposed rule change amends NASD Rule 7010(a) to increase the monthly fee charged for Nasdaq Level 1 Service. Below is the text of the proposed rule change. Proposed new language is italicized and proposed deletions are bracketed.

Rule 7000. CHARGES FOR SERVICES AND EQUIPMENT

7010. System Services

(a) Nasdaq Level 1 Service

The charge to be paid by the subscriber for each terminal receiving Nasdaq Level 1 Service is \$20 [19] per month. This Service includes the following data:

* * * * *

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

The Nasdaq Stock Market proposes to establish a fee increase for Nasdaq Level 1 Service to reflect the increased value of the data being disseminated via this Service. Under the new SEC Order Handling Rules, Nasdaq quotations now contain additional information that was not previously available to subscribers. That is, pursuant to SEC Rule 11Ac1-4,

¹ In Amendment No. 1, Nasdaq clarifies that the filing is made on behalf of the NASD and the Nasdaq Stock Market, Inc. Amendment No. 1 also includes additional discussion regarding the statutory basis for the fee increase for Nasdaq Level 1 Service. Finally, Amendment No. 1 corrects several typographical errors in the original filing. See letter from Eugene A. Lopez, Assistant General Counsel, Office of General Counsel, The Nasdaq Stock Market Inc., to Michael Walinskas, Senior Special Counsel, Office of Market Supervision, Division of Market Regulation, Commission, dated March 17, 1997 ("Amendment No. 1").

customer limit orders are now displayed in market maker quotations. In addition, Nasdaq's Level 1 Service includes price information from electronic communications networks ("ECNs") that was not previously available through this Service. Thus, to reflect the increased value of the transparency of Nasdaq quotes under these new rules and the price discovery information available in the Nasdaq Stock Market, Nasdaq believes that the fee for such service should be increased.

Nasdaq proposes to increase by \$1.00 the current monthly fee for the receipt of Nasdaq quote and trade information, resulting in a \$20 fee per month per authorized device for Level 1 Service. As noted above, the Nasdaq Level 1 Service will include limit order information (i.e., the best priced orders to buy and sell) and ECN prices. This information provides valuable information to investors and other market participants and helps in price discovery. However, this fee increase will not become effective until the latter of April 1, 1997, or such time when more than half of Nasdaq securities as measured by median daily dollar volume are subject to the new SEC Order Handling Rules. Nasdaq believes that it is appropriate to delay the implementation of the increased fee until the Level 1 Service reflects a substantial increase in this new information. Once Nasdaq's higher volume securities are subject to the new rules, the value of the Level 1 Service will have substantially increased and the fee should reflect that added value.

Nasdaq believes that the above-referenced fee is consistent with the provisions of Section 15A(b)(5) of the Act.² Section 15A(b)(5) specifies that the rules of a national securities association shall provide for the equitable allocation of reasonable dues, fees and charges among members, issuers and other persons using any facility or system that the association operates or controls. The increased fee to be charged for this valuable information results in an equitable allocation of the cost of providing this information in a way that the costs are applied fairly and uniformly to all users of the system. Nasdaq has attempted to equitably spread the costs associated with the information gathered pursuant to the new SEC Order Handling Rules over a broad base of end users, as was

² 15 U.S.C. 78o-3.

done in the dissemination of OTC Bulletin Board information in 1991.³

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

The Nasdaq Stock Market does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

Within 35 days of the 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 self-regulatory organization consents, the Commission will:

(A) By order approve the 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. 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. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. 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-97-17 and should be submitted by April 16, 1997.

³ See Securities Exchange Act Release No. 29616 (August 27, 1991), 56 FR 43826 (September 4, 1991).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Jonathan G. Katz,
Secretary.

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[Release No. 34-38420; International Series Release No. 1066; File No. SR-PSE-96-46]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Thereto by the Pacific Stock Exchange, Inc. Relating to Foreign Broker/Dealers

March 19, 1997.

On December 16, 1996, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to modify its rules to specify that the term "broker/dealer," as used in PSE Rules 6.52(a), 6.86 and 6.87, includes foreign broker/dealers. The PSE also proposed to adopt a definition of the term "foreign broker/dealer." Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on January 30, 1997.³ No comment letters were received on the proposal. On March 12, 1997, the Exchange filed amendment No. 1 to the proposed rule change.⁴ This order approves the PSE proposal, as amended.

I. Description of the Proposal

PSE Rules 6.52(a), 6.86 and 6.87, relating to option transactions only, currently distinguish between orders for broker/dealers and orders for non-broker/dealers. Under these rules, only non-broker/dealer customer orders are eligible to be placed on the public limit order book,⁵ to be entered for automatic

execution,⁶ or are eligible for a guaranteed minimum execution of 20 contracts on the floor of the Exchange.⁷

The purpose of the proposed rule change is to clarify the meaning of the term "broker/dealer," as used in Rules 6.52(a), 6.86 and 6.87, by specifying that it includes foreign broker/dealers. The Exchange is also proposing to adopt the following definition of "foreign broker/dealers," which would be applicable to PSE Rules 6.52(a), 6.86 and 6.87:

Foreign Broker/Dealer: The term "foreign broker/dealer"

means any person or entity that is registered, authorized or licensed by a foreign governmental agency or foreign regulatory organization (or should be so registered, authorized or licensed) to perform the function of a broker or dealer in securities, or both. The terms "broker" and "dealer" mean the same as set out in Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, provided that a "broker" or "dealer" may be a bank.⁸

In light of the current globalization of the securities markets, the Exchange believes that the subject rules should be applied consistently. In this regard, PSE asserts that an exchange specialist (or functional equivalent) in Canada or Mexico, for example, should be subject to the same rules applicable to trading on the PSE as an exchange specialist in the United States, and should not have a competitive advantage over United States broker/dealers.⁹

an Order Book Official pursuant to this Rule." Cf. SEC Rule 11Ac1-4(a)(6) (equity "customer limit orders" that must be displayed pursuant to Rule 11Ac1-4 include those that are "not for the account of either a broker or dealer") (effective January 20, 1997).

⁶ Rule 6.87(a) provides: "Only non-broker/dealer customer orders are eligible for execution on the Exchange's Automatic Execution System ("Auto-Ex")."

⁷ Rule 6.86(a) provides: "Each trading crowd is required to provide a depth of twenty (20) option contracts for all non-broker/dealer customer orders, at the bid/offer that is displayed as the disseminated market quote at the time such orders are announced or displayed at the trading post designated for trading the subject option class."

⁸ Sections 3(a)(4) and 3(a)(5) of the Act provide:

(4) The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others, but does not include a bank.

(5) The term "dealer" means any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business.

⁹ The Commission notes that a non-broker/dealer customer executing a trade through a foreign broker/dealer would be treated as a public customer for purposes of PSE Rules 6.52(a), 6.86 and 6.87, as revised. Telephone conversation between Michael D. Pierson, Senior Attorney, Regulation Policy, PSE, and James T. McHale, Attorney, OMS, Division, Commission, on March 3, 1997.

⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 38203 (January 24, 1997), 62 FR 4564 (January 30, 1997).

⁴ In amendment No. 1 the Exchange revises the definition of "foreign broker/dealer" to include those persons or entities which are required to be registered, authorized or licensed by a foreign governmental agency or foreign regulatory organization, even if they are not so registered, authorized or licensed. See letter from Michael D. Pierson, Senior Attorney, Regulation Policy, PSE, to James T. McHale, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated March 11, 1997 ("Amendment No. 1").

⁵ Rule 6.52(a) provides in part that "[o]nly non-broker/dealer customer orders may be placed with