

was denied the opportunity to inspect the licensee's facility and to verify that radioactive materials were being safely used and stored. Furthermore, the NRC was informed by the State of Maryland that Mr. Todd and RSDI committed a similar violation as a Maryland Licensee. Specifically, RSDI was issued a civil penalty in 1987 by the State of Maryland for the use of radioactive material without a license.

In view of the foregoing, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with NRC requirements and that the health and safety of the public would be protected if Mr. Todd or RSDI were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Todd and RSDI be prohibited from any involvement in NRC-licensed activities for a period of one year from the date of this Order. Additionally, Mr. Todd and RSDI are required to notify the NRC of their first involvement in NRC-licensed activities following the prohibition period.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.3, 10 CFR 30.10 and 10 CFR 150.20, it is hereby ordered, that:

1. For a period of one (1) year from the date of this Order, Mr. Dale Todd and RSDI are prohibited from engaging in or exercising control over individuals engaged in NRC-licensed activities. NRC-licensed activities are those activities which require a specific or general license issued by the NRC including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. This prohibition includes, but is not limited to: (1) using licensed materials or conducting licensed activities in any capacity within the jurisdiction of the NRC; and (2) supervising or directing any licensed activities conducted within the jurisdiction of the NRC.

2. At least five (5) days prior to the first time that Mr. Dale Todd and/or RSDI engage in or exercise control over NRC-licensed activities, during a period of five (5) years following the one year prohibition stated in Section IV.1 above, the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, shall be notified in writing of the name, address, and telephone number of the NRC or Agreement State licensee and the location where the licensed activities

will be performed. The notice shall be accompanied by a statement, under oath or affirmation, that Mr. Dale Todd and/or RSDI understand the applicable NRC requirements and are committed to compliance with NRC requirements. Mr. Dale Todd and/or RSDI also should provide a basis as to why the Commission should have confidence that Mr. Dale Todd and/or RSDI will now comply with applicable NRC requirements.

The Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, may relax or rescind, in writing, any of the above conditions upon a showing by Mr. Dale Todd and/or RSDI of good cause.

V

In accordance with 10 CFR 2.202, Mr. Todd and RSDI must, and any person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Todd and RSDI or other persons adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, and to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, S.W., Suite 23T85, Atlanta, Georgia 30303-3415 and to Mr. Todd, if the answer or hearing request is by a person other than Mr. Todd. If a person other than Mr. Todd requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Todd or RSDI or a person whose interest is

adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated this 31st day of March 1999.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Executive Director for Regulatory Effectiveness.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41243; File No. SR-NASD-99-09]

Self-Regulatory Organizations; Notice of Extension of the Comment Period for the Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Establishment of an Agency Quotation in Nasdaq

April 1, 1999.

On February 3, 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 ("Commission") a proposal to permit the separate display of customer orders by market makers in Nasdaq through a market maker agency identification symbol ("Agency Quote"). Notice of the proposed rule change was published for comment on March 11, 1999.¹

To give the public additional time to comment on the proposal, the Commission is extending the comment period for the NASD's Agency Quote proposal to June 1, 1999. A copy of the proposed rule change is available in the Commission's Public Reference Room in File No. SR-NASD-99-09.

Interested persons are invited to submit written data, views, and

¹ Securities Exchange Act Release No. 41128 (march 2, 1999), 64 FR 12198.

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Securities Exchange Act of 1934. Persons making written submissions should file six copies thereof with Jonathan G. Katz, 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 filings will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-99-09 and should be submitted by June 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41244; File No. SR-NASD-99-12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Establishment of a Pilot Program To Provide Daily Share Volume Reports via NasdaqTrader.com

April 1, 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 February 18, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, 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 the self-regulatory

organization. On March 24, 1999, Nasdaq filed Amendment No. 1 which replaces and supersedes the initial proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change as contained in Amendment No. 1 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 NASD Rule 7010 to establish a fee for the Volume and Issue Data Package provided through the NasdaqTrader.com web site. The text of the proposed rule change is provided below in italics.

(p) NasdaqTrader.com Volume and Issue Data Package Fee

The charge to be paid by the subscriber for each entitled user receiving the Nasdaq Volume and Issue Data Package via NasdaqTrader.com shall be \$75 per month. The charge to be paid by market data vendors for this information shall be \$50 per month for each end user receiving the information through the data vendor. The availability of this service through NasdaqTrader.com shall be limited to NASD members. Qualified Institutional Buyers and data vendors. The Volume and Issue Data Package includes:

(1) Daily share Volume reports.
(2) Daily Issue Data.
(3) Month Volume Summaries.

* * * * *

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

³ On February 18, 1999, Nasdaq submitted its initial proposal to provide only T+1 daily share volume reports in each Nasdaq security to market data vendors, NASD members, and non-NASD member Qualified Institutional Buyers ("QIBs") as defined in Rule 144A under the Securities Act of 1933. 17 CFR 230.144A. After discussions with at least one market data vendor, and internal discussions at Nasdaq, Nasdaq filed Amendment No. 1 on March 24, 1999. The revised proposal will provide the same information in Nasdaq's original proposal to market data vendors, NASD members, and non-NASD member QIBs, as well as daily issue summaries of the previous day's activity for every Nasdaq issue, and monthly summaries of trading volume statistics for the top 50 market participants broken down by industry sector, security, or type of trade.

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 proposes to establish a fee for a voluntary trading data distribution facility, accessible to NASD members, buy-side institutions (i.e., Qualified Institutional Buyers ("QIBs"))⁴ and market data vendors through its "NasdaqTrader.com" web site. Under the proposal, subscribers to this service as well as retail customers of participating market data vendors, will be able to obtain the Volume and Issue Data Package, proposed to be named Nasdaq Post DataSM.

Post DataSM will consist of three separate reports that will be provided as a single package. The first item will be the Daily Share Volume Report, to be named Nasdaq Volume PostSM, which will provide subscribers with access to T+1 daily share volume in each Nasdaq security, listing the volume by each NASD member firm that reports volume in the security and has voluntarily chosen to permit the dissemination of this information. The daily share volume will be verified for accuracy by Nasdaq's Automated Confirmation Transaction Service ("ACT"). The second item, the Daily Issue Data report, will contain a summary of the previous day's activity for every Nasdaq issue. The third item, Monthly Summaries, will provide monthly trading volume statistics for the top 50 market participants broken down by industry sector, security, or type of trading (e.g., block or total).

Post DataSM will be made available in two ways through the NasdaqTrader.com web site. The information will be provided to market data vendors to be redistributed to their retail customers for which the data vendor will pay a \$50 per month fee to Nasdaq for each end user obtaining this information. The information will also be provided directly to subscribers, limited to NASD members and non-NASD member QIBs, for a fee of \$75 per month. Fees from system subscribers and vendor users will be used to offset the costs associated with the ongoing enhancement, maintenance and marketing of the NasdaqTrader.com web site. The fee paid by direct system subscriber will be used to offset the

⁴ For purposes of this service, Nasdaq will rely on the definition of "Qualified Institutional Buyer" found in Rule 144A under the Securities Act of 1933. 17 CFR 230.144A.

² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.