

System issues and, now, Nasdaq/NM securities, providing a greater number of investors an opportunity to achieve price improvement is compatible with the views expressed in the Order Handling Rules release.¹⁰

Because the provision of price improvement for Nasdaq/NM securities should enhance small investor participation in the securities market, without sacrificing investor protection and the public interest, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-CHX-99-10) is hereby approved on an accelerated basis.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41858; File No. SR-NASD-99-38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., To Increase the Examination Development Fee Payable to the New York Stock Exchange, Inc.

September 10, 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 6, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association") 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 NASD. 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

The NASD proposes to amend Section 2(d) of Schedule A of the NASD By-Laws to reflect a recent increase to the examination development fee payable to the New York Stock Exchange, Inc. ("NYSE"), by NASD members taking the General Securities Representative Examination ("Series 7 Exam"). Additions are italicized; deletions are bracketed.

Section 2—Fees

* * * * *

(d) There shall be a New York Stock Exchange examination development fee of [\$40.00] *\$90.00* assessed as to each individual who takes a Series 7 examination for registration as a general securities representative. This fee is in addition to the registration and examination fees described in paragraphs (b) and (c) respectively.

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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, the 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. The 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

The NASD proposes to amend Schedule A of its By-Laws to reflect an increase in the NYSE Series 7 Exam development fee from \$40 to \$90.³ The NASD has represented that it collects this fee from its members in connection with its administration of the Central Registration Depository ("CRD")

program.⁴ After it collects the fee, the NASD passes the proceeds of the fee to the NYSE to cover the costs of providing qualification examination programs.

The NASD proposes to make the rule change effective on or about September 15, 1999. The effective date was announced on August 18, 1999, in a Notice To Members.⁵

2. Statutory Basis

The NASD represents that it believes the proposed rule change is consistent with the provisions of Section 15A(b)(5)⁶ of the Act, which requires, among other things, that the Association's rules must provide 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

The NASD represents that it 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 effective pursuant to Section 19(b)(3)(A)(ii)⁷ of the Act and subparagraph (f)(2) of Rule 19b-4⁸ thereunder in that it is a change to a due, fee, or other charge imposed by the NASD. 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,

⁴ Telephone conversation between Mary Dunbar, Associate General Counsel, National Association of Securities Dealers Regulation, Inc. ("NASDR"), and Gordon Fuller, Special Counsel, and Matthew Boesch, Paralegal, Division of Market Regulation, Commission (August 17, 1999).

⁵ Letter from Alden Adkins, Senior Vice President and General Counsel, NASDR, to Richard Strasser, Assistant Director, Division of Market Regulation, Commission, dated August 20, 1999.

⁶ 15 U.S.C. 78o-3(b)(5).

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240-19b-4(f)(2).

¹⁰ See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (File No. S7-30-95).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The NYSE charges its members and member organizations an examination development fee for each individual taking the Series 7 Exam to recover the costs of providing qualification examination programs. On June 17, 1999, the NYSE filed a proposed rule change with the Commission increasing its examination development fee from \$40 to \$90. See Securities Exchange Act Rel. No. 41548 (June 22, 1999), 64 FR 35231 (June 30, 1999). The NYSE initially adopted in 1986 an examination development fee of \$10; it increased this fee to \$40 in 1990.

or otherwise in furtherance of the purposes of the Act.⁹

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 file No. SR-NASD-99-38 and should be submitted by October 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41849; File No. SR-PCX-99-29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Regarding the Extension of the Pilot Program Eliminating Position and Exercise Limits in FLEX Equity Options

September 9, 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 13, 1999, the Pacific Exchange, Inc. ("PCX" or "Exchange") 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 PCX. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act³ which renders the proposal effective upon receipt of this filing by the Commission.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to accelerate the operative date of the proposed rule change.

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

The PCX proposes a three month extension of the pilot program, set to expire on September 9, 1999, relating to the elimination of position and exercise limits for FLEX Equity options. The Exchange proposes that the three month extension expire on December 9, 1999.

The text of the proposed rule change is available at the Office of the Secretary, PCX, 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, the Exchange 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. The Exchange 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

On February 14, 1996, the Commission approved the Exchange's

proposal to trade FLEX Equity options on specified equity securities.⁵ On September 9, 1997, the Commission approved the Exchange's proposal to eliminate position and exercise limits for FLEX Equity options pursuant to a two-year pilot program.⁶ Under the two-year pilot program, position and exercise limits for FLEX Equity options pursuant to PCX Rules 8.107 and 8.108 were eliminated. The current pilot program expires on September 9, 1999. The Exchange proposes a three month extension of the current pilot program to expire on December 9, 1999. The Exchange requests the extension to be able to complete a report required pursuant to the original approval order for the two-year pilot program.⁷

2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with Section 6(b)⁸ of the Act in general and furthers the objectives of Section 6(b)(5)⁹ in particular in that it is designed to facilitate transactions in securities, promote just and equitable principles of trade, and protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose 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

The Exchange has 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

This proposed rule filing has been filed by the Exchange as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(i) of the Act¹⁰ and subparagraph (f)(6) of Rule 19b-4

⁵ Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996).

⁶ Securities Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997).

⁷ Under the current pilot program, the Exchange was required to submit a status report eighteen months following the commencement of the program. Although the PCX has not submitted such report, it intends to do so within the proposed three month extension period.

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(i).

⁹ In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ The Exchange has represented that the proposed rule change: (i) will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Commission is waiving the minimum five business day notice requirement as permitted by Rule 19b-4(f)(6) under the Act. *Id.* The Commission notes that the Exchange has requested that the Commission accelerate the operative date of the rule change to permit uninterrupted operation of the pilot program.