

(6)¹¹ of the Act. The proposed rule change is consistent with section 15A(b)(5)¹² in that it provides for the equitable allocation of reasonable dues, fees, and other charges among Issuers using the Nasdaq system. The proposed rule change is also consistent with section 15A(b)(6)¹³ in that it is designed to promote just and equitable principles of trade and does not permit unfair discrimination between customers, Issuers, brokers or dealers. As noted above, the fee increase reflects additional costs that Nasdaq incurs for services provided to Issuers.

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

The NASD 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

The NASD neither solicited nor received written comments.

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

Within 35 days of the date of 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 Exchange 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, as amended, 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 filings will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR-NASD-2001-76 and should be submitted by December 21, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45102; File No. SR-NASD-2001-59]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Fees for Historical Research Reports and Licensing the Redistribution of Information From Such Reports

November 26, 2001.

On September 25, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("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 amend subsection (p) of NASD Rule 7010, System Services, to modify the fees charged for historical research reports provided through Nasdaq's Nasdaq Trader.com web site, and to establish a fee for licensing the redistribution of information contained in such reports.

The proposal was published in the **Federal Register** on October 22, 2001.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

applicable to a national securities association⁴ and, in particular, the requirements of section 15A of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with sections 15A(b)(5) and (6) of the Act.⁶ Section 15A(b)(5) requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by a national securities association. Section 15A(b)(6) requires rules that foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-NASD-2001-59), be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45095; File No. SR-PHLX-2001-68]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Regarding Notification of Changes in Business Operations and the Minor Rule Violation Enforcement and Reporting Plan

November 21, 2001.

On July 19, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("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 adopt an Equity Floor Procedure Advice and an Options Floor Procedure Advice, with fine schedules under the Phlx's

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78o-3.

⁶ 15 U.S.C. 78o-3(b)(5) and (6).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹¹ 15 U.S.C. 78o-3(b)(6).

¹² 15 U.S.C. 78o-3(b)(5).

¹³ 15 U.S.C. 78o-3(b)(6).

¹⁴ 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. 44940 (October 16, 2001), 66 FR 53462.

minor rule violation enforcement and reporting plan ("Plan") containing the requirements for notification established in Phlx Rule 610, Notification of Changes in Business Operations. On September 20, 2001, the Phlx amended the proposal.³

The proposed rule change, as amended, was published for comment in the **Federal Register** on October 1, 2001.⁴ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁵ and, in particular, the requirements of section 6 of the Act⁶ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(5) of the Act⁷ because it will help prevent fraudulent and manipulative acts and practices, as well as promote just and equitable principles of trade. The Commission finds the proposal is consistent with section 6(b)(6) of the Act,⁸ because the proposal provides a mechanism for the appropriate discipline for violations of certain rules and regulations.

In addition, the Commission finds the proposal is consistent with section 6(b)(7) of the Act⁹ because the proposal provides a fair procedure for the disciplining of members and persons associated with members. The Commission also finds the proposal is consistent with section 6(b)(8) of the Act,¹⁰ in that it furthers the statutory goal of providing a fair procedure for disciplining the Phlx's members and associated persons. Finally, the Commission finds the proposal is consistent with Securities Exchange Act Rule 19d-1(c)(2)¹¹ that governs minor rule violation plans.

In approving this proposal, the Commission in no way minimizes the importance of compliance with these rules, and all other rules subject to the imposition of fines under the Plan. The Commission believes that the violation of any self-regulatory organization's

rules, as well as Commission rules, is a serious matter. However, in an effort to provide the Exchange with greater flexibility in addressing certain violations, the Plan provides a reasonable means to address rule violations that do not rise to the level of requiring formal disciplinary proceedings. The Commission expects that the Phlx will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of rules under the Plan, on a case by case basis, or if a violation requires formal disciplinary action.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹² that the proposed rule change (SR-PHLX-2001-68), as amended, be, and it hereby is, approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45093; File No. SR-Phlx-2001-99]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Conform Rule 2001(b)(2)(viii) to the Seventeenth Amendment of the Intermarket Trading System Plan

November 21, 2001.

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 30, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" 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 Phlx. The Exchange filed this proposal under section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ CFR 240.19b-4(f)(6). The Phlx requested that the Commission waive the 30-day operative delay. The Phlx provided the Commission with notice of its

the proposal effective upon filing with the Commission. 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 Phlx proposes to amend subsection (b)(2)(viii) of Exchange Rule 2001 (Intermarket Trading System) to provide for a 30-second commitment period to trade for orders received through the Intermarket Trading System ("ITS"), consistent with the 17th Amendment to the Intermarket Trading System Plan ("ITS Plan" or "Plan").⁵ The text of the proposal is below.

Additions are in italics; deletions are in brackets.

Rule 2001. Intermarket Trading System

(a) Unchanged.

(b) Provisions of the Plan-By subscribing to and submitting the ITS Plan for filing with the Securities and Exchange Commission, the Exchange has agreed to comply to the best of its ability, and, absent reasonable justification or excuse, to enforce compliance by its members, with the provisions of the ITS Plan. In this connection, the following shall apply:

Intermarket Trading System ("ITS")

(1) Unchanged

(2) Any "commitment to trade", which is transmitted by a member to another participating market center through ITS, shall be firm and irrevocable for the period of time following transmission as is chosen by the sender of the commitment. All such commitments to trade shall, at a minimum:

(i)-(vii) Unchanged

(viii) specify the time period during which the commitment shall be irrevocable, but if the time period is not specified in the commitment, the longer of the [two] *three* options available under the Plan shall be assumed by ITS.

(3)-(6) Unchanged.

intention to file this proposal on September 20, 2001.

⁵ See Securities Exchange Act Release No. 44903 (October 3, 2001), 66 FR 52159 (October 12, 2001) ("ITS Plan Amendment No. 17"). The ITS is a National Market System plan, which was designed to facilitate intermarket trading in exchange-listed equity securities based on current quotation information emanating from the linked markets. See Securities Exchange Act Release No. 18536 (March 4, 1982), 47 FR 10658 (March 11, 1982) (noticing the restated ITS Plan) and Securities Exchange Act Release No. 19456 (January 27, 1983), 48 FR 4938 (February 3, 1983) (adopting the restated ITS Plan).

³ The amendment completely replaced and superseded the original proposal.

⁴ See Securities Exchange Act Release No. 44844 (September 25, 2001), 66 FR 49994.

⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(6).

⁹ 15 U.S.C. 78f(b)(7).

¹⁰ 15 U.S.C. 78f(b)(8).

¹¹ 17 CFR 240.19d-1(c)(2).