

I. Background

The Commission originally approved the Plan on June 26, 1990.⁴ The Plan governs the collection, consolidation and dissemination of quotation and transaction information for Nasdaq/National Market securities listed on an exchange or traded on an exchange pursuant to UTP. The Commission has extended the effectiveness of the Plan six times since then to allow the Participants to trade pursuant to the Plan while they finalize their negotiations for revenue sharing under the plan.⁵

As originally approved by the Commission, the Plan required the Participants to complete their negotiations regarding revenue sharing during the one-year pilot period. The January 1995 Extension Order approved the effectiveness of the Plan through August 12, 1995. Since January 1995, the Commission has expected the Participants to conclude their financial negotiations promptly and to submit a filing to the Commission that reflected the results of the negotiations. Moreover, the Commission's August 1995 Extension Order required the Participants to submit a filing concerning revenue sharing on or before August 31, 1995. The Commission's December 1995 Extension Order noted that request, and further requested that the Participants submit to the Commission, on or before December 20, 1995, a proposed revenue sharing amendment, along with a proposed amendment to extend the effectiveness of the Plan through the pending period for the financial proposal.

The Commission currently believes it is appropriate to extend the effectiveness of the Plan through March 5, 1996, so that operation of the Plan may continue while the Commission awaits these amendments and prepares them for publication in the Federal Register.

⁴ See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 ("1990 Approval Order"). For a detailed discussion of the history of UTP in OTC securities, and the events that led to the present plan and pilot program, see 1994 Extension Order, *infra* note 5.

⁵ See Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103 ("1994 Extension Order"). See also Securities Exchange Act Release No. 35221, (January 11, 1995), 60 FR 3886 Release No. 36102 (August 14, 1995), 60 FR 43626 ("August 1995 Extension order"), Securities Exchange Act Release No. 36226 (September 13, 1995), 60 FR 49029 ("September 1995 Extension Order"), Securities Exchange Act Release No. 36368 (October 13, 1995), 60 FR 54091 ("October 1995 Extension Order"), and the November and December 1995 Extension Orders, *supra* note 3.

II. Extension of Certain Exemptive Relief

In conjunction with the Plan, on a temporary basis scheduled to expire on December 29, 1995, the Commission granted an exemption from Rule 11Ac1-2 under the Act regarding the calculated best bid and offer ("BBO"), and granted the BSE an exemption from the provision of Rule 11Aa3-1 under the Act that requires transaction reporting plans to include market identifiers for transaction reports and last sale data. This order extends these exemptions through March 5, 1996. Further, this extension will remain in effect only if the Plan continues in effect through that date pursuant to a Commission order.⁶ The Commission continues to believe that this exemptive relief is appropriate through March 5, 1996.

III. Comments on the Operation of the Plan

In the January 1995 Extension Order, the August 1995 Extension Order, the September 1995 Extension Order, the October 1995 Extension Order, and the November 1995 Extension Order, the Commission solicited, among other things, comment on: (1) Whether the BBO calculation for the relevant securities should be based on price and time only (as currently is the case) or if the calculation should include size of the quoted bid or offer; and (2) whether there is a need for an intermarket linkage for order routing and execution and an accompanying trade-through rule. The Commission continues to solicit comment on these matters.

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, NW., Washington, DC 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

⁶ In the December 1995 Extension Order, the Commission extended these exemptions through December 29, 1995. Pursuant to a request made by the NASD, this order further extends the effectiveness of the relevant exemptions through March 5, 1996. See letter from Richard Ketchum, Chief Operating Officer and Executive Vice President, NASD, to Jonathan G. Katz, Secretary, Commission, dated December 22, 1995.

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 Room. All submissions should refer to File No. S7-24-89 and should be submitted by January 25, 1996.

V. Conclusion

The Commission finds that proposed Amendment No. 7 to the Plan to extend the operation of the Plan and the financial negotiation period through March 5, 1996, is appropriate and in furtherance of Section 11A of the Act. The Commission finds further that extension of the exemptive relief through March 5, 1996, as described above, also is consistent with the Act and the Rules thereunder. Specifically, the Commission believes that these extensions should serve to provide the Participants with more time to conclude their financial negotiations and to submit the necessary filings to the Commission. This, in turn, should further the objects of the Act in general, and specifically those set forth in Sections 12(f) and 11A of the Act and in Rules 11Aa3-1 and 11Aa3-2 thereunder.

It is therefore ordered, pursuant to Sections 12(f) and 11A of the Act and (c)(2) of Rule 11Aa3-2 thereunder, that Amendment No. 7 to the Joint Transaction Reporting Plan for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis is hereby approved and trading pursuant to the Plan is hereby approved on a temporary basis through March 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(29).

Jonathan G. Katz,

Secretary.

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[Release No. 34-36631; File No. SR-CSE-95-08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to Exchange Rule 11.10, National Securities Trading System Fees

December 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 16, 1995 the Cincinnati Stock

¹ 15 U.S.C. 78s(b)(1).

Exchange, Inc. ("CSE" 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 self-regulatory organization. On December 1, 1995, the Exchange submitted Amendment No. 1 text to the proposed rule change.² On December 20, 1995, the Exchange submitted Amendment No. 2 to the proposed rule change.³ 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 Exchange hereby amends Rule 11.10 regarding fees imposed by the Exchange. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

Rule 11.10 National Securities Trading System Fees

A. Agency Transactions.

Except for Preferred transactions, members acting as an agent will be charged \$0.0025 per share (\$0.25/100 shares) for public agency transactions. [except that there will be no transaction fee charge for public agency limit orders executed from the CSE limit order book.]

B. through F. No. Change.

G. Proprietary (principal) Transactions.

1. All Designated Dealers, *except those acting as Preferencing Dealers or Contributing Dealers*, will be charged \$0.005 per share (\$0.50/100 shares) [\$0.0075 per share (\$0.75/100 shares)] for principal transactions *excluding ITS transactions*. [unless acting as Dealer of the Day, a Preferencing Dealer or a Contributing Dealer except, ITS Transactions] *Designated Dealers* will be billed \$0.0050 per share on outbound ITS trades and \$0.0000 per share on inbound ITS trades. *All Designated Dealers' charges are subject to the minimum charges set forth in paragraph 5 below.* (Billable shares shall not exceed 650,000 shares times the number of trading days in any given month.)

2. through 5. No Change.

H. through M. No Change.

² See Letter from Robert Ackermann, Vice President Regulatory Services, CSE, to Glen Barrentine, Team Leader, Division of Market Regulation, SEC, dated December 1, 1995. In Amendment No. 1, the Exchange clarified that Designated Dealer ("DD") transactions resulting from trades assigned to the DD acting as "Dealer of the Day" are charged at the rate of \$0.005 per share.

³ See Letter from Robert Ackermann, Vice President Regulatory Services, CSE, to Glen Barrentine, Team Leader, Division of Market Regulation, SEC, dated December 20, 1995. In Amendment No. 2, the Exchange submitted revised text to proposed CSE Rule 11.10 G(1).

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

1. Purpose

In its filing with the Commission, the self-regulatory organization 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 self-regulatory organization 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 Exchange has determined to amend the fee charged limit orders executed through the facilities of the Exchange's limit order book such that the fee charged for market orders and limit orders executed through that facility will be the same.⁴ Additionally, the fee charged Designated Dealers⁵ has been lowered.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁶ in general and furthers the objectives of Section 6(b)(4)⁷ in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

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

The proposed rule change does not impose any burden on competition that

⁴ In order to encourage all members to place public agency limit orders on the CSE book, the Exchange in August 1994 amended Rule 11.10 to eliminate the transaction charge on public agency limit orders. See Securities Exchange Act Release No. 34493, (August 5, 1994), 59 FR 41531 (August 12, 1994) (approving File No. SR-CSE-94-6).

⁵ A Designated Dealer ("DD") is a proprietary member who maintains a minimum net capital of at least the greater of \$100,000 or the amount required under Rule 15c3-1 of the Act, and who has been approved by the Exchange's Securities Committee to perform market functions by entering bids and offers for securities designated by the Securities Committee to be traded in the CSE's National Securities Trading System ("designated issues") into that System. See CSE Rule 11.9(a)(3). The DD status obligates the dealer to guarantee execution of all public agency market orders and agency limit orders up to 2,099 shares. See Release No. 34493, *supra* note 4.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

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

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

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and subparagraph (e) of Rule 19b-4 thereunder.⁹

At any time within sixty 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 purposes of the Act.

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, NW., Washington, DC 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, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Cincinnati Stock Exchange. All submissions should refer to File No. SR-CSE-95-08 and should be submitted by January 25, 1996.

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

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4.

¹⁰ 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
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[Release No. 34-36630; File No. SR-NYSE-95-40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Fees for Terminal Equipment

December 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 30, 1995 the Stock Exchange, Inc. ("NYSE" 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 self-regulatory organization. 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

Beginning January 2, 1996, the Exchange plans to charge a fee of \$3,600 per annum for a package of terminal equipment that its members and member organizations use to operate the Exchange's Broker Booth Support System ("BBSS") from their "upstairs" offices.² Previously, the Exchange has not charged for this terminal equipment, because it was installed and operated on a trial basis.

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 self-regulatory organization 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 self-regulatory organization 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 Exchange's BBSS is designed for use by its members and member organizations either in their booth spaces on the Trading Floor or in their "upstairs" offices or both.³ The BBSS is an order management system providing order processing capabilities as well as access to other services such as market data, the Exchange's On-Line Comparison System,⁴ and information services. Booth routing, a feature offered through BBSS, enables Exchange members and member organizations to algorithmically route market and limited price orders to their booths or to a specialist based on share size and price parameters, as may be determined by each participant.

The Exchange has charged a fee⁵ for BBSS terminal equipment located in members' and member organizations' floor booth spaces since July 1, 1994, but does not currently charge for terminals located in members' and member organizations' "upstairs" offices because they were installed and operated on a trial basis.⁶

Now, however, the Exchange has concluded its trial, and the number of "upstairs" installations are proliferating.⁷ Commencing on January 2, 1996, the Exchange intends to charge a fee of \$3,600.00 per annum for a package of hardware, consisting of a terminal, keyboard, and printer, that is necessary to operate the BBSS. This charge is in line with the charge for the

³Telephone conversation on December 8, 1995 between George A. Villasana, Attorney, Market Regulation, SEC and Dennis Covelli, Vice President, Post Trade Services, NYSE.

⁴The NYSE's On-Line Comparison System allows NYSE clearing members to submit trade data on certain securities on trade date to NYSE for initial comparison. Compared trades are submitted by the NYSE to a "qualified clearing agency" to complete the clearance and settlement process. See Securities Exchange Act Release No. 34153 (June 3, 1994), 59 FR 30071 (June 10, 1994) (order approving File No. SR-NYSE-94-08).

⁵The NYSE provides its members and member organizations with one BBSS terminal per booth without charge. The exchange charges its members and member organizations \$3,600 per annum for each additional BBSS terminal installed in each booth with access to the BBSS. Telephone conversation on December 13, 1995 between George A. Villasana, Attorney, Market Regulation, SEC and Dennis Covelli, Vice President, Post Trade Services, NYSE.

⁶See Securities Exchange Act Release No. 34395 (July 18, 1994), 59 FR 38007 (July 26, 1994) (order approving File No. SR-NYSE-94-25).

⁷While the number of terminals on the NYSE floor is approximately 400, the number of terminals in the "upstairs" offices is approximately 20. See *supra* note 5.

use of similar equipment located on its Trading Floor,⁸ and will enable the Exchange to recoup part of its development and hardware costs.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁹ in general and furthers the objectives of Section 6(b)(4)¹⁰ in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

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

The proposed rule change does not 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 on the proposed rule change.

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

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and subparagraph (e) of Rule 19b-4 thereunder.¹²

At any time within sixty 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 purposes of the Act.

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

⁸ See *supra* note 5.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4.

¹ 15 U.S.C. 78s(b)(1).

² The terminal equipment is necessary to access the BBSS.