

represented a 19% decline in the average. Article IX, Rule 10A has never been invoked, as the DJIA has not declined by 250 points or more since the rule was adopted. The largest decline occurred on March 8, 1996, when the DJIA fell intra-day 217 points below its previous day's closing value. Today, with the DJIA at about 6500 points, a 250 or 400 point drop would represent a much smaller percentage decline in the average (3.8% and 6.2%, respectively).

The proposed circuit breakers of 350 and 550 points would represent, respectively, a 5.4% and 8.5% decline in the DJIA, which are significant market declines and thus represent appropriate levels at which to halt trading. The proposed trigger values take into account the rise in market values since the Rule was first adopted, while also recognizing the fact that the original trigger values have never been reached. The Exchange believes that the new trigger values in Article IX, Rule 10A should be stated in absolute numbers, rather than in terms of percentages of the DJIA, in order to facilitate understanding by all market participants as to exactly when the circuit breakers will be utilized.

The Exchange seeks to effect these changes on a one-year pilot basis. The adoption of amendments to Article IX, Rule 10A would be contingent upon the adoption of amended rules or procedures substantively identical to this rule by:

(1) All United States stock exchanges and the National Association of Securities Dealers, Inc. with respect to the trading of stocks, stock options and stock index options; and,

(2) All United States futures exchanges with respect to the trading of stock index futures and options on such futures.

The exchange believes that an all-market trading halt requirement at appropriate levels will promote stability and investor confidence during periods of significant stress by providing market participants with a reasonable opportunity to become aware of and respond to significant price movements, thereby facilitating in an orderly manner the maintenance of an equilibrium between buying and selling interest.

2. Basis

The exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade. The Exchange believes that amending Article IX, Rule 10A on a pilot basis is consistent with these objectives in that the revised

trading halt triggers during a period of significant stress can be expected to provide market participants with a reasonable opportunity to become aware of and respond to significant price movements, thereby facilitating, in an orderly manner, the maintenance of an equilibrium between buying and selling interest.

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

The Exchange 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 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 self-regulatory organization 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. 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 in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and

copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-96-33 and should be submitted by January 27, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-38126; File No. SR-NASD-96-56]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Increase in Minimum Gross Income Assessment

January 6, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 24, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "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

NASD Regulation, Inc. ("NASD Regulation") is proposing a rule change to amend Section 1 to Schedule A of the By-Laws to increase the minimum gross income assessment from \$850.00 to \$1,200.00. Proposed new language is italicized; proposed deletions are in brackets.

Schedule A to the NASD By-Laws

Assessments and fees pursuant to the provisions of Article VI of the By-Laws of the Corporation, shall be determined on the following basis.

Section 1—Assessments

Each member shall pay an annual assessment composed of:

(a) An amount equal to the greater of \$1,200.00[850.00] or the total of:

(i) 0.125% of the annual gross revenue from state and municipal securities transactions,

⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1).

(ii) 0.125% of annual gross revenue from other over-the-counter securities transactions,

(iii) 0.125% of the annual gross revenue from U.S. Government securities transactions, and

(iv) With respect to members whose books, records, and financial operations are examined by the NASD, 0.125% of annual gross revenue from securities transactions executed on an exchange.

Each member is to report annual gross revenue as defined in Section 5 of this Schedule, for the preceding calendar year.

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

Article VI of the By-Laws authorizes the NASD Board of Governors to levy fees, dues and assessments to be paid by members to defray reasonable expenses incurred in the administration of the work of the NASD. Currently, each member of the NASD is required to pay an annual gross income assessment of the greater of (i) \$850.00 or (ii) the total of 0.125% of the annual gross revenue from state and municipal securities transactions, 0.125% of annual gross revenue from other over-the-counter securities transactions, 0.125% of the annual gross revenue from U.S. Government securities transactions, and, with respect to members whose books, records, and financial operations are examined by the NASD, 0.125% of annual gross revenue from securities transactions executed on an exchange.

The minimum gross income assessment of \$850.00 has not been changed since 1989. Due to inflationary pressures and increased regulatory costs, the NASD is proposing to raise the minimum gross income assessment from \$850.00 to \$1,200.00. The 1997 expenses of NASD Regulation are expected to grow by \$43 million or 24% as the result of various factors, including, among other things, initiatives designed to respond to the

findings by the SEC in its recent report concerning the NASD,² completion of a regulatory transition plan for the examination program, development of the new Central Registration Depository system, further implementation of the Arbitration Policy Task Force recommendations and continued development of an Order Audit Trail System. The proposed increase in the minimum gross income assessment, along with anticipated revenue growth in other areas, is expected to help defray the significant increase in regulatory costs anticipated to be incurred by NASD Regulation.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,³ which require that the rules of the Association provide for the equitable allocation of reasonable dues, fees, and other charges in that the proposed rule reasonably provides for an increase in the minimum gross income assessment to help defray the significant increase in regulatory costs anticipated to be incurred by NASD Regulation.

(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, as amended.

(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 upon filing pursuant to Section 19(b)(3)(A) of the Act⁴ and subparagraph (e) of Rule 19b-4⁵ thereunder in that it constitutes a due, fee or other charge imposed by the Association. However, the NASD has determined to implement the rule change on January 1, 1997.

At any time within 60 days of the filing of a rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate

² See, Report Pursuant To Section 21(a) Of The Securities Exchange Act Of 1934 Regarding the NASD And the Nasdaq Stock Market, U.S. Securities and Exchange Commission (August 8, 1996).

³ 15 U.S.C. § 78o-3(b)(5).

⁴ 15 U.S.C. § 78s(b)(3)(A).

⁵ 17 CFR 19b-4(e).

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 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 principle office of the NASD. All submissions should refer to File No. SR-NASD-96-56 and should be submitted by January 27, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-38133; File No. SR-NASD-96-57]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to SEC Transaction Fees

January 7, 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 January 2, 1997, the National Association of Securities Dealers, Inc. ("NASD") 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 the NASD.¹ The NASD has designated this proposal as one constituting a change to a due, fee, or

⁶ 17 CFR 200.30-3(a)(12).

¹ The Commission notes that the NASD filed a technical amendment to the proposal (Amendment No. 1) on January 3, 1997.