

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 Amex. All submissions should refer to File No. SR-Amex-00-42 and should be submitted by January 17, 2001.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-32894 Filed 12-26-00; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43738; File No. SR-ISE-00-26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by International Securities Exchange LLC, Relating to Minimum Activity Fees

December 18, 2000.

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 December 7, 2000, the International Securities Exchange LLC ("Exchange" or the "ISE") 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 Exchange. 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 is proposing changes to its fees regarding inactive memberships. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 ISE 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

Currently not all of the Exchange's Primary Market Maker ("PMM") memberships have begun trading in their assigned group of options ("bins"). The Exchange is proposing that PMMs will be subject to a \$100,000 monthly fee if the PMM has not yet opened the bin for trading. Once a bin is opened for trading, there will be a \$50,000 per month minimum fee per bin. That is, if transaction charges with respect to trading in the bid do not total \$50,000 per month, the PMM will be charged a fee equal to \$50,000 minus the actual transaction charges.

These fees are structured to provide the Exchange with revenue that will, in part, help recover revenue lost due to the lack of trading. In particular, these fees will help recoup lost transaction and access charges. The Exchange will periodically reevaluate these fees to maintain the relationship between the amount of the fees and the lost revenue being recouped. These fees will become effective on January 1, 2001.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirements under Sections 6(b)(4) and 6(b)(5) of the Act³ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, as well as provide for the equitable allocation of reasonable dues, fees and other charges among its

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 not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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) of the Act⁴ and Rule 19b-4(f)(6)⁵ thereunder because the rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

A proposed rule change filed under Rule 19b-4(f)(6)⁶ normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii)⁷ permits the Commission to designate such shorter time if such action is consistent with the protection of investors and the public interest. The ISE has requested that the Commission accelerate the implementation of the proposed rule change so that it may take effect on January 1, 2001. The ISE represented that all of the broker-dealers that currently anticipate being subject to the proposed fee are represented on ISE's board of directors, voted to adopt the proposed fee, and approved its submission to the Commission.

On this basis, the Commission believes that it is consistent with the

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

⁶ 17 CFR 240.19b-4(f)(6).

⁷ 17 CFR 240.19b-4(f)(6)(iii).

⁶ 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. 78f(b)(4)-(5).

protection of investors and the public interest and does not impose any significant burden on competition to allow the proposed rule change to become operative as of the date of this Order and be implemented on January 1, 2001. At any time within 60 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.⁸

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 Exchange. All submissions should refer to File No. SR-ISE-00-26 and should be submitted by January 17, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-32893 Filed 12-26-00; 8:45 am]

BILLING CODE 8010-01-M

⁸ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43749; File No. SR-NASD-00-59]

Self Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the National Association of Securities Dealers, Inc. to Permit the Inclusion of Certain Unit Investment Trusts in Nasdaq's Mutual Fund Quotation Service

December 20, 2000.

I. Introduction

On October 20, 2000, the National Association of Securities Dealers, Inc. ("NASD") through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "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 include certain unit investment trusts ("UITs") in Nasdaq's Mutual Fund Quotation Service ("MFQS"). Notice of the proposed rule change was published for comment in the **Federal Register** on December 1, 2000.³ No comments were received on the proposal. On December 13, 2000, Nasdaq filed Amendment No. 1 to the proposal.⁴ This order approves the proposed rule change, as amended, on an accelerated basis.

II. Description of the Proposal

Nasdaq proposes to amend NASD Rule 6800 to permit the inclusion of certain UITs in the MFQS.⁵ Changes made by Amendment No. 1 are indicated as follows. Proposed new

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See securities Exchange Act Release No. 43613 (November 22, 2000), 65 FR 75328 (December 1, 2000).

⁴ See Letter from Jeffrey S. Davis, Office of General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission (December 13, 2000). Amendment No. 1 amended the language of proposed NASD Rule 6800 to reflect that UITs have "sponsors" rather than "investment advisors" and that the assets of such trusts are not "managed" as that term is defined in the Investment Company Act of 1940. This is a technical amendment and is not subject to notice and comment.

⁵ Section 4(2) of the Investment Company Act of 1940 defines a Unit Investment Trust as "an investment company which (A) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (B) does not have a board of directors, and (C) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities; but does not include a voting trust." 15 U.S.C. 80a-4(2).

language is in italics; proposed deletions are in brackets.

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6800. Mutual Fund Quotation Service

(a) Description.

The Mutual Fund Quotation Service collects and disseminates through The Nasdaq Stock Market prices for [both] mutual funds, *closed-end funds*, [and] money market funds, *and unit investment trusts*.

(b) Eligibility Requirements.

To be eligible for participation in the Mutual Fund Quotation Service, a fund shall:

(1) be registered with the Commission as an open-end ("open-end fund") or a closed-end ("closed-end fund") investment company *or a unit investment trust* pursuant to the Investment Company Act of 1940,

(2) execute the agreement specified by the Association relating to the fund's obligations under the Program,

(3) pay, and continue to pay, the fees as set forth in Rule 7090, and

(4) submit quotations through an automatic quotation system operated by the Association.

(c) News Media Lists.

(1)(A) An eligible open-end fund shall be authorized for inclusion in the News Media List released by the Association if it has at least 1,000 shareholders or \$25 million in net assets.

(B) An eligible closed-end fund *or unit investment trust* shall be authorized for inclusion in the News Media List released by the Association if it has at least \$60 million in net assets.

(C) Compliance with subparagraphs (1)(A) and (B) shall be certified by the fund to the Association at the time of initial application for inclusion in the List.

(2)(A) An authorized open-end fund shall remain included in the New Media List if it has [either] *at least* 750 shareholders or \$15 million in net assets.

(B) An authorized closed-end fund *or unit investment trust* shall remain included in the News media List if it has *at least* \$30 million in net assets.

(C) Compliance with subparagraphs (2)(A) and (B) shall be certified to the Association upon written request by the Association.

(d) Supplemental List.

An eligible open-end fund, [or] closed-end fund *or unit investment trust* shall be authorized for inclusion in the Supplemental List released to vendors of Nasdaq Level 1 Service if it meets one of the criteria set out in subparagraph (1), subparagraph (2), or subparagraph (3) below:

(1) the fund *or unit investment trust* has net assets of \$10 million or more, or