

in Nasdaq, the market maker must price improve the incoming order by executing the incoming order at a price at least equal to the next superior minimum quotation increment in Nasdaq (currently \$0.01).<sup>7</sup>

Since approval, these standards have operated on a pilot basis and are currently scheduled to terminate on January 14, 2002. After consultation with Commission staff, Nasdaq seeks an extension of its current Manning pilot until April 15, 2002. Nasdaq believes that such an extension provides for an appropriate continuation of the current Manning price-improvement standard while the Commission analyzes the issues related to customer limit order protection for decimalized securities, and reviews Nasdaq's separately filed rule proposal to make this pilot permanent.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act<sup>8</sup> in that it is designed to: (1) Promote just and equitable principles of trade; (2) foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities; (3) perfect the mechanism of a free and open market and a national market system; and (4) protect investors and the public interest.

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

Nasdaq 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*

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> 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, or otherwise in furtherance of the purposes of the Act.

Nasdaq has requested the Commission waive both the 5-day notice and 30-day pre-operative requirements contained in Rule 19b-4(f)(6)<sup>11</sup> and has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become operative immediately because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to continue uninterrupted through January 14, 2002, the deadline for which self-regulatory organizations must file proposed rule changes to set the minimum price variation for quoting in a decimals environment. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.<sup>12</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 or 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 Nasdaq. All submissions should refer to file number SR-NASD-2002-07 and should be submitted by February 13, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45278; File No. SR-NASD-2001-90]

### **Self-Regulatory Organizations; Notice of Extension of the Comment Period for the Proposed Rule Change by the National Association of Securities Dealers, Inc.; Relating to Nasdaq's Proposed Separation From the NASD and the Establishment of the NASD Alternative Display Facility**

January 14, 2002.

On December 7, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission"), a proposed rule change, pursuant to section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,<sup>2</sup> relating to The Nasdaq Stock Market's proposed separation from the NASD and the establishment of the NASD Alternative Display Facility. A complete description of the proposed rule change is found in the notice of filing, which was published in the **Federal Register** on January 3, 2002.<sup>3</sup> The comment period expires January 21, 2002. The Commission has decided to extend the comment period pursuant to section 19(b)(2) of the Act.<sup>4</sup> Accordingly, the comment period shall be extending until January 24, 2002.<sup>5</sup>

Interested persons are invited to submit written data, views, and

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 45156 (December 14, 2001), 67 FR 388.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> The Commission originally had intended to provide for the full 21-day comment period. Due to delays in publication, however, the comment period was inadvertently shortened.

<sup>7</sup> Pursuant to the terms of the Decimals Implementation Plan for the Equities and Options Markets, the minimum quotation increment for Nasdaq securities (both National Market and SmallCap) at the outset of decimal pricing is \$0.01. As such, Nasdaq displays priced quotations to two places beyond the decimal point (to the penny). Quotations submitted to Nasdaq that do not meet this standard are rejected by Nasdaq systems. See Securities Exchange Act Release No. 43876 (January 23, 2001), 66 FR 8251 (January 30, 2001).

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(b)(6).

<sup>11</sup> *Id.*

<sup>12</sup> 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).

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-2001-90 and should be submitted by January 24, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45284; File No. SR-Phlx-2002-01]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Extend a PACE Automatic Price Improvement Pilot Program

January 15, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 8, 2002, 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 Exchange. The Exchange filed this proposal under section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule

19b-4(f)(6)<sup>4</sup> thereunder, which renders 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 Exchange proposes to extend through April 15, 2002 its PACE (Philadelphia Stock Exchange Automated Communication and Execution System)<sup>5</sup> price improvement program ("pilot"). The pilot, which is found in Supplementary Material .07(c)(i) to Phlx Rule 229, consists of an automated price improvement feature based on decimal quoting, including a percentage of the spread between the bid and the offer. The pilot has been in effect since January 30, 2001.<sup>6</sup> The only substantive change proposed in this filing is to extend the date of effectiveness of the pilot through April 15, 2002. The text of the proposed rule change is available at the Phlx 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

The Exchange proposes to extend the pilot through April 15, 2002. No other substantive changes are proposed at this time.

###### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

<sup>4</sup> 17 CFR 240.19b-4(f)(6). The Phlx requested that the Commission waive the 5-day pre-filing notice requirement, and the 30-day operative delay.

<sup>5</sup> PACE is the Phlx's automated order routing, delivery, execution and reporting system for equities.

<sup>6</sup> See Securities Exchange Act Release No. 43901 (January 30, 2001), 66 FR 8988 (February 5, 2001) (SR-Phlx-2001-12).

Section 6 of the Act<sup>7</sup> in general, and in particular, with Section 6(b)(5),<sup>8</sup> in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, 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 inappropriate burden on competition.

##### C. Self-Regulatory Organization's Statement on Comments 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

Because the foregoing proposed rule change does not:

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> 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, or otherwise in furtherance of the purposes of the Act.

The Exchange has requested that the Commission waive the 5-day pre-filing notice requirement, and accelerate the operative date. The Commission finds good cause to waive the pre-filing notice requirement, and to designate the proposal to be both effective and operative upon filing because such designation is consistent with the protection of investors and the public interest. Waiver of these requirements will allow the pilot to continue uninterrupted through April 15, 2002. For these reasons, the Commission finds good cause to designate that the

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).