

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,⁷ in general, and furthers the objectives of section 6(b)(5),⁸ in particular, because it should prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, remove impediments to and perfect the mechanism for 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 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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from the date of filing, or such shorter date as the Commission may designate, if consistent with the protection of investors and the public interest; and (4) the Exchange provided the Commission with notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹¹ does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such

action is consistent with the protection of investors and the public interest. The ISE has requested, in order to permit the uninterrupted operation of the interim linkage, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b-4(f)(6)(iii).¹² The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and, therefore, has determined to make the proposed rule change operative as of the date of this notice.

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.

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 20549-0069. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File Number SR-ISE-2002-02 and should be submitted by February 22, 2002.

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

Margaret H. McFarland,

Deputy Secretary.

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¹² 17 CFR 240.19b-4(f)(6)(iii).

¹³ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45342; File No. SR-NASD-2001-96]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Institute a Quotation Update Charge and Introduce a Mechanism for Sharing Market Data Revenue with NASD Members

January 28, 2002.

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 December 27, 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") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On January 18, 2002, Nasdaq filed Amendment No. 1 to the proposed rule change.¹ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This is a proposed rule change, on a pilot basis, to: (1) Institute a quotation update charge and (2) introduce a mechanism for sharing market data revenue with NASD members. Pursuant to section 19(b)(3)(A)(ii) of the Act² and Rule 19b-4(f)(2) thereunder,³ Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge imposed by a self-regulatory organization, and therefore the proposed rule change is effective upon filing as applied to NASD members. The proposed rule change will become operative on a pilot basis, commencing on February 1, 2002 and ending on October 31, 2002. During the pilot period, Nasdaq will assess the effect of the rule change on market participants and Nasdaq and may file additional changes to the level or

¹ See Letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission (January 15, 2002) ("Amendment No. 1"). In Amendment No. 1, Nasdaq provided further explanation as to its reasons for charging a quotation update fee.

² 15 U.S.C. 78s(b)(3)(A)(ii).

³ 17 CFR 240.19b-4(f)(2).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ 17 CFR 240.19b-4(f)(6).

structure of its fees. The text of the proposed rule change is set forth below. Proposed new language is *italicized*; proposed deletions are in brackets.

* * * * *

7010. System Services

(a)(1) Nasdaq Level 1 Service

The charge to be paid by the subscriber for each terminal receiving Nasdaq Level 1 Service is \$20 per month. This Service includes the following data:

[(1)] (A) Inside bid/ask quotations calculated for securities listed in The Nasdaq Stock Market and securities quoted in the OTC Bulletin Board (OTCBB) service;

[(2)] (B) The individual quotations or indications of interest of broker/dealers utilizing the OTCBB service; and

[(3)] (C) Last sale information on securities classified as designated securities in the Rule 4630, 4640, and 4650 Series and securities classified as over-the-counter equity securities in the Rule 6600 Series.

(2) Market Data Revenue Sharing

(A) For a pilot period commencing on February 1, 2002 and lasting until October 31, 2002, NASD members shall receive a market data revenue sharing credit. The total credit shall be calculated in accordance with the following formula:

$$\text{Credit} = (0.60) \times (\text{Eligible Revenue}) \times (\text{Member's Volume Percentage})$$

(B) Definitions. The following definitions shall apply to this Rule:

(i) "Eligible Revenue" shall mean:

a. The portion of the net distributable revenues that Nasdaq, through the NASD, is eligible to receive under the Nasdaq UTP Plan, that is attributed to the Nasdaq Level 1 Service for Eligible Securities, minus

b. The portion of the fee charged to Nasdaq by NASD Regulation, Inc. for regulatory services allocated to the Nasdaq Level 1 Service for Eligible Securities.

(ii) "Eligible Securities" shall mean all Nasdaq National Market securities and any other security that meets the definition of "Eligible Security" in the Nasdaq UTP Plan.

(iii) "Member's Volume Percentage" shall mean the average of:

a. the percentage derived from dividing the total number of trades in Eligible Securities conducted on non-Nasdaq transaction systems that the member reports in accordance with NASD trade reporting rules to the Automated Confirmation Transaction Service ("ACT") by the total number of

trades in Eligible Securities reported to ACT by NASD members, and

b. the percentage derived from dividing the total number of shares represented by trades in Eligible Securities conducted on non-Nasdaq transaction systems that the member reports in accordance with NASD trade reporting rules to ACT by the total number of shares represented by all trades in Eligible Securities reported to ACT by NASD members.

(iv) "Nasdaq UTP Plan" shall mean the Joint Self-Regulatory Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis

(b)-(h) No change.

(i) Transaction Execution Services

(1)-(4) No change.

(5) Quotation Updates

(A) Except as provided in subparagraph (B), for a pilot period commencing on February 1, 2002 and lasting until October 31, 2002, a fee of \$0.01 per quotation update will be charged to NASD members that post quotations in the Nasdaq quotation montage. A "quotation update" includes any change to the price or size of a displayed quotation or reserve size.

(B) A quotation update fee will not be charged for a change in the displayed quotation or reserve size that is performed automatically by the Nasdaq National Market Execution System ("NNMS") when an execution against the quotation occurs (other than a change performed by the "Autoquote Refresh" functionality of the NNMS, for which a fee will be assessed).

(j)-(q) No change.

* * * * *

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth below in Sections A, B, and C, 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

On September 28, 2001, Nasdaq filed two proposed rule changes to make modifications to the pricing structure for the Nasdaq National Market Execution System (the "NNMS" or "SuperSOES") and the SelectNet service.⁴ These changes were designed as an interim modification to begin the process of aligning the charges to market participants for using the NNMS and SelectNet more closely with the costs of providing these services and the benefits that they provide to market participants. On October 4, 2001, Nasdaq filed two additional proposed rule changes to increase the per share charge for use of the NNMS from \$0.001 to \$0.002 and introduce a liquidity provider rebate for NASD members.⁵ On October 9, 2001, Nasdaq filed a proposed rule change—SR-NASD-2001-71—to introduce a mechanism for sharing market data revenue with NASD members, make modifications to the fees for use of the NNMS and the liquidity provider rebate to calibrate the level of fees and rebates to the contributions that types of market participants make to the support of the Nasdaq market, and introduce a quotation update charge.⁶ On November 29, 2001, Nasdaq withdrew SR-NASD-2001-71 prior to the date scheduled for its implementation, December 1, 2001, to allow Nasdaq to make adjustments to the mechanism for market data revenue sharing and the quotation update

⁴ See Securities Exchange Act Release No. 44899 (Oct. 2, 2001), 66 FR 51707 (Oct. 10, 2001) (SR-NASD-2001-63) and Securities Exchange Act Release No. 44898 (Oct. 2, 2001), 66 FR 51703 (Oct. 10, 2001) (SR-NASD-2001-64). SR-NASD-2001-63 applied the new fees to NASD members, effective upon filing, and was implemented on October 1, 2001. SR-NASD-2001-64 would apply the new fees to national securities exchanges that trade Nasdaq-listed securities pursuant to grants of unlisted trading privileges ("UTP Exchanges") following Commission approval.

⁵ See Securities Exchange Act Release No. 44910 (Oct. 5, 2001), 66 FR 52167 (Oct. 12, 2001) (SR-NASD-2001-67) and Securities Exchange Act Release No. 44914 (Oct. 9, 2001), 66 FR 52649 (Oct. 16, 2001) (SR-NASD-2001-68). SR-NASD-2001-67 applied these pilot changes to NASD members, effective upon filing, for a pilot period from November 1, 2001 through October 31, 2002. SR-NASD-2001-68 would apply the increase in the per share charge to UTP Exchanges following Commission approval.

⁶ See Securities Exchange Act Release No. 44918 (Oct. 10, 2001), 66 FR 52814 (Oct. 17, 2001) (SR-NASD-2001-71) (withdrawn Nov. 29, 2001). Also on October 9, 2001, Nasdaq filed a proposed rule change to increase the per share charge payable by UTP Exchanges that use the NNMS to \$0.003. See Securities Exchange Act Release No. 44931 (Oct. 12, 2001), 66 FR 53276 (Oct. 19, 2001) (SR-NASD-2001-72).

charge, and to provide interested persons with a greater opportunity to comment on aspects of the prior filing that assessed different levels of fees on different classes of NASD members. In this filing, Nasdaq is reintroducing the quotation update charge and a modified mechanism for market data revenue sharing.

Quotation Update Fee

Nasdaq is instituting a quotation update fee that is applicable to NASD members, in recognition of the fact that the ability to post quotes in the Nasdaq quotation montage provides market participants with the valuable opportunity to advertise the liquidity that they offer. Nasdaq believes that the absence of any charges for quotation updates has encouraged market participants to quote inefficiently, imposing unnecessary burdens on Nasdaq system capacity. Moreover, to the extent that quotations are accessed through non-Nasdaq systems, the firms that post the quotations are currently free riding on the quotation infrastructure provided by Nasdaq. Accordingly, Nasdaq will charge NASD members \$0.01 for each quotation update.⁷ A "quotation update" includes any change to the price or size of a displayed quotation or reserve size. However, a quotation update fee will not be charged for a change in the displayed quotation or reserve size that is performed automatically by the NNMS when an execution against the quotation occurs (other than a change performed by the "Autoquote Refresh" functionality of the NNMS, for which a fee will be assessed).

Nasdaq believes that these limitations on the applicability of the quotation update fee enhance one of the primary purposes of the fee, which is to discourage inefficient quoting. According to Nasdaq, an execution against a member's quotation indicates that the member is quoting efficiently, because the member is providing the liquidity that results in order executions. Accordingly, although the resulting quotation changes do impose system burdens, Nasdaq believes that the imposition of a quote update charge in such circumstances is not warranted at this time. A charge is imposed, however, for quotation changes made by

the Autoquote Refresh functionality of the NNMS, which restores an NNMS market maker's quotation price and size in accordance with parameters established by the market maker whenever its displayed quotation size and reserve size have been decremented to zero. Nasdaq believes that a charge for quotation updates performed by this functionality is appropriate because it provides a valuable service that assists market makers in meeting their obligation continuously to maintain a two-sided quotation.

Market Data Revenue Sharing

Nasdaq proposes to share with NASD members a portion of the market data revenue that it receives, through the NASD, under the Nasdaq UTP Plan. Under the Plan, a Plan participant receives a share of market data revenues distributed by the Plan's securities information processor ("SIP"), based on reported trades attributable to such participant under the Plan.⁸ Nasdaq represents that its proposal is similar to the transaction credit already in effect to share Consolidated Tape Association revenue with NASD members that trade exchange-listed stocks through Nasdaq's Intermarket Trading System⁹ and similar revenue sharing programs established by UTP Exchanges.¹⁰

A member's credit will be 60% of the product of Eligible Revenue and the Member's Volume Percentage. Eligible Revenue is defined as (i) the portion of the net distributable revenues that Nasdaq, through the NASD, is eligible to receive under the Nasdaq UTP Plan, that is attributed to the Nasdaq Level 1 Service for NNM securities or other securities covered by the Nasdaq UTP Plan ("Eligible Securities"), minus (ii) the portion of the fee charged to Nasdaq by NASD Regulation, Inc. ("NASDR")

⁸ At present, Nasdaq serves as the Plan's SIP, and the NASD is the Plan participant that submits trade reports received from NASD members through ACT. Accordingly, the NASD receives market data revenue under the Plan but distributes it to Nasdaq, as the entity that operates markets on the NASD's behalf. Plan participants are currently seeking proposals in order to select a new entity to serve as the Plan's SIP. Moreover, in light of Nasdaq's application for registration as a national securities exchange, Plan participants are discussing an amendment to the Plan that would make Nasdaq a Plan participant, eligible to receive a direct distribution of market data revenue based on the trades attributable to it under the Plan.

⁹ See NASD Rule 7010(c)(2).

¹⁰ See, e.g., Securities Exchange Act Release No. 45148 (Dec. 11, 2001), 66 FR 65514 (Dec. 19, 2001) (SR-CSE-2001-05) and Securities Exchange Act Release No. 41238 (Mar. 31, 1999), 64 FR 17204 (Apr. 8, 1999) (SR-CSE-99-03); Securities Exchange Act Release No. 40591 (Oct. 22, 1998), 63 FR 58078 (Oct. 29, 1998) (SR-BSE-98-9); Securities Exchange Act Release No. 38237 (Feb. 4, 1997), 62 FR 6592 (Feb. 12, 1997) (SR-CHX-97-01).

for regulatory services allocated to the Nasdaq Level 1 Service for Eligible Securities. The Member's Volume Percentage is defined as the average of (i) the percentage derived from dividing the total number of trades in Eligible Securities conducted on non-Nasdaq transaction systems that the member reports in accordance with NASD trade reporting rules to ACT by the total number of trades in Eligible Securities reported to ACT by NASD members, and (ii) the percentage derived from dividing the total number of shares represented by trades in Eligible Securities conducted on non-Nasdaq transaction systems that the member reports in accordance with NASD trade reporting rules to ACT by the total number of shares represented by all trades in Eligible Securities reported to ACT by NASD members. In other words, the credit is 60% of the net Level 1 revenue attributable to the member's reports of non-Nasdaq transaction system trades in Eligible Securities, with the pool of sharable revenue being comprised of Level 1 revenues distributable to Nasdaq under the UTP Plan minus an allocated portion of the NASDR regulation fee, and the member's non-Nasdaq transaction system trade report activity being measured by total number of trades and share volume.

The formula focuses on the reporting of non-Nasdaq system trades, such as internalized trades, because Nasdaq expects that members will have increasingly greater options to report such trades to UTP Exchanges in the future. In order to continue to provide an attractive environment for the reporting of these trades, Nasdaq believes that it is appropriate to share a portion of the data revenue associated with these trades with members that report them to Nasdaq.

Nasdaq believes that the proposed rule change is consistent with the Act, including section 15A(b)(5) of the Act,¹¹ which requires that the rules of the NASD provide for the equitable allocation of reasonable fees, dues, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and section 15A(b)(6) of the Act,¹² which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that the quotation update fee and the market data revenue sharing credit are allocated in an equitable fashion, based upon a

¹¹ 15 U.S.C. 78o-3(b)(5).

¹² 15 U.S.C. 78o-3(b)(6).

⁷ A quotation update charge will not be imposed on UTP Exchanges at this time, because such a charge is not currently authorized by the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (the "Nasdaq UTP Plan" or the "Plan"), which governs the posting of quotes by UTP Exchanges.

member's quotation update activity and non-Nasdaq system trade reporting activity, respectively.

Moreover, Nasdaq believes that the level of fees charged to market participants under the proposal is reasonable. Nasdaq anticipates that overall fees for the NNMS, SelectNet, and SOES, net of the market data revenue sharing credit, will be comparable to overall fees for the NNMS, SelectNet, and SOES under the pricing changes implemented by Nasdaq on October 1 and November 1, 2001. Such fees are, in turn, estimated to be slightly lower than overall fees for SelectNet and SOES prior to the introduction of the NNMS.

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

Nasdaq believes that the proposed rule change will not 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

Written comments were neither solicited nor received on the proposed rule change contained in this filing. The Commission, however, had received a number of comment letters that referenced SR-NASD-2001-71, a proposed rule change instituting a quotation update fee and market data revenue sharing plan. Nasdaq withdrew SR-NASD-2001-71 prior to its implementation date. Nasdaq believes that for the most part, the comment letters did not focus on the quotation update fee or on the aspects of market data revenue sharing that are reflected in the proposed rule change contained in this filing. Moreover, Nasdaq believes that comments received on SR-NASD-2001-71 are inapposite because the proposed rule change contained in this filing are sufficiently dissimilar from the rule change proposed in SR-NASD-2001-71.

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)(ii) of the Act¹³ and subparagraph (f) of Rule 19b-4,¹⁴ thereunder because it establishes or changes a due, fee or other charge imposed by the self-regulatory organization. At any time within 60

days of the filing of the proposed rule change, the Commission may summarily abrogate the 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, 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 the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-2001-96 and should be submitted by February 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45344; File No. SR-NASD-2002-14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend a Pilot Amendment to NASD Rule 4120 Regarding Nasdaq's Authority To Initiate and Continue Trading Halts

January 28, 2002.

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 January 24, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") 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 Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ 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

Nasdaq proposes to extend a pilot amendment to NASD Rule 4120, which clarified Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq. The proposal would extend the pilot for an additional three months, through April 30, 2002. There is no new proposed rule language.

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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

On May 11, 2001, Nasdaq filed with the Commission a proposed rule change

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ Nasdaq asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

¹³ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f).

¹⁵ 17 CFR 200.30-3(a)(12).