

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

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934 Release No. 46159/July 2, 2002]

### In the Matter of: The National Association of Securities Dealers, Incorporated, (File Nos. SR-NASD-2002-61 and SR-NASD-2002-68); The Cincinnati Stock Exchange, Incorporated, (File No. SR-CSE-2002-06); and The Pacific Exchange, Incorporated, (File No. SR-PCX-2002-37); Order of Summary Abrogation

Notice is hereby given that the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(3)(C) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> is summarily abrogating certain proposed rule changes of The National Association of Securities Dealers, Incorporated ("NASD"), The Cincinnati Stock Exchange, Incorporated ("CSE"), and The Pacific Exchange, Incorporated ("PCX").

On May 3, 2002, the NASD, through its subsidiary, The Nasdaq Stock Market ("Nasdaq"), filed SR-NASD-2002-61.<sup>2</sup> The proposed rule change (1) instituted a fee for the regulatory services provided in connection with the operation of The Nasdaq Stock Market; (2) expanded the market data revenue available for sharing with members under NASD Rule 7010(a)(2) by eliminating the deduction for the cost of regulatory services provided by NASD Regulation, Incorporated and increased the percentage of eligible revenue that is shared; and (3) extended the pilot period with respect to which market data revenue sharing is available through December 31, 2002.<sup>3</sup>

On June 13, 2002, the NASD, through its subsidiary, Nasdaq, filed with the Commission SR-NASD-2002-68.<sup>4</sup> The proposed rule change (1) modified the execution fees for Nasdaq InterMarket trades executed through the Intermarket Trading System and Nasdaq's Computer

Assisted Execution System; and (2) modified and extended the transaction credit pilot program for InterMarket trades through December 31, 2002.

On June 28, 2002, the CSE filed with the Commission SR-CSE-2002-06. The proposed rule change extended a pilot revenue sharing program for trading Nasdaq National Market securities through August 30, 2002.<sup>5</sup>

On June 28, 2002, the PCX filed SR-PCX-2002-37, which extended a pilot program for sharing market data revenue with ETP Holders and Sponsored Participants on the Archipelago Exchange. The proposal extended the pilot through August 30, 2002.

Each of these filings was immediately effective upon filing with the Commission pursuant to section 19(b)(3)(A) of the Act.<sup>6</sup>

Pursuant to section 19(b)(3)(C) of the Act,<sup>7</sup> at any time within 60 days of the date of filing a proposed rule change pursuant to section 19(b)(1) of the Act,<sup>8</sup> the Commission may summarily abrogate the change in the rules of the self-regulatory organization and require that the proposed rule change be re-filed in accordance with the provisions of section 19(b)(1) of the Act<sup>9</sup> and reviewed in accordance with section 19(b)(2) of the Act,<sup>10</sup> 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 Commission believes that the above-referenced proposed rule changes raise serious questions as to whether they are consistent with the Act and with the protection of investors. These questions include, among other things, the effect of market data rebates on the accuracy of market data and on the regulatory functions of self-regulatory organizations.

Accordingly, the Commission believes that the procedures provided by section 19(b)(2) of the Act<sup>11</sup> will provide a more appropriate mechanism for determining whether the proposed rule changes are consistent with the Act. Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to abrogate the proposed rule changes.

*It is therefore ordered*, pursuant to section 19(b)(3)(C) of the Act,<sup>12</sup> that File Nos. SR-NASD-2002-61, SR-NASD-2002-68, SR-CSE-2002-06, and SR-PCX-2002-37 be, and they hereby are, summarily abrogated. If the self-regulatory organizations choose to re-file the proposed rule changes, they must do so pursuant to sections 19(b)(1)<sup>13</sup> and 19(b)(2) of the Act.<sup>14</sup>

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

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## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3425, Amdt. #2]

### State of Iowa; Disaster Loan Areas

In accordance with a notice received from the Federal Emergency Management Agency, dated July 1, 2002, the above numbered declaration is hereby amended to include Des Moines, Henry, Lee and Louisa Counties in the State of Iowa as disaster areas due to damages caused by severe storms and flooding beginning on June 3, 2002 and continuing through June 25, 2002.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Jefferson and Van Buren Counties in Iowa; Hancock, Henderson and Mercer Counties in Illinois; and Clark County in Missouri. All other counties contiguous to the above named primary counties have been previously declared.

The economic injury number assigned to Missouri is 9Q4800.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 18, 2002, and for economic injury the deadline is March 19, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 2, 2002.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

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<sup>12</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>13</sup> 15 U.S.C. 78s(b)(1).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

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

<sup>1</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>2</sup> See Securities Exchange Act Release No. 45916 (May 10, 2002).

<sup>3</sup> This pilot, which was effective on filing, replaced the pilot filed in SR-NASD-2002-17.

<sup>4</sup> See Securities Exchange Act Release No. 46153 (July 1, 2002).

<sup>5</sup> See Securities Exchange Act Release No. 46147 (June 28, 2002).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(C).

<sup>8</sup> 15 U.S.C. 78s(b)(1).

<sup>9</sup> *Id.*

<sup>10</sup> 15 U.S.C. 78s(b)(2).

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