

not impossible, for a CHX specialist to obtain liquidity on behalf of his customer via the ITS system in the case of Exempt ETFs, given the dynamic and rapidly changing nature of the Exempt ETF market.

## 2. Statutory Basis

The CHX believes the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).<sup>9</sup> The CHX believes the proposal is consistent with Section 6(b)(5) of the Act<sup>10</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to, and to perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement of 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 Regarding the Proposed Rule Change Received From Members, Participants or Others*

No written comments were either solicited or received.

## 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 other 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 the 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, 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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR-CHX-2003-27. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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-CHX-2003-27 and be submitted by February 24, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49129; File No. SR-NASD-2003-176]

### **Self-Regulatory Organizations; Notice of Designation of Longer Period for Commission Action and Extension of Comment Period on a Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Chief Executive Officer and Chief Compliance Officer Certification**

January 27, 2004.

On November 28, 2003, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to add NASD Rule 3013. Notice of the proposed rule

change was published for public comment in the **Federal Register** on December 31, 2003.<sup>3</sup> The notice provided that comments on the proposed rule change should be submitted to the Commission by January 21, 2004.

Section 19(b)(2) of the Act<sup>4</sup> provides that within thirty-five days of the publication of notice of the filing of a proposed rule change, or within such longer period as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding the Commission shall either approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved. That thirty-five day period will end on February 4, 2004, with respect to the proposed rule change. The Commission has received comments on the proposed rule change, which it is still reviewing. The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the comments.

Accordingly, the Commission hereby designates March 30, 2004 as the date by which the Commission shall either approve the proposed rule change or institute proceedings to determine whether to disapprove it. The Commission is also extending the period for public comment through February 6, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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<sup>1</sup> See Securities Exchange Act Release No. 48981 (December 23, 2003), 68 FR 75704. The Release was incorrectly identified in the **Federal Register** as 34-48961. The correct number is 34-48981.

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

<sup>3</sup> 17 CFR 200.30-3(a)(31).

<sup>9</sup> 15 U.S.C. 78(f)(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).