

Act¹¹ and Rule 19b-4(f)(2)¹² thereunder, because it changes a fee imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, as amended, 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.¹³

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. 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-CBOE-2004-08. 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 CBOE. All submissions should refer to File No. SR-CBOE-2004-08 and should be submitted by March 26, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49339; File No. SR-NASD-2003-196]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to a Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify Fees for Persons That Are Not NASD Members Using the Financial Information Exchange ("FIX") Protocol To Connect to Nasdaq

February 27, 2004.

On December 29, 2003, 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"), 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 modify fees for NASD members using the Financial Information Exchange ("FIX") protocol to connect to Nasdaq. The proposed rule change was published for comment in the **Federal Register** on January 23, 2004.³ The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁴ Specifically, the Commission believes that the proposed rule change is consistent with the provisions of section 15A⁵ and 15A(b)(5) of the Act,⁶ in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons

using any facility or system which the NASD operates or controls. Under the modified fee schedule, firms with existing FIX circuits may continue to use them at current prices, however Nasdaq will no longer offer non-Nasdaq members the option of using FIX through CTCI or FIX-only circuits.⁷

Nasdaq represents that FIX connectivity has not proved as popular among firms as has extranet connectivity. As stated above, while the proposed rule change will permit firms with FIX circuits to continue to use them at current prices, Nasdaq has represented that it believes the more economical extranet connectivity is likely to be the preferred method. The Commission therefore believes that the proposed rule change is likely to have a minimal impact on firms' connectivity to the Nasdaq, and further that the proposed rule change will not cause any disruption to firms currently using FIX connectivity.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-NASD-2003-196) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Emergency Request, Proposed Request, Comment Request and Notice of OMB Approval

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

⁷ As of January 1, 2004, Nasdaq stopped offering new subscribers that are Nasdaq members the option of using FIX through CTCI or FIX-only circuits. See Securities Exchange Act Release No. 49092 (January 16, 2004), 69 FR 3408 (January 23, 2004).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 49091 (January 16, 2004), 69 FR 3407 (January 23, 2004).

⁴ In approving this proposed rule change, the Commission notes that it has considered its impact on efficiency, competition, and capital formation.

15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78o-3.

⁶ 15 U.S.C. 78o-3(b)(5).

¹¹ 15 U.S.C. 78(s)(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

¹³ See 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence on February 23, 2004, the date the CBOE filed Amendment No. 1.