

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-20375 Filed 9-8-04; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50305; File No. SR-NASD-2004-101]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval of Proposed Rule Change to Provide a Monthly Flat Fee for the Internal Distribution of PostData as an Alternative to the Monthly Per-Subscriber Fees Presently Available Under NASD Rule 7010(s)

September 1, 2004.

On June 28, 2004, 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")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to provide a monthly flat fee for the internal distribution of PostData as an alternative to the monthly per-subscriber fees presently available under NASD Rule 7010(s). The proposed rule change was published for notice and comment in the **Federal Register** on July 29, 2004.<sup>3</sup> The Commission received no comments on the proposal.

The Commission has reviewed carefully the proposed rule change and 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<sup>4</sup> and, in particular, the requirements of Section 15A(b)(5) of the Act,<sup>5</sup> which requires, among other things, that NASD's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other

persons using any facility or system which NASD operates or controls.

The Commission notes that PostData is currently operating as a pilot. The Commission expects that Nasdaq will evaluate the fees it has established for PostData, and provide the Commission with a report of its findings before the expiration of, or extension of, the pilot period.<sup>6</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>7</sup>, that the proposed rule change (SR-NASD-2004-101) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Margaret H. McFarland,

Deputy Secretary.

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## DEPARTMENT OF TRANSPORTATION

### Proposed Collection; Comment Request

**AGENCY:** Federal Railroad Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on June 24, 2004 (69 FR 35421).

**DATES:** Comments must be submitted on or before October 12, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493-6292), or Ms. Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202)

493-6139). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On June 24, 2004, FRA published a 60-day notice in the **Federal Register** soliciting comment on this ICR that the agency was seeking OMB approval. 69 FR 35421. FRA received no comments after issuing this notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507(b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection requirement (ICR) and the expected burden. The revised requirement is being submitted for clearance by OMB as required by the PRA.

**Title:** Railroad Communications (Formerly Radio Standards and Procedures).

**OMB Control Number:** 2130-0524.

**Type of Request:** Extension of a currently approved collection.

**Affected Public:** Railroads.

**Abstract:** The Federal Railroad Administration (FRA) amended its radio standards and procedures to promote compliance by making the regulations more flexible; to require wireless communications devices, including radios, for specified classifications of railroad operations and roadway

<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> *See* Securities Exchange Act Release No. 50068 (July 23, 2004), 69 FR 45358.

<sup>4</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78o-3(b)(6).

<sup>6</sup> *See* Securities Exchange Act Release No. 45270 (January 11, 2002), 67 FR 2712 (January 18, 2002) (SR-NASD-99-12).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-(a)(12).