

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

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50091; File No. SR-NASD-2004-091]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc., To Discontinue the Use of the Nasdaq NEWS Feature of the Nasdaq Workstation II, and To Provide a Different Standard for the Beginning and End of a Trading Halt

July 27, 2004.

On June 15, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change to discontinue the use of the Nasdaq NEWS feature of the Nasdaq Workstation II, and to provide for a different standard for the beginning and end of a trading halt. The proposed rule change was published for notice and comment in the **Federal Register** on June 25, 2004.³ 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 association⁴ and, in particular, the requirements of section 15A(b)(6) of the Act,⁵ which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and

facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-NASD-2004-091) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50090; File No. SR-NYSE-2004-06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the New York Stock Exchange, Inc. Relating to Amendments to Exchange Rule 104 and Rule 123

July 27, 2004.

Pursuant to section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder,² notice is hereby given that on February 6, 2004, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") 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 the Exchange. On April 5, 2004, the Exchange amended the proposed rule change.³ On July 14, 2004, the Exchange again amended the proposed rule change.⁴ 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

The Exchange proposes to amend NYSE Rule 104.10 (Dealings by Specialists) to provide that customers may limit the ability of specialists to trade along with their orders or to invoke precedence based on size when the specialist is liquidating a position in a specialty security for its dealer account. Exchange Rule 123 (Records of Orders) is also proposed to be amended to require a record of any such request to the specialist to yield.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

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Rule 104.

Dealings by Specialists

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Supplementary Material:

Functions of Specialists

.10 Regular Specialists.—Any member who expects to act regularly as specialist in any listed stock and to solicit orders therein must be registered as a regular specialist.

* * * * *

(6)(i) Transactions on the Exchange by a specialist for his own account in liquidating or decreasing his position in a specialty stock are to be effected in a reasonable and orderly manner in relation to the condition of the general market, the market in the particular stock and the adequacy of the specialist's positions to the immediate and reasonably anticipated needs of the round-lot and the odd-lot market and in this connection:

* * * * *

(B) the specialist should maintain a fair and orderly market during liquidation and, after reliquifying, should re-enter the market to offset imbalances between supply and demand. The selling of stock on a direct minus tick or a zero minus tick, or the purchasing of stock on a direct plus tick or a zero plus tick should be effected in conjunction with the specialist's re-entry in the market on the opposite side of the market from the liquidating transaction where the imbalance of supply and demand indicates that immediately succeeding transactions may result in a lower price (following the specialist's sale of stock on a direct minus tick or a zero minus tick) or a higher price (following the specialist's

⁹ 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. 49898 (June 21, 2004), 69 FR 35696.

⁴ 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).

⁵ 15 U.S.C. 78o-3(b)(6).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated April 2, 2004 and accompanying Form 19b-4 ("Amendment No. 1"). In Amendment No. 1, the NYSE clarified that, under the proposed rule change, customers may limit specialists from trading along with their orders and from invoking precedence based on size.

⁴ See letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated July 13, 2004 and accompanying Form 19b-4 ("Amendment No. 2"). In Amendment No. 2, NYSE amended the proposed rule text and added additional explanatory material to clarify the proposal. Amendment No. 2 replaced the Exchange's original filing and Amendment No. 1 thereto in their entirety.