

The Office of the Secretary at (202) 942-7070.

Dated: May 7, 2002.

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 02-11875 Filed 5-8-02; 12:09 pm]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 13, 2002:

A closed meeting will be held on Monday, May 13, 2002, at 10 a.m., and an open meeting will be held on Tuesday, May 14, 2002, at 10 a.m., in Room 1C30, the William O. Douglas Room.

Commissioners, Counsel to the Commissioners, the secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Hunt, as duty officer, determined that no earlier notice thereof was possible.

The subject matter of the close meeting scheduled for Monday, May 13, 2002, will be:

Formal orders of investigation;  
Institution and settlement of injunctive actions; and  
Institution and settlement of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Tuesday, May 14, 2002, will be:

1. The Commission will consider whether to jointly adopt a new rule with the Commodity Futures Trading Commission ("CFTC") generally requiring that the final settlement price for each cash-settled security futures product fairly reflect the opening price of the underlying security or securities, and that trading in any security futures product halt when a regulatory halt is instituted with respect to a security or securities underlying the security futures product by the national

securities exchange or national securities association listing the security. The rule being considered would set forth more specifically how the exchange's or association's rules can satisfy provisions added to the Commodity Exchange Act ("CEA") and the Securities Exchange Act of 1934 ("Exchange Act") by the Commodity Futures Modernization Act of 2000. The Commission will also consider whether to issue a joint interpretation with the CFTC of the statutory requirement under the CEA and the Exchange Act that procedures be put in place for coordinated surveillance among the markets trading security futures products and any market trading any security underlying the security futures products or any related security.

2. The Commission will consider whether to propose amendments to Rules 134, 156, and 482 under the Securities Act of 1933; Rule 34b-1 under the Investment Company Act of 1940; and four investment company registration forms (Forms N-1A, N-3, N-4, and N-6). The proposed amendments would require enhanced disclosure in mutual fund advertisements and are designed to encourage advertisements that convey balanced information to prospective investors, particularly with respect to past performance. The proposed amendments also would implement a provision of the National Securities Markets Improvement Act of 1996 by eliminating the requirement that Rule 482 advertisements for an investment company contain only information the substance of which is included in the investment company's statutory prospectus.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: the Office of the Secretary at (202) 942-7070.

Dated: May 7, 2002.

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 02-11876 Filed 5-8-02; 12:18 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### Pinnacle Business Management, Inc.; Order of Suspension of Trading

May 7, 2002.

It appears to the Securities and Exchange Commission that there is a

lack of current and accurate information concerning the securities of Pinnacle Business Management, Inc. ("PCBM") because of questions regarding the accuracy of assertions made by PCBM, and by others, in Commission filings and in documents sent to and statements made to investors concerning among other things, a planned spin-off by PCBM of a subsidiary in May 2002, the initial price at which the subsidiary will trade after the spin-off has been completed, and the conditions bearing on the subsidiary's chances of achieving an American Stock Exchange listing.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EDT, May 8, 2002 through 11:59 p.m. EDT, on May 21, 2002.

By the Commission.

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 02-11877 Filed 5-8-02; 1:33 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45873; File No. SR-CSE-2002-04]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to the Introduction of Order Delivery and Automated Response on the Cincinnati Stock Exchange, Inc.

May 3, 2002.

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> notice is hereby given that on April 22, 2002, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

<sup>2</sup> 17 CFR 240.19b-4.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CSE Rule 11.9, National Securities Trading System ("NSTS"), to modify CSE's execution functionality within the CSE Over-the-Counter ("OTC") Unlisted Trading Privileges ("UTP") system ("CSE OTC-UTP System")<sup>3</sup> from a process of automatically matching and executing like-priced displayed orders and quotes to an optional process of delivering orders to quoting CSE members and requiring automated responses from such members back to the CSE OTC-UTP System. The text of the proposed rule change is set forth below. Proposed new language is in *italics*.

### Chapter XI Trading Rules Rule 11.9(i)

(1) No change.

(2) *The OTC-UTP System offers two modes of order interaction selected by members:*

(a) *If automatic execution selected, the OTC-UTP System shall match and execute like-priced order, bids and offers in Nasdaq/NM Securities on an order-by-order basis only at the specific instruction of Users, including Designated Dealers. Subject to the obligations of best execution, Users may choose to execute like-priced orders without regard for the price/time and agency/principal priorities set forth in Rules 11.9(l) and (m).*

(b) *If order delivery and automated response selected, the OTC-UTP System will deliver contra-side orders against displayed orders and quotations on an order-by-order basis and only at the specific instruction of Users, including Designated Dealers. To be eligible for order delivery service, Users must demonstrate to CSE examiners that the User's system can automatically process the inbound order and respond appropriately within 1 second.*

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The purpose of the proposed rule change is to increase the flexibility of CSE execution systems to accommodate member needs. Specifically, CSE proposes to modify CSE's execution functionality within the CSE OTC-UTP System from a process of automatically matching and executing like-priced displayed orders and quotes to an optional process of delivering orders to quoting CSE members and requiring automated responses from such members back to the CSE OTC-UTP System. CSE is proposing this modification to facilitate a diverse membership base while promoting a fair and orderly market. CSE members that operate as electronic communications networks ("ECNs")<sup>4</sup> or alternative trading systems ("ATSs") subject to SEC Regulation ATS,<sup>5</sup> as well as members that act as Designated Dealers or specialists on CSE will have the option of selecting the type of centralized execution system that best fits their business model.

Currently, NSTS functions solely in an automatic execution mode. In an automatic execution system like NSTS, a Designated Dealer's quotation is held in NSTS, and NSTS executes any like-priced contra-side order against the dealer's quotation. NSTS then informs the Designated Dealer and the contra-side CSE member that the quotation and the order have been executed by delivering execution messages to both parties.

With the advent of ECN/ATS trading on CSE, members have expressed concern that CSE's automatic execution system exposes them to significant multiple execution liability. Given the speed with which ECN/ATSs operate, it is likely that displayed quotations will be subject to internal matches at the same time as another CSE member attempts to execute against the same quotations. When faced with a similar dilemma, the Nasdaq Stock Market, Inc. permitted ECN/ATSs to remain on

SelectNet (an order delivery system) for inbound executions against the ECN/ATSs' displayed quotations rather than requiring them to migrate to the automatic execution methodology of the Nasdaq National Market Execution System ("NNMS").<sup>6</sup> Nasdaq even amended its Intermarket Trading System ("ITS")/Computer Assisted Execution System ("CAES") (together "ITS/CAES") definitions and functionality to permit ECN/ATSs to operate in an order delivery format when interacting with inbound commitments from ITS. Similarly, CSE now proposes to permit members to select order delivery and automated response for order interaction with displayed quotations within the CSE OTC-UTP System or to continue interacting through CSE's automatic execution facility.

In an order delivery and automated response system, a member's quotation or displayed order will be held in the CSE OTC-UTP System, and when a contra-side order is received in the CSE OTC-UTP System, CSE will immediately forward the order message to the quoting member, who will be obligated by rule to instantaneously respond to the order message. Moreover, the quoting member must have a demonstrated capability to instantaneously respond to the order message. On receipt of the order message delivered by CSE, the quoting member will automatically determine whether its quote is still active. If so, the member will automatically deliver to the CSE OTC-UTP System matched orders representing its quote and the contra-side for execution. If the member's quote is in the process of changing due to a prior internal match at the displayed price, consistent with the Firm Quote Rule,<sup>7</sup> the member will reject the inbound order and send it back to the CSE OTC-UTP System. The CSE OTC-UTP System will then automatically send a cancellation message to the member submitting the order. The entire duration of the order delivery and automated response process likely will be less than one second.

CSE reiterates that members must demonstrate the capacity to accept inbound orders and to automatically respond to the CSE OTC-UTP System before they will be permitted use of this

<sup>3</sup> CSE proposed the creation of the CSE OTC-UTP System in proposed rule change CSE-2001-04. See Securities Exchange Act Release No. 45405 (February 6, 2002), 67 FR 6558 (February 12, 2002).

<sup>4</sup> ECNs are defined in SEC Rule 11Ac1-1(a)(8), 17 CFR 240.11Ac1-1(a)(8), as any electronic system that widely disseminates to third parties orders entered therein by an exchange market maker or OTC market maker, and permits such orders to be executed against in whole or in part.

<sup>5</sup> 17 CFR 242.300-303.

<sup>6</sup> See Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 3987 (January 25, 2000) in which Nasdaq designated SelectNet as the link to ECNs pursuant to the SEC's Order Handling Rules. See Securities Exchange Act Release No. 38156 (January 10, 1997), 62 FR 2415 (January 16, 1997).

<sup>7</sup> 17 CFR 240.11Ac1-1.

functionality. Moreover, CSE Rule 11.9(i)(2) shall provide that the CSE OTC-UTP System will offer order delivery and automated response subject to the requirement that members demonstrate the capability to respond in an automated manner. Therefore, by rule and through demonstrated capacity verified by CSE examiners prior to operation, the CSE will reduce the risk of multiple execution liability, while ensuring that members comply with their obligations under the Firm Quote Rule.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,<sup>8</sup> in general, and Section 6(b)(5) of the Act,<sup>9</sup> in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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. Further, the Exchange believes that the proposal is consistent with Section 6(b)(8) of the Act<sup>10</sup> in that it is not designed to impose any burden on competition not necessary or appropriate in furtherance of the Act.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## 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 longer 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 Exchange consents, the Commission will:

(A) By order approve such 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. 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-CSE-2002-04 and should be submitted by May 31, 2002.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-11746 Filed 5-9-02; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45851; File No. SR-NASD-2002-57]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. to Extend a Pilot Amendment to NASD Rule 4120 Regarding Nasdaq's Authority To Initiate and Continue Trading Halts**

April 30, 2002

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> notice is hereby given that on April 22, 2002, 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") the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

Nasdaq proposes to extend a pilot amendment to NASD Rule 4120, which clarified Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a security listed on Nasdaq may be caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system operated by, or linked to, Nasdaq. The proposal would extend the pilot through September 30, 2002. There is no new proposed rule language.

### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

##### 1. Purpose

On May 11, 2001, Nasdaq filed with the Commission a proposed rule change to clarify Nasdaq's authority to initiate and continue trading halts in circumstances where Nasdaq believes that extraordinary market activity in a

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> Nasdaq asked the Commission to waive the 5-day pre-filing notice requirement and the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78f(b)(8).

<sup>11</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.