

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51748; File No. SR-NASD-2005-024)

May 26, 2005

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Relating to Dissemination of the Underlying Index Value for Portfolio Depository Receipts and Index Fund Shares

On February 9, 2005, the National Association of Securities Dealers, Inc. (“NASD”) (“NASD”), through its subsidiary, The Nasdaq Stock Market, Inc. (“Nasdaq”), submitted to 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 revise the listing standards for Portfolio Depository Receipts (“PDRs”) and Index Fund Shares to provide that the current value of the underlying index must be widely disseminated by one or more major market data vendors at least every 15 seconds during the time the PDR or Index Fund Share trades on Nasdaq. On April 4, 2005, Nasdaq submitted Amendment No. 1 to the proposed rule change.³ The proposed rule change, as modified by Amendment No. 1, was published for comment in the Federal Register on April 21, 2005.⁴ The Commission received no comments regarding the proposed rule change. This order approves the proposed rule change, as amended.

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the original filing in its entirety. Amendment No. 1 revised the proposal to indicate that, among other things, the current index value must be disseminated by one or more major market data vendors during the time PDR or Index Fund Share trades on Nasdaq.

⁴ See Securities Exchange Act Release No. 51559 (April 15, 2005), 70 FR 20787.

a national securities association.⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,⁶ which requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Currently, the NASD's rules for listing and trading PDRs and Index Fund Shares pursuant to Rule 19b-4(e) under the Act require that the current value of the underlying index be disseminated every 15 seconds over the Nasdaq Trade Dissemination System.⁷ Nasdaq proposes to amend these listing standards to require that the current value of the underlying index be widely disseminated by one or more major market data vendors at least every 15 seconds during the time the PDR or Index Fund Share trades on Nasdaq.

By revising the index dissemination requirement, the proposal would expand the PDRs and Index Fund Shares eligible for listing under NASD Rules 4420(i) and (j) to include not only PDRs and Index Fund Shares whose underlying index value is disseminated over the Nasdaq Trade Dissemination System, but also PDRs and Index Fund Shares whose current underlying index value is widely disseminated at least every 15 seconds by one or more major market data vendors during the time the PDR or Index Fund Share trades on Nasdaq. The Commission believes that this index dissemination requirement, which is similar to the index dissemination

⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78o-3(b)(6).

⁷ See NASD Rule 4420(i) and (j).

requirement used in the listing standards for narrow-based index options,⁸ will help to ensure the transparency of current index values for indexes underlying PDRs and Index Fund Shares.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-NASD-2005-024), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland
Deputy Secretary

⁸ See e.g., Chicago Board Options Exchange Rule 24.2(b); International Securities Exchange Rule 2002(b); Pacific Exchange Rule 5.13; and Philadelphia Stock Exchange Rule 1009A(b) (listing standards for narrow-based index options requiring that, among other things, the current underlying index value be reported at least once every 15 seconds during the time the index option trades on the exchange).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).