

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50199; File No. SR-NASD-2004-079)

August 13, 2004

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc., To Provide for the Web Publication of Summaries of Interpretations Issued Under NASD Rule 4550

On May 14, 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 provide for the web publication of summaries of interpretations issued under NASD Rule 4550. On June 18, 2004, the Nasdaq submitted Amendment No. 1 to the proposal.³ On June 25, 2004, the Nasdaq submitted Amendment No. 2 to the proposal.⁴

The proposed rule change, as amended, was published for notice and comment in the Federal Register on July 6, 2004.⁵ The Commission received no comment letters on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Edward S. Knight, Executive Vice President, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (“Division”), Commission, dated June 17, 2004 (“Amendment No. 1”). Amendment No. 1 replaced and superseded the original filing in its entirety. In Amendment No. 1, Nasdaq added the 90-day publication date requirements and changed the filing from one under Section 19(b)(3)(A) of the Act to one under Section 19(b)(2) of the Act.

⁴ See letter from T. Eric Lai, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division, Commission, dated June 25, 2004 (“Amendment No. 2”). In Amendment No. 2, Nasdaq removed a sentence relating to the timing for the implementation of the proposal.

⁵ See Securities Exchange Act Release No. 49935 (June 29, 2004), 69 FR 40699.

requirements of the Act and the rules and regulations thereunder applicable to a national securities association⁶ and, in particular, the requirements of Section 15A(b)(6) of the Act.⁷ Section 15A(b)(6) requires, among other things, that the rules of an association be designed 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.

The Commission notes that the proposal is seeking to codify Nasdaq's current practice of publishing anonymous summaries of its written interpretations of NASD listing rules on the NASD website. The Commission believes that publishing these summaries of Nasdaq's interpretations will provide Nasdaq issuers with additional guidance to help them comply with NASD listing rules. The Commission also believes that publishing the summaries of Nasdaq's written interpretations should reduce the number of requests from listed issuers who might be seeking guidance on identical or similar previously interpreted matters. As a result, the Commission believes that the proposed rule change could significantly reduce the burden on Nasdaq of producing superfluous written interpretations on NASD listing rules. Therefore, the Commission finds that the proposed rule change is consistent with the Act.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed

⁶ In approving this proposed rule change, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78o-3(b)(6).

⁸ 15 U.S.C. 78s(b)(2).

rule change (SR-NASD-2004-079), as amended by Amendment Nos. 1 and 2, be hereby approved.

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

Margaret H. McFarland
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).