

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50458; File No. SR-NASD-2004-109)

September 28, 2004

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change to Increase the Initial Inclusion Requirements for Certain Foreign Securities Seeking to List on the Nasdaq SmallCap Market

On July 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 modify Rule 4320 to apply the same, heightened quantitative initial inclusion standards upon non-Canadian foreign issuers that currently apply to domestic and Canadian issuers seeking to list on the Nasdaq SmallCap Market (“SmallCap Market”). Specifically, Nasdaq has added to the initial inclusion requirements of Rule 4320 a minimum bid price requirement of \$4 and a market value requirement for publicly held shares of \$5,000,000.

The proposed rule change was published for comment in the Federal Register on August 18, 2004.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁴ in general, and with Section 15A(b)(6) of the Act,⁵ in particular, in that

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Release No. 50183 (August 11, 2004), 69 FR 51341 (August 18, 2004).

⁴ 15 U.S.C. 78o-3.

⁵ 15 U.S.C. 78o-3(b)(6).

the proposal is 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, in general, to protect investors and the public interest. The Commission believes that applying the same quantitative initial inclusion standards upon non-Canadian foreign issuers seeking to list on the Nasdaq SmallCap market that currently apply to domestic and Canadian issuers is an appropriate change that raises the applicable standards and achieves consistent application of those standards among issuers.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (File No. SR-NASD-2004-109) be, and it hereby is, approved.

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

Margaret H. McFarland
Deputy Secretary

⁶ 17 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).