

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52192; File No. SR-NASD-2005-006)

August 2, 2005

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendments Nos. 1 and 2 thereto to Require Semi-Annual Financial Reporting by Foreign Private Issuers

On January 18, 2005, 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 require semi-annual financial reporting by foreign private issuers. Nasdaq submitted Amendment No. 1 to its proposed rule change on February 4, 2005 and submitted Amendment No. 2 to its proposed rule change on June 6, 2005. The proposed rule change, as amended, was published for comment in the Federal Register on June 29, 2005.³ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The proposed rule change is designed to create a uniform standard, applicable to all Nasdaq-listed foreign private issuers, to provide investors with access to more recent financial information. The proposal accomplishes this by requiring that foreign private issuers provide, in a press release that would also be submitted on a Form 6-K, an interim balance sheet and semi-annual income statement, not later than six months following the end of the issuer’s second quarter. Under the proposed rule, the information provided

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 51905 (June 29, 2005), 70 FR 37456.

would be required to be translated into English, but would not have to be reconciled to U.S. Generally Accepted Accounting Principles (“GAAP”).

The Commission finds that the proposed rule change, as amended, 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 of the Act.⁵ Specifically, the Commission finds the proposal to be consistent with Section 15A(b)(6) and 15A(b)(9) of the Act⁶ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes the proposed rule will provide useful disclosure to investors regarding foreign private issuers that trade on Nasdaq.

In order to allow sufficient time for foreign private issuers to modify any necessary practices regarding the preparation of interim financial reports, Nasdaq suggests that the proposed rule become effective for interim periods ending after January 1, 2006 and the Commission believes that this is reasonable.⁷

⁴ In approving this proposed rule change, as amended, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78o-3.

⁶ 15 U.S.C. 78o-3(b)(6) and (b)(9).

⁷ Nasdaq has indicated that, for example, in the case of a foreign private issuer with a fiscal year-end of December 31st, the rule first would be applicable for the semi-annual interim period ending June 30, 2006. Under the proposed rule, such an issuer would be required to provide an interim balance sheet and semi-annual income statement on a press release and Form 6-K not later than six months thereafter (December 31, 2006). Telephone conversation between Nasdaq staff and Division Staff on July 27, 2005.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-NASD-2005-006), be, and it hereby is, approved.

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

Jill M. Peterson
Assistant Secretary

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).