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July 23, 2003

Jonathan G. Katz
Secretary
U.S. Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Re: File No. SR-NASD-2003-85
Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. and Amendments Nos. 1 and Thereto Relating to a Post-Trade Anonymity Feature in SuperMontage.

Dear Mr. Katz:

The Security Traders Association ("STA") is pleased to provide the U.S. Securities and Exchange Commission ("Commission" or "SEC") with comments on the National Association of Securities Dealers, Inc's ("NASD") Notice of Filing of Proposed Rule and Amendments Nos. 1 and 2 Thereto Relating to a Post-Trade Anonymity Feature in SuperMontage.¹ For the reasons described below, the STA fully supports the NASD's rule proposal and urges the SEC to approve it as soon as possible.

The STA is a worldwide professional trade organization that works to improve the ethics, business standards and working environment for its members, who are engaged in the purchase, sale and trading of securities. The STA represents the shared interests of its approximately 7,000 members that belong to one of 29 national and international affiliate organizations. The STA is the largest organization of its kind in the world.

¹ Securities Exchange Act Release No. 48088 (July 2, 2003), 68 FR 39605.

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Alabama Security Dealers Association
Boston Security Traders Association
Security Traders Association of Chicago, Inc.
Cleveland Security Traders Association
Security Traders Association of Connecticut
Dallas Security Traders Association
The Denver Security Traders Association

Security Traders Association of Detroit and Michigan, Inc.
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Institutional Equity Traders Association of Toronto
Vancouver Security Traders Association
Security Traders Association of Wisconsin, Inc.

Dictum Meum Pactum

BACKGROUND

Nasdaq proposes to add a post-trade anonymity feature to its SuperMontage trading system. Currently, the SuperMontage system only provides pre-trade anonymity by market makers, ECNs and Order Entry Firms who submit anonymous orders to SuperMontage for display under the “SIZE” market participant identifier (“MPID”). When that order is executed, however, the identity of the member that anonymously submitted the order is revealed immediately to the other member involved in the trade and any anonymity is lost.

Nasdaq proposes to expand this pre-trade anonymity to market makers, ECNs and Order Entry Firms that submit anonymous orders to SuperMontage for display under the SIZE MPID by causing SuperMontage to respond to the execution of such orders by sending execution reports back to the market maker, ECN and Order Entry Firm and submitting trade reports to ACT that reflect the contra party as SIZE. As a result, anonymity will be maintained and the market impact of the execution of such orders may be lessened,

The only time the identity of the member that entered the quote/order into SIZE will be provided is if the member is an ECN SuperMontage Order Delivery participant that charges an access fee² or the National Securities Clearance Corporation (“NSCC”) has ceased to act for a member involved in the trade, or for the clearing **firm** of a member involved in the trade, and decided not to guarantee the trades by the failed **firm**.

Nasdaq has also proposed to implement safeguards that will protect the regulatory audit trail, ensure that regulatory surveillance systems operate as they do currently and provide clearing firms with the information needed to monitor and manage risk of trading by their correspondents.

DISCUSSION

² This exception is necessary only as a result of the questionable ability of ECNs to charge access fees to non-subscribers, a situation that has risen to a level of intolerability with the advent of decimalization and the resulting reduction in spreads and the operation of the SuperMontage system which may cause the delivery of an order to an ECN when another market participant has no intention of paying any such fee. We agree with Nasdaq that this exception is necessary to allow an ECN to reject a trade from a contra party that disputes and refuses to pay such fees, however, recent history demonstrates that a number of ECNs refuse to reject trades from market makers and others that contest the imposition of these fees, even when such members inform the ECN that they will not pay such fees and request that their orders be rejected. Instead, such ECNs lay in wait for the involuntary SuperMontage delivery of the order, execute the order and then file in arbitration against the member for “owed fees.” The **STA** reiterates its view that ECN access fees should be abolished and respectfully refers the SEC to prior **STA** submissions to the SEC on this controversial subject. See, Letter to the Honorable William H. Donaldson, Chairman, Securities and Exchange Commission, regarding ECN Access Fees from John C. Giese, President, Security Traders Association (April 16, 2003); Letter to the Honorable Harvey Pitt, Chairman, Securities and Exchange Commission from Security Traders Association Trading Issues Committee (March 5, 2002).

Post-trade anonymity is a feature that is commonplace today and has been provided to other market participants by ECNs for a significant period of time. This type of anonymity has previously been recognized by the SEC as beneficial to the marketplace. In the adopting release of the SEC Order Handling Rules, the SEC discussed the benefits of being able to trade anonymously through ECNs and stated that it:

[R]ecognizes that in certain securities, specific market makers or specialists may be viewed as price leaders for those securities. Therefore, if the market knows that one of those firms has changed its quote, other market makers or specialists are likely to follow the price change and frustrate the first firm's ability to obtain an execution at the improved price. The ability to place an order in an ECN allows the firm to change its price without triggering corresponding price changes from other market makers or specialists and thereby increases its potential to obtain an execution at the improved price.³

The STA agrees with the SEC's views in this area and believes that there is no reason why Nasdaq should not be able to provide this SEC recognized benefit to the marketplace that ECN's have been providing to it for years.

Moreover, the Nasdaq proposal adequately and reasonably addresses any and all regulatory and risk management concerns that arise from the implementation of this feature.

CONCLUSION

The STA fully supports the NASD's rule proposal and urges the SEC to **approve** it as soon as possible. Please do not hesitate to contact me if you have any questions or require any assistance.

Sincerely,



John Hughes
Chairman



John C. Giese
President and Chief Executive Officer

CC: Annette L. Nazereth, Director, Division of Market Regulation, SEC
Robert, L.D. Colby, Deputy Director, Division of Market Regulation, SEC

³ Securities Exchange Release No. 37619A (September 6, 1996), 61 FR 48290,48310, note 243 (September 12, 1996))