



October 14, 2005

Ms. Katherine A. England
Assistant Director
Division of Market Regulation
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-2001

Re: Response to Comments to File No. SR-NASD-2005-011 – Proposal to Limit the Eligibility for Quotation on the OTCBB of the Securities of an Issuer that is Repeatedly Late in Filing Required Periodic Reports

Dear Ms. England:

On January 28, 2005, pursuant to its delegated authority, The Nasdaq Stock Market, Inc.'s ("Nasdaq"), filed with the Securities and Exchange Commission ("SEC" or "Commission") proposed rule change SR-NASD-2005-011, proposing to limit the eligibility for quotation on the Over-the-Counter Bulletin Board ("OTCBB") of the securities of an issuer that is repeatedly late in filing required periodic reports.¹ On August 24, 2005, the Commission published for comment the proposed rule change in the Federal Register.² The Commission received one comment letter in response to the Federal Register publication of SR-NASD-2005-011.³ NASD is hereby responding to the comments made therein.

The commenter generally supports the proposed rule change, but argues that further rulemaking related to the over-the-counter ("OTC") market is required. Specifically, the commenter suggests a rule change to require that all publicly traded companies, regardless of size and quotation service, be required to file reports with the SEC and be current in those filings, subject to certain grace periods. The commenter

¹ On May 10, 2005, Nasdaq filed with the Commission Amendment No. 1 to SR-NASD-2005-011, which proposed, among other things, to make certain clarifying changes to rule text and amend the effective date. On June 24, 2005, Nasdaq filed with the Commission Amendment No. 2 to SR-NASD-2005-011, which proposed to make certain clarifying changes to rule text. On August 15, 2005, NASD filed with the Commission Amendment No. 3 to SR-NASD-2005-011, which proposed to modify the proposed effective date of the rule change.

² See Exchange Act Release No. 52291 (August 18, 2005), 70 FR 49701 (August 24, 2005).

³ The comment was submitted via e-mail by John Meade on September 14, 2005.

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further suggests that if such publicly traded companies are delinquent in their reporting, NASD should halt trading in those securities until the delinquency is resolved.

NASD does not disagree with the commenter's assertion that expanding the SEC filing requirements to all publicly traded companies could provide additional useful information to investors. However, the proposed rule change at issue relates only quoting of issuers that currently are subject to SEC reporting requirements under the SEC's reporting regime. As such, the commenter's recommendation would require an expansion of SEC reporting requirements, not NASD rules, and therefore is not germane to this filing.

The commenter also expresses concern that an outcome of the proposal is that delinquent OTCBB issuers are then forced onto the Pink Sheets, which the commenter argues is subject to less regulation than the OTCBB. As an initial matter, NASD regulates trading in both the OTCBB and the Pink Sheets. However, the commenter is correct in that there are certain rules (e.g., NASD Rule 6541 requiring limit order protection) that apply only to trading in OTCBB securities. In this regard, as part of the transfer of the OTCBB from Nasdaq to NASD, NASD currently is analyzing whether having such distinctions across quotation services within the OTC market is appropriate.

If you have any questions, please me at (202) 728-8156; email: andrea.orr@nasd.com. The fax number of the Office of General Counsel is (202) 728-8264.

Very truly yours,



Andrea Orr
Assistant General Counsel

cc: Nancy Sanow
Timothy Fox
Richard Holley