

As discussed at length in the notice of the 13th Amendment,<sup>9</sup> the Commission had determined to relieve the potential conflict among the SuperMontage approval order,<sup>10</sup> Rule 11Aa3-2,<sup>11</sup> and the Plan, by granting the NASD an exemption under Rule 11Aa3-2(f)<sup>12</sup> from compliance with Section VI.C.1. of the Plan as required by Rule 11Aa3-2(d)<sup>13</sup> until such time as Nasdaq is registered as a national securities exchange. The Plan Participants have requested an extension of such exemptive relief.

### III. Discussion

The Commission finds that extending the operation of the Plan is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, section 12(f)<sup>14</sup> and section 11A(a)(1)<sup>15</sup> of the Act and Rules 11Aa3-1 and 11Aa3-2 thereunder.<sup>16</sup> Section 11A of the Act directs the Commission to facilitate the development of a national market system for securities, "having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets," and cites as an objective of that system the "fair competition \* \* \* between exchange markets and markets other than exchange markets."<sup>17</sup> When the Commission first approved of the Plan on a pilot basis, it found that the Plan "should enhance market efficiency and fair competition, avoid investor confusion, and facilitate surveillance of concurrent exchange and OTC trading."<sup>18</sup> The Plan has been in existence since 1990 and Participants have been trading Nasdaq securities under the Plan since 1993.

The Commission finds that extending the operation of the Plan through summary effectiveness furthers the goals

described above by preventing the lapsing of the sole effective transaction reporting plan for Nasdaq securities traded by exchanges pursuant to unlisted trading privileges. The Commission believes that the Plan is currently a critical component of the national market system and that the Plan's expiration would have a serious, detrimental impact on the further development of the national market system.

The Commission also finds that it is appropriate to grant summary effectiveness to the request to extend the exemption under Rule 11Aa3-2(f)<sup>19</sup> from compliance with Section VI.C.1. of the Plan as required by Rule 11Aa3-2(d).<sup>20</sup> The Commission believes that the Plan is a critical component of the national market system and that the requested exemptive relief is necessary to assure the effective operation of the Plan. The Commission believes that the requested exemptive relief extension is consistent with the Act, the Rules thereunder, and, specifically, with the objectives set forth in sections 12(f) and 11A of the Act<sup>21</sup> and Rules 11Aa3-1 and 11Aa3-2 thereunder.<sup>22</sup>

### IV. Solicitation of Comments

The Commission seeks general comments on the extension of the operation of the Plan and the extension of exemptive relief. Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendment that are filed with the Commission, and all written communications relating to the proposal between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the amendment will also be available for inspection and copying at the Office of the Secretary of the Committee, currently located at the CSE, One Financial Place, 440 South LaSalle St., Suite 2600, Chicago, IL 60126. All submissions should refer to

File No S7-24-89 and be submitted by September 8, 2003.

### V. Conclusion

*It is therefore ordered*, pursuant to sections 12(f) and 11A of the Act<sup>23</sup> and paragraph (c)(4) of Rule 11Aa3-2<sup>24</sup> thereunder, that the operation of the Plan be, and hereby is, extended and that certain exemptive relief also be extended both for a period not to exceed 120 days from the date of publication of this Date Extension in the **Federal Register**.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority:<sup>25</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48295; File No. SR-CSE-2003-08]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to Its Schedule of Fees

August 7, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 21, 2003, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which the CSE has prepared. The CSE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby proposes to amend its schedule of fees to address recent developments in the cost of doing

<sup>9</sup> See Securities Exchange Act Release No. 46139 (June 28, 2001 [sic]), 67 FR 44888 (July 5, 2002) ("13th Amendment Notice").

<sup>10</sup> See Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001).

<sup>11</sup> 17 CFR 240.11Aa3-2.

<sup>12</sup> 17 CFR 240.11Aa3-2(f).

<sup>13</sup> 17 CFR 240.11Aa3-2(d).

<sup>14</sup> 15 U.S.C. 78l(f). The Commission finds that extending the Plan is consistent with fair and orderly markets, the protection of investors and the public interest, and otherwise in furtherance of the purposes of the Act. The Commission has taken into account the public trading activity in securities traded pursuant to the Plan, the character of the trading, the impact of the trading of such securities on existing markets, and the desirability of removing impediments to, and the progress that has been made toward the development of a national market system.

<sup>15</sup> 15 U.S.C. 78k-1(a)(1).

<sup>16</sup> 17 CFR 240.11Aa3-1 and 17 CFR 240.11Aa3-2.

<sup>17</sup> 15 U.S.C. 78k-1(a).

<sup>18</sup> See Securities Exchange Act Release No. 28146 (June 26, 1990), 55 FR 27917 (July 6, 1990).

<sup>19</sup> 17 CFR 240.11Aa3-2(f).

<sup>20</sup> 17 CFR 240.11Aa3-2(d).

<sup>21</sup> 15 U.S.C. 78l(f) and 15 U.S.C. 78k-1.

<sup>22</sup> 17 CFR 240.11Aa3-1 and 11Aa3-2.

<sup>23</sup> 15 U.S.C. 78l(f) and 15 U.S.C. 78k-1.

<sup>24</sup> 17 CFR 240.11Aa3-2(c)(4).

<sup>25</sup> 17 CFR 200.30-3(a)(27).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

business on the CSE.<sup>4</sup> The text of the proposed rule change is below. Proposed additions are in italics and proposed deletions are in brackets.

Chapter XI Trading Rules

Rule 11.10 National Securities Trading System Fees

A. Trading Fees

(a)-(l) No change.

(m) DD Issue/Book Fees. Designated Dealers will be charged a monthly book fee based on the following incremental schedule:

Table with 2 columns: Number of issues, Fee per issue. Rows include 0 to 150, 151 to 300, 301 to 500, and 500 and higher.

(n) No change to text.

(o) Technology Fee. Every Member of the Exchange shall be assessed a fee of \$[750]1,250.00 per month to help offset technology expenses incurred by the Exchange.

(p)-(q) No change.

(r) Workstation Fee. Every member using the Exchange Workstation shall be charged \$[500]750.00 per device per month.

B.-C. No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing three amendments to the CSE Rules governing fees. The first proposed rule change amends subsection (m) to CSE Rule

11.10(A), Designated Dealer Issue/Book Fees. Subsection (m) currently provides that Designated Dealers will be charged a monthly book fee of \$25 per each of the first 150 issues, \$15 for each of the next 150 issues, \$10 for each of the next 200 issues, and \$1 for each remaining issue. The amended rule will provide that Designated Dealers will now be charged \$30, \$20, \$15 and \$2 per each of the respective increments. The second proposed rule change amends subsection (o) to CSE Rule 11.10(A), Technology Fee. Subsection (o) currently provides that every member be assessed a fee of \$750 per month to help offset technology expenses incurred by the Exchange. The amended rule will provide that members be charged \$1,250 per month. The third proposed rule change amends subsection (r) to CSE Rule 11.10(A), Workstation Fee. Subsection (r) currently provides that every member using the Exchange Workstation be assessed a fee of \$500 per device per month. The amended rule will provide that members using the Workstation will now be charged \$750 per device per month.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,<sup>5</sup> and Section 6(b)(4)<sup>6</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members on a pro rata basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed fee change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>7</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>8</sup> because it establishes or changes a due, fee, or other charge imposed by the CSE. At any time within

60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to file number SR-CSE-2003-08 and should be submitted by September 8, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Jill M. Peterson,

Assistant Secretary.

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DEPARTMENT OF STATE

[Public Notice 4409]

Notice of Meeting; United States International Telecommunication Advisory Committee Information Meeting on the World Summit on the Information Society and the U.S. Preparatory Process

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee (ITAC). The purpose of the Committee is to advise the Department on matters related to telecommunication and information policy matters in preparation for international meetings

<sup>4</sup> These costs include, for example, increased hardware and software expenses, increased capacity and technical support costs, and personnel-related expenses. Telephone call between Jennifer M. Lamie, Assistant General Counsel, CSE and Ian K. Patel, Staff Attorney, Commission (August 5, 2003).

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).