

which are in its custody or control or for which it is responsible.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-2002-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-26646 Filed 10-21-03; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48631; File No. SR-NASD-2003-127]

#### Self-Regulatory Organizations; Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify the Fees for the Listing of Additional Shares Program and To Institute a Record-Keeping Fee for Certain Changes by Issuers

October 15, 2003.

#### I. Introduction

On August 11, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") submitted to the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to modify the fees for the listing of additional shares ("LAS") program and to institute a record-keeping fee for certain changes by issuers. The proposed rule change was published for comment in the **Federal Register** on September 9, 2003.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

The purpose of the proposed rule change is to modify the fees for the LAS

program and to institute a record-keeping fee for certain changes by issuers in order to respond to the needs of Nasdaq. The LAS program involves notification and fee requirements for the issuance of additional shares. Specifically, an issuer must notify Nasdaq prior to a transaction that may implicate the corporate governance requirements and thereafter pay a fee that is based on the change in the issuer's total shares outstanding as reported in its periodic reports filed with the Commission. Nasdaq proposes to modify the LAS program fees in two ways. First, the minimum fee would be increased from \$2,000 to \$2,500 for issuances of between 50,000 and 250,000 additional shares.<sup>4</sup> Second, the current quarterly cap of \$22,500 would be eliminated. The annual cap of \$45,000, however, would be retained.

In addition, Nasdaq also proposes to institute a \$2,500 record-keeping fee for certain changes made by issuers. Such a fee would be used to address the costs associated with revising Nasdaq's records when issuers engage in certain actions, including a change of name, a change in the par value or title of securities, or a voluntary change in trading symbol.

#### III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities association,<sup>5</sup> and, in particular, with the requirements of Section 15A<sup>6</sup> of the Act. Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 15A(b)(5)<sup>7</sup> of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system, which the NASD operates or controls. The Commission finds that the proposed rule change is reasonably designed to accomplish these ends by modifying the fees for the listing of additional shares program and to institute a record-keeping fee for certain changes by issuers on an equal basis. Moreover, the Commission believes that the additional fees should

<sup>4</sup> As under the current rules, there would be no fee for issuances of up to 49,999 per quarter.

<sup>5</sup> 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78o-3.

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

assist the NASD in carrying out its self-regulatory responsibilities.<sup>8</sup>

#### IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-NASD-2003-127) be, and it hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-26587 Filed 10-21-03; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48627; File No. SR-NASD-2003-130]

#### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. Relating to Amendments to Its Recently Adopted Rules Regarding Shareholder Approval for Stock Option or Purchase Plans or Other Equity Compensation Arrangements

October 14, 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 August 18, 2003, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On October 2, 2003, Nasdaq filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On October

<sup>8</sup> Nasdaq has represented to the Commission that the LAS program fees are used to fund issuer-related operations, including educational initiatives, issuer service initiatives, and surveillance measures. See Securities Exchange Act Release No. 31586 (December 11, 1992), 57 FR 60257 (December 18, 1992).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See letter from John D. Nachmann, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated October 2, 2003 ("Amendment No. 1"). In Amendment No. 1, Nasdaq replaced the terms "compensation committee" or "compensation committee

<sup>5</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 48413 (August 26, 2003), 68 FR 53209.