

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, 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 persons, 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-98-98 and should be submitted by February 19, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has carefully reviewed Nasdaq's proposed rule change and believes the proposal is consistent with the requirements of Section 15A(b) of the Act⁷ and the rules and regulations thereunder applicable to a national securities association. Specifically, the Commission believes the proposal is consistent with Sections 15A(b)(6) and 15A(b)(11) of the Act⁸ which require, among other things, that a national securities association's rules be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, facilitate transactions in securities, produce fair and informative quotations, prevent fictitious or misleading quotations, and promote orderly procedures for collecting, distributing, and publishing quotations.⁹

Under current Nasdaq practice, market makers are permitted to enter and adjust their first quotations for IPO

securities during a pre-trading, quotation-only time period that lasts five minutes. Nasdaq created this quotation-only time period to facilitate the opening of trading for IPOs.

Previously, when an IPO was authorized for trading on Nasdaq, market makers were permitted to immediately and simultaneously enter quotations and trade on the subject security.¹⁰

The Commission recognizes that it may be difficult at times to accurately gauge interest in an IPO, and that as a result, the opening of secondary market trading for Nasdaq IPO securities may be subject to increased volatility. As Nasdaq notes, such excessive volatility could impede the smooth functioning of the Nasdaq market during the initial trading of IPOs to the detriment of all market participants, including public investors.

The Nasdaq proposal was designed to address the increased volatility associated with the opening of IPOs for secondary market trading on Nasdaq. The proposal would extend the current five minute pre-trading quotation period for all IPOs to fifteen minutes, and provide the potential for an additional fifteen minute pre-trade quotation period if an IPO issue was locked or crossed at the conclusion of the first fifteen minute period. The Commission believes that this additional time should assist market participants in gauging the likely interest in an IPO and adjusting their quotes accordingly.

Pursuant to Section 19(b)(2) of the Act,¹¹ the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. The Commission recognizes that increased investor demand for the securities of high-technology companies, especially those offered through IPOs, may be contributing to greater volatility of Nasdaq securities. The Commission believes it is important that before trading in an IPO security commences, Nasdaq market makers be provided sufficient time to determine an appropriate opening price that accurately reflects market interest in the IPO security. Setting a more accurate opening price for an IPO could help to reduce volatility in those securities as trading begins.

The Commission further believes that the availability of an additional fifteen minute quotation-only time period is an appropriate response to those instances where the market may be locked or

crossed at the conclusion of the first fifteen minute period. Finally, the Commission notes that the proposal to extend the pre-trading quotation period represents one element of Nasdaq's response to excessive volatility, and encourages Nasdaq to continue to develop additional proposals as part of its ongoing review of trading activity and Nasdaq market practices.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change, SR-NASD-98-98, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9A81]

State of California

Fresno and Tulare Counties and the contiguous counties, Inyo, Kern, Kings, Madera, Merced, Mono, Monterey, and San Benito in the State of California constitute an economic injury disaster loan area as a result of extremely low temperatures and sub-freezing conditions beginning on December 20, 1998 and continuing. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on October 15, 1999 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, PO Box 13795, Sacramento, CA 95853-4795.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number for this disaster is 9A8100.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: January 15, 1999.

Mary Kristine Swedin,
Acting Administrator.

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⁷ 15 U.S.C. 78o-3(b).

⁸ 15 U.S.C. 78o-3(b)(6) and 78o-3(b)(11).

⁹ In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ See Securities Exchange Act Release No. 34254 (June 24, 1994), 59 FR 33808 (June 30, 1994).

¹¹ 15 U.S.C. 78s(b)(2).

¹² Id.

¹³ 17 CFR 200.30-3(a)(12).