

limit order when that limit order is priced superior to the quote that is currently being displayed by the specialist or market maker. Customer limit orders that match the bid or offer being displayed by the specialist or market maker must also be displayed if the limit order price matches the national best bid or offer. It is estimated that approximately 926 broker and dealer respondents incur an aggregate burden of 9,056 hours per year to comply with this rule.

Rule 11Ac1-4 does not contain record retention requirements. Compliance with the rule is mandatory. Responses are not confidential. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: June 6, 2001.

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15a-6, SEC File No. 270-329, OMB Control No. 3235-0371

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995

(44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 15a-6 under the Securities Exchange Act of 1934 provides, among other things, an exemption from broker-dealer registration for foreign broker-dealers that effect trades with or for U.S. institutional investors through a U.S. registered broker-dealer, provided that the U.S. broker-dealer obtains certain information about, and consents to service of process from, the personnel of the foreign broker-dealer involved in such transactions, and maintains certain records in connection therewith.

These requirements are intended to ensure (a) that the U.S. broker-dealer will receive notice of the identity of, and has reviewed the background of, foreign personnel who will contact U.S. institutional investors, (b) that the foreign broker-dealer and its personnel effectively may be served with process in the event enforcement action is necessary, and (c) that the Commission has ready access to information concerning these persons and their U.S. securities activities.

In general, the records to be maintained under Rule 15a-6 must be kept for the applicable time periods as set forth in Rule 17a-4 under the Exchange Act or, with respect to the consents to service of process, for a period of not less than six years after the applicable person ceases engaging in U.S. securities activities. Reliance on the exemption set forth in Rule 15a-6 is voluntary, but if a foreign broker-dealer elects to rely on such exemption, the collection of information described therein is mandatory. The collection does not involve confidential information. It is estimated that approximately 2,000 respondents will incur an average burden of three hours per year to comply with this rule, for a total burden of 6,000 hours. At an average cost per hour of approximately \$100, the resultant total cost of compliance for the respondents is \$600,000 per year (2,000 entities × 3 hours/entity × \$100/hour = \$600,000).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (a) Desk Office of the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of

Management and Budget, Room 10102, New Executive Office Building, Washington, D.C. 20503; and (b) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: June 6, 2001.

**Margaret H. McFarland,**  
Deputy Secretary.

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BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44396; File No. 10-131]

### The Nasdaq Stock Market, Inc.; Notice of Filing of Application for Registration as a National Securities Exchange Under Section 6 of the Securities Exchange Act of 1934

June 7, 2001.

The Nasdaq Stock Market, Inc. ("Nasdaq") completed its application for registration as a national securities exchange ("Form 1") under section 6<sup>1</sup> of the Securities Exchange Act of 1934 (the "Exchange Act") and submitted it to the Securities and Exchange Commission ("SEC" or "Commission") on March 15, 2001.<sup>2</sup> The Commission is publishing this notice to solicit comments on Nasdaq's Form 1.

### I. Background

Until recently, Nasdaq was a wholly-owned subsidiary of the National Association of Securities Dealers, Inc. ("NASD"). On April 14, 2000, NASD members voted in favor of a restructuring plan that broadens the ownership of Nasdaq through a two-phase, private placement of common stock and warrants to include not only NASD members, but also Nasdaq issuers, institutional investors and strategic partners. In the first phase of the private placement, which was completed in June 2000, the NASD sold shares and issued warrants overlaying

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

<sup>2</sup> See Letter to Annette L. Nazareth, Director, Division of Market Regulation ("Division"), Commission, from Edward S. Knight, Executive Vice President and General Counsel, Nasdaq, dated November 9, 2000. Exhibits A and C to Nasdaq's application were incomplete, and therefore on March 15, 2001, Nasdaq submitted to the Commission revised Exhibits A and C to address the deficiencies. As a result, Nasdaq's Form 1 was completed and officially filed with the Commission on March 15, 2001.

shares of Nasdaq it owned, and Nasdaq also issued and sold additional shares. As a result, the NASD's ownership interest in Nasdaq was reduced from 100% to 60%. The second phase of the private placement was completed on January 18, 2001, and as a result the NASD's ownership interest in Nasdaq was further reduced to 40%.<sup>3</sup>

Nasdaq currently is operated by the NASD pursuant to a Plan of Allocation and Delegation of Functions by the NASD to Subsidiaries as approved by the Commission.<sup>4</sup> Until approval of Nasdaq's exchange registration, the shares of common stock underlying unexercised and unexpired warrants, as well as the shares of common stock purchased through the valid exercise of warrants, will be voted by a trustee at the direction of the NASD. Thus, even though the NASD has divested itself of its ownership interest and currently does not own a controlling interest in Nasdaq, the NASD nonetheless exercises effective control over Nasdaq through voting until the Commission approves Nasdaq's exchange registration.

## II. Nasdaq's Exchange Registration

Nasdaq currently is exempt from the definition of "exchange" under Rule 3a1-1 because it is operated by the NASD.<sup>5</sup> Before the NASD may relinquish control, Nasdaq must register as a national securities exchange.<sup>6</sup> Accordingly, Nasdaq has filed a complete Form 1, including all of the required exhibits, to register as a national securities exchange.

The Form 1 provides detailed information about Nasdaq and how it proposes to satisfy the requirements of the Exchange Act. The Commission shall grant such registration if it finds that the requirements of the Exchange

Act and the rules and regulations thereunder with respect to Nasdaq are satisfied.<sup>7</sup> There are a number of implications to Nasdaq's separation from the NASD and application to register and operate as an exchange. For example, Nasdaq will have to demonstrate that it has the capacity to comply, and enforce compliance by its members, with the Exchange Act and its own rules.<sup>8</sup> In addition, while members of a national securities association are not subject to section 10(a)<sup>9</sup> when trading Nasdaq stocks, if the Commission approves Nasdaq's registration as an exchange, Section 10(a) will apply to such trading. Moreover, while Nasdaq members are not subject to section 11(a)<sup>10</sup> of the Exchange Act for their Nasdaq transactions, they would be subject to section 11(a) if Nasdaq becomes an exchange. Furthermore, while the Form 1 contemplates that Nasdaq will be an exchange trading Nasdaq National Market securities and Nasdaq SmallCap securities, the future operation of the Over-the-Counter Bulletin Board must be addressed. Before Nasdaq can register as a national securities exchange, it must be able to satisfy its obligations under section 11A<sup>11</sup> of the Act. Finally, Nasdaq's exchange registration has implications for the NASD which, as a national securities association, will continue to be required to collect bids, offers and quotation sizes for those entities seeking to trade listed securities, including Nasdaq securities, otherwise than on a national securities exchange.<sup>12</sup> The Commission notes that the NASD's quotation and transaction reporting facility must be operational upon Nasdaq's exchange registration.

## III. Solicitation of Comments

A complete copy of Nasdaq's Form 1 is available in the Commission's Public Reference Room, File No. 10-131. Portions of Nasdaq's Form 1, including Nasdaq's rules, also are available on the Commission's website at <http://www.sec.gov/rules/other.shtml>. Interested persons should submit three copies of their written data, views and opinions on Nasdaq's Form 1 to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549-0609. Comments also may be submitted electronically at the following E-mail

address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Comments must be received on or before July 30, 2001. All comment letters should refer to File No. 10-131; this file number should be included on the subject line if comments are submitted using E-mail. The Commission requests that commenters focus on issues raised in Nasdaq's Form 1, File No. 10-131, when submitting comments in response to this notice. Commenters wishing to address another specific rule filing by the NASD pending with the Commission should direct their comments to that specific rule proposal. Copies of all submissions, amendments, and all written statements will be available for public inspection and copying at the Commission's Public Reference Room. Electronically submitted comment letters will be posted on the Commission's Internet website (<http://www.sec.gov>).

For questions regarding this release, contact Rebekah Liu, Special Counsel, at (202) 942-0133; Geoffrey Pemble, Attorney, at (202) 942-0757, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549-1001.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24999; 812-12406]

### AB Funds Trust, *et al.*; Notice of Application

June 7, 2001.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application under: (a) Section 12(d)(1)(J) of the Investment Company Act of 1940 (the "Act") requesting an exemption from section 12(d)(1) of the Act; sections 6(c) and 17(b) of the Act requesting an exemption from section 17(a) of the Act; and section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint transactions; (b) section 12(d)(1)(J) of the Act requesting an exemption from section 12(d)(1)(G)(i)(II) of the Act; (c) sections 6(c), 10(f) and 17(b) of the Act requesting an exemption from sections 17(a), 17(e), 10(f) and 12(d)(3) of the Act and rule 17e-1 under the Act; and (d) section 17(b) of the Act requesting an exemption from section 17(a) of the Act.

<sup>3</sup> For both phases of the private placement, the NASD's percentage ownership of Nasdaq assumes that all warrants sold are fully exercised. Recently, Nasdaq also announced an agreement to sell subordinated debentures convertible into Nasdaq common stock to a private equity firm. If fully converted, this private equity firm would own approximately 9.8% of Nasdaq common stock. The Division currently is considering changes to Nasdaq's Certificate of Incorporation that would be necessary to consummate the sale of these debentures.

<sup>4</sup> Securities Exchange Act Release No. 37107 (April 11, 1996), 61 FR 16948 (April 18, 1996).

<sup>5</sup> Pursuant to Rule 3a1-1, an organization, association, or group of persons shall be exempt from the definition of "exchange" if it is operated by a national securities association. Unless another exemption from the definition of "exchange" applies, such organization, association, or group of persons that otherwise meets the definition of an "exchange" must register as such with the Commission. 17 CFR 240.3a1-1.

<sup>6</sup> The voting trust will automatically expire and the NASD will no longer control or operate Nasdaq upon Nasdaq's registration as an exchange.

<sup>7</sup> Section 19(a) of the Exchange Act, 15 U.S.C. 78(s)(a).

<sup>8</sup> 15 U.S.C. 78f(b)(1).

<sup>9</sup> 15 U.S.C. 78j(a).

<sup>10</sup> 15 U.S.C. 78k(a).

<sup>11</sup> 15 U.S.C. 78k-1.

<sup>12</sup> 17 CFR 240.11Ac1-1(b)(1)(ii).