

competence for persons associated with NASD members.

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

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

### 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)(i) of the Act<sup>13</sup> and Rule 19b-4(f)(1)<sup>14</sup> thereunder, in that the foregoing proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. NASD Regulation proposes to implement the revised Series 28 examination program on August 1, 2002.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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 NASD. All submissions should refer to file number SR-NASD-2002-47 and should be submitted by May 16, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45779; File No. SR-NASD-2001-97]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Elimination of Interval Delays in Nasdaq's SuperMontage System

April 18, 2002.

On January 2, 2002, 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 ("SEC" or "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 amend NASD Rule 4710(b)(1)(D) to remove delays between executions across price levels in Nasdaq's future Order Display and Collector Facility ("NNMS" or "SuperMontage"). On March 7, 2002, Nasdaq filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on March 19, 2002.<sup>4</sup> The Commission received no comments regarding the proposal, as amended.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities

association<sup>5</sup> and, in particular, the requirements of section 15A of the Act<sup>6</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposal to eliminate the delays between executions at different price levels in SuperMontage is consistent with section 15A(b)(6) of the Act<sup>7</sup> because it may minimize the risk of orders queuing within SuperMontage, thereby helping to ensure the efficient and orderly operation of SuperMontage. In addition, the Commission believes that the prompt execution of orders in SuperMontage should facilitate the price discovery process, to the benefit of all market participants. Nasdaq represents that it will implement this rule change within 30 days after successful completion of SuperMontage user acceptance testing. The Commission expects Nasdaq to carefully monitor the effect on the Nasdaq market and on market participants of eliminating the interval delays between executions in SuperMontage, as it currently does for SuperSOES.<sup>8</sup>

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-NASD-2001-97), as amended, is approved.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>5</sup> In approving this amended 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)(6).

<sup>8</sup> See Securities Exchange Act Release No. 44504 (July 2, 2001), 66 FR 36022 (July 10, 2001) (order approving the elimination of interval delays in SuperSOES); see also Securities Exchange Act Release No. 43863 (January 19, 2001), 66 FR 8020 (January 26, 2001) (order approving SuperMontage and requiring Nasdaq to monitor market performance in SuperMontage as it related to interval delays).

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

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

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>14</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> See letter from Thomas P. Moran, Associate General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 6, 2002 ("Amendment No. 1").

<sup>4</sup> See Securities Exchange Act Release No. 45554 (March 13, 2002), 67 FR 12631.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>14</sup> 17 CFR 240.19b-4(f)(1).