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INVESTMENT COMPANY INSTITUTE

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Comment Letter on Amended Nasdaq Order Display Facility Proposal, April 2000

April 20, 2000

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: Order Display Facility
(Amendment No. 4 to File No. SR-NASD-99-53)

Dear Mr. Katz:

The Investment Company Institute[1] appreciates the opportunity to comment on Amendment No. 4 to the proposed rule change[2] filed by the National Association of Securities Dealers, Inc. through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc., amending certain aspects of its previous proposal to establish the Nasdaq Order Display Facility and to modify the Nasdaq trading platform.[3] In particular, in response to comments on the original proposal, Nasdaq is proposing to amend, among other things, (1) the five-second interval delay between price levels and (2) the order execution algorithm as it relates to ECNs, UTP Exchanges, and displayed size refreshed from reserve.

As we stated in our previous comment letter on the proposal,[4] the Institute strongly supports modifications to Nasdaq's quotation montage and trading platform. Nevertheless, we would like to reiterate our concerns regarding the level of transparency in the proposed Order Display Facility as well as the internalization feature of the proposed system. We believe these aspects of the proposal require further examination before the SEC approves the proposed rule change.

We also are pleased that Nasdaq has amended its proposal to provide for a more limited interval delay between price levels to address concerns raised by the Institute and other commenters regarding the proposed five-second interval delay, as well as a proposed "Sweep Order" parameter, which would allow an order to trade through all interest at the three price levels being displayed in the Order Display Facility at the time of entry, without pausing five seconds in between each displayed price. Because of the brevity of the comment period, however, we are not able, at this point, to comment definitively on whether these changes sufficiently address our concerns. Finally, we question the change to size priority from time priority to determine the order in which "reserve" orders are filled. We are concerned that this could discourage market participants from displaying orders greater than 1,000 shares. Once again, however, the de minimis comment period does not permit us to offer more definitive comments at this time.

The Institute appreciates the opportunity to comment on this proposal. Any questions regarding our comments may be directed to the undersigned at 202-326-5815 or to Ari Burstein at 202-371-5408.

Sincerely,

Craig S. Tyle
General Counsel

cc: Annette L. Nazareth, Director
Robert L.D. Colby, Deputy Director
Division of Market Regulation

Paul F. Roye, Director
Division of Investment Management

Securities and Exchange Commission

Richard G. Ketchum, President
National Association of Securities Dealers, Inc.

S. William Broka, Senior Vice President
The Nasdaq Stock Market, Inc.

ENDNOTES

[1] The Investment Company Institute is the national association of the American investment company industry. Its membership includes 8,004 open-end investment companies ("mutual funds"), 494 closed-end investment companies, and 8 sponsors of unit investment trusts. Its mutual fund members have assets of about $6.404 trillion, accounting for approximately 95% of total industry assets, and over 78.7 million individual shareholders.

[2] Securities Exchange Act Release No. 42573 (March 23, 2000), 65 FR 16981 (March 30, 2000) ("Proposing Release").

[3] In its original proposal, Nasdaq proposed enhancing the Nasdaq quotation montage and Nasdaq's main trading platform—the Nasdaq National Market System ("NNMS"). In particular, Nasdaq proposed, among other things, to: (1) add a new display to the Nasdaq Workstation II called the Nasdaq Order Display Facility ("NODF"), which would show the best bid/best offer in Nasdaq and two price levels away, accompanied by the aggregate size at each price level of the "displayed" trading interest of market makers, ECNs, and UTP Exchanges; (2) allow market makers and ECNs to designate orders for "display" in Nasdaq on either an attributable or non-attributable basis; (3) establish the Order Collector Facility ("OCF") as part of the NNMS, which would allow Nasdaq market makers and ECNs to give the Nasdaq system multiple quotes/orders at a single as well as multiple price levels, which would be displayed in the Nasdaq Quotation Montage and the NODF, consistent with an order's parameters; and (4) establish the OCF as a single point of order entry and single point of delivery of liability orders and executions.

[4] See Letter from Craig S. Tyle, General Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, Securities and Exchange Commission, dated January 11, 2000 (File No. SR-NASD-99-53) (a copy of which is attached).
