

operation of the Service pending Commission action on the proposed extension.

The NASD believes that accelerated approval is appropriate to ensure continuity in the Service's operation pending a determination on permanent status for the Service, as requested in File No. SR-NASD-92-7. Continued operation of the Service will ensure the availability of an electronic quotation medium to support member firms' market making in approximately 5,238 OTC Equities and the widespread dissemination of quotation information on these securities. The Service's operation also expedites price discovery and facilitates the execution of customer orders at the best available price. From a regulatory standpoint, the NASD's capture of quotation data from participating market makers supplements the price and volume data reported by member firms pursuant to Part XII of Schedule D to the NASD By-Laws.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. 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 the file number in the caption above and should be submitted by July 28, 1995.

#### V. Commission's Findings and Order Granting Accelerated Approval

The Commission finds that approval of the proposed rule change is consistent with the Act and the rules and regulations thereunder, and, in particular, with the requirements of Section 15A(b)(11) of the Act, which provides that the rules of the NASD relating to quotations must be designed to produce fair and informative quotations, prevent fictitious or misleading quotations, and promote

orderly procedures for collecting, distributing, and publishing quotations.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publishing notice of the filing thereof. Accelerated approval of the NASD's proposal is appropriate to ensure continuity in the Service's operation as an electronic quotation medium that supports NASD members' market making in these securities and that facilitates price discovery and the execution of customers' orders at the best available price. Additionally, continued operation of the Service will materially assist the NASD's surveillance of its members trading in OTC Equities that are eligible and quoted in the Service, and in non-Tape B securities that are listed on regional exchanges and quoted in the OTCBB by NASD members.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved for an interim period through September 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### Exempted Exchanges; AZX, Inc.; Amendment to Application for Exemption From Registration as an Exchange Under Section 5 of the Securities Exchange Act of 1934; Request for Comments

June 30, 1995.

#### I. Introduction

AZX, Inc., formerly known as Wunsch Auction Systems, Inc., operates the Arizona Stock Exchange ("AZX"), a computerized, single-price auction system that facilitates trading of registered equity securities by broker-dealers and institutions. AZX's single-price auctions are conducted outside the regular trading hours of the New York Stock Exchange ("NYSE"), at 5:00 p.m. (ET) each trading day. AZX operates pursuant to the terms and conditions of a Commission order ("exemption order") granting AZX a "limited volume" exemption from registration as a national securities exchange,<sup>1</sup> and a staff no-action letter with respect to the non-registration of AZX as a broker-

dealer, clearing agency, transfer agent, and exclusive securities information processor.<sup>2</sup> In the exemption order, the Commission cited AZX's off hours operation as one of the factors that justified a prediction that AZX would have a limited volume of trading.<sup>3</sup>

On June 2, 1995, AZX, Inc. filed with the Commission, pursuant to Rule 6a-1 under the Act,<sup>4</sup> an amendment to its application for exemption from registration as a national securities exchange. In its amendment, AZX, Inc. proposes to operate AZX during regular trading hours.<sup>5</sup> Under the proposal, AZX would conduct one additional daily auction, at a yet-to-be chosen fixed time between 9:45 and 10:00 a.m. (ET), in Nasdaq National Market securities.<sup>6</sup> AZX initially plans to trade only 15 of the approximately 4,140 Nasdaq National Market securities, but will expand as demand warrants.

The Commission is soliciting public comment on whether it is appropriate to amend the exemption order to reflect AZX's proposed morning trading session in Nasdaq National Market securities.

#### II. The Morning Trading Session

AZX's proposed morning auction is identical to AZX's current evening auction in terms of its: (1) Participation criteria; (2) means of access to the system; (3) classification and visibility of orders; (4) algorithm for discovering the price at which orders will be executed (the "equilibrium" or "auction" price); (5) confirmation, clearance and settlement of matched transactions; and (6) commission structure.

The proposed morning trading auction will differ in terms of:

- *Eligible securities.* Securities eligible to be traded in the morning auction will be limited to Nasdaq National Market securities. Both Nasdaq National Market and exchange-listed

<sup>2</sup> Letter regarding Wunsch Action Systems, Inc. (February 28, 1991) ("no-action letter"). The no-action letter also provided AZX's original crossing broker, Bankers Trust Brokerage Corporation ("BTBC") with relief with respect to non-registration as an exchange, clearing agency, transfer agent, and exclusive securities information processor. BTBC was replaced as AZX's crossing broker by Investment Technology Group, Inc. ("ITG, Inc.") in February 1995.

<sup>3</sup> The other factors cited by the Commission in the exemption order that justified a prediction of limited volume were the relative infrequency of the auctions and the absence of participation by broker-dealers with market-making obligations. 56 FR 8377, 8380.

<sup>4</sup> 17 CFR 240.6a-1.

<sup>5</sup> "Regular trading hours" refers to the time period in which the NYSE permits trading—9:30 a.m. to 4:00 p.m. (ET) each trading day.

<sup>6</sup> Nasdaq National Market securities were formerly known as "Nasdaq/MNS" securities.

<sup>1</sup> Securities Exchange Act Release No. 28899 (February 20, 1991), 56 FR 8377.