

that independent research reports that are eligible for the filing exemption will be deemed to be filed with the NASD for the purposes of Section 24(b) of the 1940 Act and Rule 24b-3 thereunder. The staff of the Commission's Division of Investment Management supports this aspect of the proposal. Amendment No. 3 also amends paragraph (G)(ii) in the proposed rule change to clarify that a member may not alter an exempted research report except as necessary to make the report consistent with applicable *regulatory* standards. The Commission believes that this clarification should help members to understand that the exemption relates solely to legal and regulatory standards, and not industry or other standards. Accordingly, the Commission believes that it is consistent with Sections 15A(b)(6) and 19(b)(2) of the Act to approve Amendment No. 3 to the proposed rule change on an accelerated basis.

#### V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 2 and 3, 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. 20549-0609. 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 at 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 No. SR-NASD-98-32 and should be submitted by February 11, 2000.

#### VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>22</sup> that the proposed rule change (SR-NASD-98-32) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>23</sup>

Jonathan G. Katz,  
Secretary.

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### SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-42341; File No. SR-NASD-99-70)

#### Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a FEE For Historical Research and Administrative Reports Provided Through Nasdaq's Web Sites

January 14, 2000.

#### I. Introduction

On November 24, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 establish a fee for historical research and administrative reports provided through Nasdaq's web sites. Notice of the proposed rule change appeared in the **Federal Register** on December 14, 1999.<sup>3</sup> The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

#### II. Description of the Proposal

Nasdaq proposes to establish a fee which it will charge to investors who request historical research reports pertaining to Nasdaq, Over-the-Counter Bulletin Board ("OTCBB") or other Over-the-Counter ("OTC") issues. Nasdaq has provided such reports on an *ad hoc* basis to customers requesting this information by telephone. Investors would contact a member of Nasdaq's staff via telephone, describe the type of customized report desired, and arrange for an appropriate billing and delivery method before having the Nasdaq staff member compile the report. Charges for these reports were based on hourly rates

relative to the time required for compilation and delivery of the reports. Nasdaq believes the system was an inefficient and time consuming arrangement that was both burdensome to Nasdaq staff and an impediment to the accessibility of the information for the investor.

As the number of individual investors in today's market directing their own investment decisions has increased significantly, the volume of requests for this information also has increased. To alleviate the demand upon staff resources and increase the quality, speed and availability of the information, Nasdaq has developed an automated request and delivery system that will facilitate the delivery of these reports in a timely and systematic manner at a fixed price, based on a standardized pricing methodology. Investors will be able to access the reports through the Internet on the Nasdaq Trader.com (for Nasdaq issues) and OTCBB.com (for OTCBB and other OTC issues) web sites (or their successor sites, by directing an Internet browser to the appropriate web site. Once at the proper location within the web site, investors would choose from a list of standardized reports, input the necessary information pertaining to the desired security or market participant, and provide credit card information for payment.<sup>4</sup> Once the request has been completed, the report would be sent via e-mail directly to the investor.

Nasdaq proposes to provide historical research reports that fall into two categories: "Daily Detailed Reports" and "Summary Level Activity Reports." Examples of Daily Detailed Reports include a Market Maker Price Movement Report (displays all market maker quote changes and the best bid and offer throughout a chosen day for a selected security) and a Time and Sales Report (provides a record of media-reported trades in the selected security, indicating the reported time, price and share volume). Summary Level Activity Reports would provide trade and/or quote information over a monthly or quarterly period.

Fees for the Daily Detailed Reports would be set on a two-tiered basis to reflect the amount of information provided. Nasdaq proposes to assess a fee of \$7 for reports with 15 or fewer fields of information<sup>5</sup> for each trading

<sup>4</sup> Credit card information will be obtained through a secure web site connection.

<sup>5</sup> Examples of fields, depending on the type of report chosen, could include reported volume, reported price, reported time, inside bid/ask, short sale indicator, etc.

<sup>23</sup> 17 U.S.C. 200.30-3(a)(12).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 47707 (December 8, 1999), 64 FR 69811.

<sup>22</sup> 15 U.S.C. 78s(b)(2).

day requested.<sup>6</sup> Those reports with more than 15 fields would cost \$5 per pertrading day of information. Some reports may be available for purchase on a single day basis, while others may be available only as multiple-day packages with a corresponding charge based on the number of days provided. Fees for Summary Level Activity Reports would be fixed at \$25 per report.

Nasdaq believes that this pricing structure is a suitable assessment method that will facilitate the creation of an inexpensive and effective service for investors. Furthermore, Nasdaq has been testing this product and the Internet delivery system (on OTCBB.com) for several months by providing selected reports to investors at no charge and has found a high level of satisfaction and interest among investors for their continued availability.

The second category of reports available through Nasdaq Trader.com and/or OTCBB.com, termed "Administrative Reports," will be available to NASD member firms only. These reports are generally composed of firm specific information which is currently provided on an informal basis. One example of this group of reports is the "SEC 31(a) Report" which provides member firms with the number of trades transacted on a daily basis and the anticipated SEC 31(a) fees that will be assessed at the end of the month. Another proposed report that could be provided would estimate the total Nasdaq monthly transaction fees for the member firm based on the firm's historical volume.

These Administrative Reports would assist members in auditing their own internal systems, verifying back-end processing, and projecting monthly costs. The reports, which are provided presently by Nasdaq in CD ROM form, would be available through this secure web site connection in a more cost-effective and timely manner. Subscribing member firms would be charged a \$25 fee per user, per month, for access to each administrative report.<sup>7</sup>

### III. Discussion

The Commission finds the proposed rule change is consistent with the Act and the rules and regulations

<sup>6</sup> For example, an investor requesting a report containing 12 fields of information for a three trading day period would be charged \$21.

<sup>7</sup> After assessing the demand for this service, Nasdaq may offer volume discounts to purchasers of multiple reports if it determines that volume discounts are economically feasible.

promulgated thereunder.<sup>8</sup> Specifically, the Commission finds that approval of the proposed rule change is consistent with Sections 15A(b)(5)<sup>9</sup> and (6)<sup>10</sup> of the Act. Specifically, Section 15A(b)(5) requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by a national securities association. The Commission finds that the fees which Nasdaq has proposed for the historical research and administrative reports delineated in the proposal are reasonable, given the reliability and accessibility of the information.

Furthermore, Section 15A(b)(6) requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Because the fees which Nasdaq proposes to charge for the specified historical research and administrative reports will be assessed only to users of the service, the Commission finds that the proposal is both nondiscriminatory and reasonable. The Commission also believes that the proposal may help to foster cooperation and coordination with persons engaged in facilitating transactions in securities by providing beneficial information to subscribers on a non-discriminatory basis for a reasonable fee. In doing so, the proposal may boost investor confidence, while contributing to the integrity of the securities markets.;

### IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the Provisions of the Act, in general, and with Sections 15A(b)(5) and (6), in particular.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-NASD-99-70), be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>8</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 15 U.S.C. 78o-3(b)(5).

<sup>10</sup> 15 U.S.C. 78o-3(b)(6).

<sup>11</sup> 15 U.S.C. 78s(b)(2).

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

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42336; File No. SR-NSCC-99-13]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Change in Fees for its Insurance Processing Service

January 12, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 30, 1999, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

#### *I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change*

The proposed rule change consists of changes to NSCC's fee schedule relating to its Insurance Processing Service ("IPS").

#### *II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments its received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.<sup>2</sup>

#### *(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

NSCC has determined to charge members using its IPS transaction and file fees for the transmission of IPS test and production files. In addition, IPS membership fees will be payable from the date an applicant is approved for membership using IPS. These charges will be effective January 3, 2000.

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.