

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 provision of the 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 No. SR-NASA-00-75 and should be submitted by February 6, 2001.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

NASD Dispute Resolution has requested that the Commission find good cause pursuant to Section 19(b)(2)⁷ for approving the proposed rule change and Amendment No. 1 prior to the 30th day after publication in the **Federal Register**. The Commission finds that the proposed rule change and Amendment No. 1 are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder.⁸ Rule 10335 is intended to provide a pilot system within the NASD arbitration forum to process requests for temporary injunctive relief. Rule 10335 is intended principally to facilitate the disposition of employment disputes, and related disputes, concerning members who file for injunctive relief, to prevent registered representatives from transferring their client accounts to their new firms.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 prior to the 30th day after the date of publication of notice of filing thereof in that accelerated approval will permit members to have the benefit of injunctive relief in arbitration pending Commission action on the rule filing proposing to amend Rule 10335 and make it a permanent part of the Code.⁹ Amendment No. 1 makes several technical changes to the proposal and adds the statutory basis to the rule filing. The Commission believes, therefore, that granting

accelerated approval of the proposed rule change, as amended, is consistent with Section 15A of the Act.¹⁰

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-NASD-00-75), as amended, is approved on an accelerated basis through January 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43814; File No. SR-NASD-00-79]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to EWN II Fees for NASD Members

January 8, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 21, 2000, 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", the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Nasdaq is filing this proposed rule to pass on costs associated with increasing the bandwidth of the Enterprise Wide Network II ("EWN II") to NASD members for the period December 1-12, 2000. Nasdaq previously filed under Section 19(b)(3)(A)(ii) a proposed rule change to increase the fees beginning December 13, 2000, which was immediately effective upon filing.³

⁷ 15 U.S.C. 78s(b)(2).

⁸ 15 U.S.C. 78o-3.

⁹ See *supra* note 4.

Nasdaq also filed a parallel rule filing to effect amendments to the EWN II fee structure to apply to non-NASD members.⁴ Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

7010. System Services

(a)-(e) No Change

(f) Nasdaq Workstation Service

(1) No Change

(2) The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via equipment and communications linkages prescribed for the Nasdaq Workstation II Service:

Service Charge	\$1.875/month per service delivery platform ("SDP") from December [13] 1, 2000 through February 28, 2001
Display Charge	\$2,035/month per SDP beginning March 1, 2001
Additional Circuit/SDP Charge	\$525/month per presentation device ("PD") \$3,075/month from December [13] 1, 2000 through February 28, 2001, and 3,225/month beginning March 1, 2001*

A subscriber that accesses Nasdaq Workstation II Service via an application programming interface ("API") shall be assessed the Service Charge for each of the subscriber's SDPs and shall be assessed the Display Charge for each of the subscriber's API linkages, including an NWII substitute or quote-update facility. API subscribers also shall be subject to the Additional Circuit/SDP Charge.

* No change to footnotes

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

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

⁴ Securities Exchange Act Release No. 43768 (December 22, 2000), 66 FR 826 (January 4, 2001).

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

1. Purpose

In the September/October 2000 issue of Nasdaq's *Subscriber Bulletin*,⁵ Nasdaq announced that it had increased the bandwidth of its Enterprise Wide Network II from 128 kilobits ("kb") to 192 kb. This increased bandwidth provides Nasdaq with the ability to support increased share volume and net products and trading applications that will be introduced. A description of the history of EWN II and the recent bandwidth increase may be found in SR-NASD-00-73.⁶ *Subscriber Bulletin* also announced that the increased cost of the expanded bandwidth (\$375 per month per circuit) would be passed on to Nasdaq subscribers beginning December 1, 2000. Nasdaq absorbed all of the increased costs for the month of November 2000.

On December 13, 2000, the Commission received Nasdaq's proposed rule change to amend the subscriber fees for NASD members as described above.⁷ Because the filing was made under Section 19(b)(3)(A)(ii), which makes the rule change immediately effective upon filing with the Commission, the fee increase became effective as of December 13, 2000. In this filing, Nasdaq seeks to recover the costs associated with the expanded bandwidth for the period of December 1–12, 2000, as announced in the *Subscriber Bulletin*.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act⁸ which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operate or controls. Nasdaq provided its subscribers with ample advance notice of the fee increase, and has limited the fee increase to the additional cost that it is incurring as a result of the expanded bandwidth. Nasdaq did not pass on the costs of the expanded bandwidth to subscribers that Nasdaq incurred in November 2000. As such,

⁵ *Subscriber Bulletins* are mailed to Nasdaq Workstation II subscribers and also may be found at www.nasdaqtrader.com/trader/news/Subscriberbulletins.

⁶ Securities Exchange Act Release No. 43769 (December 22, 2000).

⁷ *Id.*

⁸ 15 U.S.C. 78o-3(b)(5).

Nasdaq believes that it is equitably allocating charges among members for the use of EWN II during the period of December 1–12, 2000.

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

Nasdaq does not believe that the proposed rule change will impose any burden on competition that it is not necessary or appropriate in furtherance of the purposes of the Act.

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

Nasdaq has not solicited or received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

- A. By order approve such proposed rule change, or
- B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, 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, 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 maybe 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-00-79 and should be submitted by February 6, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margarety H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43811; File No. SR-00-38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Modifying its Options Trade-Related Transaction Charges and Changing its Firm Transaction Fee

January 5, 2001

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 16, 2000, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended.

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

The Exchange proposes to amend its Schedule of Rates and Charges to create a new fee category in the transactions portion of the "PCX Options: Trade-Related Charges." The new fee category will be entitled "Broker-Dealer."⁴ The PCX also seeks to change the fees charged for firm transactions.

¹ 17 CFR 200.30-3(a)(12).

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

⁴ The Exchange filed its proposed rule change on November 16, 2000. On December 15, 2000, however, the Exchange filed Amendment No. 1, which clarified that the proposed fee is comparable to the fee charged by the Philadelphia Stock Exchange, Inc. ("Phlx"). See Letter from Hassan Abedi, Attorney, Regulatory Policy, PCX, to Susie Cho, Attorney, Division of Market Regulation ("Division"), Commission (December 15, 2000).

⁵ The term "Broker-Dealer" as used in this rule filing will include transactions in which a market maker is trading for a customer account, any trade for a joint back officer ("JBO") account, all trades for a firms account, except trades in which the firm is trading with its own customer on contra side.