

futures, and derivatives. Nasdaq spends considerable money establishing relationships with issuers of such products, and monitoring their use of Nasdaq Index Information to ensure that it is used properly. Nasdaq faces significant legal exposure in this regard, as more investors have more money tied to the calculation of Nasdaq indexes. The escalating legal costs and risks associated with the Nasdaq Index Information must be properly allocated to the market data vendors who, simply by re-distributing the Information, create risk for Nasdaq.

Nasdaq believes that the Index Information Data Feed has been a successful method of providing beneficial information to customers in an efficient manner. However, Nasdaq also believes that the current fee structure does not reflect increases in the cost of offering the data to customers under the current flexible business arrangements or fairly share the revenue burden across Nasdaq's market data products. To retain the flat fee for Index Information as well as the flexible, non-contractual arrangement *vis a vis* end-users of this information, Nasdaq needs to allocate more accurately the costs of producing Index Information to the users of Index Information. Accordingly, Nasdaq is proposing to raise the fee to \$2,000 per month. Nasdaq submits that a four-fold increase in the Index Fee, the first such increase in nine years, is reasonable in light of the 1,800% growth of Nasdaq trading volume, the corresponding increase in processing demands, and the hundred-fold increase in the subscriber audience covered during that period.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(5)<sup>6</sup> and 15A(b)(6)<sup>7</sup> of the Act. 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. 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. Nasdaq believes that this service provides beneficial information to subscribers on a non-discriminatory basis and that this fee increase will enable Nasdaq to continue expanding the breadth and depth of information

dissemination. Nasdaq believes that this rule proposal equitably allocates fees in light of the value of the information and the cost of providing it.

### *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 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 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-2001-86 and should be submitted by March 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

**DATES:** Submit comments on or before April 30, 2002.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Jim O'Connor, Director, Office of Entrepreneurial Development, Small Business Administration, 409 3rd Street, SW, Suite 6200, Washington DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Jim O'Connor, Director, (202) 205-6929 or Curtis B. Rich, Management Analyst, (202) 205-7030.

#### SUPPLEMENTARY INFORMATION:

*Title:* Economic Impact.

*Form No:* N/A.

*Description of Respondents:* Small Business Client (small business owners & employees, prospective entrepreneurs and other students of enterprise).

*Annual Responses:* 17,000.

*Annual Burden:* 2,266.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3364]

#### State of New York; (Amendment #4)

In accordance with information received from the Federal Emergency Management Agency, the above numbered declaration is hereby amended to extend the deadline for

<sup>6</sup> 15 U.S.C. 78o-3(b)(5).

<sup>7</sup> 15 U.S.C. 78o-3(b)(6).

<sup>8</sup> 17 CFR 200.30-3(a)(12).