

Further, processing associated persons of these non-NASD member firms in Web CRD will make information about them more readily available to regulators and allow for closer monitoring of these firms. In addition, this agreement will establish a method to allow registered persons to be notified and satisfy the Continuing Education Regulatory Requirement pursuant to CBOE Rule 9.3A.

This proposed rule change implements the following fees to be imposed upon non-NASD Exchange members and member organizations, which members will be instructed to pay directly to NASDR through the Web CRD system at the time the Exchange member/member organization effects a registration transaction through Web CRD:

(a) *Non-Member Processing Fee*—This \$85.00 fee will be assessed upon establishing a record on the Web CRD system for any associated person of a non-NASD CBOE member. Accordingly, this fee will be assessed for all initial, transfer, relicense and dual registration Form U-4 filings. In addition, this fee will be assessed when NASDR establishes a record for any associated person of a non-member who already maintains a registration capacity at the CBOE (e.g., NASDR will assess this fee when establishing CRD records for individuals who previously were manually tracked at the CBOE).

(b) *Disclosure Processing Fee*—This \$95.00 fee will be assessed for any initial, transfer, relicense and dual registration Form U-4 or Form U-5 filing that contains new or amended disclosure information (i.e., an initial affirmative response to current Question 23 on the Form U-4 or a change to any information previously reported in response to Question 23).

(c) *Annual System Processing Fee*—This \$30.00 fee will be assessed during the yearly renewals cycle and covers system processing costs for the year.

(d) *Fingerprint Processing Fees*—These fees, as specified in the CBOE Fee Schedule, will be assessed for processing fingerprint cards submitted with Form U-4 filings.<sup>5</sup>

Once the transition to the Web CRD is completed all Exchange members and member organizations that are not members of the NASD will be subject to these Web CRD fees, which will be set forth on the Exchange Fee Schedule. In

<sup>5</sup> By letter to Elizabeth King, Associate Director, Division of Market Regulation, SEC, from Joanne Moffic-Silver, General Counsel and Corporate Secretary, Legal Department, CBOE, dated March 1, 2002, the Exchange submitted an amended Fingerprint Plan pursuant to SEC Rule 17f-2(c), 17 CFR 240.17f-2(c), under the Act.

addition, all registered persons will continue to be assessed CBOE registration fees as outlined in CBOE Rule 2.22(b)—*Other Fees or Charges, (Registration Fees)*.

Rule 9.3(a) is being edited to eliminate obsolete language (i.e., “customers’ men”), and to clarify the requirements for registration by associated persons of members of other national securities exchanges, by deleting language that will no longer be applicable when such associated persons effect their registration via Web CRD (“provided, however, that Representatives of member organizations \* \* \* of the Clearing Corporation.”) This deleted language is obsolete and has had no practical effect since the CBOE began coordinating the registration of its members with the CRD. The former Interpretations .01 and .02 to Rule 9.3 are being eliminated, as the appropriate portions have been incorporated into Rule 9.3 itself.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(5) of the Act,<sup>7</sup> in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest.

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

The Exchange 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

The Exchange has neither solicited nor 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 Exchange consents, the Commission will:

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

(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 Exchange. All submissions should refer to File No. SR-CBOE-2001-66 and should be submitted by July 9, 2002.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-15253 Filed 6-17-02; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46066; File No. SR-NASD-2002-73]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Nasdaq Testing Facility Fees, and To Add the Ability To Test Computer-to-Computer Interface, Application Programming Interface, and Market Data Vendor Feeds Over Dedicated Circuits

June 12, 2002.

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> notice is hereby given that on June 4,

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

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

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

2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 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 proposes to apply the fee schedule described in a proposed amendment to NASD Rule 7050 to non-member subscribers. Nasdaq filed a separate proposal to amend NASD Rule 7050 to add subparagraph (d), which establishes a new category of monthly fees and one-time installation fees applicable to member subscribers that choose to test their communication

interfaces and/or market data vendor feeds with Nasdaq's central processing facilities over a dedicated circuit or circuits, as opposed to a dial-up connection.<sup>3</sup> Now, with this proposed rule change, Nasdaq proposes to apply the same schedule of fees in SR-NASD-2002-72 to non-member subscribers that use a dedicated circuit or circuits to test their communication interfaces and/or market data vendor feeds with Nasdaq's central processing facilities. The text of the proposed rule change is below. Proposed additions are in italics; proposed deletions are in brackets.

7050. Other Services

- (a) No change.
- (b) No change.
- (c) No change.
- (d) [Testing Services] *Nasdaq Testing Facility (NTF)*—
  - (1) Subscribers that conduct tests of their computer-to-computer interface (CTCI), [or digital interface (DIS/CHPS)] *NWII application programming interface (API), or market data vendor*

feeds [with the central processing facilities] *through the Nasdaq Testing Facility (NTF)* of The Nasdaq Stock Market, Inc. (N[SMI]asdaq) shall pay the following charges:

- \$250/hour—For CTCI/[DIS/CHPS]*NWII API* testing between 9:00 a.m. and 5:00 p.m. E.T. on business days;
- \$333/hour—For *CTCI/NWII API* testing at all other times on business days, or on weekends and holidays.

(2) The foregoing *hourly* fees shall not apply to *market data vendor feed testing, or testing occasioned by:*

- (A) new or enhanced services and/or software provided by N[SMI]asdaq or
- (B) modifications to software and/or services initiated by N[SMI]asdaq in response to a contingency.

(3) *Subscribers that conduct CTCI/API or market data vendor feed tests using a dedicated circuit shall pay a monthly fee, in addition to any applicable hourly fee described in section (d)(1) above, in accordance with the following schedule:*

Service	Description	Proposed price
<i>NTF Market Data</i> .....	<i>Test Market Data Vendor Feeds over a 56kb dedicated circuit</i> .....	<i>\$1,100/circuit/month.</i>
<i>NTF NWII API</i> .....	<i>NWII API service to an onsite test SDP over a 56kb dedicated circuit</i> ..	<i>\$1,100/circuit/month.</i>
<i>NTF CTCI</i> .....	<i>CTCI service over a 56kb dedicated circuit</i> .....	<i>\$1,100/circuit/month.</i>
<i>NTF Test Suite</i> .....	<i>NWII API service and CTCI service over two 56kb circuits (128 kb)</i> .....	<i>\$1,800/2 circuits/month.</i>
<i>NTF Circuit Installation</i> .....	<i>Installation of any service option including SDP configuration</i> .....	<i>\$700/circuit/installation.</i>

(4) *New NTF subscribers that sign a one-year agreement for dedicated testing service shall be eligible to receive 90-calendar days free dedicated testing service.*

(5) *"New NTF subscribers" are subscribers that*

(A) *have never had dedicated testing service; or*

(B) *have not had dedicated testing service within the last 6 calendar months.*

\* \* \* \* \*

**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.

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

1. Purpose

Nasdaq proposes to establish a new category of monthly fees and one-time installation fees applicable to non-member subscribers that choose to test their communication interfaces and/or market data vendor feeds with Nasdaq's central processing facilities over a dedicated circuit or circuits, as opposed to a dial-up connection. These fees would be charged in addition to the hourly fees currently charged. Many subscribers have requested that Nasdaq expand its Nasdaq Testing Facility ("NTF") services to include dedicated lines and the ability to test market data vendor feeds in addition to computer-to-computer interface ("CTCI") and application programming interfaces ("API"). Nasdaq filed this proposal in response to those requests.

Members and non-member subscribers currently access the NTF over a dial-up connection to test CTCI and API with their systems. Subscribers

are currently unable to test market data vendor feeds through the NTF. Nasdaq proposes to provide new services for the NTF that will allow subscribers to test CTCI and API as well as market data vendor feeds over a dedicated circuit or circuits. These new services will allow firms that have trading environments integrating CTCI, API, and Nasdaq vendor data to test their systems more completely. Member firms typically perform application testing to ensure that the software the firm has developed to interface with Nasdaq systems works properly. Software may be developed to take advantage of a Nasdaq market enhancement or to enhance a firm's internal systems or software applications. The subscriber determines the scope, purpose, and longevity of the test. Nasdaq participates in the testing process by providing a test environment that closely approximates the production environment for the systems the subscriber wishes to test as well as test scripts used for testing relevant functionality.

The proposed schedule of monthly and installation fees has been calculated to cover the actual costs of installing

<sup>3</sup> See Securities Exchange Act Release No. 46065 (June 12, 2002)(SR-NASD-2002-72).

and providing a dedicated circuit or circuits for testing of subscriber communications interfaces with Nasdaq's central processing facilities. Such costs include an installation cost and a monthly infrastructure cost that Nasdaq incurs through its network service provider, in addition to costs for hardware, licensing and labor required to maintain the test network. New subscribers, described in the proposed rule as "New NTF Subscribers," will receive 90 calendar-days free service if they choose to sign a one-year agreement for service. New NTF Subscribers are subscribers who have never purchased dedicated test circuits or who have not had dedicated test service in over six months. Subscribers that do not wish to sign a one-year agreement may purchase services on a month-to-month basis. As has always been the case, no testing fee would be assessed in circumstances where major systems/software changes instituted by Nasdaq have prompted the subscriber's test. In addition, Nasdaq will not charge subscribers hourly fees for market data vendor feed testing.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>4</sup> in general, and with Section 15A(b)(5) of the Act,<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among member and non-member subscribers using the NTF. The fees will be charged to member and non-member subscribers that choose to test their communication systems interfaces with Nasdaq's central processing facilities over a dedicated circuit or circuits. Member and non-member subscribers will be charged the same fees for the same service. Nasdaq believes the fees are reasonable in that they have been calculated to recover Nasdaq's actual costs of installation and maintenance of the dedicated circuit(s).

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

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

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

Written comments were neither solicited nor received.

### **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.

The Commission is considering granting accelerated approval of this proposed rule change after the expiration of a 15-day comment period.

### **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-2002-73 and should be submitted by July 3, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-46065; File No. SR-NASD-2002-72]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Nasdaq Testing Facility Fees, and to Add the Ability to Test Computer-to-Computer Interface, Application Programming Interface, and Market Data Vendor Feeds Over Dedicated Circuits**

June 12, 2002.

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> notice is hereby given that on June 4, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") 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 by Nasdaq. Nasdaq filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 proposes to amend NASD Rule 7050(d) to add a schedule of monthly fees and a one-time installation fee to be charged to subscribers that use a dedicated circuit or circuits to test their communications interfaces and/or market data vendor feeds with Nasdaq's central data processing facilities.<sup>6</sup> The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

7050. Other Services  
(a) No change.  
(b) No change.

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> Nasdaq provided the Commission with written notice of its intention to file the proposed rule change on May 17, 2002. Nasdaq has asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> Nasdaq has filed a similar proposal to extend the same fees and abilities to non-members. See Securities Exchange Act Release No. 46066 (June 12, 2002) (SR-NASD-2002-73).

<sup>4</sup> 15 U.S.C. 78o-3.

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

<sup>6</sup> 17 CFR 200.30-3(a)(12).