

Customer Orders<sup>10</sup> and Firm Proprietary orders. The amount of the execution fee and comparison fee for all Market Maker transactions would be equal to the execution fee and comparison fee currently charged by the Exchange for Market Maker transactions in equity options.<sup>11</sup> The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

## 2. Statutory Basis

The Exchange believes that the statutory basis for the proposal is the requirement under Section 6(b)(4) of the Act<sup>12</sup> that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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

ISE believes that the proposed rule change does not 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 not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>13</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>14</sup> because it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public

interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2006-13 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2006-13. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal office of ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2006-13 and should be submitted on or before April 13, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

Nancy M. Morris,  
Secretary.

[FR Doc. E6-4184 Filed 3-22-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53505; File No. SR-NASD-2006-032]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto To Reduce Routing Charges for Non-NASD Members

March 16, 2006.

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 March 1, 2006, 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 and II below, which Items have been prepared by Nasdaq. On March 15, 2006, Nasdaq submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and at the same time is granting accelerated approval of the proposed rule change, as amended.

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

Nasdaq proposes to reduce routing charges for non-NASD members that use Nasdaq systems and to eliminate for those non-members a volume-based port fee waiver for non-NASD members that use Nasdaq's INET facility. The filing would apply to these non-members a pricing schedule similar to the schedule that Nasdaq instituted for members.<sup>4</sup> Nasdaq requests approval to implement these reduced non-member fees on an accelerated basis with a retroactive effective date of March 1, 2006, the

<sup>10</sup> Public Customer Order is defined in Exchange Rule 100(a)(33) as an order for the account of a Public Customer. Public Customer is defined in Exchange Rule 100(a)(32) as a person that is not a broker or dealer in securities.

<sup>11</sup> The execution fee is currently between \$.21 and \$.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently \$.03 per contract side.

<sup>12</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

<sup>15</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.

<sup>3</sup> Amendment No. 1 adds a technical correction to the rule text.

<sup>4</sup> See File No. SR-NASD-2006-031 (March 1, 2006).

same date these fee changes became applicable to members.

The text of the proposed rule change, as amended, is below. Proposed new language is in *italics*. Proposed deletions are in [brackets].

\* \* \* \* \*

#### 7010. System Services

(a) through (h) No change.

#### (i) Nasdaq Market Center, Brut, and Inet Order Execution and Routing

(1) through (6) No change.

(7) The fees applicable to non-members using Nasdaq's Brut and Inet Facilities shall be the fees established for members under Rule 7010(i), as amended by SR-NASD-2005-019, SR-NASD-2005-035, SR-NASD-2005-048, SR-NASD-2005-071, SR-NASD-2005-125, SR-NASD-2005-137, SR-NASD-2005-154, SR-NASD-2006-013, [and] SR-NASD-2006-023, and SR-NASD-2006-031, and as applied to non-members by SR-NASD-2005-020, SR-NASD-2005-038, SR-NASD-2005-049, SR-NASD-2005-072, SR-NASD-2005-126, SR-NASD-2005-138, SR-NASD-2005-155, SR-NASD-2006-014, [and] SR-NASD-2006-024, and SR-NASD-2006-032.

(j) through (v) No change.

(w) INET System Connectivity

(1) No change.

(2) The INET connectivity fees applicable to non-members shall be the fees established for members under Rule 7010(w), as established by SR-NASD-2005-128 and amended by SR-NASD-2005-147, [and] SR-NASD-2006-013, and SR-NASD-2006-031, and as applied to non-members by SR-NASD-2005-128, SR-NASD-2005-148, [and] SR-NASD-2006-014, and SR-NASD-2006-032.

\* \* \* \* \*

#### 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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item III 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 states that this filing would apply to non-members a pricing schedule similar to that Nasdaq is instituting for members.<sup>5</sup> Nasdaq states that under that schedule, NASD members saw their routing charges reduced as follows:

(1) From \$0.0015 to \$0.001, the fee per share executed for routing orders in New York Stock Exchange ("NYSE") listed securities to venues other than the NYSE;

(2) From \$0.0035 to \$0.003, the fee per share executed for routing orders in securities listed on a venue other than the NYSE and routed to venues other than the American Stock Exchange ("AMEX");

(3) From \$0.0035 to \$0.003, the fee per share executed for routing orders in Non-Nasdaq Exchange Traded Funds ("ETFs") to venues other than the NYSE or AMEX.

Finally, Nasdaq states that NASD members had eliminated the port fee waiver for Nasdaq's INET facility subscribers that for a calendar month average daily execution of orders in the INET system of in excess of 30 million shares of added liquidity.

Nasdaq represents that this filing seeks to impose these exact changes on non-NASD members that use Nasdaq systems and seeks to do so on accelerated basis and retroactively to March 1, 2006, the same date these fee changes became applicable to members.

##### 2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,<sup>6</sup> in general, and with Section 15A(b)(5) of the Act,<sup>7</sup> in particular, in that the proposed rule change, as amended, provides 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 operates or controls.

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

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

<sup>5</sup> See footnote 4, *supra*.

<sup>6</sup> 15 U.S.C. 78o-3.

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

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

Nasdaq states that written comments were neither solicited nor received.

#### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2006-032 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-032. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASD-2006-032 and should be submitted on or before April 13, 2006.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization.<sup>8</sup> Specifically, the Commission believes that the proposed rule change, as amended, is consistent with Section 15A(b)(5) of the Act,<sup>9</sup> which requires that the rules of the self-regulatory organization provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facilities or system which it operates or controls.

The Commission notes that this proposal would retroactively modify pricing for non-NASD members using the Nasdaq Facilities that would permit the schedule for non-NASD members to mirror the schedule applicable to NASD members that became effective March 1, 2006, pursuant to SR-NASD-2006-031.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day of the date of publication of the notice thereof in the **Federal Register**. The Commission notes that the proposed fees for non-NASD members are identical to those in SR-NASD-2006-031, which implemented those fees for NASD members and which became effective as of March 1, 2006. The Commission notes that this change will promote consistency in Nasdaq's fee schedule by applying the same pricing schedule with the same date of effectiveness for both NASD members and non-NASD members. Therefore, the Commission finds that there is good cause, consistent with Section 19(b)(2) of the Act,<sup>10</sup> to approve the proposed

rule change, as amended, on an accelerated basis.

**V. Conclusion**

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change, as amended, (File No. SR-NASD-2006-032), is approved on an accelerated basis.

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

**Nancy M. Morris,**

*Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-53504; File No. SR-NASD-2006-031]

**Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reduce Routing Charges for NASD Members**

March 16, 2006.

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 March 1, 2006, 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. Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the self-regulatory organization under Section

19(b)(3)(A)(ii)<sup>3</sup> of the Act and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change**

Nasdaq proposes to reduce its routing fees and eliminate a port fee waiver currently available to certain INET users. Nasdaq states that it will implement the proposed rule change immediately. Nasdaq states that this filing is applicable only to NASD members. Nasdaq states that it is also submitting a separate filing to establish the same routing price reductions and port fee waiver elimination for non-NASD members that use its systems.<sup>5</sup>

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in [brackets].<sup>6</sup>

\* \* \* \* \*

**7010. System Services**

(a) through (h) No change.

**(i) Nasdaq Market Center, Brut, and Inet Order Execution and Routing**

(1) The following charges shall apply to the use of the order execution and routing services of the Nasdaq Market Center, Brut, and Inet (the "Nasdaq Facilities") by members for all Nasdaq-listed securities subject to the Nasdaq UTP Plan and for Exchange-Traded Funds that are not listed on Nasdaq. The term "Exchange-Traded Funds" shall mean Portfolio Depository Receipts, Index Fund Shares, and Trust Issued Receipts as such terms are defined in Rule 4420(i), (j), and (l), respectively.

**Order Execution**

Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the Nasdaq Facilities:

Charge to member entering order:

Members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 30 million shares of liquidity provided, and (ii) more than 50 million shares of liquidity accessed and/or routed.

Other members .....

\$0.0028 per share executed (or, in the case of executions against Quotes/Orders at less than \$1.00 per share, 0.1% of the total transaction cost).

\$0.0030 per share executed (or, in the case of executions against Quotes/Orders at less than \$1.00 per share, 0.1% of the total transaction cost).

<sup>8</sup> 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. 78s(b)(2).

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

<sup>12</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.

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

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

<sup>5</sup> See File No. SR-NASD-2006-32 (March 1, 2006).

<sup>6</sup> Changes are marked to the rule text that appears in the electronic NASD Manual found at <http://www.nasdaq.com>. Prior to the date when The Nasdaq

Stock Market LLC ("Nasdaq LLC") commences operations, Nasdaq LLC will file a conforming change to the rules of Nasdaq LLC approved in Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10-131).