

implements those changes. The CBOE will refund the deposits to each member firm through a credit that will appear on the next CBOE billing statement.

The CBOE believes that the proposed rule change is consistent with section 6(b) of the Act³ and furthers the objectives of section 6(b)(4) of the Act⁴ in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other changes among CBOE members.

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

The CBOE 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 CBOE neither solicited nor received written comments with respect to the proposed rule change.

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

Because these foregoing rule change establishes or changes a due, fee, or other charge that the CBOE has imposed, it has become effective pursuant to section 19(b)(3)(A) of the Act⁵ and Rule 19b-4(f)(2) thereunder.⁶ At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the proposed 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. 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 the filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to file number SR-CBOE-2002-06 and should be submitted by March 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-4877 Filed 2-28-02; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45472; File No. SR-NASD-2001-86]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Fees for Nasdaq Index Information

February 22, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

7030. SPECIAL OPTIONS

("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 4, 2001, 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" 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 proposes to amend NASD Rule 7030, Special Options, to increase the monthly fee charged to market data vendors for non-core, real-time information about Nasdaq indexes ("Index Information").³ Nasdaq established this "Index Fee" in 1992 at \$500 per month and it remains at \$500 today although: (1) Nasdaq has increased the amount of Index Information provided to market data vendors for that fee; (2) Nasdaq's costs of providing the Index Information are substantially higher today than in 1992; and (3) the audience for Index Information has exploded in recent years. Accordingly, Nasdaq proposes to raise the fee to \$2,000 per month.

Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in *brackets*.

Receive only printer	Permits subscriber to use Nasdaq Level 3 terminals to enter quotations simultaneously into an internal computer system.	\$100/month.
Local Posting		\$10/month.
Dual Keyboard		\$15/month.
Nasdaq Market Indexes	Permits vendor to [process Nasdaq Level 1 and Last Sale data feeds solely for the purpose of supplying subscribers with] distribute real-time calculations of the Nasdaq market indexes to all of its subscribers, including those that do not otherwise subscribe to real-time Nasdaq Level 1 or NQDS services.	[500]\$2,000/month.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(4).

⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

⁶ 17 CFR 240.19b-4(f)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Nasdaq recommended to the SEC Advisory Committee on Market Information that the SEC relax its review of commercial products and services, including market data products that are outside the core functions of an SRO-operated market. The Advisory Committee, noting the

regulatory disparity between SROs and unregistered commercial entities, in turn recommended that the SEC consider streamlining the SRO fee-filing requirement for non-core data. *See Report of the Advisory Committee On Market Information: A Blueprint For Responsible Change*, at fn. 283 and accompanying text.

7030. SPECIAL OPTIONS—Continued

Non-Continuous Access to Nasdaq Level 1 and Last Sale Information.	Permits vendor to process and distribute Nasdaq Level 1 and Last Sale Information to its subscribers on a non-continuous or query-response basis.	\$.005/query.
--	---	---------------

*	*	*	*	*	*	*
---	---	---	---	---	---	---

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

Since 1971, Nasdaq has distributed Index Information through its proprietary data feeds. Until 1992, Index Information was only available to subscribers that purchased the full Nasdaq Level 1 and Last Sale entitlements (at a combined monthly fee of \$16.25).⁴ In 1992, Nasdaq proposed an index distribution fee ("Index Fee") that would allow vendors to distribute real-time Nasdaq index information to all of their subscribers, including those that did not contract for the full Nasdaq Level 1 and Last Sale entitlements. When Nasdaq adopted a separate Index Fee, it sought the widest possible dissemination of Index Information by charging a flat, "one size fits all" fee that permits market data vendors to distribute Index Information to an unlimited number of end users. In addition, Nasdaq eschewed a formal subscriber agreement between market data vendors and end users, permitting those vendors wide latitude in distribution. Having paid the flat monthly fee of \$500, market data vendors are then permitted to distribute the Index Information to all of their subscribers.

⁴ Nasdaq Level 1 service is a data feed that provides subscribers with the best bid and offer quotations and size in Nasdaq securities both within the Nasdaq market and among the participants in the Nasdaq UTP Plan. The Last Sale service provides subscribers with transaction reports from all participants in the Nasdaq UTP Plan.

Nasdaq continues to believe that Index Information should reach the largest possible audience. Accordingly, Nasdaq desires to maintain a flat monthly fee for Index Information and also to continue to allow market data vendors to distribute Index Information without the need for a contractual relationship. Nasdaq believes that changes in the Index Information and in the marketplace, however, require that Nasdaq raise the fee for Index Information to ensure that the costs of calculating, monitoring, and distributing Index Information is allocated fairly among all users.

For instance, since 1992, Nasdaq has added substantially to the original group of indexes without raising the fee charged to vendors. Specifically, Nasdaq has added four indexes: the Nasdaq Computer Index in 1993, the Nasdaq Telecommunications Index in 1993, the Nasdaq Biotech Index in 1993, and the Nasdaq Canada Index in 2000. Also, in 2001, at vendors' requests, Nasdaq expanded the data feed to include the Nasdaq Pre-Market Indicator and a new After Hours Indicator. Nasdaq believes Index Information is valuable to the approximately 125 market data vendors, institutions, and investors that purchase the information—far more valuable than even the proposed fee increase indicates.⁵ Purchasers can freely manipulate and display Index Information to attract subscribers and advertisers. Institutions often repackaging the data and re-distribute it to their employees and customers as well as to the public. Retail investors also use Index Information directly, to monitor investments tied to the indexes and indirectly, to keep abreast, generally, of market conditions and trends.

Today, Nasdaq uses significantly more resources to calculate and disseminate Index Information than it used nine years ago. Nasdaq's average daily trade volume has increased by over 1,800% since 1993. Every standard trade in a Nasdaq security triggers a recalculation of each Nasdaq index in which the issue is a component. Therefore, higher trade volumes require

⁵ Purchasers of Index Information include Bloomberg L.P., E*Trade Group, Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Microsoft Corporation, Reuters Ltd., and Yahoo!, Inc.

Nasdaq to make more calculations and to dedicate increased computer resources to Index Information. This increase has been magnified due to the addition of the four new Nasdaq indexes and two new indicators. As a result, index processing now utilizes a disproportionate level of Nasdaq's computer operations resources relative to the fees assessed.

Nasdaq's indexes have gained in prominence since 1992. In 1992, Waters Information Services estimated that there were roughly 700,000 market data users in the world. Today, purchasers of Index Information have a potential subscriber base of hundreds of millions of Internet/web users that can access the data through this fee. The exchange trade fund ("ETF") based on the Nasdaq 100 Index is the United States' most heavily traded ETF, averaging over 60 million daily share volume. In addition, futures contracts and options on the Nasdaq 100 Index trade on the Chicago Mercantile Exchange and Chicago Board Options Exchange. Nasdaq plans to introduce additional ETFs in the future, including one for the Nasdaq Biotech index. Supporting derivative products has required Nasdaq to increase the resources that it devotes to data quality, timeliness, and redundancy for the underlying indexes.

The existence of trading products based on Nasdaq indexes has boosted investor interest in the underlying index information upon which these securities are based. Today, Index Information reaches a vast audience of individual investors. Nasdaq Index Information is distributed via print, broadcast, and Internet channels to millions of investors worldwide. Nasdaq's Index Information data feed has both triggered and answered the call for wider dissemination of increased market data that was expressed in the Final Report of the SEC Special Commission on Market Information.

Finally, during the nine years since the Index Fee was first set at \$500, as the audience for Nasdaq Index Information has grown, so too has the legal cost and risk associated with producing that information. Hundreds of investment products are based, in a variety of ways, upon Nasdaq Index Information, including open and closed-end mutual funds, ETFs, options,

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)⁶ and 15A(b)(6)⁷ 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.⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-4876 Filed 2-28-02; 8:45 am]

BILLING CODE 8010-01-P

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.

[FR Doc. 02-4935 Filed 2-28-02; 8:45 am]

BILLING CODE 8025-01-P

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

⁶ 15 U.S.C. 78o-3(b)(5).

⁷ 15 U.S.C. 78o-3(b)(6).

⁸ 17 CFR 200.30-3(a)(12).