

narrow-based index could have a significant effect on that index. However, the Exchange is not at this time proposing to change the closing time of 4:15 p.m. (New York time) for options on a broad-based index, as defined in ISE Rule 2001, because the ISE believes it is unlikely that a significant news announcement by the issuer of one component stock of a broad-based index is likely to have a significant effect on the price of that broad-based index. The Exchange proposes to implement the proposed rule change on February 13, 2006.⁵

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁷ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the Exchange believes that the need to continue trading options for some period of time after the close of trading in the underlying securities markets is no longer necessary because improvements in the processing and reporting of transactions have obviated the need to respond to late reports of closing prices over the consolidated tape in order to bring options quotes in line with the closing price of the underlying security. Moreover, the Exchange believes that allowing two additional minutes of options trading after trading on the underlying primary exchanges has ended may actually result in pricing aberrations. Because the two minute delay between the close of normal trading in equity options and narrow-based index options and the corresponding underlying equity markets is no longer necessary, the

Commission believes that eliminating the delay is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets. Therefore, the Commission finds that it is consistent with the Act for the Exchange to amend its rules to change the close of normal trading hours in equity and narrow-based index options from 4:02 p.m. to 4 p.m. (New York time).

The Commission finds good cause for approving this proposed rule change, as amended, before the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission notes that all of the options exchanges have filed substantially similar proposals and seek to implement these industry-wide changes simultaneously on February 13, 2006.⁸ For example, on December 20, 2005, the Commission published for comment in the **Federal Register** a similar proposed rule change submitted by the Chicago Board Options Exchange, Incorporated ("CBOE").⁹ The Commission received no comments on the CBOE's proposed rule change. The Commission believes that the ISE's proposed rule change, as amended, raises no new issues or novel regulatory questions. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁰ for approving the proposed rule change, as amended, prior to the thirtieth day after publication in the **Federal Register**. In addition, because the existence of dissimilar closing times among the options exchanges could lead to confusion for options investors and broker-dealers, the Commission finds good cause to accelerate approval of the proposed rule change to enable the six options exchanges to simultaneously amend their hours of trading on an industry-wide basis in a uniform manner.¹¹

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change and Amendment No. 1 thereto (SR-ISE-2005-58) be, and hereby are, approved on an accelerated basis.

⁸ See note 11, *infra*.

⁹ See Securities Exchange Act Release No. 52949 (December 13, 2005), 70 FR 75513 (December 20, 2005) (SR-CBOE-2005-104).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ The Commission notes that it is simultaneously approving similar proposals from the other options exchanges. See Securities Exchange Act Release Nos. 53244 (SR-Amex-2006-003); 53245 (SR-BSE-2006-02); 53246 (SR-CBOE-2005-104); 53249 (SR-PCX-2005-138); and 53247 (SR-Phlx-2006-01) (February 7, 2006).

¹² 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6-2114 Filed 2-14-06; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53255; File No. SR-NASD-2006-009]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of the Fee Pilot for National Quotation Data Service

February 8, 2006.

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 January 24, 2006, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), submitted to 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) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders it 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 Substance of the Proposed Rule Change

Nasdaq proposes to re-establish through December 29, 2006, a pilot program under NASD Rule 7010(h), which reduced from \$50 to \$10 the monthly fee that non-professional users pay to receive National Quotation Data Service ("NQDS"). Nasdaq is simultaneously filing a separate rule proposal to re-establish the same pilot program retroactively through September 1, 2005, the date the pilot inadvertently was permitted to lapse.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ *Id.*

⁶ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

The text of the proposed rule change is below. Additions are *italicized*; deletions are [bracketed].⁵

* * * * *

7010. System Services

(a)–(g) No Change.

(h) National Quotation Data Service (NQDS)

(1) Except as provided in subparagraph (2) of this section, the charge to be paid for each interrogation or display device receiving all or any portion of the information disseminated through the NQDS shall be \$50.00 per month. The NQDS information that will be provided through service consists of individual market maker quotations, Nasdaq Level 1 Service and the Last Sale Information Service.

(2) *For a pilot period ending December 29, 2006*, [T]he charge to be paid by a non-professional for each interrogation or display device receiving all or any portion of the NQDS information disseminated through an authorized vendor shall be \$10.00 per month.

(3) A “non-professional” is a natural person who is neither:

(A) Registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association;

(B) Engaged as an “investment adviser” as that term defined in section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor

(C) Employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

(i)–(w) No Change.

* * * * *

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 re-establish for one year the fee reduction pilot program under NASD Rule 7010(h) that reduced from \$50 to \$10 the monthly fee that non-professional users pay to receive NQDS.

NQDS delivers market maker quotations, Nasdaq Level 1⁶ service (including calculation and display of the inside market), and last sale information that is dynamically updated on a real-time basis. NQDS data is used not only by firms, associated persons, and other market professionals, but also by non-professionals who receive the service through authorized vendors, including, for example, on-line brokerage firms. Prior to August 31, 2000, NQDS data was available through authorized vendors at a monthly rate of \$50 for professional and non-professional users alike. In August 2000, the NASD through Nasdaq filed a rule change to reduce from \$50 to \$10 the monthly fee that non-professional users pay to receive NQDS data.⁷ The Commission approved the pilot on August 22, 2000, and the fee reduction commenced on August 31, 2000 on a one-year pilot basis.⁸ On September 5, 2001, August 29, 2002, August 15, 2003, and August 20, 2004, Nasdaq filed proposed rule changes to extend the pilot for additional one-year periods.⁹

Nasdaq has consistently supported broad, effective dissemination of market information to public investors. Thus, Nasdaq is proposing to re-establish the fee-reduction pilot for the remainder of 2006. The pilot would cover the period from January 24, 2006, through December 29, 2006. Nasdaq notes that the existing pilot reduced by 80% the fees that non-professionals paid for

NQDS data prior to August 31, 2000. Continuing the reduction of NQDS for non-professional users demonstrates Nasdaq's continued commitment to individual investors and responds to the dramatic increase in the demand for real-time market data by non-professional market participants. In addition, NASD member firms often supply real-time market data to their customers through automated means. Thus, NASD member firms' customers would benefit from the continued fee reduction.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with section 15A of the Act,¹⁰ in general, and furthers the objectives of section 15A(b)(5) of the Act,¹¹ in particular, in that it 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 Nasdaq operates or controls, and it does not unfairly discriminate between customers, issuers, brokers, or dealers. Nasdaq also believes that the fee reduction enhances the public's access to market data that is relevant to investors when they make financial decisions and encourages increased public participation in the securities markets.

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.

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

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing rule change was filed pursuant to section 19(b)(3)(A)(ii) of the Act¹² and Rule 19b-4(f)(2) thereunder,¹³ because it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization.

At any time within 60 days of the filing of such proposed rule change, the

⁵ 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).

⁶ Pursuant to NASD Rule 7010(e), Nasdaq separately distributes Level 1 data to non-professionals for a monthly fee of \$1.00.

⁷ See Securities Exchange Act Release No. 43190 (August 22, 2000), 65 FR 52460 (August 29, 2000) (notice of filing and order granting accelerated approval of NASD-00-47).

⁸ *Id.*

⁹ See Securities Exchange Act Release Nos. 44788 (September 13, 2001), 66 FR 48303 (September 19, 2001); 46446 (August 30, 2002), 67 FR 57260 (September 9, 2002); 48386 (August 21, 2003), 68 FR 51618 (August 27, 2003); and 50318 (September 3, 2004), 69 FR 54821 (September 10, 2004).

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(5).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(2).

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. Please include File Number SR-NASD-2006-009 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-2006-009. 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 Nasdaq. 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-2006-009 and

should be submitted on or before March 8, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E6-2104 Filed 2-14-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53257; File No. SR-NASD-2006-014]

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 Modify the Pricing for Non-Members Using Nasdaq's Brut and Inet Facilities

February 8, 2006.

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 January 30, 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 February 1, 2006, Nasdaq submitted Amendment No. 1 to the proposed rule change.³ 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 modify the pricing for non-members using Nasdaq's Brut and Inet Facilities ("Nasdaq Facilities"). The filing will apply to these non-members the same unified pricing schedule that Nasdaq is instituting for members.⁴ Nasdaq requests approval to implement the

proposed rule change, as amended, retroactively as of February 1, 2006.

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)-(h) No change.
- (i) Nasdaq Market Center and Brut Facility Order Execution
- (1)-(6) No change.
- (7) The fees applicable to non-members using Nasdaq's Brut and Inet Facility[ies] 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, [and] SR-NASD-2005-154, and SR-NASD-2006-013, 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, [and] SR-NASD-2005-155, and SR-NASD-2006-014.
- (j)-(v) No change.
- (w) INET System Connectivity
- (1) No change.
- (2) The *INET connectivity* fees applicable to non-members [using Nasdaq's INET Facility] 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 as applied to non-members by SR-NASD-2005-128, [and] SR-NASD-2005-148, and SR-NASD-2006-014.

* * * * *

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

On January 30, 2006, Nasdaq filed SR-NASD-2006-013 with the Commission, establishing a new fee and

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Partial Amendment No. 1 clarifies that the proposed rule change was approved by the Nasdaq Board of Directors on February 1, 2006 and not January 24, 2006.

⁴ SR-NASD-2006-013 (January 30, 2006).

⁵ Securities Exchange Act Release Nos. 52902