

Number SR–NASD–2005–062 and should be submitted on or before July 12, 2005.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51851; File No. SR–NASD–2005–060]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change to Create the ModelView Entitlement

June 14, 2005.

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 May 10, 2005, 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 modify NASD Rule 7010(q) to establish the ModelView entitlement, an historical data product containing delayed, aggregated information about displayed and reserve-size orders in Nasdaq securities. The text of the proposed rule change is below. Proposed new language is *italicized*.³

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7010. System Services

- (a)–(p) No change
- (q) Nasdaq TotalView
- (1)–(4) No change
- (5) *Historical TotalView*

Information—ModelView

Nasdaq will make historical TotalView information, under the

ModelView entitlement package, available via NasdaqTrader.com. ModelView shall contain historical TotalView information regarding aggregate displayed and reserve liquidity at each price level in the Nasdaq Market Center. ModelView shall be available for a subscription fee of \$2,000 per month.

(r)–(v) No Change.

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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 is proposing to create ModelView, an historical data product designed to provide more comprehensive historical information regarding the data disseminated via the Nasdaq TotalView data. ModelView is designed to facilitate more efficient trading activity in the Nasdaq Market Center in an environment where trading and order-routing become increasingly automated, and broker-dealers, institutional traders and technology providers are constantly seeking to improve the quality of information upon which trading and order-routing decisions are made. Firms are frequently turning to algorithms and other computer-based means by which to execute proprietary trading strategies and process customer order flow. As a result, the information used to create these automated trading models determines trading efficacy. Incremental data that could improve the execution quality of these models is considered valuable.

To respond to this demand, Nasdaq proposes to establish ModelView, a new near-historical product derived from TotalView data, that Nasdaq believes would provide greater insight than ever before into the liquidity typically available in the Nasdaq Market Center. Specifically, ModelView would provide the aggregate amount of both displayed

and reserve size liquidity in the Nasdaq Market Center at each price level. With this information, Nasdaq believes developers of automated trading and order-routing models will improve their Nasdaq trading efficiency, and the providers of liquidity to the Nasdaq Market Center should find greater fill rates and execution quality.

Nasdaq has designed ModelView to protect the anonymity of the trading strategies of Nasdaq Market Center participants while improving the execution quality of their orders. ModelView will be a near-historical product only. No information will be available regarding Nasdaq Market Center liquidity until T+10 (e.g., information about a day’s liquidity will not be available until ten business days later). In addition, by providing aggregate liquidity information ModelView will not contain explicit or implicit information regarding the identity of market participants trading in Nasdaq at the relevant time. With the integration of Brut facility liquidity into the Nasdaq Market Center, there is significant non-attributed liquidity in the Nasdaq Market Center; thus, Nasdaq believes ModelView will preserve the anonymity of information presented in aggregate form.

Nasdaq will offer ModelView on a subscription basis via secure File Transfer Protocol over NasdaqTrader.com. ModelView will be available for \$2,000 without any limitation on distribution of the data either internally or externally. This pricing is consistent with the general pricing structure of Nasdaq’s proposed Distributor Fee.⁴

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁵ in general, and with Section 15A(B)(5) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable charges among the persons distributing and purchasing this information. Nasdaq believes that this proposed rule change will encourage the broader redistribution of the Nasdaq Market Center depth of book order information, thus improving transparency and thereby benefiting the investing public.

⁴ See Securities Exchange Act Release No. 51598 (April 21, 2005), 70 FR 22162 (April 28, 2005) (Notice of Filing of SR–NASD–2004–185).

⁵ 15 U.S.C. 78o–3.

⁶ 15 U.S.C. 78o–3(b)(5).

¹³ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ The proposed changes are marked from NASD Rule 7010 as it appears in the NASD Manual available at <http://www.nasd.com>.

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 self-regulatory organization 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. 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-2005-060 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-9303.
- All submissions should refer to File Number SR-NASD-2005-060. 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-2005-060 and should be submitted on or before July 12, 2005.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51836; File No. SR-NASD-2005-059]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Amend NASD Rule 7090 To Modify the Annual Listing and Administrative Fees

June 13, 2005.

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 May 10, 2005, 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. On June 8, 2005, Nasdaq filed Amendment No. 1 to the proposed rule change.³ The

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, Nasdaq clarified that the proposed fee change for the News Media List also

Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

Nasdaq proposes to change the annual listing fees for mutual funds, money market funds, and unit investment trusts on the News Media List and Supplemental List of the Mutual Fund Quotation Service ("MFQS").

Should the Commission approve the proposed rule change, Nasdaq plans to implement the increased annual fees on July 1, 2005 on a prorated basis for new fund listings (including funds moving from the Supplemental List to the News Media List). Should the Commission approve this proposed rule change after July 1, 2005, Nasdaq will implement the new annual listing fees for the MFQS system on a prorated basis as soon as practicable following Commission approval. For existing listings, the new annual fee shall become effective on January 1, 2006 during the 2006 annual maintenance process (or as soon as practicable thereafter, on a prorated basis, should the Commission approve the proposed rule change after January 1, 2006). For new and existing listings, the proposed new administrative fee shall become effective on July 1, 2005, or as soon as practicable if approved by the Commission thereafter.

The proposed rule change also corrects typographical errors and modifies the administrative fee for requests to change the name and/or symbol of a fund or trust.

The text of the proposed rule change is set forth below. Proposed new language is *italicized*; proposed deletions are in [brackets].

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7090. Mutual Fund Quotation Service

(a) Funds and Unit Investment Trusts included in the Mutual Fund Quotation Service ("MFQS") shall be assessed an annual fee of \$[400]475 per fund or trust authorized for the News Media Lists and \$[275]350 per fund or trust authorized for the Supplemental List. Funds authorized during the course of an annual billing period shall receive a proration of these fees but no credit or refund shall accrue to funds or trust terminated during an annual billing period. In addition, there shall be a one-time application processing fee of \$325 for each new fund or trust authorized.

applies to unit investment trusts and made several non-substantive clarifications to the proposal.