19b–4(f)(2) thereunder [12] because it establishes or changes a due, fee, or other charge. At any time within 60 days after the filing of this proposed rule change, the Commission may summarily abrogate the 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 such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–120 and should be submitted by November 18, 2002.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–27351 Filed 10–25–02; 8:45 am]

BILLING CODE 8010–01–P

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46696; File No. SR–NASD–2002–121]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify Application of Additional Circuit/SDP Charge Under Rule 7010(f) to Non-NASD Members

October 21, 2002.

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 September 12, 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 Nasdaq has prepared. 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 the conditions under which subscribers who are not members of the NASD pay the Additional Circuit/SDP Charge under NASD Rule 7010(f).[3] For non-member subscribers that require circuit consolidation, Nasdaq proposes to implement the Additional Circuit/SDP Charge on a rolling basis as the circuit consolidation work is performed.

The text of the proposed rule change is below. Proposed new text is italicized and proposed deleted text is [bracketed].

* * * * *

Rule 7010. System Services

(a)—(e) No change.

(f) Nasdaq Workstation™ Service

(1) No change.

(2) The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via equipment and communications linkages prescribed for the Nasdaq Workstation II Service:

Service Charge: $1,875/month per service delivery platform (''SDP'') from December 1, 2000 through February 28, 2001 $2,035/month per SDP beginning March 1, 2001.

Display Charge: $525/month per presentation device (''PD'').

Additional Circuit/SDP Charge: $3,075 per month from December 1, 2000 through February 28, 2001, and $3,235/month beginning March 1, 2001*.

A subscriber that accesses Nasdaq Workstation II Service via an application programming interface (''API'') shall be assessed the Service Charge for each of the subscriber's SDPs and shall be assessed the Display Charge for each of the subscriber's API linkages, including an NWII substitute or quote-update facility. API subscribers also shall be subject to the Additional Circuit /SDP Charge.

(3) No change.

*A subscriber shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its SDPs by placing eight PDs and/or API servers on an SDP and obtains an additional SDP(s); in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP(s) (*i.e.*, the difference between the number of SDPs a subscriber has and the number of SDPs the subscriber would need to support its PDs and/or API servers, assuming an eight-to-one ratio). A subscriber also shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its T1 circuits by placing [six] *eighteen* SDPs on a T1 circuit; in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP slot on the existing T1 circuit(s). Regardless of the SDP allocation across T1 circuits, a subscriber will not be subject to the Additional Circuit/SDP Charge if the subscriber does not exceed the minimum number of T1 circuits needed to support its SDP, assuming [a six to one] *an eighteen-to-one ratio*.

(g)–(r) 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 had 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

The Nasdaq Workstation II (''NWII'') service allows market participants to access Nasdaq and Nasdaq facilities through Nasdaq's Enterprise Wide Network II (''EWN II''). To use the NWII service, each subscriber location has at least one service delivery platform

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Nasdaq also submitted a proposed rule change to modify the conditions under which members pay the Additional Circuit/SDP Charge. *See* SR–NASD–2002–120.

(''SDP'') that connects to Nasdaq by a dedicated T1 circuit pair. The SDP functions as the gateway from the subscriber's NWII ''presentation device'' (''PD'') [4] or application programming interface (''API'') server [5] to the EWN II. Each SDP is permitted to support up to eight PDs or API servers. In the past, each T1 circuit pair had been capable of supporting six SDPs. As the result of recent improvements in circuit efficiency, however, it is now possible to support eighteen SDPs on one T1 circuit pair. This marked increase in circuit capacity provides Nasdaq and its market participants with an opportunity to enhance the efficiency of the NWII service by reducing the number of circuits required to provide a given level of service.

Under Nasdaq's current pricing structure for NWII, a subscriber generally pays $2,035 per SDP month, but is assessed an ''Additional Circuit/SDP Charge'' of $3,235 per month for unutilized SDP slots if it uses T1 circuits inefficiently.[6] A subscriber does not pay the Additional Circuit/SDP Charge, however, if the subscriber does not exceed the minimum number of T1 circuits needed to support its SDPs, assuming a six-to-one ratio. This pricing structure encourages subscribers to maximize circuit capacity and is aimed at preventing the premature exhaustion of EWN II's capacity to support additional circuits. This in turn helps to ensure that the capacity of the EWN II can keep pace with the growth of trading volumes. In order to reflect the realities of technological change and to encourage firms to take full advantage of the resulting efficiencies, Nasdaq is modifying the requirement for full utilization of T1 circuits from six SDPs per T1 circuit to eighteen. As is currently the case, subscribers would not pay an Additional Circuit/SDP Charge for unused slots as long as the subscriber does not exceed the minimum number of T1 circuits needed to support its SDPs (based on an eighteen-to-one ratio).

Nasdaq believes that the increased efficiency of T1 circuits will allow Nasdaq and subscribers to discontinue the use of many T1 circuit pairs and that this will, in turn, expand the available capacity of EWN II, thereby enhancing its ability to keep pace with future growth in trading volumes. In anticipation of this capacity expansion, during the past three months Nasdaq has tripled the EWN II bandwidth, from 256kb to 768kb, without increasing costs to subscribers. Moreover, since subscribers will be able to use a T1 circuit pair to support more SDPs than has previously been the case, a subscriber can now expand its own capability as its needs grow without incurring the costs and delays associated with installation of an additional circuit pair.

In order to allow subscribers with redundant circuits to take advantage of these added efficiencies, it will be necessary for Nasdaq to perform upgrades on subscribers' existing circuits, a process that can only be completed on a circuit-by-circuit basis. Accordingly, Nasdaq would implement the proposed Additional Circuit/SDP Change on a rolling basis, as it provides subscribers with redundant circuits the opportunity to have the circuit consolidation work performed. Subscribers would receive notice of the opportunity to eliminate unneeded circuits through direct personal contact from Nasdaq technical personnel. Until a subscriber's circuits have been upgraded, the subscriber would be charged the Additional Circuit/SDP Charge on the basis of a six-to-one ratio. Following the completion of the upgrade of a given subscriber, the eighteen-to-one ratio would apply. Similarly, if a subscriber chooses not to complete the upgrade, the subscriber would be charged according to the eighteen-to-one ratio, starting with the calendar month following its decision not to upgrade. Finally, for subscribers that do not require circuit consolidation, the eighteen-to-one ratio would apply once the proposed rule change becomes effective. Thus, if a subscriber that is utilizing circuits efficiently adds a new circuit before fully utilizing the capacity of existing circuit(s), it would be assessed the Additional Circuit/SDP Charge.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[7] including section 15A(b)(5) of the Act,[8] which requires that the rules of the NASD provide 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. As is currently the case, the Additional Circuit/SDP Charge would be imposed upon subscribers that make inefficient use of T1 circuits and SDPs. The proposed rule change would not result in any change in the fees paid by subscribers that take advantage of the opportunity to eliminate underutilized T1 circuits. Moreover, Nasdaq believes that, by encouraging subscribers to maximize circuit capacity, the proposed rule change will help to ensure that the EWN II can keep pace with future growth of trading volumes.

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

Nasdaq 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

Nasdaq 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

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 NASD consents, the Commission will:

(A) By order approve the 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

[4] A PD is an NWII workstation provided by Nasdaq that resides on the desktop of the end user.

[5] An API allows a firm to obtain NWII service using the firm's own workstation (*e.g.*, a personal computer), server, and software systems to access, display, interface with, and operate the NWII service.

[6] The Additional Circuit/SDP Charge is also assessed, in lieu of the $2,035 per SDP per month Service Charge, if a subscriber exceeds the minimum number of SDPs needed to support its PDs and/or API servers (assuming an eight-to-one ratio). This aspect of the fee is not being changed.

[7] 15 U.S.C. 78o–3.

[8] 15 U.S.C. 78o–3(b)(5).

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 submissions should refer to File No. SR–NASD–2002–121 and should be submitted by November 18, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–27352 Filed 10–25–02; 8:45 am]

BILLING CODE 8010–01–P

[9] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3455]

State of California

Los Angeles County and the contiguous counties of Kern, Orange, San Bernardino and Ventura in the State of California constitute a disaster area as a result of a wildfire that began on September 1, 2002 in a portion of the San Gabriel Canyon in the Angeles National Forest. The wildfire, known as the ''Curve Fire'', consumed 20,857 acres and destroyed homes and personal property. The wildfire was fully contained on September 12, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 23, 2002, and for economic injury until the close of business on July 22, 2003, at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	7.000
Businesses and Non-Profit Organizations Without Credit Available elsewhere:	3.500
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	6.375
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	3.500

The number assigned to this disaster for physical damage is 345505 and for economic damage is 9R9900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 22, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–27355 Filed 10–25–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3456]

State of California

Los Angeles County and the contiguous counties of Kern, Orange, San Bernardino and Ventura in the State of California constitute a disaster area as a result of a wildfire that began on September 22, 2002 in a portion of the San Dimas Canyon in the Angeles National Forest. The wildfire, known as the ''Williams Fire'', consumed 38,094 acres and destroyed homes and personal property. The wildfire was fully contained on October 1, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 23, 2002, and for economic injury until the close of business on July 22, 2003, at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	7.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	3.500
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	6.375
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	3.500

The number assigned to this disaster for physical damage is 345605 and for economic damage is 9S0100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 22, 2002

Hector V. Barreto,

Administrator.

[FR Doc. 02–27356 Filed 10–25–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3452, Amdt. #2]

State of Louisiana

In accordance with a notice received from the Federal Emergency Management Agency, dated October 17, 2002, the above numbered declaration is hereby amended to include Allen, East Baton Rouge, East Feliciana, Pointe Coupee, Rapides, St. Helena, Washington and West Baton Rouge Parishes in the State of Louisiana as disaster areas due to damages caused by Hurricane Lili beginning on October 1, 2002, and continuing through October 16, 2002.

In addition, applications for economic injury loans from small businesses located in Grant and Natchitoches Parishes in Louisiana; and Marion, Walthall and Wilkinson Counties in Mississippi may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary county have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is December 2, 2002, and for economic injury the deadline is July 3, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 21, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 02–27358 Filed 10–25–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3454]

State of South Carolina

Clarendon and Georgetown Counties and the contiguous counties of Berkeley, Calhoun, Charleston, Florence, Horry, Marion, Orangeburg, Sumter and Williamsburg in the State of South Carolina constitute a disaster area due to damages caused by flooding and tornadoes from Tropical Storm Kyle on