

off the Exchange Floor, or, if on the Exchange Floor, outside of regular auction market business hours. Finally, specialists will be required to maintain records of these contacts, which will be reviewed by Amex staff.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-Amex-2002-48) is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47478; File No. SR-NASD-2003-28]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing a Thirty-Day Waiver of Certain ViewSuite Data Services Fees Assessed Under NASD Rule 7010(q)

March 10, 2003.

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 March 3, 2003, 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 ("SEC" or "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 waive for thirty calendar days certain fees assessed under NASD Rule 7010(q) upon distributors for each new subscriber to Nasdaq ViewSuite products. Proposed

new language is in italics; proposed deletions are in brackets.³

* * * * *

Rule 7010. Charges for Services and Equipment

(a)-(p) No Change.

(q) Nasdaq Data Entitlement Packages:

(1) Depth View and Power View—

(A) No Change.

(B) No Change.

(C) No Change.

(D) *Thirty-Day Free-Trial Offer.*

Nasdaq will offer all new individual subscribers and potential new individual subscribers a 30-day waiver of the fees for any ViewSuite service (Depth View or Power View) that such subscriber or potential subscriber chooses to try for the 30-day period. This waiver does not include fees assessed for the NQDS service.⁴ This fee waiver period will be applied on a rolling basis, determined by the date on which a new individual subscriber or potential individual subscriber is first entitled by a distributor to receive access to Depth View or Power View. A distributor may only provide this waiver to a specific individual subscriber once.

(i) *Depth View.* For the period of the offer, the DepthView fee of \$50 per professional user and \$25 per non-professional user will be waived.

(ii) *PowerView.* For the period of the offer, the PowerView fee of \$45 per professional user and \$20 per non-professional user will be waived.

(2) Total View—

(A) No Change.

(B) No Change.

(C) *30-Day Free-Trial Offer.* *Nasdaq will offer all new individual subscribers and potential new individual subscribers a 30-day waiver of the fees for TotalView. This waiver does not include fees assessed for the NQDS service.⁵ This fee waiver period will be applied on a rolling basis, determined by the date on which a new individual subscriber or potential individual subscriber is first entitled by a distributor to receive access to TotalView. A distributor may only*

³ Simultaneous with this proposed rule change, Nasdaq has submitted SR-NASD-2003-27 which proposes the addition of NASD Rule 7010(q)(3) and (q)(4), two pilot pricing initiatives for the ViewSuite products. These two filings are completely independent and the approval or rejection of one has no effect on the rule language proposed in the other.

⁴ The NQDS-only fees (incremental to the Level 1 charges) are \$30 for professional users and \$9 for non-professional users.

⁵ The NQDS-only fees (incremental to the Level 1 charges) are \$30 for professional issuers and \$9 for non-professional users.

provide this waiver to a specific individual subscriber once.

(i) *For the period of the offer, the TotalView fee of \$120 per professional user and \$141 per non-professional user will be waived.*

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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 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 below in sections A, B, and C, 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 launch of SuperMontage, Nasdaq's integrated quotation and execution system, vastly expanded Nasdaq's ability to offer market data to market participants that choose to display trading interest on Nasdaq that goes beyond the best bid and offer: Nasdaq DepthView, PowerView, and TotalView, collectively referred to as the "ViewSuite" products, offer a wide array of quotation information to market data vendors and broker/dealer distributors. DepthView shows the aggregate size, by price level, of all Nasdaq market participants' attributed and unattributed quotations/orders that are in the top five price levels in SuperMontage. PowerView bundles the Nasdaq Quotation Dissemination Service or "NQDS" and DepthView. TotalView offers the PowerView services plus all Nasdaq market participants' attributed quotations/orders that are in the top five price levels in SuperMontage, in addition to the aggregate size of all unattributed quotes/orders at each of the top five price levels.

On November 18, 2002, the Commission approved a rule proposal that established fees assessed for the ViewSuite products, which are offered exclusively through distributors.⁶ DepthView is offered through distributors to professional subscribers for \$50 per month per controlled

⁶ See Securities Exchange Act Release No. 46843 (Nov. 18, 2002), 67 FR 70471 (Nov. 22, 2002).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.