

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47607; File No. SR-NASD-2003-46]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. to Modify Computer-to-Computer Interface Fees for Non-NASD Members

April 1, 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 20, 2003 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. Amendment No. 1 was filed on March 31, 2003.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to grant accelerated approval of the proposed rule change.

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

Nasdaq proposes to amend NASD Rule 7010 to modify the fees paid by

persons that are not NASD members for bandwidth enhancements of Computer-to-Computer Interface ("CTCI") lines.⁴ Nasdaq proposes to implement the rule change on April 1, 2003.⁵

The text of the proposed rule change, as amended, is below. New text is in *italics*. Deleted text is in [brackets].

* * * * *

7000. Charges for Services and Equipment

A. Rule 7010. System Services

(a)-(e) No change.

(f) Nasdaq Workstation™ Service

(1) No change.

[(3)] (2) The following charges shall apply for each CTCI subscriber[*]:

Options	Price
Option 1: Dual 56kb lines (one for redundancy) and single hub and router	\$1275/month.
Option 2: Dual 56kb lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy).	\$1600/month.
Option 3: Dual T1 lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). Includes base bandwidth of 128kb.	\$8000/month.
Option 1, 2, or 3 with Message Queue software enhancement	Fee for Option 1, 2, or 3 (including any Bandwidth Enhancement Fee) plus 20%.
Disaster Recovery Option:	
Single 56kb line with single hub and router. (For remote disaster recovery sites only.)	\$975/month.
Bandwidth Enhancement Fee (for T1 subscribers only)	[\$4000] 600/month per 64kb increase above 128kb T1 base[.].
Installation Fee	\$2000 per site for dual hubs and routers \$1000 per site for single hub and router.
Relocation Fee (for the movement of TCP/IP-capable lines within a single location)	\$1700 per relocation.

[*As reflected in SR-NASD-00-80 and SR-NASD-00-81, Nasdaq began replacing x.25 CTCI circuits with TCP/IP CTCI circuits in January 2001. Pursuant to SR-NASD-2001-87 and SR-NASD-2001-88, the fee for x.25 CTCI circuits "which had remained \$200 per month per circuit" was increased to \$1,275 per month per circuit from February 1, 2002 until the date of the termination of such circuits. Pursuant to SR-NASD-2002-96, users of x.25 CTCI circuits will receive a credit of \$625 per month per circuit from February 1, 2002 until the date of circuit termination.]

(g)-(s) 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 had received on the proposed rule change. 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

Nasdaq's CTCI network is a point-to-point dedicated circuit connection from the premises of brokerages and service providers to Nasdaq's Trumbull, Connecticut processing facilities. Through CTCI, firms are able to enter trade reports into Nasdaq's Automated

Confirmation Transaction Service ("ACT"), orders into Nasdaq's transaction execution systems, and mutual fund pricing data into Nasdaq's Mutual Fund Quotation Service. The CTCI network operates over the Enterprise Wide Network II ("EWN II") and provides connectivity over powerful 56kb and T1 data lines. In addition, the CTCI network uses the industry-standard Transmission Control Protocol/Internet Protocol ("TCP/IP"), a transmission protocol that is robust, efficient, and well known among the technical community.

As part of an ongoing effort to reduce costs incurred to use its systems and services, Nasdaq proposes to reduce the fee for CTCI bandwidth enhancements⁶ from \$4,000 to \$600 per month for each 64 kilobit ("kb") increment of additional bandwidth provided over a T1 CTCI line (above the base level of 128 kb). Nasdaq has also proposed an identical pricing

¹ 5 U.S.C. 778s(b)(1).

² 17 CFR 240.19b-4

³ See letter from John M. Yetter, Assistant General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division") Commission, dated March 28, 2003 ("Amendment No. 1"). In Amendment No. 1, Nasdaq proposed to implement the proposed rule change on April 1,

2003 and requested accelerated approval of the proposal.

⁴ Nasdaq also submitted a proposed rule change to make an identical modification to the bandwidth enhancement fee paid by NASD members. See Securities Exchange Act Release No. 47608 (April 1, 2003) (Notice of Filing and Immediate Effectiveness of SR-NASD-2003-43).

⁵ See Amendment No. 1, *supra* note 3.

⁶ The term "bandwidth" refers to the amount of data that can be transmitted over a CTCI line in one second. Accordingly, bandwidth enhancements allow a CTCI subscriber to send and receive a greater volume of data over a line.