

decrease for NASD member firms⁷ and now proposes to offer this fee reduction to non-NASD members that use CTCI.⁸

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,⁹ in general, and with Section 15A(b)(5) of the Act,¹⁰ 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 NASD operates or controls.

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, 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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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-2003-46 and should be submitted by April 29, 2003.

IV. Commission's Finding and Order Granting Accelerated Approval of Proposed Rule Changes

After careful review the Commission finds that the proposed rule change and Amendment No. 1 are consistent with the requirements of Section 15A(b)(5) of the Act¹¹ because it provides for the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using any facility or systems which the association operates.¹² Specifically, the proposed fee reduction makes CTCI bandwidth enhancements more economical to all market participants.

The Commission notes that Nasdaq has also submitted a proposed rule change to make an identical decrease to the bandwidth enhancement fee paid by NASD members that use CTCI.¹³ Although this proposal became effective upon filing with the Commission on March 20, 2003, Nasdaq has proposed to delay the implementation of the fee decrease for NASD members until April 1, 2003. Similarly, Nasdaq has proposed to implement the fee decrease on April 1, 2003 for non-NASD members who use CTCI. Therefore, Nasdaq has requested that the Commission find good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after publication in the **Federal Register**. The Commission believes that granting accelerated approval of the proposed rule change will allow for the equitable treatment of members and non-NASD members by allowing Nasdaq to implement the fee reduction for both NASD members and non-NASD members on April 1, 2003. Accordingly, the Commission finds good cause, consistent with Section 15A(b)¹⁴ and Section 19(b)(2) of the Act¹⁵ to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-NASD-2003-46) and Amendment No. 1 thereto are

hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47612; File No. SR-NASD-2003-54]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. To Modify Nasdaq Test Facility Pricing Under Rule 7050 for Persons Who Are Not 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 24, 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, II and III below, which Items have been prepared by Nasdaq. On April 1, 2003, Nasdaq filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change 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 modify Nasdaq Test Facility pricing under Rule 7050 for persons that are not NASD members.⁴ Nasdaq proposes to implement the proposed rule change on April 1, 2003. The text of the proposed rule change is below. Proposed new

¹⁷ 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 requested accelerated approval of the proposed rule change. See Letter dated March 31, 2003, from Alex Kogan, Associate General Counsel, Nasdaq to Katherine England, Assistant Director, Division of Market Regulation, Commission.

⁴ Nasdaq is also submitting an identical proposed rule change applicable to members. See SR-NASD-2003-53.

⁷ See *supra* note 4.

⁸ Nasdaq also proposes to delete a footnote from NASD Rule 7010(f) that describes pricing changes relating to x.25 CTCI circuits, which are no longer in use.

⁹ 15 U.S.C. 78o-3.

¹⁰ 15 U.S.C. 78o-3(b)(5).

¹¹ 15 U.S.C. 78o-3(b)(5).

¹² In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ See *supra* note 4.

¹⁴ 15 U.S.C. 78o-3(b).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ *Id.*