

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 will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-2003-20 and should be submitted by April 30, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47621; File No. SR-NASD-2003-56]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Regarding Fees for the Reporting of SuperMontage Transactions Through the Automated Confirmation Transaction Service ("ACT")

April 2, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and rule 19b-4² thereunder, 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"), submitted to 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 March 27, 2003, Nasdaq filed Amendment No. 1 to the proposed rule change.³ Nasdaq has designated this proposal as one establishing or changing a due, fee or other charge imposed by

the self-regulatory organization under section 19(b)(3)(A)(ii) of the Act⁴ and rule 19b-4(f)(2) thereunder.⁵ The 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 waive certain fees for the reporting of SuperMontage transactions associated with the use of the ACT.⁶ Nasdaq proposes to implement the proposed rule change on April 1, 2003.

Below is the text of the proposed rule change, as amended.⁷ Proposed new language is *italicized*; proposed deleted language is [bracketed].

* * * * *

7000. CHARGES FOR SERVICES AND EQUIPMENT

7010. System Services

(a)-(f) No change.

(g) Automated Confirmation Transaction Service

(1) The following charges shall be paid by the participant for use of the Automated Confirmation Transaction Service (ACT):

Transaction Related Charges:

Reporting of transactions through SuperMontage (or any other transaction execution system that makes use of SuperMontage's functionality to report transactions).	\$0.029/side (<i>subject to waiver under paragraph (2) below</i>).
Reporting of all other transactions in Nasdaq National Market and SmallCap Market securities not subject to comparison through ACT ("Covered Transactions")	
Average daily volume of media transaction reports for Covered Transactions during the month in which a participant is the reporting party:	Fee per side for reports of Covered Transactions to which such participant is a party:
0 to 10,000	\$0.029.
10,001 to 50,000	\$0.029 for a number of reports equal to 10,000 times the number of trading days in the month \$0.015 for all remaining reports.
More than 50,000	\$0.029 for a number of reports equal to 10,000 times the number of trading days in the month \$0.015 for a number of reports equal to 40,000 times the number of trading days in the month \$0.00 for all remaining reports.
Reporting of all other transactions not subject to comparison through ACT.	\$0.029/side.
Comparison	\$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares).
Late Report—T+N	\$0.288/side.
Browse/query	\$0.288/query*.
Terminal fee	\$57.00/month (ACT only terminals).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 26, 2003 ("Amendment No. 1"). In Amendment No. 1, Nasdaq amended its proposal to state that, for purposes of determining eligibility for the fee waiver, if a market participant has more than one market participant identifier ("MPID") associated with the same Central Registration Depository ("CRD") number, the

activity associated with all of those MPIDs will be aggregated; however, activity associated with MPIDs assigned to subsidiaries or other affiliates of the market participant that have a different CRD number will not be aggregated. See SR-NASD-2003-17 (permitting market makers and ECNs to receive a second identifier). For purposes of determining the effective date of the filing and calculating the 60-day abrogation period, the Commission considers the period to commence on March 27, 2003, the date that Nasdaq filed Amendment No. 1.

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

⁶ Nasdaq represents that this filing applies to usage of ACT by NASD members. The usage of ACT by non-members is governed by NASD Rule 6120.

⁷ The proposed rule text is marked to show changes from the language of the NASD Rule 7010 as amended by SR-NASD-2003-51 (filed March 24, 2003). That proposed rule change, which was effective immediately upon filing, introduced volume discounts for reporting most non-SuperMontage transactions in Nasdaq National Market and SmallCap Market securities.