

CTCI fee .....	\$575.00/month.
WebLink ACT .....	\$300/month (full functionality) or \$150/month (up to an average of twenty transactions per day each month).**
[Trade reporting] .....	[\$0.029/side (applicable only to reportable transaction not subject to trade comparison through ACT)***].
Risk Management Charges .....	\$0.035/side and \$17.25/month per correspondent firm (maximum \$10,000/month per correspondent firm).
Corrective Transaction Charge .....	\$0.25/Cancel, Error, Inhibit, Kill, or 'No' portion of No/Was transaction, paid by reporting side; \$0.25/Break, Decline transaction, paid by each party.
ACT Workstation .....	\$525/logon/month***[*].

\* Each ACT query incurs the \$0.288 fee; however, the first accept or decline processed for a transaction is free, to insure that no more than \$0.288 is charged per comparison. Subsequent queries for more data on the same security will also be processed free. Any subsequent query on a different security will incur the \$0.288 query charge.

\*\* For the purposes of this service only, a transaction is defined as an original trade entry, either on trade date or as-of transactions per month.

\*\*\* The trade reporting service charge is applicable to those trades input into ACT for reporting purposes only, such as NSCC Qualified Service Representative reports and reports of internalized transactions.]

\*\*\* [\*] A firm that uses ACT risk management through one or more NWII terminals when the ACT Workstation is introduced will be eligible to evaluate the ACT Workstation for a free, three-month trial period, provided that the firm continues to pay charges associated with its NWII terminal(s) during that period.

(h)-(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, as amended, and discussed any 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 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 the Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

ACT is an automated trade reporting and reconciliation service that speeds the post-execution steps of price and volume reporting, comparison, and clearing of trades completed in Nasdaq, OTC Bulletin Board, and other over-the-counter securities. ACT handles transactions executed through Nasdaq's automated trading systems, as well as transactions negotiated over the telephone and internalized transactions. It also manages post-execution procedures for transactions in exchange-listed securities that are traded in the Nasdaq InterMarket.

As part of an ongoing effort to reduce the costs incurred by market participants to use Nasdaq services, Nasdaq is proposing to introduce volume-based discounts for trade reports submitted to ACT. The discounts reflected in this proposed rule change apply to all reports in Nasdaq

National Market and SmallCap Market securities submitted to ACT by a market participant directly or through Nasdaq's Primex system (defined as "Covered Transactions"), but do not apply to reports submitted automatically through Nasdaq's other transaction execution systems.<sup>7</sup> Thus, the discounts offered by this proposed rule change apply to reports submitted pursuant to "automated give-up" ("AGU") and Qualified Service Representative ("QSR") arrangements,<sup>8</sup> as well as internalized trades and Primex trades. However, the discounts do not apply to transactions that are subject to trade comparison through ACT, for which Nasdaq will continue to charge \$0.0144 per side for each 100 shares (subject to a minimum charge of \$0.0576 and a maximum charge of \$1.08).

Under the proposal, the per side fee paid by an ACT participant for its trade reports during a particular month would depend upon the volume of media transaction reports for Covered Transactions in which the ACT participant was identified as the reporting party during that month.<sup>9</sup> If an ACT participant's average daily volume of such media trade reports was 10,000

or less, its fee for all ACT reports for Covered Transactions during the month would be \$0.029 per report. An ACT participant with an average daily volume of between 10,001 and 50,000 media trade reports in Covered Transactions during the month would pay \$0.029 per report for a number of reports equal to 10,000 times the number of trading days in the month but only \$0.015 per report for each additional report. Finally, an ACT participant with an average daily volume of more than 50,000 media reports would pay \$0.029 per report for a number of reports equal to 10,000 times the number of trading days in the month and \$0.015 for a number of reports equal to 40,000 times the number of trading days in the month, but all additional reports during the month would be free.

#### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,<sup>10</sup> in general, and section 15A(b)(5) of the Act,<sup>11</sup> 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. Nasdaq believes that the fee reductions reflected in this proposed rule change assure that all participants reporting Covered Transactions through ACT pay a share of the costs associated with operation of the system, but recognize that the marginal costs associated with increases in trade report volume are low. Accordingly, the fee charged for "marginal" reports decreases as a participant's volume increases. Nasdaq believes that this change will make it

<sup>7</sup> Nasdaq has submitted a separate proposed rule change relating to the ACT charges for reporting of SuperMontage transactions. See SR-NASD-2003-56, Rel. No. 34-47621 (April 2, 2003), 68 FR 17418 (April 9, 2003).

<sup>8</sup> AGU and QSR arrangements allow a participant to report trades executed with other brokers with whom they have entered into a contractual arrangement.

<sup>9</sup> Volume will be measured with reference to the market participant identifier ("MPID") appearing on trade reports. If a particular corporate entity has multiple MPIDs associated with the Central Registration Depository ("CRD") number under which it conducts business, Nasdaq will aggregate trade reports associated with all of its MPIDs. However, Nasdaq will not aggregate one corporate entity's reports with those associated with MPIDs assigned to subsidiaries or other affiliates with a different CRD number.

<sup>10</sup> 15 U.S.C. 78o-3.

<sup>11</sup> 15 U.S.C. 78o-3(5).