

on a line-by-line basis. Thus, a firm that used some lines to provide service bureau functionality while using other lines for its own use would identify its service bureau lines and would pay the fee only with respect to those lines.

Even after the implementation of this proposed rule change, it is likely that service bureau customers would pay less for connectivity to Nasdaq than firms that connect directly. Accordingly, Nasdaq will closely monitor connectivity costs and may make additional pricing modifications in the near future.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,¹⁰ particularly subsection 15A(b)(5),¹¹ because 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 that the NASD operates or controls. Nasdaq believes that the proposed rule change would help to address an existing disparity between the charges paid by market participants for direct CTCI connections to Nasdaq and the much lower charges paid by market participants for access through service bureaus.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq neither solicited nor received written comments with respect to the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In particular, the Commission requests comment on Nasdaq's proposal to implement the proposed rule change retroactively as of April 1, 2003. The Commission notes that the retroactive implementation of the proposed fee change would enable Nasdaq to charge for services that it has already rendered.

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 will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-2003-50 and should be submitted by May 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-10097 Filed 4-23-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47697; File No. SR-NASD-2003-68]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Amend Its Restrictions on Non-Cash Compensation in Connection With Corporate Financing and Direct Participation Programs

April 18, 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 April 7, 2003, the National Association of Securities Dealers, Inc. ("NASD"), 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 the NASD. The NASD has designated the proposed rule change as one that constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule pursuant to rule 19b-4(f)(1) under the Act,³ which renders it effective upon receipt of the filing by the Commission. 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

The NASD is proposing a proposed rule change to codify in NASD rules 2710 (Corporate Financing rule) and 2810 (Direct Participation Programs or "DPP" rule) its stated policies, practices, and interpretations regarding members' receipt of non-cash compensation in connection with the sale and distribution of securities. The express prohibitions on the receipt of non-cash compensation currently in the Corporate Financing rule and the DPP rule generally limit the receipt of such items to \$100 per person annually and do not include certain detailed exceptions under NASD rules 2820 (Variable Contracts rule) and 2830 (Investment Company rule) for members selling mutual fund shares and variable annuities. The proposed rule change would codify exceptions in the Variable Contracts and Investment Company rules for members selling debt, equity,

Release No. 44144 (April 2, 2001), 66 FR 18332 (April 6, 2001) (SR-NASD-00-81).

¹⁰ 15 U.S.C. 78o-3.

¹¹ 15 U.S.C. 78o-3(b)(5).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(1).