

ACT.⁵ Nasdaq will implement the proposed rule change on June 1, 2003.

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

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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 executed through SuperMontage (or any other transaction execution system that makes use of SuperMontage's functionality to report transactions) ("*SuperMontage Transactions*").

Average daily volume of transaction reports for SuperMontage Transactions during the month to which a participant is a party.

0 to 9,999 \$0.029

10,000 or more \$0.00

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.

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.

Comparison \$0.029/side.

Late Report—T+N \$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares).

Browse/query \$0.288/side.

Terminal fee \$0.288/query.*

CTCI fee \$57.00/month (ACT only terminals).

WebLink ACT \$575.00/month.

..... \$300/month (full functionality) or \$150/month (up to an average of twenty transactions per day each month).**

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.

*** 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.

[(2)] The \$0.029 fee for reporting of transactions executed through SuperMontage (and other transaction execution systems that make use of SuperMontage's functionality to report transactions) will be waived for an ACT participant during any month in which the participant:

(i) Executed an average daily volume of 10,000 or more transactions through SuperMontage or any other transaction execution system using SuperMontage's

functionality to report transactions; (ii) reported to ACT at least 98% of the internalized transactions in Nasdaq National Market and SmallCap Market securities executed by the participant during the month; and (iii) posted in SuperMontage at least 70% of the bids, offers, and non-marketable limit orders in Nasdaq National Market and SmallCap Market securities communicated by the participant to any market center. Nasdaq may request that

a participant provide data supporting the participant's certification that it is eligible for the foregoing waiver, and will deem a participant that fails to provide such data upon request to be ineligible for the waiver. If a participant has more than one market participant identifier ("MPID") associated with the Central Registration Depository ("CRD") number under which it conducts business, eligibility will be determined by aggregating activity associated with

⁵ This filing applies to usage of ACT by NASD members. The usage of ACT by non-members is governed by NASD Rule 6120.