

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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of EMCC. All submissions should refer to the File No. SR-EMCC-2003-03 and should be submitted by September 16, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48374; File No. SR-NASD-2003-129]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify the Fees for Trading and Compliance Data Available to NASD Member Firms Via NasdaqTrader.com

August 20, 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 August 15, 2003, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), 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. Nasdaq filed the proposal pursuant to section 19(b)(3)(A)(ii) of the Act,³ and rule 19b-4(f)(2) thereunder⁴ as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization, which renders the proposal effective upon filing with 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

Nasdaq proposes to modify the fees for trading and compliance data available to NASD member firms via NasdaqTrader.com. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

7000. Charges for Services and Equipment

7010. System Services

(a)-(m) No change.

(n) NasdaqTrader.com Trading and Compliance Data Package Fee.

The charge to be paid by an NASD Member Firm for each entitled user receiving Nasdaq Trading and Compliance Data Package via NasdaqTrader.com is \$100 [75] per month (monthly maximum of 25 Historical Research Reports) or \$130 [100] per month (monthly maximum of 100 Historical Research Reports). The Nasdaq Trading and Compliance Data Package includes:

- (1) Daily Share Volume Report for a Broker/Dealer (Member Firm's information only).
- (2) Monthly Compliance Report Cards (Member Firm's information only).
- (3) Monthly Summaries.
- (4) Historical Research Reports.
- (i) Market Maker Price Movement Report.
- (ii) Equity Trade Journal (Member Firm's information only).

The Association may modify the contents of the Nasdaq Trading and Compliance Data Package from time to time based on subscriber interest.

(o)-(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 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to modify the fees for trading and compliance data available to NASD member firms via NasdaqTrader.com.

NasdaqTrader.com allows NASD member firms to obtain data regarding their own trading volume in securities in which they report volume as well as information concerning their compliance with NASD rules. Specifically, NASD member firms that subscribe to Nasdaq's Trading and Compliance Data Package ("Data Package") can obtain the following reports: (1) Daily Share Volume Reports, which provide a member firm's own daily share volume for each security in which the firm reports volume; (2) Monthly Compliance Report Cards, which outline a firm's own compliance with various NASD rules; (3) Monthly Summaries, which provide monthly trading volume statistics for the top 50 market participants broken down by industry sector, security or type of trading; and (4) Historical Research Reports, which provide a variety of historical trading data such as a market maker's quote updates for a security on a specified date or trades reported through the Automated Confirmation Transaction Service ("ACT") by a NASD member firm for a selected security and date.

Use of this service is voluntary and NASD member firms have the option of subscribing to two different levels of the Data Package. The "basic" level, which has a fee of \$75 per month, allows access to a maximum of 25 Historical Research Reports per month. The "premium" level, which has a fee of \$100 per month, allows access to a maximum of 100 Historical Research Reports per month. These fees have not increased since the launch of the service in December 1998, even though several enhancements have been made since that time. Some of these enhancements include: (1) Various additional types of Monthly Compliance Report Card reports that show such things as compliance with the short sale bid test and ACT reporting; (2) detailed trade data specific to each Monthly Compliance Report Card; and (3) additional types of Historical Research Reports such as SuperMontage Activity Reports and Daily Security Position Data Reports.

In order to help cover the costs associated with the maintenance of the Data Package service as well as the

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).