

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 NASD. All submissions should refer to File No. SR-NASD-2003-131 and should be submitted by September 17, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48386; File No. SR-NASD-2003-132]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend the Pilot Period for Fees for the National Quotation Data Service

August 21, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 18, 2003, the National Association of Securities Dealers, Inc. ("NASD"), 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 and II below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 extend a one-year pilot program under NASD Rule 7010(h), which reduced from \$50 to \$10 the monthly fee that non-professional users pay to receive the National Quotation Data Service ("NQDS").<sup>6</sup> The purpose of this proposed rule change is to extend the one-year fee reduction pilot program for non-professional users of NQDS through August 31, 2004. Nasdaq proposes no other changes to the pilot as it is currently operating. Accordingly, there is no new proposed rule language.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD 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. The NASD 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 extend for one year the fee reduction pilot program under NASD Rule 7010(h) that reduced from \$50 to \$10 the monthly fee that non-professional users pay to receive NQDS.

NQDS delivers market maker quotations, Nasdaq Level 1<sup>7</sup> service (including calculation and display of the inside market), and last sale information that is dynamically updated on a real-time basis. NQDS data is used not only by firms, associated persons, and other market professionals, but also by non-professionals who receive the service through authorized vendors, including, for example, on-line brokerage firms. Prior to August 31, 2000, NQDS data was available through authorized vendors at a monthly rate of \$50 for professionals and non-professional users alike. In August 2000,

the NASD through Nasdaq filed a rule change to reduce from \$50 to \$10 the monthly fee that non-professional users pay to receive NQDS data. The Commission approved the pilot on August 22, 2000, and the fee reduction commenced on August 31, 2000 on a one-year pilot basis. On September 4, 2001, and again on August 29, 2002, Nasdaq filed proposed rule changes to extend the pilot for another one-year period.

Nasdaq has consistently supported broad, effective dissemination of market information to public investors. Thus, Nasdaq is proposing to extend the one-year fee-reduction pilot for another year. The pilot would cover twelve months, commencing with September 2003 and expiring on August 31, 2004. Nasdaq notes that the existing pilot reduced by 80% the fees that non-professionals paid for NQDS data prior to August 31, 2000. Continuing the reduction of NQDS charges for non-professional users demonstrates Nasdaq's continued commitment to individual investors and responds to the dramatic increase in the demand for real-time market data by non-professional market participants. In addition, NASD member firms often supply real-time market data to their customers through automated means. Thus, NASD member firms' customers will benefit from the continued fee reduction.

###### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>8</sup> in general, and with Sections 15A(b)(5)<sup>9</sup> and 15A(b)(6)<sup>10</sup> of the Act, in particular, in that the proposal is designed to provide for the equitable allocation of reasonable fees among members and other persons using any facility or system which the Association operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers. In addition, Nasdaq believes that the fee reduction enhances the public's access to market data that is relevant to investors when they make financial decisions. Nasdaq further believes that the public's enhanced access to this data may encourage increased public participation in the securities markets.

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

Nasdaq believes that the proposed rule change will impose no burden on competition that is not necessary or

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> Nasdaq asked the Commission to waive the five-day pre-filing notice requirement and the 30-day operative day. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>6</sup> See Securities Exchange Act Release No. 43190 (August 22, 2000), 65 FR 52460 (August 29, 2000) (SR-NASD-2000-47). NQDS is also referred to as the "Nasdaq Quotation Dissemination Service."

<sup>7</sup> Pursuant to NASD Rule 7010(e), Nasdaq separately distributes Level 1 data to non-professionals for a monthly fee of \$1.00.

<sup>8</sup> 15 U.S.C. 78o-3.

<sup>9</sup> 15 U.S.C. 78o-3(b)(5).

<sup>10</sup> 15 U.S.C. 78o-3(b)(6).