

All submissions should refer to File No. SR–NASD–2003–150 and should be submitted by December 16, 2003.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48809; File No. SR–NASD–2003–167]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Raise ACT Fees for Users of the Query Function During the Trade Comparison Process

November 19, 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 November 14, 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, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated the proposed rule as one that establishes or changes a due, fee, or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act,³ which renders the rule effective upon the Commission’s receipt of the filing. 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 amend certain fees on its Automated Confirmation Transaction Service (“ACT”) and

implement the new fees on November 17, 2003. 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)–(f) No change

(g) Automated Confirmation Transaction Service

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

Other reports for transactions in Nasdaq National Market and SmallCap Market securities not subject to comparison through ACT.

Reporting of all other transactions not subject to comparison through ACT. \$0.029/side

Comparison

\$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares)

Late Report—T+N

\$0.288/side

Browse/query

\$0.288/query [(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.)]
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Terminal fee

\$57.00/month (ACT only terminals)

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) (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.)
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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 (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.)
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¹² 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)(ii).