

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54934; File No. SR-NASD-2006-130)

December 13, 2006

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto to Extend a Pricing Pilot for NASD Members Using ITS/CAES and Inet

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 30, 2006, 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 substantially prepared by Nasdaq. On December 6, 2006, Nasdaq submitted Amendment No. 1 to the proposed rule change. Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to extend a pricing pilot for NASD members using the ITS/CAES System and Nasdaq’s Inet facility (collectively, the “Nasdaq Facilities”). Nasdaq states that it will implement this rule change on December 1, 2006. The text of the proposed rule change is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

set forth below. Proposed new language is underlined; proposed deletions are in [brackets].⁵

7010. System Services

(a) – (h) No change.

(i) ITS/CAES System and Inet Order Execution and Routing

(1)– (5) No change.

(6) Except as provided in paragraph (7), the following charges shall apply to the use of the order execution and routing services of the Nasdaq Facilities by members for securities subject to the Consolidated Quotations Service and Consolidated Tape Association plans other than Exchange-Traded Funds (“Covered Securities”):

Order Execution

Order that accesses the Quote/Order of a Nasdaq Facility market participant:	
Charge to member entering order:	
On or after [December 1, 2006] <u>January 2, 2007</u>	\$0.0007 per share executed
For a pilot period during the months of November <u>and December 2006:</u>	

⁵ Nasdaq states that changes are marked to the rule text that appears in the electronic NASD Manual found at www.nasd.com, as amended by SR-NASD-2006-126 (November 13, 2006) on an immediately effective basis.

Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of (i) more than 100,000 shares of liquidity provided, and (ii) more than 100,000 shares of liquidity accessed and/or routed	\$0.0007 per share executed
Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of (i) between 50,000 and 100,000 shares of liquidity provided, and (ii) between 50,000 and 100,000 shares of liquidity accessed and/or routed	\$0.001 per share executed
Other members	\$0.0015 per share executed
Credit to member providing liquidity for a Covered	\$0.0007 per share executed

Security listed on NYSE and The NASDAQ Stock Market LLC:	
Credit to a member providing liquidity for other Covered Securities:	
Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of more than 5 million shares of liquidity accessed, provided, or routed	\$0.0005 per share executed
Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of 10 million or more shares of liquidity provided	\$0.0006 per share executed
Other members	No credit

Order Routing

Order routed to Amex	\$0.0028 per share executed (plus, in the case of orders charged a fee by the Amex specialist, \$0.01 per share executed)
Order routed to NYSE	See NYSE fee schedule in Rule 7010(i)(7)
All other orders	\$0.0028 per share executed

(7) – (8) No change.

(j) - (y) 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 proposes to extend for one month a pricing pilot for non-Nasdaq listed securities traded through the Nasdaq Facilities. Effective November 1, 2006,⁶ Nasdaq introduced a higher

⁶ See Securities Exchange Act Release No. 54742 (November 13, 2006), 71 FR 67179 (November 20, 2006) (SR-NASD-2006-122).

pricing tier of \$0.0015 per share executed for members to access liquidity when those members provide an average of less than 50,000 shares of liquidity per day and access and/or route an average of less than 50,000 shares of liquidity per day in non-Nasdaq securities through the Nasdaq Facilities during the month. In addition, Nasdaq introduced an intermediate pricing tier of \$0.001 per share executed for members to access liquidity when those members provide an average of between 50,000 shares and 100,000 shares of liquidity per day and access and/or route an average of between 50,000 shares and 100,000 shares of liquidity per day.⁷ Nasdaq states that it is continuing to evaluate the effect of the pricing change on market participants' liquidity provision, and therefore is extending the pilot pricing for one month. Nasdaq states that it will determine whether to submit an additional filing regarding these fees by January 2, 2006.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁸ in general, and with Section 15A(b)(5) of the Act,⁹ in particular, in that 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 which the NASD operates or controls. Nasdaq states that the proposed rule change extends for an additional month a pilot that introduced a higher fee for accessing Nasdaq Facility liquidity in cases where a market participant's use of the Nasdaq Facilities does not meet certain minimal thresholds. Nasdaq

⁷ Nasdaq continues to charge \$0.0007 per share executed for all other members to access liquidity (i.e., when those members provide an average of more than 100,000 shares of liquidity per day and access and/or route an average of more than 100,000 shares of liquidity per day).

⁸ 15 U.S.C. 78q-3.

⁹ 15 U.S.C. 78q-3(b)(5).

believes that this change is consistent with an equitable allocation of fees because lower overall fees are charged to market participants that enhance market quality by providing liquidity.

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. In particular, for the reasons discussed in SR-NASD-2006-122, Nasdaq does not believe that the proposed change to fees to access liquidity in non-Nasdaq securities through the Nasdaq Facilities will impose a burden on competition by other markets that route orders to the Nasdaq Facilities for execution.

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

Written comments were neither solicited nor received.

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

The foregoing rule change is subject to Section 19(b)(3)(A)(ii) of the Act¹⁰ and subparagraph (f)(2) of Rule 19b-4 thereunder¹¹ because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

Act.¹²

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. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-NASD-2006-130 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-NASD-2006-130. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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

¹² 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on December 6, 2006, the date on which the Exchange submitted Amendment No. 1.

such filing will also be available for inspection and copying at the principal office of the NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-NASD-2006-130 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Florence E. Harmon
Deputy Secretary

¹³ 17 CFR 200.30-3(a)(12).