

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53505; File No. SR-NASD-2006-032)

March 16, 2006

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto to Reduce Routing Charges for Non-NASD Members

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 March 1, 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 and II below, which Items have been prepared by Nasdaq. On March 15, 2006, Nasdaq submitted Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and at the same time is granting accelerated approval of the proposed rule change, as amended.

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

Nasdaq proposes to reduce routing charges for non-NASD members that use Nasdaq systems and to eliminate for those non-members a volume-based port fee waiver for non-NASD members that use Nasdaq’s INET facility. The filing would apply to these non-members a pricing schedule similar to the schedule that Nasdaq instituted for

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 adds a technical correction to the rule text.

members.⁴ Nasdaq requests approval to implement these reduced non-member fees on an accelerated basis with a retroactive effective date of March 1, 2006, the same date these fee changes became applicable to members.

The text of the proposed rule change, as amended, is below. Proposed new language is underlined. Proposed deletions are in [brackets].

* * * * *

7010. System Services

(a) through (h) No change.

(i) Nasdaq Market Center, Brut, and Inet Order Execution and Routing

(1) through (6) No change.

(7) The fees applicable to non-members using Nasdaq's Brut and Inet Facilities shall be the fees established for members under Rule 7010(i), as amended by SR-NASD-2005-019, SR-NASD-2005-035, SR-NASD-2005-048, SR-NASD-2005-071, SR-NASD-2005-125, SR-NASD-2005-137, SR-NASD-2005-154, SR-NASD-2006-013, [and] SR-NASD-2006-023, and SR-NASD-2006-031, and as applied to non-members by SR-NASD-2005-020, SR-NASD-2005-038, SR-NASD-2005-049, SR-NASD-2005-072, SR-NASD-2005-126, SR-NASD-2005-138, SR-NASD-2005-155, SR-NASD-2006-014, [and] SR-NASD-2006-024, and SR-NASD-2006-032.

(j) through (v) No change.

(w) INET System Connectivity

(1) No change.

(2) The INET connectivity fees applicable to non-members shall be the fees established for members under Rule 7010(w), as established by SR-NASD-2005-128 and

⁴ See File No. SR-NASD-2006-031 (March 1, 2006).

amended by SR-NASD-2005-147, [and] SR-NASD-2006-013, and SR-NASD-2006-031, and as applied to non-members by SR-NASD-2005-128, SR-NASD-2005-148, [and] SR-NASD-2006-014, and SR-NASD-2006-032.

* * * * *

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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item III 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 states that this filing would apply to non-members a pricing schedule similar to that Nasdaq is instituting for members.⁵ Nasdaq states that under that schedule, NASD members saw their routing charges reduced as follows:

(1) from \$0.0015 to \$0.001, the fee per share executed for routing orders in New York Stock Exchange ("NYSE") listed securities to venues other than the NYSE;

(2) from \$0.0035 to \$0.003, the fee per share executed for routing orders in securities listed on a venue other than the NYSE and routed to venues other than the American Stock Exchange ("AMEX");

⁵ See footnote 4, supra.

(3) from \$0.0035 to \$0.003, the fee per share executed for routing orders in Non-Nasdaq Exchange Traded Funds (“ETFs”) to venues other than the NYSE or AMEX.

Finally, Nasdaq states that NASD members had eliminated the port fee waiver for Nasdaq’s INET facility subscribers that for a calendar month average daily execution of orders in the INET system of in excess of 30 million shares of added liquidity.

Nasdaq represents that this filing seeks to impose these exact changes on non-NASD members that use Nasdaq systems and seeks to do so on accelerated basis and retroactively to March 1, 2006, the same date these fee changes became applicable to members.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of Section 15A of the Act,⁶ in general, and with Section 15A(b)(5) of the Act,⁷ in particular, in that the proposed rule change, as amended, 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.

B. Self-Regulatory Organization’s Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Nasdaq states that written comments were neither solicited nor received.

⁶ 15 U.S.C. 78o-3.

⁷ 15 U.S.C. 78o-3(b)(5).

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 Number SR-NASD-2006-032 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASD-2006-032. 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 such filing also will 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 Number SR-NASD-2006-032 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a self-regulatory organization.⁸ Specifically, the Commission believes that the proposed rule change, as amended, is consistent with Section 15A(b)(5) of the Act,⁹ which requires that the rules of the self-regulatory organization provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facilities or system which it operates or controls.

The Commission notes that this proposal would retroactively modify pricing for non-NASD members using the Nasdaq Facilities that would permit the schedule for non-NASD members to mirror the schedule applicable to NASD members that became effective March 1, 2006, pursuant to SR-NASD-2006-031.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day of the date of publication of the notice thereof in the Federal Register. The Commission notes that the proposed fees for non-NASD members are identical to those in SR-NASD-2006-031, which implemented those fees for NASD

⁸ The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78q-3(b)(5).

members and which became effective as of March 1, 2006. The Commission notes that this change will promote consistency in Nasdaq's fee schedule by applying the same pricing schedule with the same date of effectiveness for both NASD members and non-NASD members. Therefore, the Commission finds that there is good cause, consistent with Section 19(b)(2) of the Act,¹⁰ to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change, as amended, (File No. SR-NASD-2006-032), is approved on an accelerated basis.

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

Nancy M. Morris
Secretary

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).