

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-55538; File No. SR-NASD-2007-018)

March 27, 2007

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the NASD Rule 7000 Series to Delete References to Systems and Services that Will No Longer Be Provided by NASD

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 March 1, 2007, the National Association of Securities Dealers, Inc. (“NASD”) 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 substantially by NASD. NASD has designated this proposal as “establishing or changing a due, fee, or other charge” under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> 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 the Substance of the Proposed Rule Change

NASD is proposing to amend the NASD Rule 7000 Series (Charges for Services and Equipment) to delete references to systems and services that will no longer be provided by NASD upon the operation of NASD’s Alternative Display Facility (the “ADF”) for non-Nasdaq exchange-listed securities, which is anticipated to be March 5, 2007. The Rule 7000 Series only will apply to NASD’s OTC Bulletin Board Service, OTC Reporting Facility (“ORF”) and Trade

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<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)(ii).

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

Reporting and Compliance Engine (“TRACE”). In this proposed rule change, NASD also is providing notice relating to the calculation of fees under Rule 7010 for use of NASD’s Intermarket Trading System/Computer Assisted Execution Service (the “ITS/CAES System”) on March 1 and 2, 2007, which will apply if the changes proposed herein are implemented on March 5, 2007 as anticipated. The text of the proposed rule change is available at NASD, the Commission's Public Reference Room, and [www.nasd.com](http://www.nasd.com).

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

In its filing with the Commission, 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. 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

On June 30, 2006, the Commission approved SR-NASD-2005-087, which, among other things, proposed an implementation strategy for the operation of the Nasdaq Stock Market LLC (the “Nasdaq Exchange”) as a national securities exchange for Nasdaq-listed securities during a transitional period.<sup>5</sup> On November 21, 2006, the Commission approved SR-NASD-2006-104, which, among other things, proposed amendments necessary to reflect the complete separation of The Nasdaq Stock Market Inc. (“Nasdaq”) from NASD upon the operation of the Nasdaq

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<sup>5</sup> See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving SR-NASD-2005-087).

Exchange as a national securities exchange for non-Nasdaq exchange-listed securities.<sup>6</sup> As described in SR-NASD-2006-135, for a transitional period, Nasdaq has continued to operate the SuperIntermarket (SiM) trading platform on NASD's behalf via the Transitional System and Regulatory Services Agreement, even upon commencement of the Nasdaq Exchange's operation as an exchange for non-Nasdaq exchange-listed securities on February 12, 2007.<sup>7</sup> Upon the operation of the ADF for non-Nasdaq exchange-listed securities, SiM will no longer be operated as a facility of NASD.

Currently, the NASD Rule 7000 Series addresses, among other things, the pricing schedule for the Consolidated Quotation Service and ITS/CAES System, which operate as part of, or in conjunction with, the SiM platform. Once the ADF becomes operational for non-Nasdaq exchange-listed securities, these systems will no longer be operated as NASD facilities and as such, the pricing schedule for use of these systems, as well as associated equipment and other fees, must be deleted from NASD's rules. Accordingly, NASD is proposing to rename the Rule 7000 Series as "Charges For OTC Reporting Facility, OTC Bulletin Board and Trade Reporting and Compliance Engine Services" and delete from the Rule 7000 Series all fee provisions that are no longer applicable. The current pricing schedule for members' use of the OTC Bulletin Board Service, ORF and TRACE will be retained and renumbered. Specifically, current Rule 7010(g) will be renumbered as Rule 7010 (OTC Reporting Facility) and amended to apply only to the ORF; current Rule 7010(j) will be renumbered as Rule 7020 (OTC Bulletin Board Service); current Rule 7010(k) will be renumbered as Rule 7030 (Trade Reporting and

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<sup>6</sup> See Securities Exchange Act Release No. 54798 (November 21, 2006), 71 FR 69156 (November 29, 2006) (order approving SR-NASD-2006-104).

<sup>7</sup> See Securities Exchange Act Release Nos. 54984 (December 20, 2006), 71 FR 78245 (December 28, 2006) (notice of filing and immediate effectiveness of SR-NASD-2006-135) and 55274 (February 12, 2007), 72 FR 7785 (February 20, 2007) (notice of filing and immediate effectiveness of SR-NASD-2007-012).

Compliance Engine (TRACE)); and paragraphs (3) and (4) of current Rule 7010(p) will be renumbered as paragraphs (a) and (b) of Rule 7040 (Historical Research and Administrative Reports). NASD is not proposing to modify any of the fees relating to such services in this proposed rule change; it is only deleting those fee provisions that are no longer applicable.<sup>8</sup>

NASD also notes that the fee schedule currently set forth in Rule 7010 relating to the use of the ITS/CAES System varies based upon the member's monthly volume. Assuming implementation of the changes proposed herein on March 5, 2007, the fees in Rule 7010 will apply only to two trading dates in March. Thus, NASD is clarifying that the fees charged for use of the ITS/CAES System on March 1 and 2, 2007 will be based on the member's volume for February 2007. In other words, the fee rates charged to a member for March 1 and 2, 2007 will be the same rates charged to the member for February 2007.

NASD has filed the proposed rule change for immediate effectiveness. The operative date of the proposed rule change will be the date upon which the ADF begins operating for non-Nasdaq exchange-listed securities, currently scheduled for March 5, 2007.

## 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>9</sup> in general, and with Section 15A(b)(5) of the Act,<sup>10</sup> in particular, in that it

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<sup>8</sup> NASD notes that NASD members will continue to access the OTC Bulletin Board, which Nasdaq operates on NASD's behalf, via the Nasdaq Workstation. The Nasdaq Workstation also provides access to a variety of Nasdaq Exchange systems and services. Pursuant to the proposed rule change, the fees relating to access to and use of the Nasdaq Workstation will be deleted from NASD's rules as NASD does not charge for this service. However, NASD members are nonetheless required to pay all fees for access to and use of the Nasdaq Workstation pursuant to the applicable rules of the Nasdaq Exchange (see, e.g., Rules 7011 and 7015), which apply to members and non-members of the Nasdaq Exchange.

<sup>9</sup> 15 U.S.C. 78o-3.

<sup>10</sup> 15 U.S.C. 78o-3(b)(5).

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. NASD is proposing to delete references to fees for systems and services that NASD will no longer provide and is not proposing to modify the fees for use of any of the systems and services that NASD will continue to provide.

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

NASD 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.

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

Because the foregoing proposed rule change establishes or changes a member due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and subparagraph (f)(2) of Rule 19b-4<sup>12</sup> thereunder. 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 Act.

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:

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<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

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](mailto:rule-comments@sec.gov). Please include File Number SR-NASD-2007-018 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-2007-018. 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 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-2007-018 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.<sup>13</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).