

SECURITIES AND EXCHANGE COMMISSION
(Release No.34-50483; File No. SR-NASD-2004-118)

October 1, 2004

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. to Introduce an Extranet Access Fee for Extranet Providers to Provide Direct Access Services for Nasdaq Market Data Feeds

I. Introduction

On August 4, 2004, 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”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² a proposed rule change to introduce an access fee to be charged to extranet providers to furnish direct access services for Nasdaq market data feeds. The proposed rule change was published for notice and comment in the Federal Register on September 1, 2004.³ The Commission received two comment letters on the proposed rule change, both supporting the proposal.⁴

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 national securities association,⁵ and, in particular, the requirements of Section 15A(b)(5) of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 50262 (August 25, 2004), 69 FR 53480.

⁴ See letter from Scott Feier, Vice President, Fidelity Investments, to Jonathan G. Katz, Secretary, Commission, dated September 1, 2004; and letter from P. Howard Edelstein, President and CEO, Radianz Americas Inc., to Jonathan G. Katz, Secretary, Commission, dated September 22, 2004.

⁵ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

Act.⁶ The Commission believes that the proposed rule change will result in the equitable allocation of a reasonable fee among extranet service providers furnishing direct access services for Nasdaq market data feeds. The Commission notes that Nasdaq plans to use the proposed fee to support Nasdaq's costs associated with establishing and maintaining multiple extranet connections, the costs for republishing, increased network monitoring and maintenance costs, and new administrative and operational costs.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NASD-2004-118) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland
Deputy Secretary

⁶ 15 U.S.C. 78o-3(b)(5).

⁷ 17 CFR 200.30-3(a)(12).