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NYSE
New York Stock Exchange, Inc.

Via email to www.rule-comments@sec.gov

May 6, 2003

Mr. Jonathan G. Katz
Secretary
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: Nasdaq Deduction of Capacity Costs from Pools of Shared Market Data Revenues
Release No. 34-47635; File No. SR-NASD-2003-63

Dear Mr. Katz:

The Commission recently approved amendments to the CTA Plan and the CQ Plan that, among other things, transferred the obligation to reimburse SIAC for providing system capacity from the collective CTA and CQ revenue pools to each Participant in accordance with its individual capacity needs.¹ This means that Nasdaq, like other Participants, now receives its share of CTA/CQ revenues from a larger CTA/CQ revenue pool, a pool from which collective capacity costs are no longer deducted. On the other hand, Nasdaq, like other Participants, now also pays SIAC directly for the costs that SIAC incurs in providing Nasdaq with the aggregate transmission capacity that Nasdaq requests for transmitting its transaction and quotation information via the consolidated systems.

Nasdaq currently shares with its members 50 percent of the revenues that it receives from Network A, as well as 50 percent of the revenues that it receives from Network B, under the CTA and CQ Plans. In the captioned proposed rule change, Nasdaq reduces the size of its Network A and Network B revenue-sharing pools by the amount it pays directly for consolidated system capacity.

As we have noted repeatedly,² NYSE opposes all market data revenue-sharing programs, including those of Nasdaq, as inconsistent with the 1934 Act and the protection of investors. The Commission

¹ See File No. SR-CTA/CQ-2002-01; Release No. 34-47363 (February 12, 2003).

² See letters from Darla Stuckey, Secretary, NYSE, to Jonathan G. Katz, Secretary, Securities and Exchange Commission, dated October 21, 2002 (Boston Stock Exchange market data revenue-sharing program; File No. SR-BSE-2002-10; Release No. 34-46496), November 18, 2002 (Cincinnati Stock Exchange market data revenue-sharing program; File No. SR-CSE-2002-14; Release No. 34-46688), December 6, 2002 (NASD trading activity fee; File No. SR-NASD-2002-148; Release No. 34-46417), December 10, 2002 (Pacific Stock Exchange revenue-sharing program; File No. SR-PCX-2002-62; Release No. 34-46805) and April 3, 2003 (Philadelphia Stock Exchange Network B market data revenue-sharing program; File No. SR-PHLX-2002-77; Release No. 34-47456).

invoked these bases in abrogating various market data revenue-sharing programs for Nasdaq-listed stocks last July.³ Because the captioned proposed rule change reduces the size of the market data revenue pools that Nasdaq will share with its members, NYSE views the proposed rule change as a small step in the right direction. However, it is only a small step. Thus, NYSE continues to urge the Commission to abolish Nasdaq's, and all other, market data revenue-sharing programs.

We thank you for this opportunity to comment and would be pleased to respond to any questions that you may have.

Sincerely yours,

/s/

cc: Chairman William H. Donaldson
Commissioner Paul S. Atkins
Commissioner Roel C. Campos
Commissioner Cynthia A. Glassman
Commissioner Harvey J. Goldschmid
Annette L. Nazareth
Lawrence E. Harris
Robert L. D. Colby
Stephen Williams
Gene Lopez, NASDAQ

³ See Order of Summary Abrogation, Release No. 46159 (July 2, 2002).