

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-54268; File No. SR-NASD-2006-078)

August 3, 2006

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Regarding the Pricing Schedule for NASD Members Using the Nasdaq Market Center and Nasdaq's Brut and Inet Facilities

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 June 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 prepared by Nasdaq. On July 25, 2006, Nasdaq filed Amendment No. 1 to the proposed rule change. On July 26, 2006, Nasdaq filed Amendment No. 2 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 modify the pricing for NASD members using the Nasdaq Market

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).

Center and Nasdaq's Brut and Inet Facilities ("Nasdaq Facilities").⁵ Nasdaq states that it will implement the proposed rule change on July 3, 2006. The text of the proposed rule change, as amended, is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].⁶

7010. System Services

(a) – (h) No change.

(i) Nasdaq Market Center, Brut, 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:	
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⁵ The Commission notes that Nasdaq filed a proposed rule change to apply the same pricing change to non-members. See Securities Exchange Act Release No. 54269 (August 3, 2006) (File No. SR-NASD-2006-079).

⁶ Changes are marked to the rule text that appears in the electronic NASD Manual found at www.nasd.com, as further amended on an immediately effective basis by SR-NASD-2006-057 (May 1, 2006). Prior to the date when The NASDAQ Stock Market LLC ("NASDAQ LLC") commences operations, NASDAQ LLC will file a conforming change to the rules of NASDAQ LLC approved in Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10-131).

Charge to member entering order	\$0.0007 per share executed
Credit to member providing liquidity:	
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 <u>but less than 10 million shares of liquidity provided</u>	\$0.0005 per share executed
<u>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</u>	<u>\$0.0006 per share executed</u>
Other members	No credit

Order Routing

Order routed to Amex	\$0.003 per share executed (plus, in the case of orders charged a fee by the Amex specialist, \$0.01 per share executed)
Order routed through the ITS	\$0.0007 per share executed
Order routed to NYSE	See DOT fee schedule in Rule 7010(i)(7)
Order for NYSE-listed Covered Security routed to venue other than the NYSE	\$0.001 per share executed
Order for Covered Security listed on venue other than the NYSE and routed to venue other than Amex	\$0.003 per share executed

(7) – (9) 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, 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 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 is proposing to increase its liquidity provider credit for NASD members using the Nasdaq Facilities to trade securities listed on the New York Stock Exchange, the American Stock Exchange, and other exchanges. Specifically, the change applies to securities subject to the Consolidated Quotations Service and Consolidated Tape Association plans other than Exchange-Traded Funds ("Covered Securities").⁷ Nasdaq currently offers a liquidity provider credit of \$0.0005 per share to firms with an average daily volume through the Nasdaq Facilities in Covered Securities during a month of more than 5 million shares of liquidity accessed, provided, or routed. Effective July 3, 2006, Nasdaq will offer an increased credit of \$0.0006 per share for firms with an average daily volume through the Nasdaq Facilities in Covered Securities during a month of 10 million or more shares of liquidity provided. Nasdaq believes the change should encourage firms to make greater use of the Nasdaq Facilities for trading Covered Securities, particularly with regard to using the Nasdaq Facilities to provide liquidity to support executions.

2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, 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

⁷ Exchange-Traded Funds listed on venues other than Nasdaq are subject to the same fee schedule as Nasdaq-listed securities, under NASD Rule 7010(i)(1).

⁸ 15 U.S.C. 78o-3.

⁹ 15 U.S.C. 78o-3(b)(5).

NASD operates or controls. Nasdaq states that the proposed rule change, as amended, would increase the liquidity provider credit available to firms that make substantial use of the Nasdaq Facilities for trading Covered Securities, thereby reducing overall trading costs.

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

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 Act.¹²

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

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 July 26, 2006, the date on which the Exchange submitted Amendment No. 2.

IV. 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 No. SR-NASD-2006-078 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-2006-078. 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 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-2006-078 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

Nancy M. Morris
Secretary

¹³ 17 CFR 200.30-3(a)(12).