

it to be able to complete securities settlement. Section 8 of Rule 12 provides that if FICC deems it appropriate to obtain financing to provide its securities settlement services, FICC may create security interests in eligible netting securities delivered by a netting member in order to obtain such financing. The provision requires that members not take any action to adversely affect this process. The provision also states that such security interests may be created to obtain financing in an amount greater than the obligation of a member to FICC relating to such eligible netting securities. Thus, clearing fund securities may also be used to collateralize such financing. Also, Section III.C of the GSD's fee structure provides the formula that the GSD uses to charge members for the cost of any financing obtained by GSD.

FICC interprets Section 8 of Rule 12 and Section III.C. to apply to financing that might arise because of FICC's assumption of blind brokered fails. FICC does not believe that actual changes to this rule is necessary for this clarification.

### III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.<sup>7</sup> The Commission finds that FICC's proposed rule change is consistent with this requirement because the change, which is designed to clarify FICC's practice of assuming failed blind brokered repo transactions, will facilitate the settlement of blind brokered repo fails and as such will facilitate the prompt and accurate clearance and settlement of these transactions. By facilitating the settlement of these fails, FICC will also reduce settlement risk, which will better enable it to assure the safeguarding of securities and funds which are in FICC's custody or control or for which it is responsible.

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change, as amended, (File No. SR-FICC-2005-17) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Nancy M. Morris,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54500; File No. SR-NASDAQ-2006-025]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Regarding Fees for the New Nasdaq Workstation and Weblink ACT

September 25, 2006.

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 August 1, 2006, The NASDAQ Stock Market LLC ("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. Nasdaq amended the proposed rule change on September 20, 2006.<sup>3</sup> Pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and Rule 19b-4(f)(2)<sup>5</sup> thereunder, Nasdaq has designated the proposed rule change as establishing or changing a member due, fee, or other charge, which renders the proposed rule change 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.

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> See Amendment No. 1. The effective date of the original proposed rule change is August 1, 2006 and the effective date of the amendment is September 20, 2006. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on September 20, 2006, the date Nasdaq filed Amendment No. 1. See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

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

Nasdaq proposes to modify fees for the New Nasdaq Workstation ("NNW") and Weblink ACT. Nasdaq will implement the proposed rule change on August 1, 2006. The text of the proposed rule change is available at the Commission's Public Reference Room, at Nasdaq, and at <http://www.nasdaq.com>.<sup>6</sup>

### 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 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. 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 amending Rule 7015 to change fees associated with its web-based New Nasdaq Workstation ("NNW") and Weblink ACT products. Since the NNW's inception as a replacement for the Nasdaq Workstation II ("NWII") last year, the fee for the NNW has been \$435 per user per month, plus \$90 per month for data feeds included with the NNW, for a total cost of \$525 per user per month. Nasdaq is now reducing the fee to \$475 per user per month, including the cost of the data feeds provided with the NNW. The change is designed to enhance the competitiveness of the NNW in contrast to front-end applications provided by broker-dealers and service bureaus, and, as discussed below, also reflects decreasing demand for the product.

Weblink ACT, also referred to as Nasdaq Workstation Post Trade, is a Web-based application used for

<sup>6</sup> Changes to the proposed rule text are marked to the rule text that appears in the electronic Nasdaq Manual found at [www.complinet.com/nasd.com](http://www.complinet.com/nasd.com) as further amended on an immediately effective basis by SR-NASDAQ-2006-024. Because the Nasdaq Workstation and Weblink ACT are also used with respect to the quotation, execution, and trade reporting systems operated by The Nasdaq Stock Market, Inc. ("Nasdaq Inc.") with respect to non-Nasdaq securities, Nasdaq Inc. is also filing these proposed rule changes as a modification to NASD Rule 7010(f). See SR-NASD-2006-094.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

submission of trade reports. As such, as Nasdaq begins to operate as a national securities exchange, Weblink ACT provides basic front-end access to the Trade Reporting Facility ("TRF") operated by Nasdaq and the National Association of Securities Dealers, Inc. ("NASD"),<sup>7</sup> as well as access to ACT functionality still offered by Nasdaq Inc. under authority delegated by NASD.

Since the introduction of NNW and Weblink ACT, a number of former NWII users have opted to move to Weblink ACT rather than NNW, reflecting a desire to use these Web-based products exclusively for trade reporting, rather than active trading. Accordingly, Nasdaq proposes to increase the comparatively low fees for Weblink ACT to ensure that, as between NNW and Weblink ACT, fees are allocated appropriately to allow recovery of Nasdaq's costs. Specifically, the current \$150 fee for Weblink ACT users that report a daily average of 20 or fewer trades during a month is being raised to \$200, while the \$300 fee for higher volume users is being increased to \$375.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>8</sup> in general, and with Section 6(b)(4) of the Act,<sup>9</sup> in particular, in that the proposed rule change 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 Nasdaq operates or controls. The proposed rule change reflects demand patterns for NNW and Weblink ACT and is designed to ensure that as between the products, fees are allocated appropriately to allow recovery of Nasdaq's costs.

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

Nasdaq 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, as amended.

### *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.

<sup>7</sup> Nasdaq expects that, consistent with current practice, most NASD members seeking access to the TRF would use a proprietary front-end system developed by the broker-dealer or a product offered by a service bureau. Weblink ACT is designed as a basic front-end system for low volume users.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and Rule 19b-4(f)(2) thereunder,<sup>11</sup> in that the proposed rule change establishes or changes a member due, fee, or other charge. 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:

#### *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-NASDAQ-2006-025 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 Number SR-NASDAQ-2006-025. 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 NASDAQ. 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-NASDAQ-2006-025 and should be submitted on or before October 23, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Nancy M. Morris,  
Secretary.

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54501; File No. SR-NASDAQ-2006-026]

### **Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Amended Regarding Pricing for Non-Members Using the New Nasdaq Workstation and Weblink ACT**

September 25, 2006.

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 August 1, 2006, The NASDAQ Stock Market LLC ("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. Nasdaq amended the proposed rule change on September 20, 2006.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and simultaneously 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**

This proposed rule change relates to the pricing for non-Nasdaq members using Nasdaq's New Nasdaq Workstation ("NNW") and Weblink ACT products. The proposal will apply to these non-members the same changes

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

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> See Amendment No. 1.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).