

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-27910 Filed 10-16-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 19, 1998.

An open meeting will be held on Wednesday, October 21, 1998, at 10:00 a.m. A closed meeting will be held on Thursday, October 22, 1998, at 11:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, October 21, 1998, at 10:00 a.m., will be: The Commission will consider whether to adopt rules 3b-12, 3b-13, 3b-14, 3b-15, 11a1-6, 15a-1, 15b9-2, 15c3-4, 17a-12, 36a1-1, and 36a1-2 under the Securities Exchange Act of 1934 ("Exchange Act") and amendments to Rule 30-3 and Exchange Act rules 8c-1, 15b1-1, 15c2-1, 15c2-5, 15c3-1, 15c3-3, 17a-3, 17a-4, 17a-5, 17a-11, and Form X-17A-5 (FOCUS report). The rules and rule amendments tailor capital, margin, and other broker-dealer regulatory requirements to a class of registered dealers, called OTC derivatives dealers, that are active in over-the-counter derivatives markets. Registration as an OTC derivatives dealer is an alternative to registration as a fully regulated broker-dealer, and is available to entities that engage in dealer activities in eligible OTC derivative instruments and that meet certain financial responsibility and

other requirements. For further information, please contact Catherine McGuire, Chief Counsel, Division of Market Regulation at (202) 942-1161, or Michael Macchiaroli, Associate Director, Division of Market Regulation at (202) 942-0132.

The subject matter of the closed meeting scheduled for Thursday, October 22, 1998, at 11:00 a.m., will be: Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: October 14, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98-28056 Filed 10-15-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40543; File No. SR-NASD-98-70]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a Logon Identification Fee for Nasdaq's Mutual Fund Quotation System

October 9, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 18, 1998 the National Association of Securities Dealers, Inc. ("NASD") through its wholly-owned 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 October 1, 1998, the NASD submitted Amendment No. 1 to the proposed rule change.² The Commission is publishing this notice to

¹ 15 U.S.C. 78s(b)(1).

² See, letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Commission (Oct. 1, 1998). In Amendment No. 1, Nasdaq clarified its position that the proposed logon identification fee is designed to cover only the cost of administering and maintaining the Internet security system.

solicit comments on the proposed rule change from interested persons.

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

The NASD and Nasdaq are proposing to amend NASD Rule 7090 to add a logon identification fee for subscribers to Nasdaq's Mutual Fund Quotation System ("MFQS" or "Service") that use the MFQS to transmit to Nasdaq fund-pricing and other required information. Below is the text of the proposed rule change. Additions are italicized.

* * * * *

7090. Mutual Fund Quotation Service

(a) Funds included in the Mutual Fund Quotation Service ("MFQS") shall be assessed an annual fee of \$275 per fund authorized for the News Media Lists and \$200 per fund authorized for the Supplemental List. Funds authorized during the course of an annual billing period shall receive a proration of these fees but no credit or refund shall accrue to funds terminated during an annual billing period. In addition, there shall be a one-time application processing fee of \$250 for each new fund authorized.

(b) *Funds included in the MFQS and pricing agents designated by such funds ("Subscriber"), shall be assessed a monthly fee of \$75 for each logon identification obtained by the Subscriber. A Subscriber may use a logon identification to transmit to Nasdaq pricing and other information that the Subscriber agrees to provide to Nasdaq.*

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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, the 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. Nasdaq has prepared summaries, set forth in Section 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

The NASD and Nasdaq are proposing to amend NASD Rule 7090 to establish a \$75 monthly logon identification fee

for Nasdaq's Mutual Fund Quotation Service.

Currently, MFQS collects daily price and related data for open-end funds and money market funds, and publicly disseminates the information to the news media and market data vendors. Recently, Nasdaq amended its rules to add closed-end funds to the MFQS.³ Previously, closed-end funds could not be included because the Nasdaq Special Service Network ("SSN") on which the MFQS currently resides does not accommodate some of the data attributes needed for closed-end funds. Nasdaq recently re-designed and upgraded the MFQS to include closed-end funds and as part of Nasdaq's plan to eliminate the outdated and outmoded SSN.

The upgraded MFQS was developed using web-based technology. The MFQS, which is scheduled to begin operation on or about October 26, 1998, will permit funds included in the Service or a pricing agent designed by such funds ("Subscribers") to transmit directly to Nasdaq via an Internet connection the following: net asset value, offer price, closing market price, as well as other information that Subscribers agree to provide to Nasdaq.⁴ Nasdaq developed a multi-pronged Internet security system to ensure the safety and integrity of the information transmitted by Subscribers to Nasdaq. Specifically, Nasdaq will assign to a Subscriber a logon identification(s) and will also provide the Subscriber with "certificate" software. The certificate software, when loaded onto a Subscriber's personal computer, will allow the Subscriber to interface with the MFQS and to transmit data securely to Nasdaq. A logon identification will allow one user at a Subscriber to access the MFQS at a time.⁵ Each logon

identification will be unique and will allow a subscriber to review and update only the Subscriber's pricing information.

Nasdaq estimates that the MFQS's share of the on-going costs to administer and maintain the Internet security system will be \$239,000.⁶ In order to recover the costs related to the administration and maintenance of the MFQS's portion of the Internet security system, the NASD and Nasdaq are proposing to establish a logon identification fee for those who use the Service to report pricing information. As proposed, a Subscriber will be assessed \$75 per month for each logon identification a Subscriber orders. Nasdaq will permit a Subscriber to order a single or multiple logon identifications, each of which will be unique to the Subscriber.

2. Statutory Basis

The NASD and Nasdaq believe that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,⁷ which requires that the rules of the NASD provide 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. The NASD and Nasdaq believe that the logon fee is a fair means of recovering the cost of providing security for the MFQS because the fee is imposed directly and only on those who use the MFQS and who benefit from the Internet security system that the fee is intended to fund. Moreover, the proposed fee is designed to cover only the administrative and maintenance costs of the MFQS security system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD and Nasdaq do 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.

⁶ At present, the security system is sized (hardware and personnel) to handle only the users of the MFQS and the NasdaqTrader.com web sites. (NasdaqTrader.com will be employing this Internet security system, as this website soon will be adding additional services that will provide members with certain proprietary or sensitive information.) The administrative and maintenance costs of the Internet security system will be allocated between the MFQS and NasdaqTrader.com, based on the services' proportionate cost. In the future, Nasdaq may use the Internet security system with several NASD web-based services. See, Securities Exchange Act Release No. 34-40542, (Oct. 9, 1998) SR-NASD-98-71.

⁷ 15 U.S.C. 78o-3.

(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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.⁸

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. 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 submissions should refer to File No. SR-NASD 98-70 and should be submitted by November 9, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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⁸ In Nasdaq's 19(b)(4) filing, Nasdaq asked for accelerated approval. The Commission, however, has decided the proposed rule should be subjected to the notice and comment period found in Section 19(b)(2) of the Act.

⁹ See 17 CFR 200.30-3(a)(12).

³ See Securities Exchange Act Rel. No. 40519 (Oct. 5, 1998).

⁴ Each fund that is included in the MFQS signs an agreement with Nasdaq pursuant to which the fund agrees to provide the aforementioned information (as applicable) to Nasdaq on a daily basis. See NASD Rule 6800(b)(2). Additionally, if a fund designates a pricing agent to report pricing information to Nasdaq on behalf of the fund, the pricing agent also signs the aforementioned agreement.

⁵ That is, the same logon identification cannot be used simultaneously by more than one user at the Subscriber at a time, although a logon identification may be used by more than one user at a Subscriber so long as it is done on a non-simultaneous basis. Thus, while more than one user at a Subscriber can share a logon identification to update pricing information, Nasdaq's system will not permit multiple users to logon simultaneously to the MFQS using the same logon identification. A Subscriber may order multiple logon identifications, each of which will be unique and which may be used simultaneously with one another to access the MFQS.