

Commission specifically requests comments on the following questions:

Should NASD member firms be permitted to use third-party telemarketing firms for the limited marketing activities set forth in the proposal (*i.e.*, as unregistered marketers)?

To what extent are third-party telemarketing firms currently used by member firms for cold calling or marketing purposes?

What types of member firms typically rely on third-party telemarketing firms to conduct cold calling on their behalf (*i.e.*, large firms, medium-sized, or small firms)?

The proposal requires member firms to "periodically monitor" the calls made by unregistered persons on their behalf to ensure that the discussions are limited to permissible topics. There is, however, no requirement that such calls be tape recorded. How would member firms monitor calls by unregistered persons working off-site at third-party telemarketing firms or working for member firms off-site?

If a member firm can use third-party telemarketers, how can a member firm be certain that unregistered persons working for third-party telemarketing firms will limit their conversations with existing and prospective members to the permissible topics?

Will the required "reasonable background investigation" be sufficient to ensure that individuals who have been suspended from the industry are not permitted to engage in limited marketing activities?

Would member firms be able to adequately supervise the limited marketing activities of employees of third-party telemarketing firms?

What steps should firms take if a third-party telemarketer fails to comply with these requirements?

What should the NASD do to ensure that such limited marketing activities conducted off-site at third-party telemarketing firms are appropriately supervised by member firms?

If the use of third-party telemarketing firms is permitted, the proposal would require employees of third party telemarketing firms to acknowledge in writing or electronically that they are associated persons. The Commission notes that there is no requirement for an electronic signature or any other heightened restrictions in place. Will an electronic acknowledgment provide the member firm and the NASD with sufficient information as to the true identity of the individual?

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, 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 at 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-98-44 and should be submitted by January 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40783; File No. SR-NASD-98-84]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to SelectNet Fees

December 11, 1998.

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 on November 9, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), 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 the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

Nasdaq is filing a proposed rule to extend, through March 31, 1999, the fees currently charged under NASD Rule 7010(1) for the execution of transactions in SelectNet. Under the proposed extension, SelectNet fees would continue to be assessed in the following manner: (1) \$1.00 will be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part; (2) no fee will be charged to a member who receives and executes a directed SelectNet order; (3) the existing \$2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a \$0.25 fee will remain in effect for any member who cancels a SelectNet order. If no further action is taken, SelectNet fees will revert to their original \$2.50 per-side level on April 1, 1998.

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. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth below in Sections A, B, and C, 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 again extend its current reduced SelectNet fees. The reasons for Nasdaq's prevailing SelectNet fee structure were fully explained in its original fee structure proposal filed with the Commission in February of this year.³ Since then, SelectNet usage has continued at significantly elevated levels, averaging over 150,000 daily executions in September of 1998 and 180,000

³ See Securities Exchange Act Release No. 39641 (February 10, 1998), 63 FR 8241 (February 18, 1998). Nasdaq's current reduced fee structure was originally approved for a 90-day trial period, commencing the day the proposal was published in the *Federal Register*. The reduced fees were extended in May and September of 1998 and would have expired on November 30, 1998, if not extended by this filing. See Securities Exchange Act Release No. 40427 (September 10, 1998); 63 FR 49724 (September 17, 1998).

executions each day in October of 1998. As such, Nasdaq believes that an extension of these reduced fees, through March 31, 1999, is warranted. Under the proposed extension, SelectNet fees would continue to be assessed in the following manner: (1) \$1.00 will be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or part; (2) no fee will be charged to a member who receives and executes a directed SelectNet order; (3) the existing \$2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a \$0.25 fee will remain in effect for any member who cancels a SelectNet order. Nasdaq will continue to monitor and review SelectNet activity to determine if further extensions of its reduced SelectNet fee structure are appropriate. If no further action is taken, SelectNet fees will revert to their original \$2.50 per-side level on April 1, 1999.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act,⁴ 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 that the NASD operates or controls.

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

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organizations Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

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

This filing applies to the assessment of SelectNet fees to NASD members, and thus the proposed rule change is effective immediately upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act⁵ and subparagraph (e)(2) of Rule 19b-4 under the Act⁶ because the proposal is establishing or changing a 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 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.⁷

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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-98-84 and should be submitted by January 8, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Jonathan G. Katz,
Secretary.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD8-98-076]

Houston/Galveston Navigation Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) and its two Subcommittees (Waterways and Navigation) will meet to discuss

waterway improvements, aids to navigation, current meters, and various other navigation safety matters affecting the Houston/Galveston area. All meetings will be open to the public.

DATES: The meeting of HOGANSAC will be held on Thursday, January 28, 1999 from 9 a.m. to approximately 1 p.m. The meeting of the Navigation Subcommittee will be held on Thursday, January 14, 1999 at 9:00 a.m. and immediately following, the Waterways Subcommittee will meet. The meetings may adjourn early if all business is finished. Members of the public may present written or oral statements at the meetings.

ADDRESSES: The HOGANSAC meeting will be held in the conference room of the Houston Pilots' Office, 8150 South Loop East, Houston, Texas. The subcommittee meetings will be held at West Gulf Maritime Association, 1717 East Loop, Suite 200, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Captain Wayne Gusman, Executive Director of HOGANSAC, telephone (713) 671-5199, or Commander Paula Carroll, Executive Secretary of HOGANSAC, telephone (713) 671-5164.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of the Meetings

Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC). The tentative agenda includes the following:

(1) Opening remarks by the Committee Sponsor (RADM Pluta), Executive Director (CAPT Gusman) and chairman (Tim Leitzell).

(2) Approval of the September 10, 1998 minutes.

(3) Report from the Waterways Subcommittee.

(4) Report from the Navigation Subcommittee.

(5) Status reports on Baytown Tunnel removal, Army Corps of Engineers' dredging projects and pipeline safety and comments and discussions from the floor.

(6) New business—VTS Houston/Galveston's annual "State of the Waterway" address, Year 2000 Partnering, and an electronic navigation demonstration by ARINC.

Subcommittee on Waterways. The tentative agenda includes the following:

(1) Presentation by each work group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each work group.

Subcommittee on Navigation. The tentative agenda includes the following:

⁴ 15 U.S.C. 78o-3(b)(5).

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(e)(2).

⁷ In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 17 CFR 200.30-3(a)(12).