

\$0.50 or two times the allowable spread in regular market conditions (three times the allowable spread in "fast market" conditions).

As the ISE has noted, ISE Rule 720 does not directly consider the price at which the particular options series is trading in determining whether there has been an obvious error (although the allowable spread does increase as an option's price increases). The ISE represents that in administering the Rule, it has found that (1) the price of an option is a significant factor in determining when there is an obvious error; and (2) a pricing error in an options series trading at less than \$3.00 can often be significant even if it does not meet the current \$0.50 minimum requirement. The Commission believes that it is reasonable for the ISE, based upon its experience in administering the Rule, to amend the Rule to state that the standard for determining the existence of an obvious error for options series trading at less than \$3.00 be whether the difference between the execution price and the theoretical price is at least \$0.25.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-ISE-2001-34) be, and it hereby is, approved.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46114; File No. SR-NASD-2002-45]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Partial Approval to a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. Establishing Listing Standards and Listing Fees for Portfolio Depository Receipts and Index Fund Shares

June 25, 2002.

On April 3, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission"), pursuant to section

19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to establish listing standards and listing fees for Portfolio Depository Receipts ("PDRs") and Index Fund Shares ("Fund Shares"). On May 6, 2002, Nasdaq filed Amendment No. 1 to the proposal.³ On May 13, 2002, Nasdaq filed Amendment No. 2 to the proposal.⁴ On May 20, 2002, the Commission published the proposed rule change for comment in the **Federal Register** and granted partial accelerated approval to the portion of the proposal relating to listing standards for PDRs and Fund Shares.⁵ In this same release, the Commission published for notice and comment, but did not accelerate approval of, the portion of the proposal that dealt with Nasdaq's proposed new listing fees. The Commission is now approving Nasdaq's proposed new listing fees.

The Commission finds that this proposed rule change, as amended, is consistent with the requirements of section 15A of the Act⁶ and the rules and regulations thereunder. Specifically, the Commission finds that this proposed rule change, as amended, is consistent with section 15(A)(b)(6),⁷ which provides that the rules of the association be designed to promote just and equitable principals of trade, to foster cooperation and coordination with person engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission further believes that this proposed rule change, as amended, is consistent with the provisions of section 15A(b)(5) of the Act⁸ in that it provides for the equitable allocation of reasonable dues, fees, and other charges among issuers using the Nasdaq system. Nasdaq represents that the proposed listing fees for PDRs and Fund Shares are less than the current fees for traditional domestic and foreign equity issues listed on The Nasdaq National Market, as the regulatory and client services costs associated with PDRs and Fund shares are lower than those for traditional equity issues. Furthermore, Nasdaq represents that the proposed listing fees for PDRs and Fund Shares are designed to cover costs and allow Nasdaq to compete for the listing of these securities with national securities exchanges.

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the portion of the proposed rule change (SR-NASD-2002-45) relating to the proposed listing fees, as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-16540 Filed 7-1-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46112; File No. SR-NASD-2002-83]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. and Amendment No. 1 To Establish Fees Assessed on Non-Members for the Use of Computer-to-Computer Interface Transmission Control Protocol/Internet Protocol Lines That Use Message Queue Series Software

June 25, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from John D. Nachmann, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 3, 2002 ("Amendment No. 1"). In Amendment No. 1, Nasdaq did the following: (1) Made corrections to its proposed rule text and proposal; (2) added discussion and stated its statutory basis for the proposed listing fees; (3) clarified that its regular trading hours for PDRs and Fund Shares will be from 9:30 a.m. to 4:00 p.m. or 4:15 p.m., as designated by Nasdaq; and (4) requested accelerated approval for the portion of the proposal relating to the listing and trading standards for PDRs and Fund Shares, and not for the portion on the proposed listing fees.

⁴ See letter from John D. Nachmann, Senior Attorney, Nasdaq, to Katherine A. England, Assistant Director, Division, Commission, dated May 13, 2002 ("Amendment No. 2"). In Amendment No. 2, Nasdaq removed the term "member organization" throughout its proposed rule text and proposal.

⁵ See Securities Exchange Act Release No. 45920 (May 13, 2002), 67 FR 35605. Nasdaq requested accelerated approval of all portions of the proposal except those that deal with its proposed new listing fees.

⁶ 15 U.S.C. 78o-3.

⁷ 15 U.S.C. 78o-3(b)(6).

⁸ 15 U.S.C. 78o-3(b)(5).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).

("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 14, 2002, 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 June 19, Nasdaq amended the proposal.³ 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 establish the fees for non-members for the use of Computer-to-Computer Interface ("CTCI") Transmission Control Protocol/Internet Protocol ("TCP/IP") lines that use Message Queue Series

("MQ Series") software.⁴ Nasdaq will implement the proposed rule change immediately upon approval by the Commission.

The text of the proposed rule change is below. Proposed new language is in italics. Rule 7010. System Services

(a)–(e) No change.

(f) Nasdaq Workstation™ Service

(1)–(2) No change.

(3) The following charges shall apply for each CTCI subscriber*:

| Options | Price |
|--|--|
| Option 1: Dual 56kb lines (one for redundancy) and single hub and router | \$1275/month. |
| Option 2: Dual 56kb lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). | \$1600/month. |
| Option 3: Dual T1 lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). Includes base bandwidth of 128kb. | \$8000/month. |
| Option 1, 2, or 3 with Message Queue software enhancement | Fee for Option 1, 2, or 3 (including any Bandwidth Enhancement Fee) plus 20% |
| Disaster Recovery Option: Single 56kb line with single hub and router. (For remote disaster recovery sites only.). | \$975/month |
| Bandwidth Enhancement Fee (for T1 subscribers only) | \$4000/month per 64kb increase above 128kb T1 base |
| Installation Fee | \$2000 per site for dual hubs and routers |
| | \$1000 per site for single hub and router |
| Relocation Fee (for the movement of TCP/IP-capable lines within a single location) | \$1700 per relocation |

*As reflected in SR-NASD-00-80 and SR-NASD-00-81, x.25 CTCI circuits are being replaced with TCP/IP CTCI circuits. Pursuant to SR-NASD-2001-87 and SR-NASD-2001-88, the fee for x.25 CTCI circuits—which has remained \$200 per month per circuit—is increased to \$1,275 per month per circuit until the date of the termination of such circuits

(g)–(r) No change.

* * * * *

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's CTCI network is a point-to-point dedicated circuit connection from the premises of brokerages and service providers to Nasdaq's Trumbull, Connecticut processing facilities. Through CTCI, firms are able to enter

trade reports into Nasdaq's Automated Confirmation Transaction Service ("ACT") and orders into Nasdaq's transaction execution systems.

In response to numerous requests from market participants that Nasdaq upgrade the speed and reliability of its CTCI data transmission environment, Nasdaq began the process in January 2001 of "sunsetting" its CTCI x.25/bisynch network in favor of a new network that provides greater capacity and a more efficient transmission protocol. The new CTCI network operates over the Enterprise Wide Network II ("EWN II") and provides connectivity over more powerful 56kb and T1 data lines. In addition, the new CTCI network uses the industry-standard TCP/IP transmission protocol, a protocol that is robust, efficient, and well known among the technical community. In May 2002, Nasdaq completed the "sunsetting" process. All members and non-members that access Nasdaq through CTCI have now been transitioned to TCP/IP lines.

As an optional enhancement, Nasdaq will support the use of MQ Series software over the TCP/IP lines. MQ Series is a commercially available

messaging product that provides firms with the ability to integrate disparate systems over a common application programming interface ("API") messaging infrastructure. There are over 20 operating systems that are supported by MQ Series, including Windows, Solaris, Mac OS, and Linux. Firms that use MQ Series are able to establish networks with less effort, skill, and resources, thereby achieving a seamless interconnection of disparate communications systems, and can make use of a comprehensive family of APIs designed to make coding for any messaging task straightforward. The use of MQ Series by firms that link to Nasdaq through CTCI TCP/IP is entirely optional.

In order to support the use of MQ Series by firms, Nasdaq has expended, and must continue to expend, resources to license, install, and maintain the software. Moreover, the system resources required to use MQ Series increase with the size of the TCP/IP line with which it is used. Accordingly, Nasdaq believes that it is appropriate to charge firms that opt to use MQ Series a higher fee for lines that use the software than for comparable lines that

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See June 19, 2002 letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A.

England, Assistant Director, Division of Market Regulation, Commission ("Amendment No. 1"). In Amendment No. 1, Nasdaq completely deleted the text of the proposed rule language in the original filing, and provided new proposed rule text.

⁴ In a companion filing, SR-NASD-2002-82, Nasdaq proposes to make identical changes to the CTCI TCP/IP fees charged to members. See Securities Exchange Act Release No. 46111 (June 25, 2002).

do not. Fees for firms that do not use MQ Series remain unchanged.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5) of the Act,⁵ 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.

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

Nasdaq 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 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 NASD 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.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. 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 number SR-NASD-2002-83 and should be submitted by July 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-16543 Filed 7-1-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46111; File No. SR-NASD-2002-82]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. to Establish Fees Assessed on NASD Members for the Use of Computer-to-Computer Interface Transmission Control Protocol/Internet Protocol Lines That Use Message Queue Series Software

June 25, 2002.

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 14, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), 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 June 19, 2002, Nasdaq amended the proposal.³ Nasdaq

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See June 19, 2002 letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market

filed the proposal pursuant to section 19(b)(3)(A) of the Act,⁴ and Rule 19b-4(f)(2) thereunder⁵ as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization, 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 establish the fees assessed on NASD members for the use of Computer-to-Computer Interface ("CTCI") Transmission Control Protocol/Internet Protocol ("TCP/IP") lines that use Message Queue Series ("MQ Series") software.⁶ Nasdaq will implement the proposed rule change on July 1, 2002.

The text of the proposed rule change is below. Proposed new language is in italics.

Rule 7010. System Services

- (a)-(e) No change.
- (f) Nasdaq Workstation™ Service
- (1)-(2) No change.
- (3) The following charges shall apply for each CTCI subscriber*:

| Options | Price |
|--|---------------|
| Option 1: Dual 56kb lines (one for redundancy) and single hub and router. | \$1275/month. |
| Option 2: Dual 56kb lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). | \$1600/month. |
| Option 3: Dual T1 lines (one for redundancy), dual hubs (one for redundancy), and dual routers (one for redundancy). Includes base bandwidth of 128kb. | \$8000/month. |

Regulation, Commission ("Amendment No. 1"). In Amendment No. 1, Nasdaq completely deleted the text of the proposed rule language in the original filing, and provided new proposed rule text. For purposes of calculating the 60-day abrogation period, the Commission considers the abrogation period to have commenced on June 19, 2002, the date Nasdaq filed Amendment No. 1.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(2).

⁶ In a companion filing, SR-NASD-2002-83, Nasdaq proposes to make identical changes to the CTCI TCP/IP fees charged to non-members. See Securities Exchange Act Release No. 46112 (June 25, 2002).

⁵ 15 U.S.C. 79o-3(b)(5).