

and protect investors and the public interest.⁴ These obligations are met when procedures governing the transfer of customer accounts are made more efficient. The rule change should eliminate the present need for reversing the transfer of third party and/or proprietary products, thereby reducing delay, and also reduce the cost of customer transfers incurred by members under the current system. For example, the proposed designation and notice requirements on the part of the receiving firm should reduce the overall timeframe for transferring or disposing of third party products and should lower the related costs incurred by NASD's members. The rule change should also reduce customer confusion and facilitate decisions by customers concerning the disposition of proprietary and third party products. Finally, because the proposed rule change is designed to conform NASD Rules 11870(c) and 11870(d) with recent amendments to the Interpretation of NYSE Rule 412, the proposal should help provide uniformity.

NASD-R has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act⁵ for approving the proposed rule change prior to the thirtieth day after publication of notice of the filing in the **Federal Register**. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register** because accelerated approval will allow the NASD to implement these changes when NSCC implements changes to ACATS. The Commission is approving the proposed rule change prior to the expiration of the comment period in order to permit the NASD to conform its rule with the NYSE and benefit customers as soon as possible.

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, N.W., Washington, D.C. 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 NASD's principal office. All submissions should refer to File No. SR-NASD-2001-53 and should be submitted by October 10, 2001.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NASD-2001-53) be, and hereby is, approved on an accelerated basis.

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

Margaret H McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44788; File No. SR-NASD-2001-56]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend a Pilot Program That Reduced Monthly Fees for Non-Professional Users Receiving the National Quotation Data Service

September 13, 2001.

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 September 5, 2001, the National Association of Securities Dealers, Inc. ("NASD") or "Association"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission. The

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6). Nasdaq provided the Commission with written notice of its intent to file the proposal, along with a brief description and text of the proposed rule change on August 24, 2001.

Commission is publishing this notice to 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

Nasdaq proposes to extend a one-year pilot program under NASD Rule 7010(h) that reduced from \$50 to \$10 the monthly fee that non-professional users pay to receive the National Quotation Data Service ("NQDS").⁵ Nasdaq proposes to extend the one-year fee reduction pilot program for non-professional users of NQDS for another year. The pilot, as extended, would continue uninterrupted through August 31, 2002. Nasdaq has designated this proposal as non-controversial, rendering it effective upon filing with the Commission. Nasdaq asks that the Commission waive the 30-day operative waiting period pursuant to SEC Rule 19b-4(f)(6)(iii).⁶ to allow the pilot program to continue uninterrupted through August 31, 2002.

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 its proposal and discussed any comments it received regarding the proposal. 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 extend a one-year fee reduction pilot program that was established under NASD Rule 7010(h) on August 31, 2000, and that reduced from \$50 to \$10 the monthly fee that non-professional users pay to receive NQDS.⁷

NQDS delivers market maker quotations, Nasdaq Level 1 service (including calculation and display of the inside market), and last sale information that is dynamically updated on a real-time basis. NQDS data is used

⁵ See Securities Exchange Act Release No. 43190 (August 22, 2000), 65 FR 52460 (August 29, 2000) (SR-NASD-00-47). NQDS is sometimes referred to as the "Nasdaq Quotation Dissemination Service."

⁶ 17 CFR 240.19b-4(f)(6)(iii)

⁷ See footnote 5 supra.

⁴ 15 U.S.C. 78o-3.

⁵ 15 U.S.C. 78s(b)(2).

not only by firms, associated persons, and other market professionals, but also by non-professionals who receive the service through authorized vendors, including, for example, on-line brokerage firms. Prior to August 31, 2000, NQDS data was available through authorized vendors at a monthly rate of \$50 for professional and non-professional users alike. In August 2000, the NASD through Nasdaq filed a rule change to reduce from \$50 to \$10 the monthly fee that non-professional users pay to receive NQDS data. The Commission approved the pilot on August 22, 2000, and the fee reduction commenced on August 31, 2000 on a one-year pilot basis ("one-year fee-reduction pilot").

Nasdaq has consistently supported broad, effective dissemination of market information to public investors. Thus, Nasdaq is proposing to extend the one-year fee-reduction pilot for another year. The pilot would cover twelve months, commencing with September 2001 and expiring on August 31, 2002. Nasdaq notes that the one-year fee-reduction pilot reduced by 80% the fees that non-professionals paid for NQDS data prior to August 31, 2000. Continuing the reduction of NQDS for non-professional users demonstrates Nasdaq's continued commitment to individual investors and responds to the dramatic increase in the demand for real-time market data by non-professional market participants. In addition, NASD member firms often supply real-time market data to their customers through automated means. Thus, NASD member firms' customers will benefit from the continued fee reduction.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with the provisions of Sections 15A(b)(5) and 15A(b)(6) of the Act⁸ in that the proposal is designed to provide for the equitable allocation of reasonable fees among members and other persons using any facility or system which the Association operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers. In addition, Nasdaq believes that the fee reduction enhances the public's access to market data that is relevant to investors when they make financial decisions. Nasdaq further believes that the public's enhanced access to this data may encourage increased public participation in the securities markets.

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

Nasdaq believes that the proposed rule change will impose no 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

Because the foregoing proposed rule changes does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6) thereunder.¹⁰ 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.

Nasdaq has requested that the Commission accelerate the operative date. The Commission finds good cause to waive the 30-day operative waiting period, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the pilot to continue uninterrupted through August 31, 2002. For these reasons, the Commission finds good cause to waive the 30-day operative waiting period.¹¹

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, 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-2001-56 and should be submitted by October 10, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-23309 Filed 9-18-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44783; File No. SR-NYSE-2001-36]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend NYSE Rule 123

September 10, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 10, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to 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 proposed rule change consists of amendments to NYSE Rule 123. The proposed rule text follows:

Additions are *italicized*, deletions are [bracketed].

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6).

¹¹ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78o-3(b)(5) and (6).