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–2003–109 and should be submitted by September 17, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–21944 Filed 8–26–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48373; File No. SR–NASD–2003–123]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Institute an Hourly Maintenance Fee Associated with Use of the Nasdaq Workstation II Service by NASD Members

August 20, 2003.

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 August 6, 2003, 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. 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

Nasdaq proposes to institute an hourly fee for maintenance services supplied for equipment used in connection with the Nasdaq Workstation™ II (''NWII'') service.[3] Nasdaq proposes to implement the proposed rule change immediately.[4]

The text of the proposed rule change appears below. New text is in italics. Deleted text is in brackets.

* * * * *

7000. CHARGES FOR SERVICES AND EQUIPMENT

7010. System Services

(a)–(e) No change

(f) Nasdaq Workstation™ Service

(1) The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via equipment and communications linkages prescribed for the Nasdaq Workstation II Service:

Service Charge	$2,035/month per service delivery platform (''SDP'').
Display Charge	$525/month per logon for the first 150 logons. $200/month for each additional logon.
Additional Circuit/SDP Charge	$3,235/month[*].
PD and SDP Maintenance:	
Monthly maintenance agreement	$55/presentation device (''PD'') logon or SDP/month.
Hourly fee for maintenance provided without monthly maintenance agreement.	*$195 per hour (two hour minimum), plus cost of parts.*

A subscriber that accesses Nasdaq Workstation II Service via an application programming interface (''API'') shall be assessed the Service Charge for each of the subscriber's SDPs and shall be assessed the Display Charge for each of the subscriber's logons, including logons of an NWII substitute or quote-update facility. API subscribers also shall be subject to the Additional Circuit/SDP Charge.

*A subscriber shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its SDP(s) by placing eight logons on an SDP and obtains an additional SDP(s); in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP(s) (*i.e.*, the difference between the number of SDPs a subscriber has and the number of SDPs the subscriber would need to support its logons, assuming an eight-to-one ratio). A subscriber also shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its T1 circuits by placing eighteen SDPs on a T1 circuit; in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP slot on the existing T1 circuit(s). Regardless of the SDP allocation across T1 circuits, a subscriber will not be subject to the Additional Circuit/SDP Charge if the subscriber does not exceed the minimum number of T1 circuits needed to support its SDP, assuming an eighteen-to-one ratio.*

(2) No change.

[* A subscriber shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its SDP(s) by placing eight logons on an SDP and obtains an additional SDP(s); in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP(s) (*i.e.*, the difference between the number of SDPs a subscriber has and the number of SDPs the subscriber would need to support its logons, assuming an eight-to-one ratio). A subscriber also shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its T1 circuits by placing eighteen SDPs on a T1 circuit; in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP slot on the existing T1 circuit(s). Regardless of the SDP allocation across T1 circuits, a subscriber will not be subject to the

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This filing applies to persons that are NASD members. On August 6, 2003, Nasdaq also submitted a proposed rule change to implement an identical charge for non-members. *See* File No. SR–NASD–2003–124.

[4] In this filing, Nasdaq is also moving the text of the footnote to NASD Rule 7010(f) into the text of the rule to improve the clarity of the rule's presentation in the NASD Manual.

Additional Circuit/SDP Charge if the subscriber does not exceed the minimum number of T1 circuits needed to support its SDP, assuming an eighteen-to-one ratio.]

(g)–(u) 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

The NWII service allows market participants to access SuperMontage and other Nasdaq facilities through Nasdaq's Enterprise Wide Network II (''EWN II''). Each NWII subscriber location has at least one service delivery platform (''SDP'') that connects to the EWN II by a dedicated T1 circuit pair. The subscriber then connects the workstations used by its employees to the SDP. Workstations may be either Nasdaq Workstation presentation devices (''PDs'') provided by Nasdaq, or workstations and software supplied by the subscriber (often referred to as an ''application programming interface'' device, or an ''NWII substitute'').

Nasdaq currently allows subscribers to contract with Nasdaq for maintenance of their NWII PDs and SDPs on a monthly basis, at the rate of $55 per PD logon or SDP per month. Maintenance is provided by Nasdaq personnel in the New York metropolitan area and by a contractor in other areas of the country. Nasdaq is now proposing to supplement this monthly maintenance option with an hourly maintenance option for subscribers that may not wish to commit to a monthly maintenance agreement. The fee for maintenance provided without a monthly maintenance agreement will be $195 per hour, with a two-hour minimum charge for all service calls, plus the cost of parts supplied.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[5] in general, and Section 15A(b)(5) of the Act,[6] in particular, in that it 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 the NASD operates or controls.

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.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [7] and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes or changes a due, fee, or other charge. At any time within 60 days of August 6, 2003, 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.[9]

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 filings will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–123 and should be submitted by September 17, 2003.

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

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–21945 Filed 8–26–03; 8:45 am]

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[5] 15 U.S.C. 78*o*–3.

[6] 15 U.S.C. 78*o*–3(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] *See* 15 U.S.C. 78(b)(3)(C).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48363; File No. SR–PCX–2003–39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Changes in Schedule of Fees and Charges

August 19, 2003.

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 July 28, 2003, the Pacific Exchange, Inc. (''PCX'') submitted to the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which the PCX has prepared. 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 PCX is proposing to amend its schedule of rates and charges in order to provide a limit on the fees that it collects with regard to certain options strategy executions.

The text of the proposed rule change is available at the PCX and at the Commission.

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 PCX included statements concerning the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.