

November 19, 1999

Katherine A. England
Assistant Director
Division of Market Regulation
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: SR-NASD-99-70

Dear Ms. England:

Pursuant to Rule 19b-4, enclosed herewith is the above-numbered rule filing. Also enclosed is a 3-1/2" disk containing the rule filing in Word 7.0 to facilitate production of the Federal Register.

If you have any questions, please contact Scott W. Anderson, Attorney, Office of General Counsel, The Nasdaq Stock Market, Inc., at (202) 728-6929. The fax number of the Office of General Counsel is (202) 728-8321.

Very truly yours,

Robert E. Aber
Senior Vice President and General Counsel

Attachment

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C.

Form 19b-4

Proposed Rule Change

by

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

1. Text of Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act"), The National Association of Securities Dealers ("NASD"), through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), is herewith filing a proposed rule change to NASD Rule 7010 to establish a fee for historical research and administrative reports provided through Nasdaq's web sites. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

Rule 7010 System Services

(a) - (p) No changes

(q) Historical Research and Administrative Reports

The charge to be paid by the purchaser of separate Historical Research and Administrative Reports, shall be as follows:

- 1) Daily Detailed Reports - \$7 per day, per security and/or market participant for reports containing 15 fields or less. \$15 per day, per security and/or market participant for reports exceeding 15 fields.
- 2) Summary Level Activity Reports - \$25 per report.
- 3) Administrative Reports - \$25 per user, per month.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of the Nasdaq Stock Market at its meeting on March 24, 1999, and was reviewed by the Board of Governors of the NASD

at its meeting on March 25, 1999, which authorized the filing of the rule change with the SEC. No other action by the NASD is necessary for the filing of the rule change. The staff of Nasdaq has provided an opportunity for the staff of NASD Regulation, Inc. to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries. Questions regarding this rule filing may be directed to Robert E. Aber, Senior Vice President and General Counsel, Nasdaq Office of General Counsel, at (202) 728-8290, or Scott W. Anderson, Attorney, Nasdaq Office of General Counsel, at (202) 728-6929.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Historical Research Reports

Nasdaq is proposing to establish a fee to provide to investors, upon request, historical research reports pertaining to Nasdaq, OTC Bulletin Board or other OTC issues. Until recently, Nasdaq has provided such reports exclusively on an ad hoc basis to customers requesting this information by telephone. Under this system, investors would contact a member of Nasdaq's staff via telephone, describe the type of customized report desired, and arrange for an appropriate billing and delivery method before having the Nasdaq staff member compile the report. Charges for these reports were based on hourly rates relative to the staff time required for compilation and delivery. This was, unquestionably, an inefficient and time consuming arrangement that was both burdensome to Nasdaq staff and an impediment to the accessibility of the information for the investor.

Due to the significant growth in the number of individual investors in today's market directing their own investment decisions, the volume of requests for this information has increased substantially. To alleviate the demand upon staff resources and increase the quality, speed and availability of the

information available to investors, Nasdaq has developed an automated request and delivery system that will facilitate the delivery of these reports in a timely and systematic manner at a fixed price, based on a standardized pricing methodology. Investors will be able to access the reports through the Internet on the NasdaqTrader.com (for Nasdaq issues) and OTCBB.com (for OTCBB and other OTC issues) web sites (or their successor sites), by directing an Internet browser to the appropriate website. Once at the proper location within the web site, the investor would choose from a list of standardized reports, input the necessary information pertaining to the desired security or market participant, and provide credit card information for payment.¹ Once completed, the report would be sent via e-mail directly to the investor.

Utilizing past experience in providing these reports, Nasdaq proposes to provide historical research reports that fall into two categories: “Daily Detailed Reports” and “Summary Level Activity Reports.” Examples of Daily Detailed Reports include a Market Maker Price Movement Report (displays all market maker quote changes and the best bid and offer throughout a chosen day for a selected security), and a Time and Sales Report (provides a record of media-reported trades in the selected security, indicating the reported time, price and share volume). Summary Level Activity Reports would provide trade and/or quote information over a monthly or quarterly period.

Fees for the Daily Detailed Reports would be set on a two-tiered basis to reflect the amount of information provided and give Nasdaq a level of flexibility in developing new reports and modifying those currently envisioned. Nasdaq proposes to assess a fee of \$7 for reports with 15 or fewer fields

¹ Credit card information will be provided utilizing a secure website connection.

of information² for each trading day requested.³ Those reports with more than 15 fields would cost \$15 per trading day of information. Some reports may be available for purchase on a single day basis, while others may be available only as multiple-day packages with a corresponding charge based on the number of days provided. Fees for Summary Level Activity Reports would be fixed at \$25 per report.

Nasdaq believes that this pricing structure is a suitable assessment method that will facilitate the creation of an inexpensive and effective service for investors. Furthermore, Nasdaq has been testing this product and the Internet delivery system (on OTCBB.com) for several months by providing selected reports to investors at no charge and has found a high level of satisfaction and interest among investors for their continued availability.

Administrative Reports

This second category of reports available through NasdaqTrader.com and/or OTCBB.com, termed “Administrative Reports”, will be available to NASD member firms only. These reports are generally composed of firm specific information which is currently provided on an informal basis. One example of this group of reports is the “SEC 31(a) Report” which provides member firms with the number of trades transacted on a daily basis and the anticipated SEC 31(a) fees that will be assessed at the end of the month. Another proposed report that could be provided would estimate the total Nasdaq monthly transaction fees for the member firm based on the firm’s historical volume.

² Examples of fields, depending on the type of report chosen, could include reported volume, reported price, reported time, inside bid/ask, short sale indicator, etc.

³ *e.g.* An investor requesting a report containing 12 fields of information for a three trading day period would be charged \$21.

These Administrative Reports would generally serve to assist members in auditing their own internal systems, verifying back-end processing, and projecting monthly costs. The reports, which are presently provided by Nasdaq in CD ROM form, would be available through this secure web site connection in a more cost-effective and timely manner. Subscribing member firms would be charged a \$25 fee per user, per month, for access to each administrative report.⁴

Based on the above, Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) and 15A(b)(6) of the Act. Section 15A(b)(5) requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by a national securities association. Section 15A(b)(6) requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that this service involves the implementation of reasonable fees, assessed only to users utilizing the service, while providing beneficial information to subscribers on a non-discriminatory basis.

4. 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, as amended.

5. 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.

6. Extension of Time Period for Commission Action

⁴ After assessing the demand for this service, Nasdaq may offer volume discounts to purchasers of multiple reports if such discounts are determined to be economically feasible.

Nasdaq does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

1. Completed notice of proposed rule change for publication in the Federal Register.

Pursuant to the requirements of the Securities Exchange Act of 1934, Nasdaq has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

THE NASDAQ STOCK MARKET, INC.

BY: _____
Joan Conley
Corporate Secretary

Date: November 19, 1999

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-99-70)

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Establishment of a fee for historical research and administrative reports provided through Nasdaq's web sites.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on , the Nasdaq Stock Market, Inc. ("Nasdaq") 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 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 is proposing to amend Rule 7010 of the Rules of the National Association of Securities Dealers, Inc. ("NASD" or "Association"), to establish a fee for historical research and administrative reports provided through Nasdaq's web sites. Below is the text of the proposed rule change.

Proposed new language is in italics; proposed deletions are in brackets.

Rule 7010 System Services

(a) - (p) No changes

(q) Historical Research and Administrative Reports

The charge to be paid by the purchaser of separate Historical Research and Administrative Reports, shall be as follows:

- 1) Daily Detailed Reports - \$7 per day, per security and/or market participant for reports containing 15 fields or less. \$15 per day, per security and/or market participant for reports exceeding 15 fields.
- 2) Summary Level Activity Reports - \$25 per report.
- 3) Administrative Reports - \$25 per user, per month.

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

Historical Research Reports

Nasdaq is proposing to establish a fee to provide to investors, upon request, historical research reports pertaining to Nasdaq, OTC Bulletin Board or other OTC issues. Until recently, Nasdaq has provided such reports exclusively on an ad hoc basis to customers requesting this information by telephone. Under this system, investors would contact a member of Nasdaq's staff via telephone,

describe the type of customized report desired, and arrange for an appropriate billing and delivery method before having the Nasdaq staff member compile the report. Charges for these reports were based on hourly rates relative to the staff time required for compilation and delivery. This was, unquestionably, an inefficient and time consuming arrangement that was both burdensome to Nasdaq staff and an impediment to the accessibility of the information for the investor.

Due to the significant growth in the number of individual investors in today's market directing their own investment decisions, the volume of requests for this information has increased substantially. To alleviate the demand upon staff resources and increase the quality, speed and availability of the information available to investors, Nasdaq has developed an automated request and delivery system that will facilitate the delivery of these reports in a timely and systematic manner at a fixed price, based on a standardized pricing methodology. Investors will be able to access the reports through the Internet on the NasdaqTrader.com (for Nasdaq issues) and OTCBB.com (for OTCBB and other OTC issues) web sites (or their successor sites), by directing an Internet browser to the appropriate website. Once at the proper location within the web site, the investor would choose from a list of standardized reports, input the necessary information pertaining to the desired security or market participant, and provide credit card information for payment.¹ Once completed, the report would be sent via e-mail directly to the investor.

Utilizing past experience in providing these reports, Nasdaq proposes to provide historical research reports that fall into two categories: "Daily Detailed Reports" and "Summary Level Activity Reports." Examples of Daily Detailed Reports include a Market Maker Price Movement Report

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(displays all market maker quote changes and the best bid and offer throughout a chosen day for a selected security), and a Time and Sales Report (provides a record of media-reported trades in the selected security, indicating the reported time, price and share volume). Summary Level Activity Reports would provide trade and/or quote information over a monthly or quarterly period.

Fees for the Daily Detailed Reports would be set on a two-tiered basis to reflect the amount of information provided and give Nasdaq a level of flexibility in developing new reports and modifying those currently envisioned. Nasdaq proposes to assess a fee of \$7 for reports with 15 or fewer fields of information² for each trading day requested.³ Those reports with more than 15 fields would cost \$15 per trading day of information. Some reports may be available for purchase on a single day basis, while others may be available only as multiple-day packages with a corresponding charge based on the number of days provided. Fees for Summary Level Activity Reports would be fixed at \$25 per report.

Nasdaq believes that this pricing structure is a suitable assessment method that will facilitate the creation of an inexpensive and effective service for investors. Furthermore, Nasdaq has been testing this product and the Internet delivery system (on OTCBB.com) for several months by providing selected reports to investors at no charge and has found a high level of satisfaction and interest among investors for their continued availability.

Administrative Reports

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These Administrative Reports would generally serve to assist members in auditing their own internal systems, verifying back-end processing, and projecting monthly costs. The reports, which are presently provided by Nasdaq in CD ROM form, would be available through this secure web site connection in a more cost-effective and timely manner. Subscribing member firms would be charged a \$25 fee per user, per month, for access to each administrative report.⁴

Based on the above, Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) and 15A(b)(6) of the Act. Section 15A(b)(5) requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by a national securities association. Section 15A(b)(6) requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that this service involves the implementation of reasonable fees, assessed only to users utilizing the service,

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while providing beneficial information to subscribers on a non-discriminatory basis.

(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, as amended.

(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.

IV. SOLICITATION OF COMMENTS

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz
Secretary