

any fear of sanctions under the rule. This clear flouting of the spirit of the rule should be stopped, and it can be stopped if the rule is amended to extend to ballot and bond measure elections.”

Mr. Hartenstein states that contributions to bond measure campaigns “can result in higher bond interest and bond issuance costs, and higher taxes, than if municipal finance professionals were selected without regard to the amount they will contribute to campaigns.” He notes that it is “in the public interest to limit or prohibit contributions to local school bond election campaigns by interested private companies and individuals. This is an important corollary to the fundamental problem that rule G–37 is designed to address.”

MSRB Response. The MSRB is reviewing this issue to determine whether any further action in this area is advisable.

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 people are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule is consistent with the Exchange Act.

People making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0608. 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 in the Commission’s Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board’s principal offices. All submissions should refer to File No. SR–MSRB–2002–12 and should be submitted by April 29, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47608; File No. SR–NASD–2003–43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., To Modify Computer-to-Computer Interface Fees for NASD Members

April 1, 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 March 20, 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. Nasdaq has designated this proposal as one establishing or changing a due, fee or other charge imposed by the self-regulatory organization under section 19(b)(3)(A)(ii) of the Act³ and rule 19b–4(f)(2) thereunder,⁴ which renders the rule immediately effective upon filing with the Commission. 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 amend NASD rule 7010 to modify the fees paid by NASD members for bandwidth enhancements of Computer-to-Computer Interface (“CTCI”) lines.⁵ Nasdaq will implement this rule change on April 1, 2003.

The text of the proposed rule change is below. New text is in *italics*. Deleted text is in [brackets].

* * * * *

7000. Charges for Services and Equipment

A. Rule 7010. System Services

(a)–(e) No change.

(f) Nasdaq Workstation™ Service

(1) No change.

[(3)] (2) 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]600/month per 64kb increase above 128kb T1 base[.].

¹³ 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)(ii).

⁴ 17 CFR 240.19b–4(f)(2).

⁵ Nasdaq also submitted a proposed rule change to make an identical modification to the bandwidth

enhancement fee paid by non-members. *See* Securities Exchange Act Release No. 47607 (April 1, 2003) (order granting Accelerated Approval to SR–NASD–2003–46).

Options	Price
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, Nasdaq began replacing x.25 CTCI circuits with TCP/IP CTCI circuits in January 2001. Pursuant to SR-NASD-2001-87 and SR-NASD-2001-88, the fee for x.25 CTCI circuits—which had remained \$200 per month per circuit—was increased to \$1,275 per month per circuit from February 1, 2002 until the date of the termination of such circuits. Pursuant to SR-NASD-2002-96, users of x.25 CTCI circuits will receive a credit of \$625 per month per circuit from February 1, 2002 until the date of circuit termination.]

(g)–(s) No change.

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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 had 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"), orders into Nasdaq's transaction execution systems, and mutual fund pricing data into Nasdaq's Mutual Fund Quotation Service. The CTCI network operates over the Enterprise Wide Network II ("EWN II") and provides connectivity over powerful 56kb and T1 data lines. In addition, the CTCI network uses the industry-standard Transmission Control Protocol/Internet Protocol ("TCP/IP"), a transmission protocol that is robust, efficient, and well known among the technical community.

As part of an ongoing effort to reduce costs incurred by Nasdaq's market participants to use its systems and services, Nasdaq proposes to reduce the fee for CTCI bandwidth enhancements⁶ from \$4,000 to \$600 per month for each 64 kilobit ("kb") increment of additional bandwidth provided over a T1 CTCI line (above the base level of 128 kb). Nasdaq believes that the fee reduction will make it more economical for member firms who connect directly to Nasdaq to make the bandwidth upgrades needed to allow them to route higher volumes of orders to Nasdaq, as well as to build excess capacity that allows them to be prepared for volume spikes that occur during major market events.⁷

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,⁸ in general, and with section 15A(b)(5) of the Act,⁹ 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 believes that the proposed rule change does not impose 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

The foregoing rule change has become effective pursuant to section

⁶ The term "bandwidth" refers to the amount of data that can be transmitted over a CTCI line in one second. Accordingly, bandwidth enhancements allow a CTCI subscriber to send and receive a greater volume of data over a line.

⁷ Nasdaq also proposes to delete a footnote from NASD rule 7010(f) that describes pricing changes relating to x.25 CTCI circuits, which are no longer in use.

⁸ 15 U.S.C. 78o-3.

⁹ 15 U.S.C. 78o-3(b)(5).

19(b)(3)(A)(ii) of the Act¹⁰ and rule 19b-4(f)(2) thereunder¹¹ because it establishes or changes a due, fee, or other charge. At any time within 60 days after the filing of this proposed rule change, the Commission may summarily abrogate the 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.

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 also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2003-43 and should be submitted by April 29, 2003.

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

Margaret H. McFarland,
Deputy Secretary.

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¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

¹² 17 CFR 200.30-3(a)(12).