

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

DTC has discussed this proposed rule change in its current form with various industry groups and distributed Important Notice #4639 (February 26, 2003) to participants soliciting their comments. No comments were received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five 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 ninety 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, 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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR-DTC-2003-06. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC.

All submissions should refer to File No. SR-DTC-2003-06 and should be submitted by June 19, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-13449 Filed 5-28-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47897; File No. SR-NASD-2003-48]

**Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify the Display Charge Associated With the Use of the Nasdaq Workstation II Service by Persons That Are Not NASD Members**

May 21, 2003.

On March 21, 2003, 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")<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to modify the display charge associated with the use of the Nasdaq Workstation II Service ("Service") by persons that are not NASD Members. Specifically, the proposal would provide a discount on each additional Service logon to subscribers with more than 150 logons.<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on April 21, 2003.<sup>4</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association<sup>5</sup> and, in particular, the

<sup>5</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Commission notes that Nasdaq also submitted a separate proposed rule change, pursuant to section 19b(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A), to modify this charge for NASD members. See Securities Exchange Act Release No. 47637 (April 7, 2003), 68 FR 17849 (April 11, 2003) (File No. SR-NASD-2003-47).

<sup>4</sup> See Securities Exchange Act Release No. 47679 (April 15, 2003), 68 FR 19593.

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's

requirements of section 15A of the Act<sup>6</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposal is consistent with the requirements of section 15A(b)(5) of the Act,<sup>7</sup> because 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 that NASD operates. Nasdaq has represented that it is proposing to modify the display charge to reflect the economies of scale realized when providing a subscriber with a large number of logons. Further, Nasdaq has already implemented a similar fee schedule for members.<sup>8</sup> The Commission believes that the proposed fee discount on each additional Service logon to subscribers with more than 150 logons should assist in reducing costs incurred by all market participants using Nasdaq's systems and services.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-NASD-2003-48) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-13445 Filed 5-28-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47906; File No. SR-NASD-2003-62]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, by National Association of Securities Dealers, Inc. To Allow Internet Access to the Primex Auction System and To Specify the Charges for Such Access**

May 22, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 31, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, the Nasdaq Stock

impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78o-3.

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

<sup>8</sup> See *supra* note 3.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 the Nasdaq. On May 16, 2003, the Nasdaq filed Amendment No. 1 to the proposal.<sup>3</sup> 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**

The Nasdaq proposes to amend NASD rules 5012 and 7010(r) to enable access to the Primex Auction System ("Primex") via the Internet and to specify the charges for such access.

The text of the proposed rule change, as amended, is below. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

**Rule 5012. Access**

(a) No change.

(b) No change.

(c) The Application may be made available [through Nasdaq-provided network(s) via]:

(1) *through Nasdaq-provided network(s) via Primex Auction System Workstation Service;*

(2) *through Nasdaq-provided network(s) via an Application Programming Interface ("API");* [or]

(3) *through Nasdaq-provided network(s) via a FIX protocol interface.* Certain functionality of the Application also may be made available via Computer to Computer Interface (CTCI).; *or*

(4) *over the Internet, using Nasdaq-provided user interface. Certain functionality of the Application may be made available through Nasdaq-provided network(s) via Computer to Computer Interface (CTCI).*

**Rule 7010(r). Nasdaq Application of the Primex Auction System**

(1) No change.

(2) Monthly Access Fees

**SOFTWARE—Continued**

Workstation license or unique logon	Per workstation logon
Stations/logons 11–25 .....	\$100
Stations/logons 26 and above ..	\$50
Proprietary interface license	Per license
API specification .....	\$500
FIX (customized protocol) .....	\$500

**NETWORK**

Dedicated line	Per line
256K .....	\$1,781
64K with non-guaranteed 256K burst capacity .....	\$1,564
56K .....	\$712
Installation/Uninstall .....	<sup>1</sup> \$1,000
<i>Internet Access</i>	
<i>Logons 1–10 (per firm) .....</i>	\$50
<i>Logons 11 and up (per firm) .....</i>	\$25

<sup>1</sup> Per Nasdaq Staff site visit.

\* \* \* \* \*

**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 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**

**a. Overview**

Currently, any firm wishing to connect to Primex and take full advantage of its functionality must purchase an Auction Control Box ("ACB") server and maintain a dedicated T1 circuit between its premises and the Primex system on Nasdaq's premises. To provide firms with a lower cost full-access alternative, Nasdaq intends to introduce the option of accessing Primex through the Internet. Interested firms would be able to connect to Primex via their existing Internet link and would not need either to purchase an ACB server or maintain a separate dedicated circuit between

their own premises and Primex. The Internet access option is intended both to attract new participants to Primex and to provide additional flexibility of access for existing participants.

**b. Internet Connectivity and Resulting Cost Savings**

A participant wishing to connect to Primex over the Internet would need to obtain Internet access from an Internet Service Provider ("ISP") and a telecommunications circuit linking the participant's premises with the ISP's point of presence from a local telecommunications provider ("Telco"). Typically, a participant would use the same Telco circuit and ISP port for all of its Internet connectivity needs (including, but not limited to, connectivity with Primex). Consequently, the required bandwidth of the needed ISP port and Telco circuit, and the corresponding costs, would be dictated by each participant's specific overall Internet usage requirements, which includes applications unrelated to Primex (e.g., email, web access, etc.). However, Nasdaq expects that, at any given level of Primex usage, the cost of the portion of the total bandwidth of the ISP port and of the Telco circuit actually used for Primex access would be substantially lower than the cost of a dedicated line that would otherwise be required to link the participant's premises with the Primex server. The monthly logon fees that Nasdaq itself proposes to charge for Internet access to the Primex are also substantially lower than the current logon fees for Primex access via a dedicated line.

**c. The Look and Feel Is Unchanged**

Nasdaq represents that Primex users that choose to access Primex over the Internet will generally enjoy the same "look and feel" experience as the users of the existing dedicated circuit mode of access. Nasdaq will provide to interested users compact discs with the user interface software required for Internet access. Before a connection with the Primex server can be established, the user would need to install the provided interface software and then run it. The interface software would, in turn, prompt the user for certain identifying information (ID and password). Once the identifying information is entered correctly, a full connection is established, and the user sees essentially the same screen display as he/she would see when using a dedicated connection. All other screen displays will also be essentially the same.

**SOFTWARE**

Workstation license or unique logon	Per workstation logon
Stations/logons 1–10 .....	\$200

<sup>3</sup> See letter from Alex Kogan, Associate General Counsel, Nasdaq to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated May 15, 2003 ("Amendment No. 1"). In Amendment No. 1, the Nasdaq submitted a new Form 19b-4, which replaced the original filing in its entirety.

#### d. Same Functionality

Nasdaq represents that Primex users that choose to access Primex over the Internet will also have access to the same functionality as they would over a dedicated circuit. In particular, Internet users will be able to enter orders, enter predefined relative indications ("PRIs"), respond to auctions, view orders, executions and PRIs, and withdraw PRIs. Once the Internet user's identity and authority to access the system is established, he/she should be able to take full advantage of Primex, while benefiting from the lower cost of the connection.

#### e. Security

A firm that wishes to enable its employees to access Primex over the Internet will need to coordinate requests for user authorization with Nasdaq. Such a firm's designated security administrator will provide Nasdaq with written authorization and required enrollment information. Once Nasdaq has the needed information, it will enroll the user for Internet access to Primex and provide to the user, by a secure method, certain information required to enable such access. The firm's security administrator will also be expected to give Nasdaq timely notification to disenroll any previously enrolled user who is no longer eligible for (or no longer needs) Internet access to Primex.

Nasdaq may, from time to time, change the enrollment/disenrollment requirements, methods and procedures and will advise the participating firms accordingly. Nasdaq will work with participating firms' designated security administrators to help implement user enrollment/disenrollment and to assist with the security procedures related to accessing Primex over the Internet.<sup>4</sup>

#### f. Capacity and Connection Quality

Nasdaq believes that, in its current configuration, Primex will at all times have adequate capacity to handle the expected volume of Internet connections and to accommodate a robust growth in volume with no degradation in the quality of service. Primex currently has the capacity to handle up to five times as many simultaneous connections over the Internet as Nasdaq's initial peak time estimates suggest may actually occur. Nasdaq is able to add further capacity, so as to meet any reasonably possible

<sup>4</sup> Nasdaq will keep the Commission staff apprised of any modifications in or updates to Primex user enrollment-related procedures when such modifications or updates substantially affect the security of Internet access to Primex.

surge in demand, within a matter of days.

The quality of any user's connection to Primex will, obviously, also depend on the quality of that user's Internet connection, including the nature and adequacy of the connection to the user's chosen ISP, the robustness of that ISP's network and interconnections, and the robustness of the interconnected networks. Nasdaq expects that the degree to which Primex participants choose to rely on Internet access would be consistent with the quality of Internet service such participants are able to obtain.

#### 2. Statutory Basis

Nasdaq believes that the proposed rule change, as amended, is consistent with the provisions of section 15A of the Act,<sup>5</sup> in general and with section 15A(b)(5) of the Act,<sup>6</sup> in particular, which requires that the rules of the NASD provide for 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. The proposed modification to provide a lower-cost option for accessing the Primex Auction System supports efficient use of existing systems and ensures that the associated costs are allocated equitably. Nasdaq believes that the proposed fees, which are lower than the current fees for accessing the Primex Auction System, are reasonable and equitable.

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

Nasdaq does not believe that the proposed rule change, as amended, 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 on the proposed rule change 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

<sup>5</sup> 15 U.S.C. 78o-3.

<sup>6</sup> 15 U.S.C. 78o-3(b)(5).

(ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, 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, as amended, 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-2003-62 and should be submitted by June 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-13447 Filed 5-28-03; 8:45 am]

BILLING CODE 8010-01-P

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47909; File No. SR-NASD-2003-82]

#### 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 Amendment to NASD Rule 4120 Regarding Nasdaq's Authority To Initiate and Continue Trading Halts

May 22, 2003.

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

<sup>7</sup> 17 CFR 200.30-3(a)(12).