

to NYSE without attempting to execute in the Nasdaq Facilities;

- \$0.0028 per share executed for exchange-traded fund orders that route to NYSE after attempting to execute in the Nasdaq Facilities;
- \$0.000275 per share executed for orders in securities other than exchange-traded funds that route to NYSE without attempting to execute in the Nasdaq Facilities; and
- \$0.000225 per share executed for orders in securities other than exchange-traded funds that route to NYSE after attempting to execute in the Nasdaq Facilities.

As a further corollary to the changes made by NYSE, Nasdaq is eliminating the monthly fee caps that it had in place for orders routed to NYSE and eliminating the fee for orders charged a fee by the NYSE specialist.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>7</sup> in general, and with Section 15A(b)(5) of the Act,<sup>8</sup> 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. Nasdaq states that the proposed rule change is a direct response to changes in the fees that Nasdaq pays when routing orders to the NYSE for execution.

### 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 rule change is subject to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>10</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by

the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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.

## 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. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NASD-2006-132 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-NASD-2006-132. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File No. SR-NASD-2006-132 and should be submitted on or before January 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E6-21648 Filed 12-19-06; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54934; File No. SR-NASD-2006-130]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto To Extend a Pricing Pilot for NASD Members Using ITS/CAES and Inet

December 13, 2006.

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 November 30, 2006, 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 substantially prepared by Nasdaq. On December 6, 2006, Nasdaq submitted Amendment No. 1 to the proposed rule change. Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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

Nasdaq proposes to extend a pricing pilot for NASD members using the ITS/CAES System and Nasdaq's Inet facility (collectively, the "Nasdaq Facilities"). Nasdaq states that it will implement this rule change on December 1, 2006. The text of the proposed rule change is set

<sup>11</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> 15 U.S.C. 78s(b)(3)(A)(ii).

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

<sup>7</sup> 15 U.S.C. 78o-3.

<sup>8</sup> 15 U.S.C. 78o-3(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].<sup>5</sup>

**7010. System Services**

(a)–(h) No change.

(i) ITS/CAES System and Inet Order Execution and Routing  
 (1)–(5) No change.  
 (6) Except as provided in paragraph (7), the following charges shall apply to the use of the order execution and

routing services of the Nasdaq Facilities by members for securities subject to the Consolidated Quotations Service and Consolidated Tape Association plans other than Exchange-Traded Funds (“Covered Securities”):

**ORDER EXECUTION**

Order that accesses the Quote/Order of a Nasdaq Facility market participant: Charge to member entering order: On or after [December 1, 2006] <i>January 2, 2007</i> .....	\$0.0007 per share executed.
For a pilot period during the months of November and December 2006: Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of (i) more than 100,000 shares of liquidity provided, and (ii) more than 100,000 shares of liquidity accessed and/or routed.	\$0.0007 per share executed.
Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of (i) between 50,000 and 100,000 shares of liquidity provided, and (ii) between 50,000 and 100,000 shares of liquidity accessed and/or routed.	\$0.001 per share executed.
Other members .....	\$0.0015 per share executed.
Credit to member providing liquidity for a Covered Security listed on NYSE and The NASDAQ Stock Market LLC.	\$0.0007 per share executed.
Credit to a member providing liquidity for other Covered Securities: Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of more than 5 million shares of liquidity accessed, provided, or routed.	\$0.0005 per share executed.
Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of 10 million or more shares of liquidity provided.	\$0.0006 per share executed.
Other members .....	No credit.

**ORDER ROUTING**

Order routed to Amex .....	\$0.0028 per share executed (plus, in the case of orders charged a fee by the Amex specialist, \$0.01 per share executed).
Order routed to NYSE .....	See NYSE fee schedule in Rule 7010(i)(7).
All other orders .....	\$0.0028 per share executed.

(7)–(8) No change.

(j)–(y) 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**

Nasdaq proposes to extend for one month a pricing pilot for non-Nasdaq listed securities traded through the Nasdaq Facilities. Effective November 1, 2006,<sup>6</sup> Nasdaq introduced a higher pricing tier of \$0.0015 per share executed for members to access liquidity when those members provide an average of less than 50,000 shares of liquidity per day and access and/or route an average of less than 50,000 shares of liquidity per day in non-Nasdaq securities through the Nasdaq Facilities during the month. In addition,

Nasdaq introduced an intermediate pricing tier of \$0.001 per share executed for members to access liquidity when those members provide an average of between 50,000 shares and 100,000 shares of liquidity per day and access and/or route an average of between 50,000 shares and 100,000 shares of liquidity per day.<sup>7</sup> Nasdaq states that it is continuing to evaluate the effect of the pricing change on market participants’ liquidity provision, and therefore is extending the pilot pricing for one month. Nasdaq states that it will determine whether to submit an additional filing regarding these fees by January 2, 2006.

<sup>5</sup> Nasdaq states that changes are marked to the rule text that appears in the electronic NASD Manual found at <http://www.nasd.com>, as amended by SR–NASD–2006–126 (November 13, 2006) on an immediately effective basis.

<sup>6</sup> See Securities Exchange Act Release No. 54742 (November 13, 2006), 71 FR 67179 (November 20, 2006) (SR–NASD–2006–122).

<sup>7</sup> Nasdaq continues to charge \$0.0007 per share executed for all other members to access liquidity

(i.e., when those members provide an average of more than 100,000 shares of liquidity per day and access and/or route an average of more than 100,000 shares of liquidity per day).

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>8</sup> in general, and with Section 15A(b)(5) of the Act,<sup>9</sup> 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. Nasdaq states that the proposed rule change extends for an additional month a pilot that introduced a higher fee for accessing Nasdaq Facility liquidity in cases where a market participant's use of the Nasdaq Facilities does not meet certain minimal thresholds. Nasdaq believes that this change is consistent with an equitable allocation of fees because lower overall fees are charged to market participants that enhance market quality by providing liquidity.

### 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. In particular, for the reasons discussed in SR-NASD-2006-122, Nasdaq does not believe that the proposed change to fees to access liquidity in non-Nasdaq securities through the Nasdaq Facilities will impose a burden on competition by other markets that route orders to the Nasdaq Facilities for execution.

### 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 is subject to Section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>11</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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.<sup>12</sup>

## 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. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NASD-2006-130 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-NASD-2006-130. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposal, the Commission considers the period to commence on December 6, 2006, the date on which the Exchange submitted Amendment No. 1.

SR-NASD-2006-130 and should be submitted on or before January 10, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

Florence E. Harmon,  
Deputy Secretary.

[FR Doc. E6-21650 Filed 12-19-06; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54931; File No. SR-NASD-2006-115]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change, as Amended, Relating to an NASD Trade Reporting Facility Established in Conjunction With the Boston Stock Exchange

December 13, 2006.

## I. Introduction

On September 29, 2006, the National Association of Securities Dealers, Inc. ("NASD") 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 proposal to establish an NASD trade reporting facility (the "NASD/BSE TRF") in conjunction with the Boston Stock Exchange, Inc. ("BSE"). The proposed rule change was published for comment in the **Federal Register** on October 18, 2006.<sup>3</sup> The Commission received one comment letter regarding the proposal.<sup>4</sup> The NASD filed Amendment No. 1 to the proposed rule change on December 5, 2006.<sup>5</sup> This

<sup>13</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> See Securities Exchange Act Release No. 54591 (October 12, 2006), 71 FR 61519.

<sup>4</sup> See letter from Alden Adkins, Executive Vice President, BSE, to Robert Colby, Deputy Director, Division of Market Regulation, Commission, dated October 24, 2006 ("BSE Letter").

<sup>5</sup> In Amendment No. 1, the NASD revises the proposal to: (1) Provide notice of final action taken by the NASD with respect to the proposal; (2) amend NASD Rule 4632D(a) to indicate that the NASD/BSE TRF will support the .W and .PRP trade report modifiers; (3) add NASD Rule 4632D(g)(2)(G) to define the term "cancelled" for purposes of determining the deadline for reporting a trade cancellation; (4) add NASD Rule 4632D(i) and 6130D(g) to expressly prohibit the aggregating of trades for purposes of trade reporting to the NASD/BSE TRF; (5) add NASD Rule 6130D(f) to provide trade report modifiers for certain transactions reported to the NASD/BSE TRF in accordance with Section 3 of Schedule A to the NASD By-Laws; and

Continued

<sup>8</sup> 15 U.S.C. 78o-3.

<sup>9</sup> 15 U.S.C. 78o-3(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).