

products that are useful and in demand as tools to manage the risks of their investment portfolios.

NQLX believes that its proposed rule changes comply with the requirements under section 6(h)(3) of the Act<sup>12</sup> and the criteria under section 2(a)(1)(D)(i) of the CEA,<sup>13</sup> as modified by joint orders of the Commission and the CFTC, and that its listing standards are no less restrictive than comparable listing standards for options traded on a national securities exchange or national securities association.<sup>14</sup>

## 2. Statutory Basis

NQLX files this proposed rule change pursuant to section 19(b)(7) of the Act.<sup>15</sup> NQLX believes that this proposed rule change is consistent with the requirements of the Commodity Futures Modernization Act of 2000,<sup>16</sup> including the requirement that trading in a listed security futures is not readily susceptible to manipulation of its price nor to causing or being used to manipulate the price of the underlying security, options on the security, or options on a group or index including the security.<sup>17</sup> NQLX further believes that its proposed rule change complies with the requirements under section 6(h)(3) of the Act<sup>18</sup> and the criteria under Section 2(a)(1)(D)(i) of the CEA,<sup>19</sup> as modified by joint orders of the Commission and the CFTC. In addition, NQLX believes that its proposed rule change is consistent with the provisions of section 6 of the Act,<sup>20</sup> in general, and section 6(b)(5) of the Act,<sup>21</sup> in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

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

NQLX does not believe that the proposed rule changes 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 of Comments on the Proposed Rule Change Received From Members, Participants, or Others*

NQLX neither solicited nor received written comment on the proposed rule changes.

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

The proposed rule change has become effective on January 27, 2003, except that the changes made in Amendment No. 1 have become effective on April 4, 2003. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.<sup>22</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, as amended, conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov*. 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 these filings also will be available for inspection and copying at the principal office of NQLX. All submissions should refer to File No. SR-NQLX-2003-03 and should be submitted by May 12, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>23</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-9675 Filed 4-18-03; 8:45 am]

BILLING CODE 8010-01-M

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47679; File No. SR-NASD-2003-48]

### **Self-Regulatory Organizations; Notice of Filing of 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**

April 15, 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 21, 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 modify the display charge paid by persons that are not NASD members for use of the Nasdaq Workstation II ("NWII") Service.<sup>3</sup> Nasdaq will implement the proposed rule change as soon as practicable following approval by the Commission.

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.

<sup>23</sup> 17 CFR 200.30-3(a)(75).

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

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

<sup>3</sup> On March 21, 2003, Nasdaq also submitted a proposed rule change 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>12</sup> 15 U.S.C. 78f(h)(3).

<sup>13</sup> 7 U.S.C. 2(a)(1)(D)(i).

<sup>14</sup> 15 U.S.C. 78f(h)(3)(C).

<sup>15</sup> 15 U.S.C. 78s(b)(7).

<sup>16</sup> P.L. 106-554, 114 Stat. 2763 (2000).

<sup>17</sup> 15 U.S.C. 78f(h)(3)(H).

<sup>18</sup> 15 U.S.C. 78f(h)(3).

<sup>19</sup> 7 U.S.C. 2(a)(1)(D)(i).

<sup>20</sup> 15 U.S.C. 78f.

<sup>21</sup> 15 U.S.C. 78f(b)(5).

<sup>22</sup> 15 U.S.C. 78s(b)(1).

## (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 .....	[\$1,875/month per service delivery platform ("SDP") from December 1, 2000 through February 28, 2001] \$2,035/month per service delivery platform ("SDP") [beginning March 1, 2001].
Display Charge .....	\$525/month per [presentation device ("PD")] <i>logon for the first 150 logons \$200/month for each additional logon.</i>
Additional Circuit/SDP Charge .....	[\$3,075 per month from December 1, 2000 through February 28, 2001, and] \$3,235/month [beginning March 1, 2001]*.
Maintenance .....	\$55/[SDP or] <i>presentation device ("PD") logon or SDP/month.</i>

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 [API linkages] *logons*, including *logons* of an NWII substitute or quote-update facility. API subscribers also shall be subject to the Additional Circuit /SDP Charge.

(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 [PDs and/or API servers] *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* [PDs and/or API servers], 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.

(g)–(s) 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 the Nasdaq Stock Market and other Nasdaq facilities through Nasdaq's Enterprise Wide Network II ("EWN II"). To use the NWII service, each 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. Thus, the SDP functions as the gateway from the subscriber's workstations to the EWN II.

Different subscribers use different types of workstations. A subscriber may use either an "NWII presentation device" (a workstation and associated software provided by Nasdaq) or its own workstation and software (often referred to as an "application programming interface" device, or an "NWII substitute"), and many subscribers use both options. Each workstation, however, is associated with a particular "logon,"<sup>4</sup> the code that a user enters to identify himself or herself as an authorized NWII user and thereby gain access to the NWII service. Nasdaq currently assesses a "display charge" of \$525 per month for each logon.<sup>5</sup>

<sup>4</sup> Nasdaq represents that the term "logon" as used throughout the proposed rule change refers to a logon ID (or logon identifier) and not a logon event. Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and Frank N. Genco, Attorney, Division of Market Regulation ("Division"), Commission, on March 28, 2003.

<sup>5</sup> Nasdaq notes that NASD rule 7010(f)(1), as in effect prior to the amendments made by this proposed rule change, uses a variety of terms to refer to the concept reflected in the term "logon." As a part of this proposed rule change, Nasdaq is clarifying the rule by using the term "logon"

Nasdaq represents that, as part of an ongoing effort to reduce costs incurred by Nasdaq's market participants to use its systems and services, Nasdaq is proposing to modify the display charge to reflect the economies of scale realized when providing subscribers with a large number of logons. Specifically, Nasdaq asserts that if a subscriber has more than 150 logons, the per logon average cost to provide NWII service to that subscriber will decrease over a substantial range of additional logons. Moreover, Nasdaq represents that the average costs associated with subscriber support also decrease as the number of logons increases. Accordingly, Nasdaq believes that it is reasonable to offer a discount on additional logons to subscribers with more than 150 logons, to reflect the lower average costs associated with providing this volume of logons.<sup>6</sup> A subscriber will pay the current display charge of \$525 per month per logon for its first 150 logons, and a reduced charge of \$200 per month for each additional logon.<sup>7</sup> Nasdaq believes that this reduction will also make it more economical for subscribers to install systems with redundancy, which will enable them to remain fully operational even if they experience equipment failures or an unexpected increase in demand.

In determining the number of logons used by a particular subscriber, Nasdaq will permit a particular corporate entity to aggregate its logons with those used by its wholly owned subsidiaries, parent corporations of which it is a wholly owned subsidiary, or affiliated corporations that are wholly owned by a common parent. A subscriber that wishes to aggregate its logons with those of its affiliates in this manner will be

throughout, and is also removing language describing fees in effect prior to March 1, 2001.

<sup>6</sup> Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and Hong-Anh Tran, Special Counsel, Division, Commission, on April 1, 2003.

<sup>7</sup> Nasdaq represents that a change to its Tools Plus SDP pricing is not warranted at this time. See also Securities Exchange Act Release No. 46973 (December 9, 2002), 67 FR 77305 (December 17, 2002) (File No. SR-NASD-2002-164).

required to provide supporting information about its corporate structure to Nasdaq.

## 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 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.

### *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

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 NASD 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. 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-2003-48 and should be submitted by May 12, 2003.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-9698 Filed 4-18-03; 8:45 am]

**BILLING CODE 8010-01-P**

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster No. P007, Amdt. No. 1]**

### State of Tennessee

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective April 14, 2003, the above numbered declaration is hereby amended to include Hardin and Lauderdale Counties in the State of Tennessee as disaster areas due to damages caused by severe storms and flooding occurring from February 14, 2003 and continuing through February 26, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is May 19, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: April 15, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-9798 Filed 4-18-03; 8:45 am]

**BILLING CODE 8025-01-P**

## SMALL BUSINESS ADMINISTRATION

### Region II Buffalo District Advisory Council; Public Meeting

The U.S. Small Business Administration Region II Advisory Council located in the geographical area of Buffalo, New York, will hold a public meeting at 10 a.m. eastern time on Wednesday, April 23, 2003 at the Transit Valley Country Club, 8920

Transit Road, East Amherst, New York to discuss such matters that may be presented by members, and staff of the U.S. Small Business Administration, or others present. Anyone wishing to make an oral presentation to the Board must contact Franklin J. Sciortino, District Director, in writing by letter or by fax no later than Monday, April, 21, 2003, in order to be put on the agenda. Franklin J. Sciortino, District Director, U.S. Small Business Administration, 1311 Federal Building, 111 West Huron Street, Buffalo, NY 14202. Telephone (716) 551-4301 or Fax (716) 551-4418.

**Candace H. Stoltz,**

*Director Advisory Councils.*

[FR Doc. 03-9799 Filed 4-18-03; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF STATE

**[Public Notice 4338]**

### 30-Day Notice of Proposed Information Collection: Form DS-2038, Application for Certificate of International Educational Character; OMB Control Number 1405-0122

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

*Type of Request:* Reinstatement of previously approved collection whose approval has expired.

*Originating Office:* Bureau of Educational and Cultural Affairs (ECA-IIP/EX/PR).

*Title of Information Collection:*

Application for Certificate of International Educational Character.

*Frequency:* Occasionally.

*Form Number:* DS-2038.

*Respondents:* Members of the public who seek a certificate of international educational character for audiovisual material.

*Estimated Number of Respondents:* 6.

*Average Hours Per Response:* 25 minutes.

*Total Estimated Burden:* 25 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary

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

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

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