SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51171; File No. SR–NASD–2005–016]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for the Nasdaq Information Exchange Protocol

February 9, 2005.

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 January 31, 2005, 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. Pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge of a self-regulatory organization, which renders the proposed rule change effective immediately upon filing. 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 the Substance of the Proposed Rule Change

Nasdaq proposes to modify its fees for the Nasdaq Information Exchange protocol. Nasdaq will implement the proposed rule change on February 1, 2005.

The text of the proposed rule change is available on the NASD's Web site (*http://www.nasd.com*), at the NASD's Office of the Secretary, and at the Commission's Public Reference Room.

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 recently submitted a proposed rule change to establish fees for the Nasdaq Information Exchange, or ''QIX,'' a new proprietary messaging protocol that, unlike the current application programming interface (''API'') protocol, does not require use of an service delivery platform (''SDP'') at the premises of the subscriber.[5] Nasdaq has concluded that it underestimated its costs of providing the new protocol when it initially established these fees, and is now revising the fees accordingly. The fee for a QIX port pair (including an ECN direct connection port pair) is being increased from $1,000 to $1,200 per month, and the fee for an unsolicited message port is being increased from $750 to $1,000 per month. Despite these fee increases, Nasdaq believes that the implementation of QIX will still result in significant cost savings to subscribers in comparison to the current SDP/API protocol.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[6] in general, and section 15A(b)(5)[7] of the Act, 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. Even with the fee increases reflected in the proposed rule change, the new QIX protocol will offer substantial cost savings in comparison with the current SDP/API protocol. Fees for access services are equitably allocated based on the level of message traffic between Nasdaq and each firm.

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 has become effective pursuant to section 19(b)(3)(A) of the Act[8] and subparagraph (f)(2) of Rule 19b–4 thereunder, because it establishes or changes a due, fee, or other charge.[9] 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*. Please include File Number SR–NASD–2005–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NASD–2005–016. 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 51170 (February 9, 2005) (File No. NASD–2005–002).

[6] 15 U.S.C. 78*o*–3.

[7] 15 U.S.C. 78*o*–3(5).

[8] 15 U.S.C. 78s(b)(3)(a).

[9] 17 CFR 240.19b–4(f)(2).

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 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 Number SR–NASD–2005–016 and should be submitted on or before March 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51170; File No. SR–NASD–2005–002]

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 Establish Fees for Connectivity to the Nasdaq Market Center

February 9, 2005.

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 January 7, 2005, 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. On January 28, 2005, Nasdaq filed Amendment No. 1 to the proposed rule change.[3] Pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(1), (2), and (5) thereunder,[5] Nasdaq has designated this proposal in part as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, in part as establishing or changing a due, fee, or other charge, and in part as a proposal effecting a change in an existing order-entry or trading system of a self-regulatory organization, which renders the proposed rule change effective immediately upon filing. 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 the Substance of the Proposed Rule Change

Nasdaq proposes to amend NASD Rule 7010 to establish fees for new options for connecting to the Nasdaq Market Center and is filing a related Member Alert and Head Trader Alert. Nasdaq will implement the proposed rule change immediately.

The text of the proposed rule change, and the texts of the related Member Alert and Head Trader Alert, that were attached as exhibits to the proposal, are available on the NASD's Web site (*http://www.nasd.com*), at the NASD's Office of the Secretary, and at the Commission's Public Reference Room.

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 Information Exchange

Nasdaq offers market participants and other Nasdaq subscribers a choice of messaging protocols for communicating with Nasdaq systems, with the goal of allowing firms to select the connectivity options that best suit their needs. The protocol options currently available to firms include the Financial Information Exchange (''FIX'') protocol, the computer-to-computer interface (''CTCI'') protocol, and an application programming interface (''API'') protocol that requires the use of a Service Delivery Platform (''SDP''), a hardware unit located at the subscriber's premises. Although the SDP/API protocol has offered distinct advantages in terms of functional support for quoting market participants and other firms with high volumes of message traffic, the need for firms to install and maintain one or more SDPs has resulted in comparatively higher communications and infrastructure costs for firms using SDP/API. As a result, Nasdaq has developed the Nasdaq Information Exchange or ''QIX,'' a new proprietary protocol that does not require use of an SDP. Nasdaq believes that QIX will offer the benefits of the current API protocol but at a significantly reduced cost to its users.

The QIX protocol is being made available for use in production immediately. During a period of approximately ten months thereafter, Nasdaq will work with users of the SDP/API protocol to transition them to QIX, FIX, and/or CTCI. Nasdaq intends to sunset the SDP/API protocol and connectivity by the end of October 2005 (or such later date as Nasdaq may announce to market participants); all users of that protocol will be required to transition by that time. The sunset of SDP/API will not affect the operation of any of the rules governing trading through the Nasdaq Market Center (*e.g.*, the 4700 Series of the NASD Rules).

In contrast to the SDP/API protocol, which requires market participants to use, and pay Nasdaq for the use of, a telecommunications network supplied by MCI pursuant to an agreement with Nasdaq, QIX will offer market participants choice in the establishment of connections to Nasdaq. As is currently the case for FIX, market participants may use a range of third-party communications providers, may establish connections to service bureaus that in turn connect to Nasdaq, or may take advantage of additional modes of telecommunications that may become available to the financial sector in the future. As a result, member firms will benefit from the forces of competition, choice, and innovation when selecting telecommunications services for the purpose of connecting to Nasdaq's facilities through QIX and FIX, rather than receiving connectivity as a vertically integrated component of Nasdaq's facilities.

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, Nasdaq added representations with respect to monitoring usage traffic on dedicated and non-dedicated FIX servers and steps it would take to provide a high level of support across all other FIX servers, and replaced the text of the original filing in its entirety.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(1), (2), and (5).