[Release No. 34–35393; File No. SR–NASD– 95–7]

Self-Regulatory Organizations; Notice of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating To a Query-Based Vendor Fee for Distribution of Certain Market Information

## Feburary 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 3, 1995 the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the NASD. 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

The NASD hereby files a proposed rule change to establish a vendor fee of \$.01/query for delivery of certain market information, on a non-continuous basis, to the vendor's subscribers. In this context, the term "vendor" may include an NASD member firm, or a non-

member engaged in the business of supplying financial data. The information being distributed would be real-time market data consisting of inside bid/ask and last sale information for securities listed on The Nasdaq Stock market ("Nasdaq"), various Nasdaq indices, and similar quotation and transaction information on over-thecounter ("OTC") equity securities.<sup>2</sup> The proposed fee would take effect within 90 days of the Commission's approval of this rule change, and be incorporated into Schedule D to the NASD By-Laws, Part VIII, Section C. The full text of the proposed rule change is set forth below. New language is italicized.

## PART VIII-Schedule of NASD Charges for Services and Equipment

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1.-4. 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, the NASD 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 next of these statements may be examined at the places specified in Item IV below. The NASD 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

The sole purpose of this rule change is to establish a single fee for vendors wishing to provide basic, real-time market data to low volume users. In recent years, the NASD has been approached by several member firms that wished to provide retail customers with a cost-effective alternative to calling their brokers for current market information. Advances in telecommunications and personal computers ("PCs") have prompted firms to offer "snapshots" of real-time information through (i) telephonic,

<sup>2</sup> The computer facilities that support the operations of Nasdaq are owned and operated by The Nasdaq Stock Market, Inc. ("NSMI"), a wholly-

voice-responsive services, (ii) dial-up PC services, (iii) display phones, and (iv) pagers. The typical users of such services are individual investors who may be monitoring the value of a portfolio, tracking intra-day activity in a given stock to facilitate an investment decision, or observing a market trend based on periodic queries for the current level of a popular stock index. In some instances, the member firm will levy a modest charge on its customers who elect to access current market information through these devices. In sum, the market data needs of the target users do not warrant their subscription to a bundled service offered by a commercial vendor which service frequently includes analytic information, ticker displays, and dynamically-updated quotation and transaction information.

To date, the parties most interested in providing basic market data directly to investors have been NASD members with a large base of retail clients. This proposal is intended to accommodate the business needs of such firms at a price that should prove attractive to many small investors. Nevertheless, any commercial data vendors that might wish to offer this type of service will also be accommodated. The service covered by this proposal would be limited to "snapshots" of real-time

information furnished in response to a discrete query by the end user. The information provided through the query-response process would not be dynamically updated. Hence, the end user would have to make individual queries to obtain, for example, the most current quotation/last sale information on his/her portfolio of securities at various times during the trading day. This characteristic differentiates the instant service from most vendor offerings, which provide a continuous broadcast of real-time information with dynamic updating to authorized display devices. On the other hand, the instant service does not require the end user to have a costly piece of hardware to obtain current quotation/transaction prices on a given Nasdaq stock.

Interested vendors would provide the service pursuant to a contract with NSMI. Under this contract, the vendor would be responsible for monitoring query traffic and paying the appropriate amount to NSMI. The contract would permit periodic audits by NSMI to ensure payment of all monies due.

The NASD believes that the proposed rule change is consistent with the requirements of Sections  $11A(a)(1)^3$  and  $15A(b)(5)^4$  of the Act. Section 11A(a)(1) contains the Congressional findings and objectives respecting a national market system. Among other things, the

<sup>&</sup>lt;sup>1</sup>15 U.S.C. 78s(b)(1) (1988).

owned subsidiary of the NASD. Among other things, NSMI is responsible for the collection, processing, and the distribution of real-time quotation and transaction data originated by broker-

dealer participants in Nasdaq and the OTC Bulletin Board ("OTCBB") service.

<sup>&</sup>lt;sup>3</sup>15 U.S.C. 78k-1(a)(1).

<sup>&</sup>lt;sup>4</sup> Id. 78*o*-3(b)(5).