

[Release No. 34-35189; File No. SR-NASD-94-76]

Self-Regulatory Organizations; Notice and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Subscriber Fees for Nasdaq Workstation II and Systems-Related Testing Fees

January 3, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 14, 1994, 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 NASD has designated this proposal as one establishing or changing a fee under Section 19(b)(3)(A)(ii) of the Act, which renders the rule effective upon the Commission's receipt of this 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 Substance of the Proposed Rule Change

Pursuant to Section 19(b)(1) of the Act and Rule 19b-4 thereunder, the following is the full text of a proposed rule change that will revise the fee structure applicable to NASD members receiving the second generation of Nasdaq Workstation™ Service (hereinafter referred to as "NWII") functionality.¹ Additionally, the NASD is proposing to implement fees that member firms would pay to test certain communications interfaces. The proposed fees would take effect on January 1, 1995 and be reflected in Sections A(9) and E(5), respectively, of Part VIII of Schedule D to the NASD By-Laws. The full text of the proposed rule change is set forth below. (New language is underlined and deletions are bracketed.)

Part VIII—Schedule of NASD Charges for Services and Equipment

a. System Services

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9. Nasdaq Workstation™ Service

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The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via equipment and

¹ The computer facilities that support the provisions of NWII are operated by The Nasdaq Stock Market, Inc. ("NSMI"), a wholly owned subsidiary of the NASD.

communications linkages prescribed for the Nasdaq Workstation II service.

Service Charge—\$100/month per server
Display Charge—\$500/month per presentation device

Additional Circuit—\$1,150 per month

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E. Other Services

1. No change.
2. No change.
3. No change.
4. *Testing Services.*

Subscribers that conduct tests of their computer-to-computer interface ("CTCI") or digital interface ("DIS/CHIPS") with the central processing facilities of The Nasdaq Stock Market, Inc. ("NSMI") shall pay the following charges:

\$285/hour—For CTCI/DIS/CHIPS testing between 9:00 a.m. and 5:00 p.m. E.T. on business days;

\$333/hour—For testing at all other times on business days, or on weekends and holidays.

The foregoing fees shall not apply to testing occasioned by (i) new or enhanced services and/or software provided by NSMI or (ii) modifications to software and/or services initiated by NSMI in response to a contingency.

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 text 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 purpose of this rule change is to amend the subscriber fees applicable to NASD member firms that use the NWII to support their trading in The Nasdaq Stock Market ("Nasdaq") and/or the OTC Bulletin ("OTCBB") component of the over-the-counter ("OTC") equities market. The rule change also would establish a new category of fees to be paid by member firms (either directly or through billings from their service bureaus) for testing communication interfaces with central processing facilities that support Nasdaq.

The roll-out of NWII, which began in November, 1994, constitutes a significant milestone in the upgrade of hardware, software, and network facilities that comprise the infrastructure of Nasdaq. The software driving NWII is windows-based and provides several data management features that are not available in the original version of Nasdaq Workstation service (hereinafter referred to as "NWI"). Moreover, a new network—known as the Enterprise Wide Network ("EWN")—has been developed to deliver NWII functionality. The capacity of the EWN is more than five times that of the network developed for NWI (i.e., 56,000 baud versus 9,600 baud). Since the NWII roll-out has now begun, it is appropriate to implement service fees calculated to recover the higher costs of operating and maintaining the NWII functionality and the EWN.²

Under the NWII, each subscriber location will have at least one service delivery platform or server that resides on the EWN. (The server functions as the subscriber's gateway to the EWN.) Each server will be capable of supporting up to eight presentation devices (i.e., Workstations). To recover the operational and maintenance costs associated with providing NWII, the proposed fee structure would establish a charge of \$100/month per server and a charge of \$500/month for each workstation or presentation device linked to that server. Thus, an NWII subscriber with 8 Workstations and 1 server would pay \$4,100/month under the proposed fee structure. Although it is possible to support as many as eight Workstations on a single server, and NWII subscriber might wish to configure its operating environment, for example, with two servers, each supporting 4 Workstations. In this circumstance, the subscriber would pay \$1,150/month for the second circuit at the same location, \$200/month for the two servers, and \$4,000/month for receipt of NWII functionality on 8 Workstations. The proposed fees are premised on the assumption that a subscriber will maximize the capacity of each server before adding a second telecommunications circuit and server. However, if a firm elects to add servers and circuits without maximizing, that firm will bear the additional circuit cost of \$1150/month which constitutes a

² The NWII roll-out will occur in five phases with the final phase scheduled for completion in mid-1996. Each phase consists of installing NWII at all subscriber sites in a defined geographic area. Thus, while the roll-out proceeds, some subscribers will continue to utilize NWI and will pay the existing charges for that service.