

NASD Notice to Members 99-37

NASD Reminds Members Of Their Obligations Regarding Electronic Distribution Of Nasdaq And OTC Market Data

Suggested Routing

- ☒ Senior Management
- ☐ Advertising
- ☐ Continuing Education
- ☐ Corporate Finance
- ☐ Executive Representatives
- ☐ Government Securities
- ☐ Institutional
- ☐ Insurance
- ☒ Internal Audit
- ☒ Legal & Compliance
- ☐ Municipal
- ☐ Mutual Fund
- ☐ Operations
- ☐ Options
- ☐ Registered Representatives
- ☐ Registration
- ☐ Research
- ☐ Syndicate
- ☒ Systems
- ☒ Trading
- ☐ Training
- ☐ Variable Contracts

Executive Summary

The National Association of Securities Dealers, Inc. (NASD®) requires member firms that distribute Nasdaq®, OTC Bulletin Board®, and/or other OTC market data through on-line trading systems or other electronic distribution media, including the Internet, to follow all Nasdaq market data distribution policies. Electronic media include—but are not limited to—member firm on-line trading systems that provide market data in support of trading activities.

Market data distribution requirements include fulfillment of contractual obligations, accurate and non-misleading display of market data, reporting of fee-liable usage, and administration of subscriber agreements with end users of Nasdaq market data. This *Notice* provides explanations of these policies and requirements as they apply to on-line trading systems, electronic distribution media, and Internet distribution.

Questions concerning this *Notice* may be directed to Nasdaq Trading and Market Services at (202) 728-8480. Additional information and documentation is also available at the Nasdaq TraderSM Web Site (www.nasdaqtrader.com).

Requirements Concerning Market Data Distribution And Display

As broker/dealers enter into the on-line trading environment, it is important to realize that there are specific Nasdaq requirements for the distribution of real-time and delayed market data on the Internet and other electronic media. Most on-line brokerage Web sites provide customers with access to Nasdaq real-time quotes prior to trade execution.

Fulfillment Of Contractual Obligations

All organizations, including on-line

brokerage firms, are required to obtain approval from Nasdaq prior to distribution of any real-time or delayed Nasdaq market data via the Internet or other electronic media. Nasdaq must approve the entitlement systems and subscriber agreement administration for all distributors of real-time Nasdaq market data prior to initiation of service. To ensure that the on-line brokerage customers view complete and accurate data when making investment decisions, distributors must demonstrate that they adhere to all mandatory display requirements established by Nasdaq Trading and Market Services. To initiate the approval process for your firm or Internet site, all distributors (both real-time and delayed) are required to submit the *Nasdaq Vendor Agreement* and *Attachment A (System Description)* which is available to view and print on the Nasdaq Trader Web Site (www.nasdaqtrader.com).

Fee-Liable Usage Of Nasdaq Market Data

All real-time Nasdaq data, including index data, is considered fee-liable and subject to monthly reporting requirements. Nasdaq requires that all distributors of real-time Nasdaq market data submit monthly reports indicating their usage and distribution of real-time Nasdaq market data. These reports are used to generate Nasdaq invoicing of market data fees. Please refer to www.nasdaqtrader.com for a complete listing of Nasdaq market data fees.

Subscriber Agreements

All distributors of real-time Nasdaq market data are required to execute a *Nasdaq Subscriber Agreement* with each customer or subscriber prior to initiation of services. Distributors may choose to execute the *Nasdaq Subscriber Agreement* electronically or by hard copy. On-line administration of the *Nasdaq Subscriber Agreement* can be accommodated upon prior approval

from Nasdaq. For additional information about the *Nasdaq Subscriber Agreement*, please call Nasdaq Trading and Market Services.

If a broker/dealer uses a third-party service to operate its electronic

media or Internet site, it is imperative that Nasdaq is fully aware and has approved these arrangements. It is the broker/dealer's responsibility to ensure that all parties are adhering to Nasdaq policies. If you would like to verify that your firm or Internet sites have been approved by

Nasdaq, please contact Trading and Market Services at (202) 728-8480.

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