



DIVISION OF  
MARKET REGULATION

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

July 23, 2002

Edward S. Knight, Esq.  
Executive Vice President and General Counsel  
The Nasdaq Stock Market, Inc.  
1801 K Street, N.W. 8<sup>th</sup> Floor  
Washington, D.C. 20006

Re: Vendor Obligations to Display Quotation Information  
of the NASD Alternative Display Facility

Dear Mr. Knight:

In a letter dated June 28, 2002,<sup>1</sup> you requested that the staff of the Division of Market Regulation (the "Division") provide market data vendors with interpretive guidance regarding their obligations to display quotation information from the proposed NASD Alternative Display Facility ("ADF") pursuant to Rule 11Ac1-2 (the "Vendor Display Rule") under the Securities Exchange Act of 1934 (the "Exchange Act").<sup>2</sup> In particular, you have requested guidance on vendors' obligations to display quotations of non-exchange market makers when the NASD begins simultaneously operating the NASD ADF and The Nasdaq Stock Market as separate over-the-counter facilities. You have requested this guidance on behalf of vendors in connection with the NASD's launch of the ADF and Nasdaq's launch of a new technology platform (the "Internal SIP") on which Nasdaq will perform its duties as the securities information processor for the Nasdaq UTP Plan.<sup>3</sup>

<sup>1</sup> See letter from Edward S. Knight, Executive Vice President and General Counsel, The Nasdaq Stock Market, Inc. ("Nasdaq") to Robert L.D. Colby, Deputy Director, Division of Market Regulation, Securities and Exchange Commission dated June 28, 2002 ("Interpretive Request").

<sup>2</sup> 17 CFR 240.11Ac1-2.

<sup>3</sup> See generally Securities Exchange Act Release No. 46139 (June 28, 2001), 67 FR 44888 (July 5, 2002) (Notice of Filing and Partial Summary Effectiveness of Amendment No. 13 to the Nasdaq UTP Plan). You represent that the Internal SIP will enable Nasdaq to collect and consolidate quotation information from the national securities exchanges that trade Nasdaq stocks on a unlisted trading privileges basis ("UTP Exchanges"). The Internal SIP will collect the best bid,

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The Vendor Display Rule establishes minimum requirements governing the manner in which transaction, quotation, and other market information is displayed in certain exchange- and Nasdaq-listed securities ("subject securities").<sup>4</sup> Under the Rule, vendors that provide quotation information with respect to a subject security must provide a consolidated display of quotation information (a "consolidated quotation display") from all reporting market centers for that security. The consolidated quotation display required under the Vendor Display Rule must include, at a minimum, either:

(1) the best bid and offer derived from quotations from all reporting market centers for the security, together with identifiers indicating the reporting market centers making available the best bid and offer and the quotation size or aggregate quotation size associated with such best bid and offer (the "NBBO"); or

(2) a quotation montage that disseminates simultaneously quotations in the security from all reporting market centers.<sup>5</sup>

Moreover, the Vendor Display Rule does not allow a vendor to provide a consolidated quotation display or separate quotation montage that excludes any quotation information based upon the market center providing the information. Vendors are, however, permitted to consolidate quotation information from all reporting market centers that are third market makers to derive a best bid and offer under certain conditions.<sup>6</sup>

The Division believes that a vendor may satisfy its obligation under the Vendor Display Rule to provide a consolidated quotation display with respect to a subject security that is subject to the Nasdaq UTP Plan by providing any of the following:

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best offer, and quotation size of each UTP Exchange ("Exchange BBO"), as well as the best bid, best offer, and quotation size from Nasdaq ("Nasdaq BBO") and from the NASD ADF ("NASD ADF BBO"). The Internal SIP will also collect the individual market participant quotations of each broker or dealer quoting in Nasdaq and of each broker or dealer quoting in the NASD ADF.

<sup>4</sup> See generally Securities Exchange Act Release No. 16590 (February 19, 1980), 45 FR 12391 (February 26, 1980) (adopting the Vendor Display Rule).

<sup>5</sup> 17 CFR 240.11Ac1-2(c)(2)(i).

<sup>6</sup> 17 CFR 240.11Ac1-2(c)(2)(iv).

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- The NBBO derived from all reporting market centers, including UTP Exchanges, brokers and dealers quoting in Nasdaq, and brokers and dealers quoting in the NASD ADF;<sup>7</sup>
- A quotation montage consisting of each Exchange BBO, the Nasdaq BBO, and the NASD ADF BBO;<sup>8</sup> or
- A quotation montage including each Exchange BBO and the individual quotations of each broker or dealer quoting in Nasdaq and each broker or dealer quoting in the NASD ADF.<sup>9</sup>

The Division believes that the Vendor Display Rule prohibits a vendor from disseminating a quotation montage for a subject security (whether as the consolidated quotation display or as a separate quotation montage) that includes the individual quotation of brokers or dealers quoting in Nasdaq unless the vendor also includes in that quotation montage the individual quotation of brokers or dealers quoting in the NASD ADF. Thus, vendors that propose to disseminate a quotation montage for a subject security subject to the Nasdaq UTP Plan that consists of the information in the NQDS feed must also include in the same montage all of the information for that security in the OMDF feed.

The Division nevertheless will not recommend enforcement action under Section 11A of the Exchange Act with respect to a vendor that is unable at present to consolidate the information in the NQDS and OMDF feeds into a single quotation montage, provided that the vendor makes a good faith effort to develop a single quotation montage within a

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<sup>7</sup> You represent that the Internal SIP currently disseminates the NBBO on the Nasdaq Level 1 Service and will disseminate the NBBO via the UTP Quotation Data Feed ("UQDF"). You further represent that Nasdaq intends to stop disseminating the NBBO on Level 1 in early October of 2002, leaving UQDF as the sole Internal SIP data feed containing the NBBO.

<sup>8</sup> You represent that the Internal SIP will disseminate each Exchange BBO, the Nasdaq BBO, and the NASD ADF BBO, along with the NBBO, via the UQDF feed.

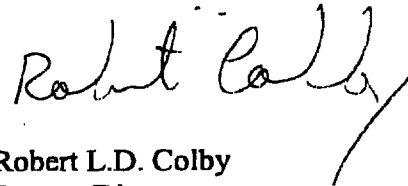
<sup>9</sup> You represent that the Internal SIP will disseminate the individual quotations of each broker or dealer quoting in Nasdaq via the Nasdaq Quotation Dissemination Service ("NQDS") and the individual quotations of each broker or dealer quoting in the NASD ADF via the OTC Montage Data Feed ("OMDF"). You further represent that Nasdaq intends to stop disseminating NQDS as an Internal SIP data feed when Nasdaq registers as a national securities exchange or in early October, whichever is later, at which time Nasdaq will disseminate such information via its Aggregated Depth at Price ("ADAP") service.

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reasonable time and in the interim, (1) makes the NQDS and OMDF feeds available to subscribers in a single feed package for a single price and (2) enables subscribers to view simultaneously and in a readily accessible manner (e.g., in separate windows on the same terminal) a separate quotation montage for individual quotations of each broker or dealer quoting in Nasdaq and for individual quotations of each broker or dealer quoting in the NASD ADF.

The interpretive guidance and accompanying no-action relief provided in this letter reflect the Division's views only and do not express any legal conclusions regarding the applicability of other provisions of the Vendor Display Rule, Section 11A of the Exchange Act, or other statutory or regulatory provisions of the federal securities laws. Moreover, the no-action position provided in this letter is subject to changes in current market practices, law, regulation, and interpretations; any change may require the Division to reevaluate and withdraw or modify this no-action position. Because these positions are based on representations made to the Division, any different facts or conditions might require different conclusions.

Sincerely,



Robert L.D. Colby  
Deputy Director