

OMB APPROVAL

OMB Number: 3235-0045
Expires: June 30, 2007
Estimated average burden
hours per response.....38

Page 1 of 24

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. SR - 2006 - 137
Amendment No.

Proposed Rule Change by National Association of Securities Dealers
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial ☒	Amendment ☐	Withdrawal ☐	Section 19(b)(2) ☐	Section 19(b)(3)(A) ☒	Section 19(b)(3)(B) ☐
Pilot ☐			Rule		
Extension of Time Period for Commission Action ☐			☐ 19b-4(f)(1) ☐ 19b-4(f)(4) ☒ 19b-4(f)(2) ☐ 19b-4(f)(5) ☐ 19b-4(f)(3) ☐ 19b-4(f)(6)		
Date Expires 					

Exhibit 2 Sent As Paper Document
☐

Exhibit 3 Sent As Paper Document
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Description

Provide a brief description of the proposed rule change (limit 250 characters).

Rule change to amend NASD Rule 7010 to modify pricing for NASD members using the ITS CAES System and Inet facility, which are currently operated by The Nasdaq Stock Market, Inc. and its subsidiaries as facilities of NASD

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name Lisa C. Last Name Horrigan
Title Assistant General Counsel
E-mail Lisa.Horrigan@nasd.com
Telephone (202) 728-8190 Fax (202) 728-8264

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 12/29/2006

By Stephanie M. Dumont
(Name)

Vice President & Associate General Counsel
(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Stephanie Dumont,

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EDFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

Add

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit Sent As Paper Document

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Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit Sent As Paper Document

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Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ the National Association of Securities Dealers, Inc. (“NASD”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to amend NASD Rule 7010 to modify pricing for NASD members using the ITS/CAES System and Inet facility, which are currently operated by The Nasdaq Stock Market, Inc. and its subsidiaries (“Nasdaq”) as facilities of NASD. Below is the text of the proposed rule change. Proposed new language is underlined; proposed deletions are in brackets.

* * * * *

7010. System Services

(a) through (h) No change.

(i) ITS/CAES System and Inet Order Execution and Routing

(1) The following charges shall apply to the use of the order execution and routing services of the ITS/CAES System and Inet (the "Nasdaq Facilities") by members for all [Exchange-Traded Funds] securities [that are not listed on The NASDAQ Stock Market LLC]. For purposes of Rule 7010(i), [T]the term "Exchange-Traded Funds" shall mean Portfolio Depository Receipts, Index Fund Shares, and Trust Issued Receipts as such terms are defined in Rule 4420(i), (j), and (l), respectively, of The NASDAQ Stock Market LLC. For purposes of determining a member's volume in all securities under Rule 7010(i), the term "Nasdaq Facilities" shall also be deemed to include the member's volume in

¹ 15 U.S.C. 78s(b)(1).

Nasdaq-listed securities through the facilities of The NASDAQ Stock Market LLC.

Fees for Order Execution in the Nasdaq Facilities; Fees for Routing of Orders in All Securities to Venues other than the New York Stock Exchange (“NYSE”); and Fees for Routing Orders in Exchange-Traded Funds to NYSE

[Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the Nasdaq Facilities:]	
Charge to member entering order <u>that executes in the Nasdaq Facilities or attempts to execute in the Nasdaq Facilities prior to routing:</u>	
Members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 30 million shares of liquidity provided, and (ii) more than 50 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 60 million shares of liquidity accessed and/or routed	\$0.002[8] per share executed [(or, in the case of executions against Quotes/Orders at less than \$1.00 per share, 0.1% of the total transaction cost)]
<u>Members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 35 million shares of liquidity accessed and/or routed</u>	<u>\$0.0028 per share executed</u>

Other members	\$0.0030 per share executed [(or, in the case of executions against Quotes/Orders at less than \$1.00 per share, 0.1% of the total transaction cost)]
<u>Charge to member entering order that does not attempt to execute in the Nasdaq Facilities prior to routing</u>	<u>\$0.0030 per share executed</u>
<u>Surcharge for order routed to the American Stock Exchange and charged a fee by the specialist:</u>	<u>\$0.01 per share executed</u>
<u>Credit to member providing liquidity through the Nasdaq Facilities:</u>	
Members with an average daily volume through the Nasdaq Facilities in all securities during the month of more than 30 million shares of liquidity provided	\$0.0025 per share executed [(or \$0, in the case of executions against Quotes/Orders at less than \$1.00 per share)]
Other members	\$0.0020 per share executed [(or \$0, in the case of executions against Quotes/Orders at less than \$1.00 per share)]
[Order that accesses the Quote/Order of a market participant that charges an access fee to market participants accessing its Quotes/ Orders through the Nasdaq Facilities:]	
[Charge to member entering order:]	
[Members with an average daily volume through the Nasdaq Facilities in all securities during the month of more than 500,000 shares of liquidity provided]	[\$0.001 per share executed (but no more than \$10,000 per month)]
[Other members]	[\$0.001 per share executed]

[Order Routing for Exchange-Traded Funds Not Listed On Nasdaq]

[Order routed to the New York Stock Exchange ("NYSE")]	[See NYSE fee schedule in Rule 7010(i)(7)]
[Order routed to the American Stock Exchange ("Amex")]	[\$0.003 per share executed (plus, in the case of orders charged a fee by the Amex specialist, \$0.01 per share executed)]
[All other orders]	[\$0.003 per share executed]

Fees for Routing Orders in Securities Other than Exchange-Traded Funds to NYSE

<u>Order that attempts to execute in the Nasdaq Facilities prior to routing:</u>	<u>\$0.000225 per share executed</u>
<u>Order that does not attempt to execute in the Nasdaq Facilities prior to routing:</u>	<u>\$0.000275 per share executed</u>

(2) through (5) No change.

(6) [Except as provided in paragraph (7), the following charges shall apply to the use of the order execution and routing services of the Nasdaq Facilities by members for securities subject to the Consolidated Quotations Service and Consolidated Tape Association plans other than Exchange-Traded Funds ("Covered Securities").] Reserved

[Order Execution]

[Order that accesses the Quote/Order of a Nasdaq Facility market participant:]	
[Charge to member entering order:]	
[On or after January 2, 2007]	[\$0.0007 per share executed]

[For a pilot period during the months of November and December 2006:]	
[Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of (i) more than 100,000 shares of liquidity provided, and (ii) more than 100,000 shares of liquidity accessed and/or routed]	[\$0.0007 per share executed]
[Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of (i) between 50,000 and 100,000 shares of liquidity provided, and (ii) between 50,000 and 100,000 shares of liquidity accessed and/or routed]	[\$0.001 per share executed]
[Other members]	[\$0.0015 per share executed]
[Credit to member providing liquidity for a Covered Security listed on NYSE and The NASDAQ Stock Market LLC:]	[\$0.0007 per share executed]
[Credit to a member providing liquidity for other Covered Securities:]	
[Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of more than 5 million shares of liquidity accessed, provided, or routed]	[\$0.0005 per share executed]
[Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of 10 million or more shares of liquidity provided]	[\$0.0006 per share executed]
[Other members]	[No credit]

[Order Routing]

[Order routed to Amex]	[\$0.0028 per share executed (plus, in the case of orders charged a fee by the Amex specialist, \$0.01 per share executed)]
[Order routed to NYSE]	[See NYSE fee schedule in Rule 7010(i)(7)]
[All other orders]	[\$0.0028 per share executed]

(7) [The following charges shall apply to the use of the Nasdaq Facilities by members for routing to the NYSE for all securities:] Reserved

[Order that attempts to execute in the Nasdaq Facilities prior to routing:]	
[Order for Exchange-Traded Fund]	[\$0.0028 per share executed]
[All other orders]	[\$0.000225 per share executed]
[Order that does not attempt to execute in the Nasdaq Facilities prior to routing:]	
[Order for Exchange-Traded Fund]	[\$0.003 per share executed]
[All other orders]	[\$0.000275 per share executed]

(8) No change.

(j) through (y) No change.

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by senior management of Nasdaq pursuant to authority delegated by the Board of Directors of Nasdaq on October 18, 2006 and the Board of Governors of NASD on November 10, 2006. The staff of Nasdaq provided an opportunity for the staff of NASD Regulation, Inc. to consult with respect to the proposed rule change, pursuant to the Plan of Allocation and Delegation of Functions by NASD to Subsidiaries as in effect at the time of action by the Board of Directors of Nasdaq and the Board of Governors of NASD. The staff will advise the Board of Directors of Nasdaq and the Board of Governors of NASD of any action taken pursuant to delegated authority. No other action by the NASD is necessary for the filing of the rule change. Section 1(a)(ii) of Article VII of the NASD By-Laws permits the NASD Board of Governors to adopt amendments to NASD Rules without recourse to the membership for approval.

NASD has filed the proposed rule change for immediate effectiveness. The implementation date of the filing will be January 2, 2007.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

This proposed rule change adopts a simplified pricing schedule for the systems for trading non-Nasdaq exchange-listed securities that are currently operated as NASD facilities by Nasdaq. The fees apply to the ITS/CAES System and the Inet system, but as is currently the case with respect to fees for these systems, the fee schedule reflects the volume of a member's use of ITS/CAES, Inet, and the Nasdaq Market Center (a facility of The NASDAQ Stock Market LLC (the "Nasdaq Exchange")) in determining

applicable fees.² The order execution fees, fees for routing to venues other than the New York Stock Exchange (the “NYSE”), and fees for routing orders in exchange-traded funds to the NYSE will be as follows:

- \$0.0027 per share executed for market participants that (i) add more than 30 million shares of liquidity per day during the month and route or remove more than 50 million shares of liquidity per day during the month, or (ii) add more than 20 million shares of liquidity per day during the month and route or remove more than 60 million share of liquidity per day during the month;
- \$0.0028 per share executed for market participants that add more than 20 million shares of liquidity per day during the month and route or remove more than 35 million shares of liquidity during the month;
- \$0.003 per share executed for other market participants;
- \$0.003 per share executed for routed orders that do not attempt to execute in the Nasdaq Facilities prior to routing;
- A liquidity provider credit of \$0.0025 per share executed for market participants adding more than 30 million shares of liquidity per day during the month, and a credit of \$0.002 for other market participants.

²

The consideration of volumes through the Nasdaq Exchange is a function of the phased transition of Nasdaq from an operator of NASD to facilities to a separate national securities exchange. As such, NASD fee schedules will be amended to remove all references to Nasdaq at or shortly after the time when the Nasdaq Exchange begins to trade non-Nasdaq exchange-listed securities. The Nasdaq Exchange has submitted a comparable filing to establish the same fees for Nasdaq-listed securities, which likewise considers trading volumes through ITS/CAES and Inet. See SR-NASDAQ-2006-068.

As is currently the case, for orders in securities other than exchange-traded funds routed to the NYSE, the fee will be \$0.000225 per share executed if the order attempts to execute in the Nasdaq Facilities prior to routing and \$0.000275 per share executed if the order does not attempt to execute prior to routing. The new fee schedule will also retain the current surcharge of \$0.01 per share executed for orders charged a fee by an American Stock Exchange specialist.

As noted in Item 2 of this filing, NASD has filed the proposed rule change for immediate effectiveness. The implementation date of the filing will be January 2, 2007.

(b) Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,³ in general, and with Section 15A(b)(5) of the Act,⁴ 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. NASD believes that the fees are reasonably allocated among members based on their usage of the trading systems operated by Nasdaq, and are generally consistent with fees charged by other market centers for comparable services.

4. Self-Regulatory Organization's Statement on Burden on Competition

NASD 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.

5. 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.

³ 15 U.S.C. 78o-3.

⁴ 15 U.S.C. 78o-3(b)(5).

6. Extension of Time Period for Commission Action

NASD does not consent at this time to an extension of the time period for Commission action specified in Section 19(b)(2) of the Act.⁵

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Pursuant to Section 19(b)(3)(A)(ii) of the Act⁶ and Rule 19b-4(f)(2) thereunder,⁷ NASD has designated this proposal as establishing or changing a due, fee, or other charge applicable only to a member, which renders the proposed rule change effective immediately upon filing.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

Exhibit 1. Completed notice of proposed rule change for publication in the Federal Register.

⁵ 15 U.S.C. 78s(b)(2).

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

⁷ 17 C.F.R. 240.19b-4(f)(2).

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-NASD-2006-137)

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Pricing for NASD Members Using ITS/CAES System and Inet Facility

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 , the National Association of Securities Dealers, Inc. (“NASD”) 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 NASD. NASD has designated this proposal as “establishing or changing a due, fee, or other charge” under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change effective immediately upon receipt of this filing by the Commission. 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

NASD proposes to amend NASD Rule 7010 to modify the pricing for its members using the ITS/CAES System and the Inet facility, which are currently operated by The Nasdaq Stock Market, Inc. and its subsidiaries (“Nasdaq”) as facilities of NASD.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 C.F.R. 240.19b-4(f)(2).

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

7010. System Services

(a) through (h) No change.

(i) ITS/CAES System and Inet Order Execution and Routing

(1) The following charges shall apply to the use of the order execution and routing services of the ITS/CAES System and Inet (the "Nasdaq Facilities") by members for all [Exchange-Traded Funds] securities [that are not listed on The NASDAQ Stock Market LLC]. For purposes of Rule 7010(i), [T]the term "Exchange-Traded Funds" shall mean Portfolio Depository Receipts, Index Fund Shares, and Trust Issued Receipts as such terms are defined in Rule 4420(i), (j), and (l), respectively, of The NASDAQ Stock Market LLC. For purposes of determining a member's volume in all securities under Rule 7010(i), the term "Nasdaq Facilities" shall also be deemed to include the member's volume in Nasdaq-listed securities through the facilities of The NASDAQ Stock Market LLC.

Fees for Order Execution in the Nasdaq Facilities; Fees for Routing of Orders in All Securities to Venues other than the New York Stock Exchange ("NYSE"); and Fees for Routing Orders in Exchange-Traded Funds to NYSE

[Order that accesses the Quote/Order of a market participant that does not charge an access fee to market participants accessing its Quotes/Orders through the Nasdaq Facilities:]	
Charge to member entering order <u>that executes in the Nasdaq Facilities or attempts to execute in the Nasdaq Facilities prior to routing:</u>	
Members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 30 million shares of liquidity provided, and (ii) more than 50 million shares of liquidity accessed and/or routed; or members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 60 million shares of liquidity accessed and/or routed	\$0.002[8]7 per share executed [(or, in the case of executions against Quotes/Orders at less than \$1.00 per share, 0.1% of the total transaction cost)]
<u>Members with an average daily volume through the Nasdaq Facilities in all securities during the month of (i) more than 20 million shares of liquidity provided, and (ii) more than 35 million shares of liquidity accessed and/or routed</u>	<u>\$0.0028 per share executed</u>
Other members	\$0.0030 per share executed [(or, in the case of executions against Quotes/Orders at less than \$1.00 per share, 0.1% of the total transaction cost)]
<u>Charge to member entering order that does not attempt to execute in the Nasdaq Facilities prior to routing</u>	<u>\$0.0030 per share executed</u>

<u>Surcharge for order routed to the American Stock Exchange and charged a fee by the specialist:</u>	<u>\$0.01 per share executed</u>
<u>Credit to member providing liquidity through the Nasdaq Facilities:</u>	
Members with an average daily volume through the Nasdaq Facilities in all securities during the month of more than 30 million shares of liquidity provided	\$0.0025 per share executed [(or \$0, in the case of executions against Quotes/Orders at less than \$1.00 per share)]
Other members	\$0.0020 per share executed [(or \$0, in the case of executions against Quotes/Orders at less than \$1.00 per share)]
[Order that accesses the Quote/Order of a market participant that charges an access fee to market participants accessing its Quotes/ Orders through the Nasdaq Facilities:]	
[Charge to member entering order:]	
[Members with an average daily volume through the Nasdaq Facilities in all securities during the month of more than 500,000 shares of liquidity provided]	[\$0.001 per share executed (but no more than \$10,000 per month)]
[Other members]	[\$0.001 per share executed]

[Order Routing for Exchange-Traded Funds Not Listed On Nasdaq]

[Order routed to the New York Stock Exchange ("NYSE")]	[See NYSE fee schedule in Rule 7010(i)(7)]
[Order routed to the American Stock Exchange ("Amex")]	[\$0.003 per share executed (plus, in the case of orders charged a fee by the Amex specialist, \$0.01 per share executed)]

[All other orders]	[\$0.003 per share executed]
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Fees for Routing Orders in Securities Other than Exchange-Traded Funds to

NYSE

<u>Order that attempts to execute in the Nasdaq Facilities prior to routing:</u>	<u>\$0.000225 per share executed</u>
<u>Order that does not attempt to execute in the Nasdaq Facilities prior to routing:</u>	<u>\$0.000275 per share executed</u>

(2) through (5) No change.

(6) [Except as provided in paragraph (7), the following charges shall apply to the use of the order execution and routing services of the Nasdaq Facilities by members for securities subject to the Consolidated Quotations Service and Consolidated Tape Association plans other than Exchange-Traded Funds ("Covered Securities");] Reserved

[Order Execution]

[Order that accesses the Quote/Order of a Nasdaq Facility market participant:]	
[Charge to member entering order:]	
[On or after January 2, 2007]	[\$0.0007 per share executed]
[For a pilot period during the months of November and December 2006:]	
[Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of (i) more than 100,000 shares of liquidity provided, and (ii) more than 100,000 shares of liquidity accessed and/or routed]	[\$0.0007 per share executed]

[Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of (i) between 50,000 and 100,000 shares of liquidity provided, and (ii) between 50,000 and 100,000 shares of liquidity accessed and/or routed]	[\$0.001 per share executed]
[Other members]	[\$0.0015 per share executed]
[Credit to member providing liquidity for a Covered Security listed on NYSE and The NASDAQ Stock Market LLC:]	[\$0.0007 per share executed]
[Credit to a member providing liquidity for other Covered Securities:]	
[Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of more than 5 million shares of liquidity accessed, provided, or routed]	[\$0.0005 per share executed]
[Members with an average daily volume through the Nasdaq Facilities in Covered Securities during the month of 10 million or more shares of liquidity provided]	[\$0.0006 per share executed]
[Other members]	[No credit]

[Order Routing]

[Order routed to Amex]	[\$0.0028 per share executed (plus, in the case of orders charged a fee by the Amex specialist, \$0.01 per share executed)]
[Order routed to NYSE]	[See NYSE fee schedule in Rule 7010(i)(7)]
[All other orders]	[\$0.0028 per share executed]

(7) [The following charges shall apply to the use of the Nasdaq Facilities by members for routing to the NYSE for all securities:] Reserved

[Order that attempts to execute in the Nasdaq Facilities prior to routing:]	
[Order for Exchange-Traded Fund]	[\$0.0028 per share executed]
[All other orders]	[\$0.000225 per share executed]
[Order that does not attempt to execute in the Nasdaq Facilities prior to routing:]	
[Order for Exchange-Traded Fund]	[\$0.003 per share executed]
[All other orders]	[\$0.000275 per share executed]

(8) No change.

(j) through (y) 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, 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. 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**

1. Purpose

This proposed rule change adopts a simplified pricing schedule for the systems for trading non-Nasdaq exchange-listed securities that are currently operated as NASD facilities by Nasdaq. The fees apply to the ITS/CAES System and the Inet system, but as is currently the case with respect to fees for these systems, the fee schedule reflects the volume of a member's use of ITS/CAES, Inet, and the Nasdaq Market Center (a facility of The NASDAQ Stock Market LLC (the "Nasdaq Exchange")) in determining applicable fees.⁵ The order execution fees, fees for routing to venues other than the New York Stock Exchange (the "NYSE"), and fees for routing orders in exchange-traded funds to the NYSE will be as follows:

- \$0.0027 per share executed for market participants that (i) add more than 30 million shares of liquidity per day during the month and route or remove more than 50 million shares of liquidity per day during the month, or (ii) add more than 20 million shares of liquidity per day during the month and route or remove more than 60 million share of liquidity per day during the month;

⁵ The consideration of volumes through the Nasdaq Exchange is a function of the phased transition of Nasdaq from an operator of NASD to facilities to a separate national securities exchange. As such, NASD fee schedules will be amended to remove all references to Nasdaq at or shortly after the time when the Nasdaq Exchange begins to trade non-Nasdaq exchange-listed securities. The Nasdaq Exchange has submitted a comparable filing to establish the same fees for Nasdaq-listed securities, which likewise considers trading volumes through ITS/CAES and Inet. See SR-NASDAQ-2006-068.

- \$0.0028 per share executed for market participants that add more than 20 million shares of liquidity per day during the month and route or remove more than 35 million shares of liquidity during the month;
- \$0.003 per share executed for other market participants;
- \$0.003 per share executed for routed orders that do not attempt to execute in the Nasdaq Facilities prior to routing;
- A liquidity provider credit of \$0.0025 per share executed for market participants adding more than 30 million shares of liquidity per day during the month, and a credit of \$0.002 for other market participants.

As is currently the case, for orders in securities other than exchange-traded funds routed to the NYSE, the fee will be \$0.000225 per share executed if the order attempts to execute in the Nasdaq Facilities prior to routing and \$0.000275 per share executed if the order does not attempt to execute prior to routing. The new fee schedule will also retain the current surcharge of \$0.01 per share executed for orders charged a fee by an American Stock Exchange specialist.

NASD has filed the proposed rule change for immediate effectiveness. The implementation date of the filing will be January 2, 2007.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,⁶ in general, and with Section 15A(b)(5) of the Act,⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges

⁶ 15 U.S.C. 78o-3.

⁷ 15 U.S.C. 78o-3(b)(5).

among members and issuers and other persons using any facility or system which the NASD operates or controls. NASD believes that the fees are reasonably allocated among members based on their usage of the trading systems operated by Nasdaq, and are generally consistent with fees charged by other market centers for comparable services.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD 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 and paragraph (f) of Rule 19b-4 thereunder.⁸ 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:

⁸ 17 CFR 240.19b-4(f).

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-2006-137 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASD-2006-137. 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 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of 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-2006-137 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Nancy M. Morris

Secretary

⁹ 17 CFR 200.30-3(a)(12).