

4:30 p.m. The public is invited to observe the roundtable discussions. Seating is available on a first-come first-serve basis. The schedule, agenda, and list of panelists for the roundtable will be posted on the Commission's Internet website (<http://www.sec.gov>).

**FOR FURTHER INFORMATION CONTACT:** Brian Bussey or Christine Richardson, Office of the Chairman, at (202) 942-0100.

Dated: May 14, 2001.

**Jonathan G. Katz,**  
Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-44303; File No. SR-NASD-2001-30]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Establishing the Fee Schedule for the Nasdaq ReSource<sup>SM</sup> Service**

May 14, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 8, 2001, the National Association of Securities Dealers, Inc. ("NASD") through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. 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 the provisions of Section 19(b)(1) of the Act, and Rule 19b-4 thereunder, Nasdaq is herewith filing a proposed rule change of the NASD to establish the fee schedule Nasdaq's new ReSource<sup>SM</sup> Service ("Service"). The Service is voluntary and is designed to assist NASD members in complying with Rule 11Ac1-5 under the Act. Below is the text of the proposed rule change; proposed additions are italicized.

\* \* \* \* \*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

7000. Charges for Services or Equipment

7010. System Services

(a)-(p) No Changes

(q) *Nasdaq ReSource<sup>SM</sup> Service*

*(1)(A) Subscribers to the Nasdaq ReSource<sup>SM</sup> shall be charged an Activation Fee and an Annual Subscription Fee, both of which generally will vary depending upon a subscriber's trading volume, as measured in accordance with paragraphs (B) through (D) below, and corresponding tier classification as follows:*

Tier	Average monthly trade volume
1 .....	500,000 or greater.
2 .....	100,000-499,999
3 .....	10,000-99,999
4 .....	5,000-9,999
5 .....	1,000-4,999
6 .....	500-999
7 .....	0-499

*(B) During the first year of the ReSource<sup>SM</sup> Service (i.e., August 2001 through July 2002) Nasdaq will assign subscribers to one of the tiers listed in paragraph (A) above based on their average monthly trading volume reported to the tape, for the period from September 1, 2000, through February 28, 2001, in Nasdaq National Market securities for which the subscriber is registered as a market maker.*

*(C) Members that subscribe to the ReSource<sup>SM</sup> Service other than at the beginning of a "Subscription Year," as the term is defined below, will be assigned to one of the tiers listed in paragraph (A) above based on their average monthly trading volume reported to the tape, during the six month period preceding the date of their subscription, in Nasdaq National Market securities for which the subscriber is registered as a market maker.*

*(D) Beginning in July of 2002, and on an annual basis thereafter, Nasdaq will review each subscriber's average monthly trading volume and assign the subscriber to one of the tiers listed in paragraph (A) above based on their average monthly trading volume reported to the tape, during the preceding six month period, in Nasdaq National Market securities for which the subscriber is registered as a market maker.*

*(2)(A) Activation Fees and Annual Subscription Fees shall be as follows:*

Tier	Activation fee	Annual subscription fee
1 .....	\$3,000	\$35,000

Tier	Activation fee	Annual subscription fee
2 .....	3,000	30,000
3 .....	2,000	20,000
4 .....	1,000	10,000
5 .....	1,000	7,500
6 .....	1,000	5,000
7 .....	1,000	2,500

*(B) The Activation Fee shall be billed after execution of the Addendum to Nasdaq Workstation II Subscriber Agreement for Nasdaq ReSource<sup>SM</sup> ("Agreement").*

*(C) The Annual Subscription Fee shall be charged after execution of the Agreement, and at the beginning of each Subscription Year thereafter. A "Subscription Year" shall mean a 12-month period from August 1st to July 31st. The Annual Subscription Fee will be pro-rated on a monthly basis for those firms that subscribe to the Service other than at the beginning of a Subscription Year. Nasdaq will offer no refunds of the Annual Subscription Fee.*

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

In its filing with the Commission, Nasdaq 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. Nasdaq 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**

On May 2, 2001, the Commission approved the Nasdaq Resource<sup>SM</sup> Service,<sup>3</sup> which is designed to assist NASD members in complying with certain of their obligations pursuant to Rule 11Ac1-5<sup>4</sup> (the "Rule") under the

<sup>3</sup> Securities Exchange Act Release No. 44246 (May 2, 2001), 66 FR 23289.

<sup>4</sup> 17 CFR 240.11Ac1-5.

<sup>5</sup> The Rule defines "covered order" as any market order or any limit order (including immediate-or-cancel orders) received by a market center during regular trading hours at a time when a consolidated best bid and offer is being disseminated, and, if executed, is executed during regular trading hours. Excluded from the definition of "covered order" is any order for which the customer requests special handling for execution, including, but not limited to, orders to be executed at a market opening or closing price, orders submitted with stop prices, orders to be executed only at their full size, orders

Act. Generally, the Rule seeks to improve the ability of public investors to evaluate how their orders are handled after being submitted to a broker-dealer for execution. The Rule requires "market centers" that trade national market system securities to prepare and make publicly available standardized, monthly reports containing statistical information concerning the handling and execution of their "covered orders."<sup>5</sup> A "market center" under the Rule is defined as "any exchange market maker, OTC market maker, alternative trading system, national securities exchange, or national securities association."<sup>6</sup> To facilitate cross-market comparisons, the Rule establishes and defines uniform measures of execution quality, including effective spread, rate of price improvement and disimprovement, fill rate, and execution speed.

Nasdaq's new voluntary service—Nasdaq ReSource<sup>SM</sup>—assists NASD member market centers in meeting their reporting obligations under Rule 11Ac1-5. For members that subscribe to the Service, Nasdaq will collect, compile, and web-host the reports required by the Rule. These reports will be referred to as Execution Quality Reports ("XQ Reports"<sup>SM</sup>) and will be available on a free, publicly accessible web site. Through certain existing systems, Nasdaq already can capture a portion of the data required to complete XQ Reports. In order to ensure complete XQ Reports, however, firms will be required to submit to Nasdaq additional data for certain categories of orders. Member firms will be required to provide an electronic file containing execution and cancellation information for orders routed to Nasdaq execution systems, orders routed to ECNs, orders routed to non-NASD members, and certain orders executed as riskless principal, depending upon which method the subscriber chooses to report riskless principal transactions.<sup>7</sup>

Generally, Nasdaq proposes a tiered fee structure for the ReSource<sup>SM</sup> Service

that is based on a subscriber's average monthly trading volume reported to the tape, over a certain specified number of months, in Nasdaq National Market securities for which the subscriber is registered as a market maker. Firms that generate higher trading volume will be charged a proportionately higher fee to account for the greater computer system and Nasdaq staff resources needed to provide the Service to these firms. The seven different fee levels, or tiers, will be based on monthly trading volume averaged over a six-month period. The six-month period is designed to account for seasonal fluctuations in trading volume and significant business changes. The proposed tier structure is as follows:

Tier	Average monthly trade volume
1 .....	500,000 or greater.
2 .....	100,000–499,999
3 .....	10,000–99,999
4 .....	5,000–9,999
5 .....	1,000–4,999
6 .....	500–999
7 .....	0–499

For the first year that Nasdaq offers the ReSource<sup>SM</sup> Service (*i.e.*, August 2000<sup>8</sup> through July 2002), Nasdaq will assign subscribers to one of the above tiers based on their average monthly trading volume reported to the tape, for the period from September 1, 2000, through February 28, 2001, in Nasdaq National Market securities for which they are registered as market makers. For members that subscribe other than at the beginning of a Subscription Year, as that term is defined in the fee schedule and described below, Nasdaq will place the subscriber in the appropriate tier based on the subscriber's average monthly trading volume during the six month period preceding the subscription date. Beginning with the first anniversary of the Service in July of 2002, and on an annual basis thereafter, Nasdaq will conduct a review of each subscriber's average monthly trading volume during the preceding six-month period, and will assign the applicant to the appropriate corresponding tier.

Fees for the ReSource<sup>SM</sup> Service will include an initial, one-time setup fee ("Activation Fee") and an Annual Subscription Fee, both of which generally will vary depending upon the

firm's trading volume and corresponding tier classification. The Activation Fee is related to the costs associated with assisting member firms in establishing the proper hardware and software configuration necessary to submit data to Nasdaq, establishing the necessary data feeds, and testing with Nasdaq. The Activation Fee will be billed upon receipt of an executed Addendum to Nasdaq Workstation II Subscriber Agreement for Nasdaq ReSource<sup>SM</sup> ("Agreement").

The Annual Subscription Fee is related to the on-going costs associated with compiling, calculating, and web-hosting the statistical data required by Rule 11Ac1-5. Member firms will be billed for the Annual Subscription Fee after submitting the executed Agreement, and thereafter at the beginning of each Subscription Year (*i.e.*, the 12-month period from August 1st to July 31st). The Annual Subscription Fee will be pro-rated on a monthly basis for those firms that subscribe to the Service other than at the beginning of a Subscription Year. Nasdaq will offer no refunds of the Annual Subscription Fee.

The proposed Activation Fees and Annual Subscription Fees are as follows:

Tier	Activation fee	Annual subscription fee
1 .....	\$3,000	\$35,000
2 .....	3,000	30,000
3 .....	2,000	20,000
4 .....	1,000	10,000
5 .....	1,000	7,500
6 .....	1,000	5,000
7 .....	1,000	2,500

## 2. Statutory Basis

Nasdaq believes that the proposed rule changes are consistent with Section 15A(b)(5) of the Act,<sup>9</sup> which requires that the rules of the NASD provide 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. Nasdaq represents that the proposed fee schedule complies with this statutory standard because Nasdaq will charge every member in a particular category or tier an amount that is related to the resources expended to provide the ReSource<sup>SM</sup> Service to such member. For instance, the computer system and staff resources required to provide the Service to a market center member with relatively high average monthly trading

<sup>5</sup> The Rule defines "covered order" as any market order or any limit order (including immediate-or-cancel orders) received by a market center during regular trading hours at a time when a consolidated best bid and offer is being disseminated, and, if executed, is executed during regular trading hours. Excluded from the definition of "covered order" is any order for which the customer requests special handling for execution, including, but not limited to, orders to be executed at a market opening or closing price, orders submitted with stop prices, orders to be executed only at their full size, orders to be executed on a particular type of tick or bid, orders submitted on a "not held" basis, orders for other than regular settlement, and orders to be executed at prices unrelated to the market price at the time of execution. 17 CFR 240.11Ac1-5(a)(8).

<sup>6</sup> 17 CFR 240.11Ac1-5(a)(14).

<sup>7</sup> See NASD Rule 4632(d)(B) and NASD Notice to Members 00-79.

<sup>8</sup> The initial compliance date for the reporting of listed securities under Rule 11Ac1-5 was May 1, 2001. The Commission has temporarily exempted (until July 31, 2001) all orders in Nasdaq securities. Letter from Annette L. Nazareth, Director, Division of Market Regulation, SEC, to Stuart J. Kaswell, Senior Vice President and General Counsel, Securities Industry Association, dated April 12, 2001.

<sup>9</sup> 15 U.S.C. 78o-3(b)(5).

volume is greater than that required for a member with relatively low average monthly trading volume.

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

Nasdaq does not believe that the proposed rule change will impose 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*

Nasdaq did not solicit or receive written comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>10</sup> and Rule 19b-4(f)(2) thereunder,<sup>11</sup> in that it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of such 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No.

SR-NASD-2001-30 and should be submitted by June 8, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Jonathan G. Katz,**  
Secretary.

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-44296; File No. SR-NYSE-2001-09]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Increase the Fee for Administering the Compliance Official Qualification Examination ("Series 14")**

May 11, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 3, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange"), 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 the NYSE. 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 proposed rule change seeks to increase the fee charged by the NYSE for the Compliance Official Qualification Examination ("Series 14 Examination") from \$200 to \$300.

#### **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 Exchange 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 Exchange 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

Exchange Rule 342 ("Offices—Approval, Supervision and Control") requires each member and member organization to designate a person to direct-to-day compliance activity. Such persons, as well as those compliance supervisors who direct ten or more persons engaged in compliance activity, must have overall knowledge of securities laws and Exchange rules and must pass the Series 14 Examination that was initially implemented in September 1989.

The fee for the Series 14 Examination has been \$200 since its inception in 1989. The Exchange now seeks to increase the fee to \$300. The fee increase will defray expenses incurred in developing, updating, and administering the Series 14 Examination.

##### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>3</sup> in that the proposed rule change is designed to provide for the equitable allocation of reasonable dues, fees and other charges among the Exchange members, issuers and other persons using its facilities.

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

The Exchange believes that the proposed rule change will not impose 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*

The Exchange has neither solicited nor received comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated the proposed rule change as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and subparagraph (f) of Rule 19b-4 thereunder.<sup>5</sup> Accordingly, the proposed rule change has become effective upon filing. At any time within 60 days of the filing of such proposed

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78f(b)(4).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f).