

product. (See September 5, 2002 memorandum, Appendix, topic (2)).

In paragraph III.3, OMB points out that if it needs to extend the time it will take to notify the person seeking reconsideration of an OMB response to a request for correction, it will provide a reasoned basis for the extension and an estimated decision date. (See September 5, 2002 memorandum, Appendix, topic (3)).

In paragraph IV.2, OMB modifies the exemption for a press release to provide that the information in the press release has been previously disseminated by OMB or another Federal agency in compliance with the Agency-wide Guidelines or the these OMB guidelines. (See June 5, 2002 memorandum, page 4).

In paragraph IV.4, OMB deletes from the exclusion from the definition of "information" the provision referring to statements that may reasonably be expected to become the subject of litigation. (See June 5, 2002 memorandum, page 5).

Otherwise, the OMB amendments were technical and conforming textual edits, designed to clarify the OMB guidelines and conform them to the Agency-wide Guidelines.

Dated: September 20, 2002.

John D. Graham,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 02-24459 Filed 9-30-02; 8:45 am]

BILLING CODE 3110-01-P

PENSION BENEFIT GUARANTY CORPORATION

Notice of Availability of the Pension Benefit Guaranty Corporation Information Quality Guidelines

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that, pursuant to the requirements of the Office of Management and Budget's (OMB's) Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies, the Pension Benefit Guaranty Corporation (PBGC) has made available its Information Quality Guidelines on its Web site at <http://www.pbgc.gov>.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (TTY/TDD users may call the Federal relay service

toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554) directs OMB to issue government-wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility and integrity of information (including statistical information) disseminated by Federal agencies." The OMB guidelines require each agency to prepare a report providing the agency's information quality guidelines. Each agency is required to publish a notice of availability of this report in the **Federal Register** and to post this report on its web site by October 1, 2002. The PBGC has posted its Information Quality Guidelines on its Web site at <http://www.pbgc.gov>.

Prior to submitting this report for OMB review, the PBGC posted the report in draft form on its web site for public comment. The Center for Regulatory Effectiveness (the CRE) prepared generic comments applicable to all federal agencies. The PBGC considered the CRE's comments and made appropriate changes to the guidelines. The PBGC received no other comments before submitting the guidelines to OMB. OMB suggested some modifications, which are reflected in the PBGC's final guidelines.

Issued in Washington, DC, on this 26th day of September 2002.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 02-24902 Filed 9-30-02; 8:45 am]

BILLING CODE 7708-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46540; File No. SR-NASD-2002-110]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Establish a New Registration Category for Proctors of In-Firm Delivery of the Regulatory Element of the Continuing Education Requirements

September 24, 2002.

On August 8, 2002, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to establish NASD Rule 1043, a new registration category for proctors of in-firm delivery of the Regulatory Element of the NASD's continuing education requirements. The proposed rule change was published for notice and comment in the **Federal Register** on August 21, 2002.³ The Commission received no comments on the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association⁴ and, in particular, the requirements of Section 15A(b)(6),⁵ which requires among other things that the NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change may result in more efficient delivery of the NASD's continuing education requirements, while maintaining the integrity of the continuing education program.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-NASD-2002-110) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24830 Filed 9-30-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46553; File No. SR-NASD-2002-122]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Correct Inaccurate Language in the Text of NASD Rules

September 25, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 46351 (August 14, 2002), 67 FR 54248.

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78o-3(b)(6).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 18, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. Nasdaq has designated this proposed rule change as one concerned solely with the administration of the self-regulatory organization under section 19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(3)⁴ thereunder, which renders the proposal effective upon filing with 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 Substance of the Proposed Rule Change

Nasdaq proposes to correct several instances of inaccurate language in the text of NASD rules. Nasdaq will implement the proposed rule change immediately upon filing.

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

Rule 7010. System Services

(a)[(1)] Nasdaq Level 1 Service

The charge to be paid by the subscriber for each terminal receiving Nasdaq Level 1 Service is \$20 per month. This Service includes the following data:

[(A)](1) inside bid/ask quotations calculated for securities listed in The Nasdaq Stock Market and securities quoted in the OTC Bulletin Board (OTCBB) service;

[(B)](2) the individual quotations or indications of interest of broker/dealers utilizing the OTCBB service; and

[(C)](3) last sale information on securities classified as designated securities in the Rule 4630, 4640, and 4650 Series and securities classified as over-the-counter equity securities in the Rule 6600 Series.

[(2) Market Data Revenue Sharing]

[(A) For a pilot period lasting until December 31, 2002, NASD members shall receive a market data revenue sharing credit. The total credit shall be

calculated in accordance with the following formula:]

[Credit = (0.90) × (Eligible Revenue) × (Member's Volume Percentage)]

[(B) Definitions. The following definitions shall apply to this Rule:]

[(i) "Eligible Revenue" shall mean the portion of the net distributable revenues that Nasdaq, through the NASD, is eligible to receive under the Nasdaq UTP Plan, that is attributed to the Nasdaq Level 1 Service for Eligible Securities.]

[(ii) "Eligible Securities" shall mean all Nasdaq National Market securities and any other security that meets the definition of "Eligible Security" in the Nasdaq UTP Plan.]

[(iii) "Member's Volume Percentage" shall mean the average of:]

[a. the percentage derived from dividing the total number of trades in Eligible Securities that the member reports in accordance with NASD trade reporting rules to the Automated Confirmation Transaction Service ("ACT") by the total number of trades in Eligible Securities reported to ACT by NASD members, and]

[b. the percentage derived from dividing the total number of shares represented by trades in Eligible Securities that the member reports in accordance with NASD trade reporting rules to ACT by the total number of shares represented by all trades in Eligible Securities reported to ACT by NASD members.]

[(iv) "Nasdaq UTP Plan" shall mean the Joint Self-Regulatory Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis.]

[(b)-(o) No change.]

[(p) [NasdaqTrader.com Volume and Issue Data Package Fee]

[The charge to be paid by the subscriber for each entitled user receiving the Nasdaq Volume and Issue Data Package via NasdaqTrader.com shall be \$70 per month. The charge to be paid by market data vendors for this information shall be \$35 per month for each end user receiving the information through the data vendor. The availability of this service through NasdaqTrader.com shall be limited to NASD members, Qualified Institutional Buyers* and data vendors. The Volume and Issue Data package includes:]

[(1) Daily Share Volume reports]

[(2) Daily Issue Data]

[(3) Monthly Volume Summaries]

[(4) Buy Volume Report]

[(5) Sell Volume Report]

[(6) Crossed Volume Report]

[(7) Consolidated Activity Volume Report]

[* For purposes of this service, see definition of "Qualified Institutional Buyer" found in Rule 144A of the Securities Act of 1933.]

[(q)] Historical Research and Administrative Reports

(1)-(4) No change.

(q) Reserved.

(r) No change.

(s) *NasdaqTrader.com Volume and Issue Data Package Fee*

The charge to be paid by the subscriber for each entitled user receiving the Nasdaq Volume and Issue Data Package via NasdaqTrader.com shall be \$70 per month. The charge to be paid by market data vendors for this information shall be \$35 per month for each end user receiving the information through the data vendor. The availability of this service through NasdaqTrader.com shall be limited to NASD members, Qualified Institutional Buyers and data vendors. The Volume and Issue Data package includes:*

(1) Daily Share Volume reports

(2) Daily Issue Data

(3) Monthly Volume Summaries

(4) Buy Volume Report

(5) Sell Volume Report

(6) Crossed Volume Report

(7) Consolidated Activity Volume Report

** For purposes of this service, see definition of "Qualified Institutional Buyer" found in Rule 144A of the Securities Act of 1933.*

* * * * *

[7110. Regulatory Services.]

[(a) Fee. NASD members will be assessed a monthly fee for the regulatory services provided in connection with the operation of The Nasdaq Stock Market during a pilot period lasting until December 31, 2002. The fee shall be calculated at the beginning of each month using data concerning market activity during the prior month, in accordance with the following formula:]

[Regulatory Fee = ((Monthly Regulatory Charge) × (Member's Quote Share) × 0.4) + ((Monthly Regulatory Charge) × (Member's Position Share) × 0.2) + ((Monthly Regulatory Charge) × (Member's ACT Record Share) × 0.4)]

[(b) Transitional Fee Reduction. The fee for regulatory services payable by a member in a given month shall be reduced by an amount calculated in accordance with the following formula (if such amount is positive):]

[Fee Reduction = (Aggregate Fee Reduction) × (Member's Share of Fee Reduction)]

[(c) Definitions. The following definitions shall apply to this Rule:]

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(3).

[(1) "Aggregate Fee Reduction" shall mean the lesser of (i) the Aggregate Impact during a month or (ii) \$416,667.]

[(2) "Aggregate Impact" shall mean the sum of each Member's Impact that is positive.]

[(3) "Implicit Monthly Fee" shall mean the product of (i) the Monthly Regulatory Charge with respect to a particular month and (ii) the Member's Volume Percentage (as defined in Rule 7010(a)(2)) during such month.]

[(4) "Market ACT Record Total" shall mean the sum of each Member's ACT Record Total.]

[(5) "Member's ACT Record Share" shall mean a percentage calculated by dividing the Member's ACT Record Total by the Market ACT Record Total.]

[(6) "Member's ACT Record Total" shall mean the greater of (i) the number of all types of ACT records in which the member is the reporting party during the month, minus the number of ACT records reported for dissemination to the public in which the member is either the reporting party or the contra-party during the month, or (ii) the number of ACT records reported for dissemination to the public in which the member is the reporting party during the month.]

[(7) "Member's Impact" shall mean the difference between the regulatory fee payable by the member under subsection (a) with respect to a particular month and the highest Implicit Monthly Fee for such member in any month between January 2002 and such month.]

[(8) "Member's Position Share" shall mean a percentage calculated by dividing (i) the sum of the number of days during the month that the member posted a bid or offer under its name with respect to each Nasdaq-listed security by (ii) the sum of the number of days during the month that each member posted a bid or offer under its name with respect to each Nasdaq-listed security.]

[(9) "Member's Quote Share" shall mean a percentage calculated by dividing the member's quotation activity in Nasdaq-listed securities during the month by the quotation activity of all members in Nasdaq-listed securities during the month. Prior to the introduction of the version of the Nasdaq National Market Execution System (the "NNMS") commonly referred to as SuperMontage, quotation activity shall be measured by quotation updates. In the version of the NNMS commonly referred to as SuperMontage, quotation activity shall be measured by any entry, modification, cancellation, or cancel/replace of a member's best priced

Quote/Order on the bid or the offer side of the market.]

[(10) "Member's Share of Fee Reduction" shall mean a percentage calculated by dividing the Member's Impact by the Aggregate Impact.]

[(11) "Monthly Regulatory Charge" shall mean sum of (i) the fee that Nasdaq pays to NASD Regulation, Inc. for regulatory services with respect to Nasdaq-listed securities for the month, and (ii) costs incurred by Nasdaq's MarketWatch Department for regulatory services with respect to Nasdaq-listed securities during the month.]

[(12) "Nasdaq-listed securities" shall mean Nasdaq National Market securities and Nasdaq SmallCap Market securities.]

* * * * *

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

The purpose of this rule filing is to correct several inaccuracies in the text of NASD rules. In February 2002, Nasdaq instituted a program for sharing market data revenue on Nasdaq-listed securities with market participants on a pilot basis.⁵ On May 3, 2002, Nasdaq submitted a proposed rule change to modify the pilot program for revenue sharing and to institute a direct fee for regulatory services provided in connection with the operation of The Nasdaq Stock Market.⁶ On July 2, 2002, the Commission summarily abrogated this filing⁷ under section 19(b)(3)(C) of

⁵ Securities Exchange Act Release No. 45342 (Jan. 28, 2002); 67 FR 5109 (Feb. 1, 2002) (SR-NASD-2001-96); Securities Exchange Act Release No. 45444 (Feb. 14, 2002); 67 FR 8051 (Feb. 21, 2002) (SR-NASD-2002-17).

⁶ Securities Exchange Act Release No. 45916 (May 10, 2002); 67 FR 35167 (May 17, 2002) (SR-NASD-2002-61).

⁷ Securities Exchange Act Release No. 46159 (July 2, 2002); 67 FR 45775 (July 10, 2002) (SR-NASD-2002-61, SR-NASD-2002-68, SR-CSE-2002-06, SR-PCX-2002-37).

the Act.⁸ Commission staff has advised Nasdaq, however, that a rule filing is necessary to remove rule language that was affected by the Commission's abrogation order. Accordingly, Nasdaq is deleting NASD Rules 7010(a)(2) and 7110 and redesignating NASD Rule 7010(a)(1) as Rule 7010(a).

In SR-NASD-99-12, Nasdaq proposed a rule to establish a fee for the "NasdaqTrader.com Volume and Issue Data Package."⁹ In the filing, the rule was designated as Rule 7010(p). In SR-NASD-99-70, Nasdaq proposed a rule to establish fees for historical research and administrative reports.¹⁰ In the filing, the rule was designated as Rule 7010(q). However, SR-NASD-99-70 was approved by the Commission¹¹ two years before SR-NASD-99-12 was approved.¹² As a result, the rule adopted in SR-NASD-99-70 appeared in the NASD Manual as Rule 7010(p) and was referenced as such in a subsequent filing to amend the rule.¹³ Accordingly, Nasdaq is amending the designation of this rule to conform it to the manner in which it appears in the NASD Manual.

In SR-NASD-2002-33, Nasdaq proposed a rule to establish fees for "Nasdaq Data Entitlement Packages."¹⁴ In the filing, the proposed rule was also designated as Rule 7010(q).¹⁵ Nasdaq is reserving this designation for the rule proposed in SR-NASD-2002-33. In addition, in SR-NASD-2001-93, Nasdaq adopted a fee schedule for the Primex Auction System, designated as Rule 7010(r).¹⁶ Accordingly, Nasdaq is

⁸ 15 U.S.C. 78s(b)(3)(C).

⁹ Securities Exchange Act Release No. 41244 (Apr. 1, 1999); 64 FR 17429 (Apr. 9, 1999) (SR-NASD-99-12).

¹⁰ Securities Exchange Act Release No. 42207 (Dec. 8, 1999); 64 FR 69811 (Dec. 14, 1999) (SR-NASD-99-70).

¹¹ Securities Exchange Act Release No. 42341 (Jan. 14, 2000); 65 FR 3513 (Jan. 21, 2000) (SR-NASD-99-70).

¹² Securities Exchange Act Release No. 45270 (Jan. 11, 2002); 67 FR 2712 (Jan. 18, 2002) (SR-NASD-99-12).

¹³ Securities Exchange Act Release No. 44940 (Oct. 16, 2001); 66 FR 53462 (Oct. 22, 2001) (SR-NASD-2001-59); Securities Exchange Act Release No. 45102 (Nov. 26, 2001); 66 FR 59830 (Nov. 30, 2001) (SR-NASD-2001-59).

¹⁴ SR-NASD-2002-33 (Amendment No. 4 filed Sept. 13, 2002).

¹⁵ In addition, prior to the approval of SR-NASD-99-12, Nasdaq adopted a fee schedule for the Nasdaq ReSourceSM Service, which was also designated as Rule 7010(q). Securities Exchange Act Release No. 44303 (May 14, 2001); 66 FR 27712 (May 18, 2001) (SR-NASD-2001-30). However, this fee schedule was deleted by a subsequent filing. Securities Exchange Act Release No. 45444 (Feb. 14, 2002); 67 FR 8051 (Feb. 21, 2002) (SR-NASD-2002-17).

¹⁶ Securities Exchange Act Release No. 45285 (Jan. 15, 2002); 67 FR 3521 (Jan. 24, 2002) (SR-NASD-2001-93).

redesignating the rule adopted in SR-NASD-99-12 as Rule 7010(s).

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act.¹⁷

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

Nasdaq 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, as amended.

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 proposed rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act¹⁸ and Rule 19b-4(f)(3)¹⁹ thereunder, in that the foregoing proposed rule change is concerned solely with the administration of the self-regulatory organization.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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 proposal 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 in

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 number SR-NASD-2002-122 and should be submitted by October 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁰

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24907 Filed 9-30-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46551; File No. SR-NASD-2002-111]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Amend Nasdaq's Transaction Credit Pilot Program for Exchange-Listed Securities To Eliminate Volume Eligibility Thresholds

September 25, 2002.

On August 9, 2002, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to modify Nasdaq's transaction credit pilot program for exchange-listed securities. Specifically, the proposed rule change would eliminate the requirement that a member print an average of 500 daily trades of Tape A securities during a quarter to qualify for Tape A market data revenue sharing, as well as the comparable volume threshold for Tape B securities. The proposed rule change was published for notice and comment in the **Federal Register** on August 21, 2002.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities

association⁴ and, in particular, the requirements of section 15A(b)(5)⁵ of the Act. Section 15A(b)(5) requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by a national securities association. The Commission believes it is reasonable for Nasdaq to eliminate the thresholds, so that the market data revenue sharing program will be available to all members that participate in the InterMarket, regardless of their level of activity.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁶ that the proposed rule change (SR-NASD-2002-111) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24908 Filed 9-30-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46549; File No. SR-NASD-2002-101]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Increasing Fees for the Mutual Fund Quotation Service and Adopting a New Fee To Process a Request To Amend the Name and/or Symbol of a Fund

September 25, 2002.

On July 30, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NASD Rule 7090 to increase fees associated with the Mutual Fund Quotation Service ("MFQS" or the "Service") and to adopt a new administrative fee to process a request to amend the name and/or symbol of a fund. Nasdaq filed Amendment No. 1 to

⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78o-3(b)(5).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

¹⁷ 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 46357 (August 15, 2002), 67 FR 54245.

¹⁷ 15 U.S.C. 78o-3.

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 17 CFR 240.19b-4(f)(3).