Class B Common Stock, including the right of holders of Class B Common Stock to elect one MBSCC director. References to Class B Common Stock, including the right of holders of Class B Common Stock to elect a director, will no longer be necessary as MBSCC will be wholly-owned by Holding Company. All of MBSCC's directors will be elected by DTCC through its wholly-owned subsidiary, Acquisition Company, which will be the majority or sole (depending on how many Holding Company shareholders, *i.e.,* former MBSCC shareholders, tender their Holding Company shares in the Exchange Offer) shareholder of Holding Company. The former holders of MBSCC Class B Common Stock, as well as the former holders of Class A Common Stock, that participate in the Exchange Offer will have the opportunity to participate in the governance of DTCC through the election of DTCC's directors.

- The fifth article of the Certificate of Incorporation shall be stricken as permitted by Section 245 of the Delaware General Corporation Law and the sixth, seventh, ninth and tenth articles of the Certificate of Incorporation shall be deleted as unnecessary. The remaining articles shall be renumbered accordingly.
- The eighth article (as revised, the fifth article) of the Certificate of Incorporation shall be modified to include a reference to a testator or intestate of a person that is being indemnified.

MBSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Exchange Act and the rules and regulations thereunder applicable to MBSCC because it is designed to coordinate further the activities of each of the Operating Subsidiaries in order to help assure the continued prompt and accurate clearance and settlement of securities transactions in the face of changing business and regulatory requirements for the securities industry. Specifically, the proposed integration structure satisfies the fair representation requirement of Section 17A of the Act, by (1) giving participants, including those participants of MBSCC, of each of the Operating Subsidiaries who are also shareholders of DTCC the right to purchase shares of DTCC common stock on a basis that reflects their use of the services and facilities of each of the Operating Subsidiaries. This system for reallocating entitlements to purchase shares of DTCC common stock among participants will be the same as that now employed by DTCC for reallocating entitlements to purchase shares of DTCC common stock among participants of DTCC and NSCC and (2) selecting individuals to be directors of DTCC (who will also be directors of each of the Operating Subsidiaries) on a basis that will ensure that all major constituencies in the securities industry will have a voice in the business and affairs of each of the Operating Subsidiaries. Finally, the proposed rule change will not affect, and is therefore consistent with, the safeguarding of securities and funds in MBSCC's custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

MBSCC 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 Exchange Act. MBSCC, as well as each of the other Operating Subsidiaries, is a utility created to serve members of the securities industry by providing certain complementary services that are ancillary to the businesses in which industry members compete with one another.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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, N.W., Washington, D.C. 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 MBSCC's principal office. All submissions should refer to File No. SR–MBSCC–2001–01 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25382 Filed 10–9–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–44898; File No. SR–NASD–2001–64)

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the National Association of Securities Dealers, Inc. Adjusting the Fees Charged to Non-NASD Members for Use of the Nasdaq National Market Execution System and the SelectNet Service

October 2, 2001

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 September 28, 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. On October 2, 2001, Nasdaq filed Amendment No. 1 with the Commission.[3] The Commission is

[8] 7 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from John M. Yetter, Assistant General Counsel, Office of General Counsel, Nasdaq, to Katherine A. England, Assistant

Continued

publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to adjust the fees charged to non-NASD members for uses of the NNMS and SelectNet by: (1) Replacing the per order execution charge for the execution of transactions in SuperSOES with a per share charge; (2) adding a fee for the entry of orders in the NNMS and SelectNet; (3) modifying the fees for order executions in SelectNet; and (4) clarifying the distinction between fees charged for execution of liability orders and non-liability orders in SelectNet.[4] Nasdaq would charge these fees to national securities exchanges trading Nasdaq-listed securities pursuant to grants of unlisted trading privileges (''UTP Exchanges''), which are not NASD members.[5]

The fees currently in effect for SelectNet, the NNMS, and the SOES were established through prior rule filings.[6] They were not, however, fully reflected in the text of NASD Rules, and the rules that currently reference such fees are not consolidated in one location in the NASD Rules. Nasdaq proposes to adjust the fees for SelectNet, the NNMS and the SOES and consolidate the rules governing these fees into NASD Rule 7010(i). The rule language set forth below has been marked to show the proposed changes to the NASD Rules (as amended by the prior filings). Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

[4714. Fees Applicable to NNMS]

[(a) A fee for orders executed through NNMS shall be assessed as follows:]

[0.50 per order execution for the first 150,000 orders under 2,000 shares executed monthly (entering party only)]

[0.30 per order execution for all remaining orders under 2,000 shares executed monthly (entering party only)]

[0.90 per order execution for all executed orders of 2,000 shares or more (entering party only)]

[(b) For each order entered by an NNMS Order Entry Firm or an NNMS Market Maker that is canceled, the NNMS Order Entry Firm or NNMS Market Maker that cancels such order shall be assessed a fee of $0.25.]

* * * * *

[4757. Fees Applicable to SOES]

[(a) A fee for orders executed through SOES shall be assessed as follows:]

[$0.50 per order execution for the first 150,000 orders executed monthly (entering party only)]

[$0.30 per order execution for all remaining orders executed monthly (entering party only)]

[(b) For each order entered by a SOES Order Entry Firm or a SOES Market Maker that is cancelled, the SOES Order Entry Firm or SOES Market Maker that cancels such order shall be assessed a fee of $0.25.]

* * * * *

7010. System Services

(a)–(h) No change.

(i) *Transaction Execution Services*

(1) SelectNet Service

The following charges shall apply to the use of SelectNet:

Transaction Charge for Execution Resulting from Broadcast Message	$2.50/side
Order Entry Charge	*$0.10 per order entry (entering party only)*
Directed Non-Liability Order Entry Charge	*$0.90 per order execution (entering party only)*
Directed *Liability* Order *Execution* Charge	[$0.70] *$0.90* per order execution for the first 25,000 orders executed monthly (entering only) [$0.50] *$0.60* per order execution for the next 25,000 orders executed monthly (entering only) $0.10 per order execution for [all remaining] *the next 200,000* orders executed monthly (entering party only) *$0.00 per orders execution for all remaining orders executed monthly*
Cancellation Fee	$.25/per order cancelled (canceling party only)

Director, Division of Market Regulation (''Division''), Commission (October 2, 2001) (''Amendment No. 1''). The fees currently in effect for SelectNet, the Nasdaq National Market Execution System (''NNMS'' and ''SuperSOES''), and the Small Order Execution System (''SOES'') were established by SR–NASD–2001–31 and SR–NASD–00–41, but these fees were not fully reflected in the text of NASD Rules. *See* Securities Exchange Act Release No. 44321 (May 18, 2001), 66 FR 28767 (May 24, 2001) (SR–NASD–2001–31); Securities Exchange Act Release No. 43001 (June 30, 2000), 65 FR 42741 (July 11, 2000) (SR–NASD–00–41). Amendment No. 1 is a technical amendment that adds Exhibit A to the proposed rule change. Exhibit A sets forth NASD rule language as modified by SR–NASD–2001–31 and SR–NASD–00–41. Amendment No. 1 also amends the text of SR–NASD–2001–64 to describe the changes being made to the rule text as amended by the prior filings.

[4] *See* note 11 *infra.*

[5] Nasdaq has filed a separate proposal to impose these same fees on NASD members. *See* Securities Exchange Act Release No. 44899 (October 2, 2001) (SR–NASD–2001–63).

[6] *See supra* note 3.

[For a pilot period commencing April 1, 1999, and lasting until the sooner of March 31, 2002 or the date of implementation of the Nasdaq National Market Execution System, an NASD member who enters a directed SelectNet order that is subsequently executed in whole or in part will have its monthly Directed Order Charge assessed as follows:]

[$1.00 per order for the first 50,000 directed orders executed that month

$0.70 per order for the next 50,000 directed orders executed that same month

$0.20 per order for all remaining directed orders executed that same month]

[Executions resulting from broadcast messages will continue to be assessed at a $2.50 per side rate.]

(2) Nasdaq National Market Execution System (SuperSOES)

The following charges shall apply to the use of the Nasdaq National:

Market Execution System:	
Order Entry Charge	*$0.10 per order entry (entering party only)*
Per Share Charge	*$0.001 per share executed for all fully or partially executed orders (entering party only)*
Cancellation	*$0.25 per order canceled (canceling party only)*

(3) Small Order Execution System (SOES)

The following charges shall apply to the use of the Small Order Execution System:

Order Execution Charge	*$0.50 per order execution for the first 150,000 orders executed monthly (entering party only) $0.30 per order execution for all remaining orders executed monthly (entering party only)*
Cancellation Fee	*$0.25 per order cancelled (canceling party only)*

* * * * *

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 January 14, 2000, the Commission issued an order approving a rule change that: (1) established the NNMS, a new platform for the trading of Nasdaq National Market (''NNM'') securities; (2) modified the rules governing the use of SelectNet for trading NNM issues; and (3) left unchanged trading of Nasdaq SmallCap securities on SOES.[7] Nasdaq began implementing these system changes on July 9, 2001 and completed implementation on July 30, 2001. Through these changes, the NNMS has become the primary trading platform for NNM securities, and SelectNet is intended to be used primarily for the transmittal and execution of ''non-liability'' orders, as well as the transmittal and execution of ''liability'' orders to market participants that do not participate in the automatic execution functionality of the NNMS.

The introduction of the NNMS has had a dramatic effect on market efficiency. Market participants can place SuperSOES orders of up to 999,999 shares, and a single order can be used to access multiple quotes automatically. In contrast, in the pre-SuperSOES environment, a market participant had to enter a separate SelectNet order for each quote that it wanted to access. Thus, the introduction of the NNMS has significantly reduced the number of orders required for the trading of a given volume of shares.

Nasdaq believes, however, that while these changes redound to the benefit of all market participants, they are incompatible with its current fee structure for the NNMS, which is based on the number of orders executed. The fee changes implemented by this rule change are designed as an interim modification to begin the process of aligning the charges to market participants for using the NNMS and SelectNet more closely with the costs of providing these services and the benefits that they provide to market participants. Nasdaq plans to implement additional modifications to the fee structures for the NNMS in the near future.

First, Nasdaq proposes to replace the current order execution charge in the NNMS, which is based on the number of orders executed per month, with a $0.001 per share charge for execution of orders through the NNMS. Thus, for example, a transaction of 1,000 shares would be assessed a per share charge of $1.00. Nasdaq believes that a per share charge is more appropriate than a per order execution charge, in light of the enhanced efficiency of the NNMS. In addition, Nasdaq believes that by providing access to the liquidity needed

[7] Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 16 (January 25, 2000) (SR–NASD–99–11).

to fill larger orders, the NNMS provides market participants with a higher-value service. Moreover, larger orders are more likely than smaller orders to be filled through multiple executions against market participant quotes, thereby imposing more burden on system capacity. Calibrating the charge for order executions to their size will compensate for this additional burden.

Second Nasdaq proposes to impose a $0.10 order entry charge on orders in both the NNMS and SelectNet. Nasdaq represents that this charge reflects the fact that many market participants enter orders that have little chance of being filled, especially on days when unusual market activity is occurring. For example, traders may enter such orders in anticipation of news about a company's earnings or the release of government macroeconomics data. The imposition of the charge recognizes that these low-probability orders impose burdens on system capacity and that market participants derive value from order entry.

Third, Nasdaq proposes to modify the charges for order execution in SelectNet to reflect its transformation, in connection with the implementation of the NNMS, into a system that is intended to be used primarily for the delivery of negotiable, non-liability orders to market makers and electronic communication networks that participate in the NNMS.[8] Nasdaq will charge $0.90 per execution for the first 25,000 liability orders executed in a month, $0.60 per execution for the next 25,000 liability orders executed, $0.10 per execution for the next 200,000 liability orders executed, and will assess no order-execution charge for the remaining liability orders executed in a month. In addition, Nasdaq will charge a fee of $0.90 per execution for all non-liability orders executed.

Nasdaq believes that the proposed rule change restores SelectNet charges to levels similar to those in effect prior to the implementation of the NNMS, with some adjustment to compensate for the imposition of the order-entry fee described above. The proposed rule change also clarifies the distinction between fees charged for execution of liability orders and non-liability orders in SelectNet, which was not clearly delineated in the prior rule filing establishing current SelectNet fees.[9] The distinction between order-execution charges for liability and non-liability orders reflects the fact that the NNMS is available to market participants that use SelectNet for entry of non-liability orders but is not used for conducting the types of trades that may be executed as liability orders on SelectNet.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act, 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, and Section 15A(b)(6) of the Act, which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Nasdaq represents that the fees are designed to align the charges to market participants for using the NNMS and SelectNet more closely with the costs of providing these services and the benefits that they provide to market participants, resulting in an equitable allocation of charges based on system usage. Nasdaq believes that the fees are reasonable, since it estimates that overall fees for the NNMS, SelectNet, and SOES under the rule change will be slightly lower than overall fees for SelectNet and SOES prior to the introduction of the NNMS.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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–2001–64 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A

This Exhibit shows the text of the NASD Rules, marked to reflect the substance of changes made by SR–NASD–00–41 and SR–NASD–2001–31, which described certain rule changes but did not reflect them in amendments to rule text. Deletions effected by these prior rule filings are in brackets, and new language added by these prior rule filings is underlined.

* * * * *

4714. Fees Applicable to NNMS

(a) A fee for orders executed through NNMS shall be assessed[, to be allocated] as follows: [the NNMS Market Maker executing the order shall be assessed $0.50 per transaction and the NNMS Order Entry Firm or NNMS Market Maker entering the order shall be assessed $0.50 per order.]

$0.50 per order execution for the first 150,000 orders under 2,000 shares executed monthly (entering party only)

[8] Under current rules, SelectNet may still be used for liability orders by (i) UTP Exchanges that choose not to participate in the automatic execution functionality of the NNMS, and (ii) other market participants directing orders to market participants that choose not to participate in the automatic execution functionality of the NNMS.

[9] *See* SR–NASD–2001–31 at note 3.

[10] 17 CFR 200.30–3(a)(12).

$0.30 per order execution for all remaining orders under 2,000 shares executed monthly (entering party only)

$0.90 per order execution for all executed orders of 2,000 shares or more (entering party only)

(b) For each order entered by an NNMS Order Entry Firm or an NNMS Market Maker that is canceled, the NNMS Order Entry Firm or NNMS Market Maker that cancels such order shall be assessed a fee of $0.25.

* * * * *

4757. Fees Applicable to SOES

(a) A fee for orders executed through SOES shall be assessed[, to be allocated] as follows: [the SOES Market Maker executing the order shall be assessed $0.50 per transaction and the SOES Order Entry Firm or SOES Market Maker entering the order shall be assessed $0.50 per order.]

$0.50 per order execution for the first 150,000 orders executed monthly (entering party only)

$0.30 per order execution for all remaining orders executed monthly (entering party only)

(b) For each order entered by a SOES Order Entry Firm or a SOES Market Maker that is canceled, the SOES Order Entry Firm or SOES Market Maker that cancels such order shall be assessed a fee of $0.25.

* * * * *

7010. System Services

(a)–(h) No change.

(i) SelectNet Service

The following charges shall apply to the use of SelectNet:

Transaction Charge *for Execution Resulting from Broadcast Message*	$2.50/side
Directed Order Charge [11]	[$1.00 (per execution, entering party only)] *$0.70 per order execution for the first 25,000 orders executed monthly (entering party only)* *$0.50 per order execution for the next 25,000 orders executed monthly (entering party only)* *$0.10 per order execution for all remaining orders executed monthly (entering party only)*
Cancellation Fee	$.25/ per order *cancelled (cancelling party only)*

For a pilot period commencing April 1, 1999, and lasting until [March 31, 2001] *the sooner of March 31, 2002 or the date of implementation of the Nasdaq National Market Execution System,* an NASD member who enters a directed SelectNet order that is subsequently executed in whole or in part will have its monthly Directed Order Charge assessed as follows:

$1.00 per order for the first 50,000 directed orders executed that month

$0.70 per order for the next 50,000 directed orders executed that same month

$0.20 per order for all remaining directed orders executed that same month

Executions resulting from broadcast messages will continue to be assessed at a $2.50 per side rate.

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[11] In SR–NASD–01–31, Nasdaq proposed a fee of $.90 to be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part. Nasdaq, however, represents that it has never charged the fee; the fee therefore does not appear in the rule text above. Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and Susie Cho, Special Counsel, Division, Commission (October 2, 2001).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44899; File No. SR–NASD–2001–63]

Self Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Adjusting the Fees Charged to NASD Members for Use of the Nasdaq National Market Execution System and the SelectNet Service

October 2, 2001.

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 September 28, 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. On October 2, 2001, Nasdaq filed Amendment No. 1 with the Commission.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to adjust the fees charged to NASD members for use of the NNMS and SelectNet by: (1) Replacing the per order execution charge for the execution of transactions in SuperSOES with a per share charge; (2) adding a fee for the entry of orders in the NNMS and SelectNet; (3) modifying the fees for order executions in SelectNet; and (4) clarifying the distinction between fees charged for execution of liability orders and non-liability orders in SelectNet.[4] Nasdaq has implemented the charges on its members as of October 1, 2001.[5]

The fees currently in effect for SelectNet, the NNMS, and the SOES were established through prior rule filings.[6] They were not, however, fully reflected in the text of NASD Rules, and the rules that currently reference such

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from John M. Yetter, Assistant General Counsel, Office of General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission (October 2, 2001) (''Amendment No. 1''). The fees currently in effect for SelectNet, the Nasdaq National Market Execution System (''NNMS'' and ''SuperSOES''), and the Small Order Execution System (''SOES'') were established by SR–NASD–2001–31 and SR–NASD–00–41, but these fees were not fully reflected in the text of NASD Rules. *See* Securities Exchange Act Release No. 44321 (May 18, 2001), 66 FR 28767 (May 24, 2001) (SR–NASD–2001–31); Securities Exchange Act Release No. 43001 (June 30, 2000), 65 FR 42741 (July 11, 2000), SR–NASD–00–41). Amendment No. 1 is a technical amendment that adds Exhibit A to the proposed rule change. Exhibit A sets forth NASD rule language as modified by SR–NASD–2001–31 and SR–NASD–00–41. Amendment No. 1 also amends the text of SR–NASD–2001–63 to describe the changes being made to the rule text as amended by the prior filings.

[4] *See* note 13 *infra.*

[5] Nasdaq has filed a separate proposal to impose these same fees on national securities exchanges trading Nasdaq-listed securities pursuant to grants of unlisted trading privileges (''UTP Exchanges''), which are not NASD members. *See* Securities Exchange Act Release No. 44898 (October 2, 2001) (SR–NASD–2001–64).

[6] *See supra* note 3.