connection with a training and education meeting, including, but not limited to, golf outings, cruises, tours, and other entertainment. The NASD believes that amending the non-cash compensation provisions of the DPP and Corporate Financing rules will codify stated policy, practice, and interpretive advice and make these rules generally consistent with those governing variable annuities and mutual funds. The NASD believes, in addition, that these amendments will allow this body of interpretive guidance to be applied consistently with respect to training and education meetings relating to any of the relevant products.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[5] which requires, among other things, that the NASD's rules must 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 NASD believes the proposed rule change will make the non-cash compensation provisions of the Corporate Financing rule and the DPP rule comparable to the more detailed non-cash compensation provisions that are currently in the Variable Contracts rule and the Investment Company rule. The proposed rule change also will provide expressly that NASD Interpretive Materials will apply to all four rules.

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

The 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 NASD has represented that the proposed rule change is effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act[6] and rule 19b–4(f)(1) thereunder,[7] in that it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

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 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 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 No. SR–NASD–2003–68 and should be submitted by May 15, 2003.

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

Margaret H. McFarland,

Deputy Secretary.

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[5] 15 U.S.C. 78o–3(b)(6).

[6] 15 U.S.C. S78s(b)(3)(A)(ii).

[7] 17 CFR S240.19b–4(f)(1).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47686; File No. SR–NASD–2003–59]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Fees for Nasdaq's InterMarket

April 16, 2003.

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 March 31, 2003, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''). The proposed rule change is described in items I, II and III below, which items have been prepared by Nasdaq. Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Association under section 19(b)(3)(A)(ii) of the Act,[3] 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 modify the existing execution fees for Nasdaq InterMarket trades executed through the InterMarket Trading System (''ITS'') and Nasdaq's Computer Assisted Execution System (''CAES''). The text of the proposed rule change is set forth below. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

7010. System Services

(a)–(c) No change.

(d) Computer Assisted Execution Service.

The charges to be paid by members receiving the Computer Assisted Execution Service (CAES) shall consist of a fixed service charge and a per *share* transaction charge plus equipment-related charges.

(1) Service Charges

$100 per month for each market maker terminal receiving CAES.

(2) Transaction Charges

(A) $0.003 per share executed up to a maximum of $75 per execution shall be paid by an order entry firm or CAES market maker that enters an order into CAES that is executed in whole or in part, and [$0.002] *$0.0015* per share executed up to a maximum of $50 per execution shall be credited to the CAES market maker that executes such an order.

(B) $0.002 per share executed up to a maximum of $75 per execution shall be

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

paid by any member that sends a commitment through the ITS/CAES linkage to buy or sell a listed security that is executed in whole or in part, and $0.001*5* per share executed up to a maximum of $37.50 per execution shall be credited to a member that executes such an order.

(e)–(r) 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, 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

Nasdaq's InterMarket is a quotation, communication, and execution system that allows NASD members to trade stocks listed on the New York Stock Exchange (''NYSE'') and the American Stock Exchange (''Amex'').[4] The InterMarket competes with regional exchanges like the Chicago Stock Exchange (''CHX'') and the Cincinnati Stock Exchange (''CSE'') for retail order flow in stocks listed on the NYSE and the Amex. InterMarket comprises CAES, a system that facilitates the execution of trades in listed securities between NASD members that participate in InterMarket, and ITS, a system that permits trades between NASD members and specialists on the floors of national securities exchanges that trade listed securities.[5]

Nasdaq is proposing to modify the InterMarket fees to encourage market participants to provide additional liquidity to support executions through InterMarket and thereby enhance its competitiveness. Specifically, Nasdaq will retain the current CAES execution fee of $0.003 per share, and will credit $0.0015 per share, rather than $0.002 per share to a member whenever it provides the liquidity to support an execution through CAES (*i.e.,* sells in response to a buy order or buys in response to a sell order). The maximum fee will still be capped at $75 per execution and the maximum credit will still be capped at $50 per execution.

The current ITS per share execution fee of $0.002 will remain the same, and the credit earned by a member that provides liquidity to support an ITS execution will increase from $0.001 per share to $0.0015 per share. The maximum fee of $75 per execution and the maximum credit of $37.50 per execution will remain unchanged.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the Act, including section 15A(b)(5) of the Act,[6] which requires that the rules of the NASD provide for the equitable allocation of reasonable fees, dues, 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,[7] which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The transaction execution fees and credits to be implemented by this filing will be imposed equally on members that use InterMarket to place orders or to enhance the quality of executions of InterMarket by providing liquidity to support executions. Nasdaq believes that the level of the fees and credits are reasonable, moreover, because its revenues from a given level of transaction activity under the new fee structure will be lower than its revenues from the same level of transaction activity under the prior fee structure.

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.

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)(ii) of the Act[8] and subparagraph (f)(2) of rule 19b–4 thereunder,[9] because it establishes or changes a due, fee, or other charge imposed by the Association. 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. 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–2003–59 and should be submitted by May 15, 2003.

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

Margaret H. McFarland,

Deputy Secretary.

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[4] Nasdaq's InterMarket formerly was referred to as Nasdaq's Third Market. *See* Securities Exchange Act Release No. 42907 (June 7, 2000); 65 FR 37445 (June 14, 2000) (SR–NASD–00–32).

[5] *See* CAES/ITS User Guide, p. 5, at *www.intermarket.nasdaqtrader.com.*

[6] 15 U.S.C. 78*o*–3(b)(5).

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).