All submissions should refer to File No. SR–NASD–2003–150 and should be submitted by December 16, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–29412 Filed 11–24–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48809; File No. SR–NASD–2003–167]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Raise ACT Fees for Users of the Query Function During the Trade Comparison Process

November 19, 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 November 14, 2003, 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'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated the proposed rule as one that establishes or changes a due, fee, or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the rule effective upon the Commission's receipt of the filing. 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 amend certain fees on its Automated Confirmation Transaction Service (''ACT'') and implement the new fees on November 17, 2003. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets:

7000. CHARGES FOR SERVICES AND EQUIPMENT

7010. System Services

(a)–(f) No change

(g) Automated Confirmation Transaction Service

The following charges shall be paid by the participant for use of the Automated Confirmation Transaction Service (ACT):

Transaction Related Charges:	
Reporting of transactions executed through SuperMontage (or any other transaction execution system that makes use of SuperMontage's functionality to report transactions) (''SuperMontage Transactions'').	
Average daily volume of transaction reports for SuperMontage Transactions during the month to which a participant is a party:	Fee per side for transaction reports of SuperMontage Transactions to which such participant is a party:
0 to 9,999	$0.029
10,000 or more	$0.00
Other reports for transactions in Nasdaq National Market and SmallCap Market securities not subject to comparison through ACT.	$0.00
Reporting of all other transactions not subject to comparison through ACT.	$0.029/side
Comparison	$0.0144/side per 100 shares (minimum 400 shares; maximum 7,500 shares)
Late Report—T+N	$0.288/side
Browse/query	$0.288/query [(Each ACT query incurs the $0.288 fee; however, the first accept or decline processed for a transaction is free, to insure that no more than $0.288 is charged per comparison. Subsequent queries for more data on the same security will also be processed free. Any subsequent query on a different security will incur the $0.288 query charge.)]
Terminal fee	$57.00/month (ACT only terminals)
CTCI fee	$575.00/month
WebLink ACT	$300/month (full functionality) or $150/month (up to an average of twenty transactions per day each month) (For the purposes of this service only, a transaction is defined as an original trade entry, either on trade date or as-of transactions per month.)
Risk Management Charges	$0.035/side and $17.25/month per correspondent firm (maximum $10,000/month per correspondent firm)
Corrective Transaction Charge	$0.25/Cancel, Error, Inhibit, Kill, or 'No' portion of No/Was transaction, paid by reporting side; $0.25/Break, Decline transaction, paid by each party[;]
ACT Workstation	$525/logon/month (A firm that uses ACT risk management through one or more NWII terminals when the ACT Workstation is introduced will be eligible to evaluate the ACT Workstation for a free, three-month trial period, provided that the firm continues to pay charges associated with its NWII terminal(s) during that period.)

[12] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

(h)–(s) 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

ACT is an automated trade reporting and reconciliation service that speeds the post-execution steps of price and volume reporting, comparison, and clearing of trades completed in Nasdaq, the OTC Bulletin Board, and other over-the-counter markets. ACT handles transactions executed through Nasdaq's automated trading systems, as well as transactions negotiated over the telephone and internalized transactions. It also manages post-execution procedures for transactions in exchange-listed securities that are traded in the Nasdaq InterMarket.

When ACT was first implemented over a decade ago, the majority of firms transacted Nasdaq securities via non-automated means, such as over the telephone. The trade comparison process was extremely cumbersome given the lack of a standard, automated means for two trading partners to match the details of a trade, such as the number of shares traded or the price of the security. ACT helped alleviate this problem by providing all NASD members with an automated, centralized, rule-based trade matching system. Once a trade was matched within ACT, it was then forwarded to the National Securities Clearance Corporation (''NSCC'') for clearance and settlement. In the majority of cases, these ACT matches took place via the ACT ''browse/query'' and ''accept/decline'' functions.

In a typical transaction, two parties agree to transact with one another over the telephone. The reporting party, typically the selling market maker, enters its version of the trade details, including the contra party's identity, into the ACT system for 90-second trade reporting. This record is now classified as ''open'' until the contra party takes action to lock-in the transaction. To locate the open trade, the contra party scans its trade records in the specified security via the ACT ''browse/query'' function. Once located, the contra party reviews the trade details to ensure the accuracy of the information (*e.g.*, number of shares and execution price). If the contra party agrees with the trade details entered by the reporting party, it then ''accepts'' the transaction. If the contra party disagrees with the trade details, it ''declines'' the transaction. When most firms traded with one another over the telephone, the majority of ACT reported trades were reported, compared, and locked-in in this manner.

In the above example, the ACT billing process generally has three steps. First, ACT assesses a fee to the contra party that performed the ''browse/query'' action. Second, ACT assesses a fee to both the reporting and contra party for locking-in the transaction via the ''accept/decline'' function. Third, ACT reverses the fee for the contra party's accept/decline action. As a result, each side of the trade pays an equal fee for the trade even though their system usage differed.

ACT usage and pricing have changed dramatically in recent years. Initially, the browse/query and accept/decline process was one of the few options available to firms for reporting and locking-in trades; therefore, it was deemed more equitable to equalize the fees paid by each side of the trade. Since this process constituted a significant proportion of overall ACT usage, it was possible for Nasdaq to implement this process while still adequately covering ACT operating costs.

Today firms have a wide range of options for reporting and locking-in trades, and less than one-half of one percent of all ACT records are locked-in via the browse/query and accept/decline functions. The increase in trading volumes and use of external execution systems such as SuperMontage and electronic communication networks (''ECNs'') allow firms to automatically lock-in participants for trade reporting and clearing, bypassing the manual comparison process in ACT. Firms have also adopted new reporting arrangements whereby one participant automatically locks-in its trading partner by reporting on its behalf. Recent pricing changes have eliminated ACT fees for the majority of these locked-in trades in Nasdaq securities.

Nasdaq is currently in the process of migrating many of its services, including ACT, onto a new, more efficient internal billing platform. The billing process for each ACT service would transfer seamlessly onto this new platform except for the fee reversal described as step three of the process described above. In light of the sharply reduced usage of this functionality, it would be impractical and expensive to duplicate the third step in the new billing system. Doing so would raise the overall costs of the system, which would then have to be passed on to other users. Therefore, Nasdaq has determined that it is more equitable for the small number of users who continue to use this functionality to pay the actual costs associated with each step of the process. As noted above, there are numerous ways for a broker-dealer to report trades in ways that would avoid these charges altogether.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 15A of the Act [4] in general and with Section 15A(b)(5) of the Act [5] 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. The rationale for not charging members for certain system usage in order to equalize the costs between trading contra parties is no longer compelling in light of the myriad of new options members have for locking in trades. Members who elect to continue to use the browse/query and accept/decline functions will pay the incremental cost associated with this type of system usage or can choose to avoid the incremental cost by reporting trades in other ways.

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

Nasdaq does not believe that the proposed rule change would 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

Nasdaq asserts that the proposed rule will become effective on November 14,

[4] 15 U.S.C. 78o–3.

[5] 15 U.S.C. 78o–3(b)(5).

2003, pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and subparagraph (e) of Rule 19b–4 thereunder[7] in that it establishes a due, fee, or other charge imposed by the self-regulatory organization. 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 No. SR–NASD–2003–167 and should be submitted by December 16, 2003.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–29413 Filed 11–24–03; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(e).

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4543]

Notice of Receipt of Application for Presidential Permit for the Construction of a New International Border Crossing

Notice is hereby given that the Department of State has received an application for a permit authorizing the construction, operation and maintenance of an international toll bridge in the Laredo, Texas area. The application has been filed by the City of Laredo, Texas for a permit for a new crossing of the Rio Grande 9.2 miles downstream from the existing Gateway to the Americas Bridge (International Bridge I).

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated August 16, 1968, as amended, and the International Bridge Act of 1972, (Pub. L. 92–343, 86 Stat. 731, approved September 26, 1972).

As required by E.O. 11423, the Department is circulating this application to concerned agencies for comment.

Interested persons may submit their views regarding this application in writing within thirty days from the publication date of this notice to Mr. Dennis M. Linskey, Coordinator, U.S.—Mexico Border Affairs, Room 4258, Department of State, 2201 C St., NW., Washington, DC 20520.

The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for review in the Office of Mexican Affairs during normal business hours throughout the comment period.

Any questions related to this notice may be addressed to Mr. Linskey at the above address or by fax at (202) 647–5752.

Dated: November 17, 2003.

Dennis M. Linskey,

Coordinator U.S.-Mexico Border Affairs, Department of State.

[FR Doc. 03–29436 Filed 11–24–03; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–03–16256]

Agency Information Collection Activities; Request for Comments; Renewed Approval of Three Information Collections

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to renew the three information collections, which are summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by January 26, 2004.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–3–16256 by any of the following methods:

- *Web site*: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax*: 1–202–493–2251.
- *Mail*: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery*: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including the use of electronic technology, without reducing the quality of the collected information.

SUPPLEMENTARY INFORMATION:

1. *Title:* Developing and Recording Costs for Utility Adjustments.

OMB Control Number: 2125–0519 (Expiration Date: October 31, 2003).

Abstract: Under 23 U.S.C. 123, the FHWA reimburses the State highway agencies when they have paid the costs of utility facilities' relocations that are required by the construction of Federal-aid highway projects. The FHWA requires the utilities to document the costs for adjusting their facilities. The utilities must have a system for recording labor, materials, supplies and equipment costs incurred when undertaking adjustments to accommodate the highway projects. This record of costs forms the basis for payment by the State highway agency to