

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. 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. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR-PTC-94-08 and should be submitted by February 7, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35207; File No. SR-NASD-95-2]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Effective Date of an Amendment to the Prompt Receipt and Delivery of Securities Interpretation Concerning Affirmative Determinations Made in Connection With Short Sales

January 10, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 9, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Item I, II, and III below, which Items

have been prepared by the NASD. The Commission is publishing this notice of solicit comments on the proposed rule change from interested persons.

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

The NASD is proposing to change the effective date of a rule change previously approved by the Commission regarding an amendment to the Interpretation of the Board of Governors—Prompt Receipt and Delivery of Securities ("Interpretation") issued by the NASD Board of Governors under Article III, Section 1 of the NASD Rules of Fair Practice that deals with affirmative determinations made by members in connection with short sales. Specifically, the NASD proposes to change the effective date of the amendment to the Interpretation to January 9, 1995, with the exception that one provision of the rule change will not go into effect until August 1, 1995. In particular, the provision of the rule change that states that annotations of affirmative determinations "must be made for each and every transaction since a 'blanket' or standing assurance that securities are available for borrowing is not acceptable to satisfy the affirmative determination requirement" will not go into effect until August 1, 1995.

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 NASD 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 NASD 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

On September 12, 1994, the SEC approved and NASD rule change (SR-NASD-94-32) that amended the Interpretation.¹ Specifically, the amended Interpretation requires members to annotate, on the trade ticket or on some other record maintained for

that purpose by the member firm, the following information:

1. if a customer assuers delivery, the member or associated person must annotate that conversation noting the present location of the securities; whether the securities are in good deliverable form; and whether they will be delivered to the firm within time for settlement; or

2. if the member or associated person locates the stock, an annotation must be made that identifies the individual and firm contacted who offered assurance that the shares would be delivered or were available for borrowing by settlement date; and the number of shares needed to cover the short sale.

The amendment also provided that the manner by which a member or person associated with a member annotates compliance with this "affirmative determination" requirement (e.g., marking the order ticket, recording inquiries in a log, etc.) is left for each individual firm to decide. In addition, the amendment also clarified that an affirmative determination and annotation of that affirmative determination must be made for each and every transaction since a "blanket" or standing assurance that securities are available for borrowing is not acceptable to satisfy the affirmative determination requirement. Thus, by requiring firms to annotate each and every affirmative determination, the amendment made clear the NASD's policy that firms can not rely on daily fax sheets of "borrowable stocks" to satisfy their affirmative determination requirements under the Interpretation.

In NASD Notice to Members 94-80, the NASD announced that the effective date of the amendments to the Interpretation would be November 30, 1994. Based upon feedback from a broad spectrum of NASD members that compliance with the amended Interpretation would not be possible by November 30, 1994, due to a variety of operational adjustments that needed to be made, the NASD has decided to postpone the effective date of the rule change until January 9, 1995, to give member firms sufficient time to prepare for the rule change.

In addition, in light of the NASD's concern that the prohibition against the use of daily fax sheets and other "blanket" or standing assurances may have created an unnecessarily burdensome regulatory requirement on NASD members, the NASD has decided to postpone the effective date of this provision of the amended Interpretation until August 1, 1995. The NASD's concerns arise because of its understanding of the manner in which

¹ Securities Exchange Act Release No. 34653 (September 12, 1994), 59 FR 47965 (September 19, 1994).

¹¹ 17 CFR 200.30-3(a)(12) (1994).