system no less than 35 percent of the time; (2) the market maker must maintain a spread no greater than 102 percent of the average dealer spread; (3) no more than 50 percent of the market maker's quotation updates may occur without being accompanied by a trade execution of at least one unit of trading; or (4) the market maker executes 1½ times its ''proportionate'' volume in stock.[4] If a market maker is a PMM for a particular stock, there will be a ''P'' indicator next to its quote in that stock. In addition, market makers will be able to review their status as PMMs through their Nasdaq Workstation. The review period for satisfaction of the PMM performance standards is one calendar month. If a PMM has not satisfied the threshold standards after a particular review period, the PMM designation will be removed commencing on the next business day following notice of failure to comply with the standards. Market makers may requalify for designation as a PMM be satisfying the threshold standards for the next review period.

As noted above, the PMM standards were originally scheduled to go into effect on September 6, 1995. However, because of unforeseen delays in the programming of the PMM standards, the NASD proposed and the SEC approved a delay in the effective date of the PMM standards until December 1, 1995.[5] With the instant filing, the NASD is proposing a further delay of the implementation date for the PMM standards. Specifically, because of recently detected errors in a segment of the NASD's software used to calculate whether market makers are satisfying the PMM standards, the NASD is proposing to delay the effective date of the PMM standards until February 1, 1996.

With the proposed delay, a market maker's trading activity during the month of January 1996 will be evaluated according to the PMM standards to determine if it can retain its exemption until February 1996. Until January 31, 1996, the 20-day test will continue to be used to evaluate market makers' eligibility for an exemption from the rule. Thus, beginning February 1, 1996, a ''P'' indicator will be displayed next to every PMM that is exempt from the rule according to the new PMM standards.

Because implementation of the PMM standards will be delayed under the proposal, the NASD is also proposing to extend the pilot period for the rule so that there is sufficient time to evaluate the effectiveness and impact of the PMM standards and the effectiveness of the short sale rule with the PMM standards in place. Specifically, the NASD proposes to extend the termination date for the pilot program until August 3, 1996.

The NASD believes the proposed rule change is consistent with Sections 15A(b)(6) and 11A(c)(1)(F) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. Section 11A(c)(1)(F) assumes equal regulation of all markets for qualified securities and all exchange members, brokers, and dealers effecting transactions in such securities. Specifically, the NASD believes that continuing the operation of the present ''20-day'' test until the PMM standards are in place will ensure that the liquidity provided to the market by virtue of the market maker exemption will not be diminished. In addition, the NASD believes that continuation of the ''20-day'' test until the PMM standards are in place would avoid the confusion in the marketplace that would result if the market maker exemption were to lapse for two months and then be reinstated. Finally, the NASD believes that extending the pilot period for the short-sale rule will enhance the quality of studies analyzing the effectiveness of the rule and help to ensure that future regulatory action taken with respect to the rule is based on a greater knowledge and understanding of the rule.

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

The NASD believes that the proposed rule change will not 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

Comments were neither solicited nor received.

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.

The NASD has requested, however, that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the Federal Register.

As discussed below, the Commission finds that the proposed rule change is consistent with the requirements of the Act. Further, the Commission finds good cause for approving the proposal prior to the 30th day after the date of publication of notice of filing in the Federal Register. The Commission believes that accelerated approval of the proposal is appropriate in that it will permit the NASD to provide interested persons adequate notice that implementation of the PMM standards will be delayed until February 1, 1996 and that the expiration of the short sale rule, including the PMM standards, will be extended until August 3, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

As discussed in the Original Approval Order, the Commission believed and continues to believe that the imposition for a limited time of a short sale rule and accompanying PMM standards applicable to Nasdaq National Market securities is consistent with the requirements of Sections 15A(b) (6), 15A(b) (9) and 15A(b) (11) of the Act.[6]

[4] Specifically, the proportionate volume test requires a market maker to account for volume of at least one-and-a-half times its proportionate share of overall volume in the security for the review period. For example, if a security has 10 market makers, each market maker's proportionate share volume is 10 percent. Therefore, the proportionate share volume is one-and-a-half times 10, or 15 percent of overall volume.

[5] *See* Securities Exchange Act Release No. 36171 (Aug. 30, 1995), 60 FR 46651 (Sept. 7, 1995).

[6] 15 U.S.C. § 78*o*–3(b)(6), (9) and (11). Section 15A(b) (6) 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 to protect investors and the public interest. 15 U.S.C. § 78*o*–3(b) (6). Sections 15A(b) (9) and (11) require that the NASD's rule be designed not to impose any burden on competition not necessary or appropriate in