

### III. Comments on the Operation of the Plan

In the January 1995 Extension Order, the August 1995 Extension Order, the September 1995 Extension Order, the October 1995 Extension Order, and the November 1995 Extension Order, the Commission solicited, among other things, comment on: (1) whether the BBO calculation for the relevant securities should be based on price and time only (as currently is the case) or if the calculation should include size of the quoted bid or offer; and (2) whether there is a need for an intermarket linkage for order routing and execution and an accompanying trade-through rule. The Commission continues to solicit comment on these matters.

### IV. Solicitation of Comment

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 at the Commission's Public Reference Room. All submissions should refer to File No. S7-24-89 and should be submitted by January 10, 1996.

### V. Conclusion

The Commission finds that proposed Amendment No. 6 to the Plan to extend the operation of the Plan and the financial negotiation period through December 29, 1995, is appropriate and in furtherance of Section 11A of the Act. The Commission finds further that extension of the exemptive relief through December 29, 1995, as described above, also is consistent with the Act and the Rules thereunder. Specifically, the Commission believes that these extensions should serve to provide the Participants with more time to conclude their financial negotiations and to submit the necessary filings to the Commission. This, in turn, should further the objects of the Act in general, and specifically those set forth in Section 12(f) and 11A of the Act and in

Rules 11Aa3-1 and 11Aa3-2 thereunder.

It is therefore ordered, pursuant to Sections 12(f) and 11A of the Act and (c)(2) of Rule 11Aa3-2 thereunder, that Amendment No. 6 to the Joint Transaction Reporting Plan for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis is hereby approved and trading pursuant to the Plan is hereby approved on a temporary basis through December 29, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(29).

Jonathan G. Katz,  
*Secretary.*

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### Self-Regulatory Organizations; ProTrade; Notice of Filing of Application for Exemption From Registration as a Clearing Agency

December 13, 1995.

On September 22, 1994, ProTrade<sup>1</sup> filed with the Securities and Exchange Commission ("Commission") a Form CA-1 requesting exemption from registration as a clearing agency pursuant to section 17A of the Securities Exchange Act of 1934 ("Exchange Act")<sup>2</sup> and Rule 17Ab2-1 thereunder.<sup>3</sup> Since the original filing, ProTrade has supplemented the information provided in its Form CA-1 filing with letters dated October 27, 1994, April 18, 1995, September 26, 1995, and October 2, 1995. The Commission is publishing this notice to solicit comments on the proposal from interested persons.

### I. Introduction

ProTrade proposes to introduce an automated proprietary trading system ("System") for over-the-counter option securities. ProTrade's customers, the users of the System, will be authorized to enter bids and offers for these options into the System. The System will electronically match the bids and offers and provide execution. Instantaneously with each execution, the proceeds of the transaction will be calculated, and the accounts of the trading parties will be debited and credited in settlement.

<sup>1</sup> ProTrade, located in Mercer Island, Washington, was incorporated under the laws of the State of Washington in January, 1986. Joseph A. Zajac, the company's President, owns 100% of ProTrade's stock.

<sup>2</sup> 15 U.S.C. 78q-1 (1988).

<sup>3</sup> 17 CFR 240.17Ab2-1 (1995).

Accordingly, the System will combine into a single electronic format several functions that usually involve the collective efforts of: (1) An option broker-dealer, (2) an options exchange, and (3) an options clearing agency. ProTrade asserts that this unity of functions will bring new efficiencies to the options marketplace.

ProTrade has represented that its System will not commence operations before ProTrade: (1) has registered as a broker-dealer pursuant to the Exchange Act and has become a member of the National Association of Securities Dealers, Inc. ("NASD"),<sup>4</sup> (2) has registered the option securities that are to be traded in the System pursuant to the Securities Act of 1933 ("Securities Act"),<sup>5</sup> and (3) has received a no-action letter from the Division stating that the Division will not recommend enforcement action if ProTrade does not register as a securities exchange pursuant to the Exchange Act.<sup>6</sup>

ProTrade believes that its proposed operations would involve few, if any, clearing agency activities within the meaning of the Exchange Act. ProTrade also believes that its proposed registration as a broker-dealer, coupled with the proposed registration of its options under the Securities Act, will satisfy the regulatory scheme of the Exchange Act. ProTrade has stated that such registrations under both the Exchange Act and the Securities Act would provide the necessary and appropriate safeguards to protect investors and the public interest.<sup>7</sup> Accordingly, it is ProTrade's belief that an exemption from registration as a

<sup>4</sup> For the definitions of "broker" and "dealer" under the Exchange Act, see Sections 3(a) (4) and (5), 15 U.S.C. 78c(a) (4) and (5) (1988). See also, Section 15 of the Exchange Act, 15 U.S.C. 78o (1988), for broker-dealer registration requirements.

<sup>5</sup> 15 U.S.C. 77b(1) (1988). ProTrade's options are "securities" as that term is defined in Section 2(1) of the Securities Act, 15 U.S.C. 77b(1) (1988). As securities, they must be registered pursuant to Sections 5 and 6 of the Securities Act, 15 U.S.C. 77e and 77f (1988), before they may be traded in interstate commerce.

The issuer of the options for purposes of the Securities Act will be ProTrade itself. For the definition of "issuer," see Section 2(4) of the Securities Act, 15 U.S.C. 77b(4) (1988).

<sup>6</sup> For definition of "exchange," see Section 3(a)(1) of the Exchange Act, 15 U.S.C. 78c(a)(1) (1988). See also, Section 6 of the Exchange Act, 15 U.S.C. 78f (1988), for exchange registration requirements.

<sup>7</sup> ProTrade expects to have a net capital of \$250,000, the amount that ProTrade states it will need to comply with Commission's uniform net capital rule, Rule 15c3-1, 17 CFR 240.15c3-1 (1995), as a broker-dealer that holds customers' funds (i.e., a clearing broker-dealer). The Commission has taken no position on ProTrade's interpretation of its requirements under the uniform net capital rule.