

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes MSTC's proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered transfer agents. The proposed rule change will allow MSTC to comply with Commission Rule 17Ad-16 which, among other things, require each qualified registered securities depository to provide its participants the notices it receives from transfer agents, directly or through the appropriate qualified registered security depository, when the transfer agent is terminating or assuming transfer agent services on behalf of an issuer or changing its name or address. Rule 17Ad-16 became effective on February 6, 1995.

MSTC also has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. Accelerated approval will permit MSTC to comply immediately with the requirements of Rule 17Ad-16. Thereby, the Commission finds good cause for so approving the proposed rule change.

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, NW., Washington, DC 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the File No. SR-MSTC-95-02 and should be submitted by March 15, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) that the proposed rule

change (File No. SR-MSTC-95-02) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35391; File No. SR-NASD-94-62, Amendment No. 1]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 1 to Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Limit Order Protection for Member-to-Member Limit Order Handling on Nasdaq

February 16, 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 February 15, 1995, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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

The NASD proposes to amend SR-NASD-94-62 relating to limit order protection for member-to-member limit order handling in the Nasdaq Stock Market. Currently, the NASD's Interpretation to the Rules of Fair Practice¹ makes it a violation of just and equitable principles of trade for a member firm to trade ahead of its own customer's limit orders. In this amendment to its proposed expansion of the Interpretation, the NASD is proposing to amend the Interpretation to clarify that the "terms and conditions" exception to the Interpretation applies only to limit orders from institutional accounts, whether such limit orders come from a firm's own customers or are member-to-member limit orders. The term "institutional account" is defined in Article III, Section 21(c)(4) of the Rules of Fair Practice. Below is the text of the proposed rule change. Proposed new language, including the language

⁶ 17 CFR 200.30-3(a)(12) (1994).

¹ NASD Manual, Rules of Fair Practice, Art. III, Sec. 1 (CCH) ¶ 2151.07.

that was added in the original proposal, is italicized; language to be deleted is bracketed.

Limit Order Protection Interpretation to Article III, Section 1 of the NASD Rules of Fair Practice

To continue to ensure investor protection and enhance market quality, the NASD Board of Governors is issuing an Interpretation to the Rules of Fair Practice dealing with member firm treatment of [their] customer limit orders in Nasdaq securities. This Interpretation will require members acting as market makers to handle [their] customer limit orders with all due care so that market makers do not "trade ahead" of those limit orders. *Thus, members acting as market makers that handle customer limit orders, whether received from their own customers or from another member, are prohibited from trading at prices equal or superior to that of the limit order without executing the limit order, provided that, prior to September 1, 1995, this prohibition shall not apply to customer limit orders that a member firm receives from another member firm and that are greater than 1,000 shares. Such orders shall be protected from executions at prices that are superior but not equal to that of the limit order.* In the interests of investor protection, the NASD is eliminating the so-called disclosure "safe harbor" previously established for members that fully disclosed to their customers the practice of trading ahead of a customer limit order by a market-making firm.

Interpretation

Article III, Section 1 of the Rules of Fair Practice states that:

A member, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

The Best Execution Interpretation states that: In any transaction for or with a customer, a member and persons associated with a member shall use reasonable diligence to ascertain the best inter-dealer market for the subject security and buy or sell in such a market so that the resultant price to the customer is as favorable as possible to the customer under prevailing market conditions. Failure to exercise such diligence shall constitute conduct inconsistent with just and equitable principles of trade in violation of Article III, Section 1 of the Rules of Fair Practice.

In accordance with Article VII, Section 1(a)(2) of the NASD By-Laws, the following interpretation under Article III, Section 1 of the Rules of Fair