

deliveries between the participant's free account and the additional account made this approach more expensive than the memo seg approach as a means of complying with Rule 15c3-3. The rule change will accommodate transfers of securities, including customer fully-paid securities, from a participant's free account to an additional account within the same collateral group and will do so using procedures that are less expensive than a regular book-entry delivery.

II. Discussion

Section 17A(b)(3)(F) requires the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule change is consistent with DTC's obligations under the Act. The new service will permit participants to move securities positions from a participant's free account to an additional DTC account within the same collateral group without undergoing DTC's usual risk monitoring controls and therefore at a lower cost. Because such transfers do not affect the overall level of a participant's collateral monitor or its net debit position, the Commission believes that DTC can implement the new procedure while still assuring the safeguarding of securities and funds in its custody or for which it is responsible. Furthermore, because the fees associated with the transfer of securities within a collateral group will now be comparable to the costs of memo seg, participants will be afforded the flexibility to choose which method to protect customer fully-paid securities that best suits their needs without cost differences being a significant factor.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-96-17) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-38191; File No. SR-NASD-97-02]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Access to Nasdaq's SelectNet Service by National Securities Exchanges Trading Nasdaq Securities on an Unlisted Trading Privilege Basis

January 22, 1997.

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 17, 1997, 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 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 is proposing to grant national securities exchanges trading securities listed on The Nasdaq Stock Market ("Nasdaq") on an unlisted trading privilege ("UTP") basis access to Nasdaq's SelectNet Service for those securities in which the exchange disseminates quotations through the Nasdaq system.

II. Self-Regulatory Organizations' 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 Organizations' Statement of the Purpose of, and Statutory Basis of the Proposed Rule Change

On January 10, 1997, the SEC approve several NASD rule changes and a variety of modifications to Nasdaq's Small Order Execution System ("SOES") and SelectNet

Service¹ that are designed to integrate the Commission's new order handling and execution rules.² In particular, among other things, the SEC approved an amendment to SOES that provides that orders entered into SOES will be rejected when a UTP exchange is alone at the best bid or offer displayed on Nasdaq. Because SOES will not execute orders when a UTP exchange is alone at the inside market, the NASD and Nasdaq believe it is absolutely critical that NASD members have the ability to readily access such superior priced orders displayed by the UTP exchange. Accordingly, in order to ensure that the NASD members can efficiently access UTP exchanges and that SOES will not reject order for more than very brief periods of time when a UTP exchange is alone at the inside, Nasdaq proposes to modify SelectNet to provide UTP exchanges with the ability to send and receive preferred and broadcast SelectNet orders.³ For example, if the inside market in stock ABCD is 10-10 $\frac{1}{8}$, 10x10, and the Chicago Stock Exchange ("CHX") represents the only offer at 10 $\frac{1}{8}$ SOES will reject all incoming market orders to buy for as long as the CHX is alone at the best offer and NASD members will have the ability to send a preferred SelectNet order to the CHX specialist.⁴

In addition to minimizing the time that SOES will reject orders when a UTP exchange is alone at the inside, giving the UTP exchanges access to SelectNet will provide Nasdaq market makers and UTP specialists with a more efficient means to access each others quotes. In this connection, Nasdaq market makers have expressed their desire to have a

¹ See Securities Exchange Act Release No. 38156 (January 10, 1997) (order partially approving file SR-NASD-96-43).

² Among others, the new SEC rules include a new rule, SEC Rule 11Ac1-4 ("Display Rule"), governing the display of customer limit orders, and amendments to the SEC's firm quote rule, Rule 11Ac1-1, requiring market makers to reflect in their quotes any better priced orders that they place into an ECN ("ECN Rule"). The SEC also adopted an "ECN Display Alternative" that permits market makers to comply with the ECN Rule by having an ECN display their orders to the marketplace. See Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

³ SelectNet permits NASD members to direct buy or sell orders in Nasdaq securities to a single market maker (preferred orders) or broadcast the order to all market makers in the security. Nasdaq operates SelectNet to provide investors and members with an automated means to facilitate the communication of trading interest between members, the negotiation of orders with the possibility of price improvement, and the dissemination of last sale reports to the tape. SelectNet also serves as an effective auxiliary mechanism to one-on-one telephone communication between members, especially in times of market stress. The service is available for members to negotiate and execute orders form 9:00 a.m. until 5:15 p.m., Eastern Standard Time.

⁴ Each exchange currently is permitted to trade up to 500 Nasdaq National Market securities on a UTP basis. At the present time, however, the CHX is the only exchange that trades Nasdaq stocks pursuant to UTP. Accordingly, the CHX would be the only exchange that would be granted access to SelectNet at this time.

⁵ 17 CFR 200.30-3(a)(12).

more efficient linkage with the CHX because of the impact CHX quotes have on their proprietary execution systems. In particular, because many firms operate systems that guarantee executions based on the best bid or offer on Nasdaq, which includes CHX quotes, these firms want to be able to readily access CHX quotes when the CHX is alone at the inside price. In addition, among other things, more efficient access to CHX quotes will serve to avoid locked and crossed markets. In sum, the NASD believes its proposal will serve to promote intermarket competition, enhance the price discovery process for Nasdaq securities, and dramatically improve the access of Nasdaq market makers to the CHX floor and vice versa.

Accordingly, Nasdaq and the NASD believe that the proposed rule change is consistent with Sections 15A(b)(6) and 11A(a)(1)(C) of the Act. Among other things, 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, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. Section 11A(a)(1)(C) provides that it is in the public interest to, among other things, assure the economically efficient execution of securities transactions and the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Specifically, by improving the access of Nasdaq market makers and UTP specialists to each others' quotes, the proposed rule change will serve to enhance intermarket competition, the best execution of investors' orders, and the price discovery process for Nasdaq securities. Moreover, Nasdaq and the NASD believe the proposed rule change will serve to benefit small investors because it will help to minimize the length of time that SOES will reject orders when a UTP exchange is alone at the best bid or offer on Nasdaq. Finally, Nasdaq and the NASD believe that providing UTP exchanges access to SelectNet is responsive to the Commission's request that Nasdaq and the exchanges create an electronic linkage between Nasdaq market makers and exchange specialists.⁵

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

The proposed rule change has become effective immediately pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4 because, consistent with the standards set forth in Rule 19b-4(e)(5), the proposal does not: (1) significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; or (3) have the effect of limiting the access to or availability of SelectNet. In particular, because no operational aspect to SelectNet is being modified by this proposal in any way other than an expansion of the scope of market participants that will have access to the SelectNet, Nasdaq and the NASD believe it is appropriate that the proposal has become effective upon filing pursuant to Rule 19b-4(e)(5). In fact, because of the intermarket access that will be fostered by the proposal, Nasdaq and the NASD believe the proposal will promote the protection of investors and enhance competition.

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 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 the file number in the caption above and should be submitted by February 20, 1997.

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. 34-38205; File No. SR-NASD-96-42]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change Relating to Transfer of Limited Partnership Interests

January 24, 1997.

On November 15, 1996, NASD Regulation, Inc., ("NASD Regulation") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to allow members under certain circumstances to petition the staff of NASD Regulation for permission to modify the standardized limited partnership transfer forms.

The proposed rule change was published for comment in the Federal Register on December 17, 1996.³ No comments were received on the proposal. This order approves the proposal.

Currently, all members of the National Association of Securities Dealers, Inc. ("NASD") are required to use standardized transfer, registration confirmation, and distribution allocation forms ("Forms") when transferring any limited partnership security.⁴ After use of the Forms became mandatory, transfer agents, member firms, and securities attorneys raised a number of questions concerning the applicability of the Forms to certain types of transfers. For example, it was suggested that the distribution

⁶ 17 CFR 200.30-3(a)(12) (1989).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 38042 (Dec. 11, 1996), 61 FR 6633 (Dec. 17, 1996).

Subsequently, NASD Regulation extended the time period for Commission action until January 31, 1997. Letter from John Ramsay, Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated January 21, 1997.

⁴ See Securities Exchange Act Release No. 36783 (Jan. 29, 1996), 61 FR 3955 (Feb. 2, 1996).

⁵ See Securities Exchange Act Release No. 37772 (October 1, 1996).