

limit, positions identified as a qualified hedge strategy would be subject to the increased position limits, or exempted from position limit calculations, as appropriate. The exemption would be automatic (*i.e.*, it will not require pre-approval from NASD) to the extent that a member identifies that a pre-existing qualified strategy is in place or is employed from the point that an account's position reaches the standard limit and provides the required supporting documentation to NASD.¹⁰ The exemption would remain in effect to the extent that the exempted position remains intact and NASD is provided with any required supporting documentation.

The Commission notes that it has previously approved changes to similar rules of the options exchanges that eliminated standardized equity option position and exercise limits for certain qualified hedge strategies and established position and exercise limits of five times the standard limit for certain of those strategies when they include an over-the-counter (OTC) option contract.¹¹ The Commission does not believe that the proposed rule changes raises novel regulatory issues that were not already addressed and should benefit NASD members by permitting them greater flexibility in using hedge strategies advantageously, while providing an adequate level of protection against the opportunity for manipulation of these securities and disruption in the underlying market.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Amendment No. 1 merely provides technical corrections and clarification to the proposed rule text. The Commission, therefore, believes that granting accelerated approval of Amendment No. 1 is appropriate and consistent with section

15A(b)(6)¹² and section 19(b)¹³ of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2002-134 and should be submitted by March 4, 2003.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁴ that the proposed rule change (File No. SR-NASD-2002-134), as amended, be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47310; File No. SR-NASD-2003-12]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc., To Extend the Pilot for Limit Order Protection of Securities Priced in Decimals

February 4, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 31, 2003, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. Nasdaq filed the proposal pursuant to Section 19(b)(3)(A) of the Act,³ and Rule 19b-4(f)(6)⁴ thereunder, which renders the proposal effective upon filing with the Commission. 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

Nasdaq proposes to extend through May 31, 2003, the current pilot price-improvement standards for decimalized securities contained in NASD Interpretative Material 2110-2—Trading Ahead of Customer Limit Order ("Manning Interpretation" or "Interpretation"). Without such an extension these standards would terminate on January 31, 2003. Nasdaq does not propose to make any substantive changes to the pilot; the only change is an extension of the pilot's expiration date through May 31, 2003. Nasdaq requests that the Commission waive both the 5-day notice and 30-day operative requirements contained in Rule 19b-4(f)(6)(iii)⁵ of the Act. If such waivers are granted by the Commission, Nasdaq will implement this rule change immediately.

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

¹⁰ Under the proposed rule change, the existing reporting procedures that serve to identify and document hedged positions above a certain threshold continue to apply. Paragraph (b)(5) of NASD rule 2860 requires reporting to NASD of aggregate positions of 200 more contracts of the put class and the call class on the same side of the market covering the same underlying security.

¹¹ See Securities Exchange Act Release No. 45603 (March 20, 2002), 67 FR 14751 (March 27, 2002) (CBOE-2000-12); Securities Exchange Act Release No. 45650 (March 26, 2002), 67 FR 15638 (Apr. 2, 2002) (AMEX-2001-71); Securities Exchange Act Release No. 45737 (April 11, 2002), 67 FR 18975 (Apr. 17, 2002) (PCX-2000-45); Securities Exchange Act Release No. 45899 (May 9, 2002), 67 FR 34980 (May 16, 2002) (PHLX-2002-33); and Securities Exchange Act Release No. 46228 (July 18, 2002), 67 FR 48689 (July 25, 2002) (ISE-2002-15).

¹² 15 U.S.C. 78o-3(b)(6).

¹³ 15 U.S.C. 78s(b).

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ 17 CFR 240.19b-4(f)(6)(iii).