

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Avenue, 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 in the Commission's Public Reference Room, 450 Fifth Avenue, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principle office of DTC. All submissions should refer to the File No. SR-DTC-95-02 and should be submitted by March 15, 1995.

It is hereby ordered, Pursuant to Section 19(b)(2) that the proposed rule change (File No. SR-DTC-95-02) be, and hereby is approved. *It is further ordered*, pursuant to delegated authority that DTC is designated the appropriate qualified registered securities depository.⁸

For the Commission by the Division of Market Regulation, pursuant to the delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35380; File No. SR-MSTC-95-2]

**Self-Regulatory Organizations;
Midwest Securities Trust Company;
Notice of Filing and Order Granting
Accelerated Approval of Proposed
Rule Change Relating to the
Modifications of Procedures
Implementing Rule 17Ad-16**

February 15, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ notice is hereby given that on January 24, 1995, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by MSTC. The Commission is publishing this notice and order to solicit comments from

interested persons and to grant accelerated approval of the proposed rule change.

**I. Self-Regulatory Organization's
Statement of Terms of Substance of the
Proposed Rule Change**

MSTC, a "qualified registered securities depository,"² as that term is defined in Rule 17Ad-16³ under the Act, proposes to adopt procedures to maintain, update, and provide appropriate access to the information it receives pursuant to Commission Rule 17Ad-16. MSTC requests that the Commission designate The Depository Trust Company ("DTC") as the "appropriate qualified registered securities depository"⁴ authorized to receive Rule 17Ad-16 notices on behalf of MSTC.

To ensure that Rule 17Ad-16 notices are timely disseminated, DTC and MSTC have agreed that all such notices will be forwarded by DTC to MSTC via facsimile transmission on a daily basis. MSTC proposes to maintain the Rule 17Ad-16 notices received from DTC for at least two years with the first six months being in an easily accessible place on MSTC's premises.

MSTC proposes to maintain conformity with Rule 17Ad-16 by making all material information contained in any Rule 17Ad-16 notice that MSTC receives from DTC available to its participants. This will be accomplished by updating MSTC's security account masterfile on a daily basis. Upon electronic inquiry by a participant, the security account masterfile will provide the participant with on-line information about a security, including the transfer agent's name and address.

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

In its filing with the Commission, MSTC included statements concerning the purpose of and basis for the proposed rule change and discussed any

² Rule 17Ad-16 defines a "qualified registered securities depository" as a clearing agency registered under Section 17A of the Act that performs clearing agency functions and that has rules and procedures concerning its responsibility for maintaining, updating, and providing appropriate access to the information it receives pursuant to this section.

³ 17 CFR § 240.17Ad-16 (1994).

⁴ Rule 17Ad-16 defines an "appropriate qualified registered securities depository" as the qualified registered securities depository that the Commission so designates by order or, in the absence of such designation, the qualified registered securities depository that is the largest holder of record of all qualified registered securities depositories as of the most recent record date.

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MSTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

*(A) Self-Regulatory Organization's
Statement of the Purposes of, and
Statutory Basis for, the Proposed Rule
Change*

On December 1, 1994, the Commission adopted Rule 17Ad-16.⁵ Among other things, the rule requires a transfer agent to file a notice with the appropriate qualified registered securities depository if the transfer agent ceases to perform transfer agent services or assumes transfer agent services on behalf of an issuer or changes its name or address. The rule also requires the appropriate qualified registered securities depository to forward those notices to all qualified registered securities depositories, that in turn must notify their participants of such transfer agent changes. Because MSTC has agreed that DTC should be the appropriate qualified registered securities depository, transfer agents will send these notices to DTC. DTC then will forward a copy of these notices to all qualified registered securities depositories.

MSTC will provide its members on-line access to the information in the notices by updating MSTC's security account masterfile on a daily basis. The purpose of this proposed rule change is to adopt procedures to implement and assure compliance with Rule 17Ad-16. MSTC states that the proposed rule change is consistent with Sections 17A(b)(3) (A) and (F) of the Act in that it facilitates the prompt and accurate clearance and settlement of securities transactions.

*(B) Self-Regulatory Organization's
Statement on Burden on Competition*

MSTC believes that no burden will be placed on competition as a result of the proposed rule change.

*(C) Self-Regulatory Organization's
Statement on Comments on the
Proposed Rule Change Received from
Members, Participants or Others*

MSTC neither solicited nor received written comments on the proposed rule change.

⁵ 17 CFR § 240.17Ad-16. See also Securities Exchange Act Release No. 35039 (December 1, 1994), 59 FR 63656 (release adopting Rule 17Ad-16).

⁸ 17 CFR 200.30-3(a)(56) (1994).

⁹ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1) (1988).

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