

including the publication of all laws and regulations concerning intellectual property protection; and provide U.S. right holders with enhanced access to the Chinese market. The United States and China will consult regularly on China's implementation of the agreement.

On the basis of the measures that China has agreed to undertake in the agreement, the USTR has decided that the action taken pursuant to section 301(b) (the increase in tariffs on certain products from China) is no longer appropriate and should be terminated. The United States Custom Service has been notified of this determination. Pursuant to section 182(c)(1)(A) of the Trade Act, the USTR has also decided to revoke China's designation as a priority foreign country.

Section 307(a)(1)(C) of the Trade Act authorizes the USTR to terminate any action, subject to the specific direction, if any, of the President, if, inter alia, the USTR determines that the action being taken under section 301(b) of the Trade Act is no longer appropriate. Prior to terminating this 301 action, the USTR consulted with the domestic industries concerned regarding the modification and termination of the existing action. An opportunity for public comment prior to this action was not possible in view of the need for expeditious action. Immediate termination of the 301 action was required so that U.S. intellectual property right holders could immediately start to receive the benefits of the agreement entered into with China. However, interested members of the public are now invited to submit comments to USTR regarding this action in accordance with the directions provided below. USTR will review these comments upon receipt.

Pursuant to section 306 of the Trade Act, the USTR will monitor China's implementation of the agreement. If, on the basis of this monitoring, the USTR considers that China is not satisfactorily implementing the terms of the agreement, the USTR will decide what further action to take under section 301(a) of the Trade Act.

Public Comments

Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) and are due no later than noon, Friday, March 10, 1995. Comments must be in English and be provided in twenty copies to: Chairman, section 301 Committee, Room 223, USTR, 600 17th Street, N.W., Washington, D.C. 20506.

Comments will be placed in a file [Docket 301-92] open to public inspection pursuant to 15 CFR 2006.13,

except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "Business Confidential" in a contrasting color ink at the top of each page (on each of the 20 copies), and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the docket open to public inspection.

Modification of the Harmonized Tariff Schedule of the United States (HTS)

Accordingly, the HTS is hereby modified by deleting subheadings 9903.50.01 through 9903.50.33, inclusive, and the superior text immediately preceding such subheadings, effective February 26, 1995.

Irving A. Williamson,
Chairman, Section 301 Committee.
[FR Doc. 95-5664 Filed 3-6-95; 8:45 am]
BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35428; File No. SR-NASD-94-9, Amendment No. 2]

Self-Regulatory Organizations; Notice of Amendment No. 2 To Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Non-member Viewing Access to SelectNet

February 28, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 30, 1995, 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 proposes to amend its proposal to enhance the transparency of, and nonmember viewing access to, "broadcast" orders transmitted through

The Nasdaq Stock Market, Inc.'s ("Nasdaq") SelectNet service. Specifically, the NASD proposes to disseminate a separate feed of "broadcast" orders entered into SelectNet that will be available to vendors.²

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

In March 1994, the NASD proposed modifications to the operation of Nasdaq's SelectNet service that would permit viewing access by non-members who are subscribers to the Nasdaq Workstation Level 2 service to view "broadcast" orders immediately as they are entered into the service.³ In addition, because of the additional non-member constituencies that will be able to view all broadcast orders entered into SelectNet, the NASD also proposed to modify its order-entry procedure for SelectNet to ensure that broadcast orders are entered into and displayed through SelectNet anonymously. This feature was proposed for two reasons: (a) To preserve incentives for dealers to continue to make markets that add liquidity to the market; and (b) to avoid conditioning the market in one direction or another by orders identified with particular market makers or order entry firms.⁴ With this filing, the NASD

²The subscriber fees imposed for receipt of this information will be set forth in a separate rule filing submitted pursuant to Section 19(b) of the Act. The NASD does not believe that Commission consideration of the instant proposal should be contingent upon approval of the fees for this service, as Nasdaq will make the service available at no charge until an appropriate fee structure for the service is approved by the Commission.

³Securities Exchange Act Release No. 33938 (Apr. 20, 1994), 59 FR 22033 (Apr. 28, 1994).

⁴The original notice of the NASD's proposal set forth in greater detail the basis for this feature. Specifically, the original notice states that:

Because of the additional non-member constituencies that will be able to view all broadcast orders, the NASD is also proposing to

¹15 U.S.C. 78s(b)(1) (1988).

proposes to modify its proposal by providing for the dissemination of a separate feed of "broadcast" orders entered into SelectNet that will be available to vendors. In particular, the feed to vendors will contain information on all orders broadcast in SelectNet, partial executions of these orders, full executions of these orders, and, if applicable, when these orders timed-out or were canceled.

SelectNet is the service operated by The Nasdaq Stock Market that permits NASD member firms to enter buy or sell orders in Nasdaq securities into the

modify its order-entry procedure for SelectNet to ensure that broadcast orders are entered into and displayed through SelectNet anonymously. This feature is proposed for two reasons: To preserve incentives for dealers to continue to make markets that add liquidity to the market and to avoid conditioning the market in one direction or another by orders identified with particular market makers or order entry firms. First, the NASD believes that it is very important to retain incentives for market makers to participate in the market. Market makers put quotes in the Nasdaq system as a form of advertisement that they stand ready and willing to transact business at their quoted prices and sizes. There are obligations that accrue to those market makers, however, the NASD and the SEC require market makers to be firm for their quotes and to participate in order execution systems. Enabling order entry firms to advertise buy and sell interest freely, with no concomitant market maker obligations, by attaching their names to SelectNet orders so that anyone with a Workstation would be able to contact the entity directly by telephone, would eviscerate the positive attributes of being a market maker with a quote in the Nasdaq system.

Second, allowing market makers (or order entry firms) to put their names on broadcast orders might condition or influence the market in a security by advertising the buying or selling power of the member firm. For example, if a broker/dealer that is considered a lead market maker or a major institutional block positioner in a security was interested in buying shares in the stock, it might broadcast a sell order in SelectNet, identify its name on the order, and cause the market to react to the sell interest and the power of the firm's name. Accordingly, other market makers in the stock might react to the sell interest by dropping their bids and the lead market maker would be able to buy stock at a lower price than would otherwise have been the case, simply because it was advertising its name, or conditioning the market. Indeed, similar conditioning effects might be caused by any firm, order entry firm or market maker, by entering orders that are quickly canceled without actual trading interest by the entry firm. Accordingly, the NASD proposes that member firms enter all broadcast orders anonymously.

Although orders must be entered on an anonymous basis, once two firms are in negotiation over the terms of the broadcast order, the order entry firm may of course identify itself to the contra side. Presently, SelectNet provides members the option of identifying themselves on broadcast orders through their market maker identification symbol, although this alternative is seldom used. The information on SelectNet broadcast orders will be made available to members and nonmember subscribers to the Nasdaq Workstation Level 2 service. This proposal is intended to avoid conditioning the market with orders that might be canceled at any time without actual trading interest by the order entry firm.

Securities Exchange Act Release No. 33938 (Apr. 20, 1994), 59 FR 22033 (Apr. 28, 1994).

system, direct those orders to a single market maker (directed orders) or broadcast the order to all market makers in the security. Originally implemented in its predecessor form in 1988 as the Order Confirmation Transaction service,⁵ the primary function of that service was to offer an automated alternative to the telephone as a method of contacting market makers in times of market stress. To this end, order entry firms could direct an order to buy or sell a Nasdaq security to a single market maker in the issue. When the service was enhanced and renamed SelectNet in 1990,⁶ the broadcast feature was added to permit a wider dissemination of orders (i.e., "broadcast orders") to all market makers in an issue. In addition, the redesigned system allowed market makers in a subject security to send a broadcast order to all member firms that had designated that security in their SelectNet "watch file,"⁷ whether the firm was a market maker or not. In 1992, the service was expanded to add pre-opening and after-hours sessions,⁸ so that today SelectNet is available for members to negotiate and execute orders from 9:00 a.m. until 5:15 p.m. Eastern Time. The Nasdaq Stock Market operates SelectNet to provide investors and members with an automated system to facilitate communication of trading interest between members, negotiation of orders with the possibility of price improvement with automated, locked-in executions, and dissemination of last sale reports to the tape. In addition, SelectNet retains the original functionality of the service as a replacement for one-on-one communication between members, especially in times of market stress.

Since its enhancement in December 1990, the service has grown in popularity with members and traffic has increased significantly—from an average of 3,000 transactions and 6 million shares daily in the first half of 1991 to over 10,000 transactions and more than 12 million shares daily in December 1994. As the system's usage has increased, institutions and other non-members have expressed a desire to view the orders broadcast within the service. Indeed, the Commission's Division of Market Regulation

⁵ See Securities Exchange Act Release No. 25263 (Jan. 11, 1988), 53 FR 1430 (Jan. 19, 1988).

⁶ See Securities Exchange Act Release No. 28636 (Nov. 21, 1990), 55 FR 49732 (Nov. 30, 1990).

⁷ The SelectNet watch file is established by each member firm and may contain as many as 300 securities. The member will then receive any directed or broadcast order selected for inclusion in the watch file.

⁸ See Securities Exchange Act Release No. 30581 (Apr. 14, 1992), 57 FR 14596 (Apr. 21, 1992).

("Division") recommended that "the NASD [should] examine how to improve access to information regarding orders entered into SelectNet" in its Market 2000 Report.⁹ Accordingly, as noted above, in March 1994, the NASD filed the instant rule proposal with the Commission.

With this amendment to the filing, the NASD now proposes to enhance further the market transparency benefits of the proposal by providing market participants with a more cost-effective and efficient means to receive information on orders broadcast in SelectNet. In particular, by making SelectNet information available to investors without the need for them to procure Nasdaq Workstation Level 2 Service, the NASD believes investors will have ready viewing access to an expanded spectrum of information regarding larger-size orders in Nasdaq securities at an affordable and reasonable cost. With this information, the NASD believes investors will be better able to assess the overall supply and demand for a particular Nasdaq stock, which, in turn, will permit them to effect transactions in a more cost-effective manner. Thus, the NASD believes this proposal, as amended, will promote the protection of investors and the maintenance of fair and orderly markets. The NASD also believes that the proposal directly responds to one of the Division's key recommendations designed to improve the transparency of orders broadcast through the SelectNet service.

This proposed amendment also is responsive to comments raised regarding the NASD's proposal. In particular, the Investment Company Institute ("ICI") and the New York Stock Exchange ("NYSE") commented that the SelectNet order information should be made available to all subscribers of Nasdaq Level 2 price information, not just to non-members that possess Nasdaq Level 2 Workstations.¹⁰ Without making the SelectNet order information more broadly available at a lower cost, these commentators maintain that the improvements to market transparency and the benefits to investors resulting from the proposal will be minimal. The

⁹ Market 2000: An Examination of Current Equity Market Developments, Division of Market Regulation, Securities and Exchange Commission (Jan. 1994).

¹⁰ See letters from Craig S. Tyle, Vice President & Senior Counsel, Securities and Financial Regulation, ICI, to Jonathan G. Katz, Secretary, SEC, dated May 19, 1994, a 2-3, and from James E. Buck, Senior Vice President & Secretary, NYSE, to Jonathan G. Katz, Secretary, SEC, dated June 2, 1994, at 4-7.

NASD believes these comments are fully addressed by this proposed amendment.

The NASD believes the proposed rule change is consistent with Sections 15A(b)(6) and 11A(a)(1)(C) of the Act and is a particularly timely and germane response to the recommendations contained in the Market 2000 study. 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) finds that it is in the public interest to, among other things, assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities and economically efficient execution of securities transactions.

The SelectNet service has served as an alternative to the telephone in times of market stress and as a system to broadcast orders to market makers for economically efficient negotiations and executions. By permitting non-members to view those broadcast orders, the NASD is removing impediments to transparency of market information and is facilitating transactions for those non-members who will now be able to see all broadcast orders in the service and timely arrange for the execution of such orders by a member. Although the orders in SelectNet do not represent quotations or last sale reports, the NASD believes that the information is valuable to investors and market participants and should be transparent and disseminated to non-members.

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 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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

- A. By order approve such proposed rule change, or
- B. Institute proceedings to determine whether the proposed rule change should be disapproved.

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 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 File Number SR-NASD-94-9 and should be submitted by March 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-5462 Filed 3-6-95; 8:45 am]

BILLING CODE 8010-01-M

February 28, 1995.

Self-Regulatory Organization; Philadelphia Depository Trust Company; Order Approving Proposed Rule Change Concerning Disposal of Expired Securities Certificates of Warrants and Rights

[Release No. 34-35426; File No. SR-Philadep-94-05]

On October 6, 1994, the Philadelphia Depository Trust Company ("Philadep")

filed a proposed rule change (File No. SR-Philadep-94-05) with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal appeared in the Federal Register on January 3, 1995, to solicit comment from interested persons.² No comments were received by the Commission. This order approves the proposal.

I. Description of the Proposal

The proposal authorizes Philadep to implement a program which allows it to destroy certain expired securities certificates, specifically expired warrants and rights. This destruction policy will enable Philadep to reduce the administrative and safekeeping expenses associated with keeping expired warrants and rights related certificates in its vault.

In implementing this program, Philadep will adhere to several procedures to help assure that Philadep destroys only certificates for which the warrant or rights have expired. First, Philadep will contact the transfer agent or the issuer of the securities after the securities have reached their expiration dates to verify that the respective warrants or rights have expired. Second, Philadep will obtain written confirmation from the transfer agent that the certificates representing the warrants or rights have expired. If there is no transfer agent, Philadep will obtain such written confirmation from the issuer. Philadep also will exercise such other reasonable due diligence, as it may deem necessary under the circumstances, to confirm the expired nature of the respective certificates including consulting with Philadep's legal department, its internal audit department, and its senior management. Third, Philadep: (1) Will notify its participants that the certificates have expired in the judgment of the transfer agent or of other appropriate parties where there is no transfer agent; (2) will delete such securities positions from its participants' account on or after the thirtieth day following the date of the notice to the participants; and (3) will mark the securities certificates and send them to its internal audit department for destruction. Additionally, Philadep has agreed to retain copies of all such destroyed certificates on microfilm or on other mediums for not less than one year.³

¹ 15 U.S.C. 78s(b) (1988).

² Securities Exchange Act Release No. 35153 (December 27, 1994), 60 FR 161.

³ Telephone conversation between J. Keith Kessel, Compliance Officer, Philadep, and Thomas C. Etter,

¹¹ 17 CFR 200.30-3(a)(12).