

Transition Period for Conversion to the NASDAQ Bid Tick Indicator Extended



To: Head of NASDAQ Trading; Technical Contacts; Compliance Officers

From: Gene Lopez, Senior Vice President
The NASDAQ Stock Market

Date: November 25, 2003

Re: **Transition Period for Conversion to the NASDAQ Bid Tick Indicator Extended (Head Trader Alert #2003-157)**

****Please show this to your Compliance Officer.****

Summary

- Securities and Exchange Commission (SEC) proposes Regulation SHO, a uniform short sale rule
- Transition period for conversion to the NASDAQ Bid Tick Indicator extended
- NASDAQ will closely monitor the SEC's progress on the proposed regulation and notify market participants of further developments
- SuperMontage will continue to enforce short sale rule compliance during the transition period using the NASDAQ Bid Tick Indicator
- NASDAQ Short Sale Rule
- Contact information

SEC Proposes a Uniform Short Sale Rule

The SEC recently proposed Regulation SHO, a uniform short sale rule that would apply to exchange-listed and NASDAQ National Market[®] (NM) securities wherever traded (Release No. 34-48709 (October 28, 2003); 68 FR 62972 (November 6, 2003)). If adopted, Regulation SHO would use a test based on the consolidated best bid as the reference point for permissible short sales and market participants would be required to use a National Bid Tick Indicator for short sale rule compliance, rather than the NASDAQ[®] Bid Tick Indicator as indicated in [Head Trader Alert #2003-061](#). NASDAQ will continue to monitor SEC's work on proposed Regulation SHO and will notify market participants of developments. In the meantime, NASDAQ has extended the date by which market participants must convert their systems to the NASDAQ Bid Tick Indicator until the date when the SEC makes a final determination on its Regulation SHO proposal. At that time, NASDAQ will issue a Head Trader Alert notifying market participants of their Short Sale Rule obligations. NASDAQ encourages market participants that have not yet transitioned to the NASDAQ Bid Tick Indicator to delay making that conversion pending completion of the SEC's rulemaking.

Enforcing Short Sale Rule Compliance

During the extended transition period, SuperMontageSM will continue to enforce short sale rule compliance based on the NASDAQ Bid Tick Indicator. NASDAQ market participants executing trades outside of SuperMontage and reporting them to NASDAQ will continue to have a choice of using the NASDAQ or National Bid Tick Indicator for Short Sale Rule compliance during the transition period, so long as a

single bid tick measure is used consistently within each market participant. Firms that choose to transition to the NASDAQ Bid Tick Indicator during the extended transition period must submit the [Bid Tick Transition Form](#) to NASDAQ MarketWatchSM. Market participants must transition all of their systems to the NASDAQ Bid Tick Indicator at the same time.

NASDAQ Short Sale Rule

The NASDAQ Short Sale Rule, NASD Rule 3350, prohibits short sales in NASDAQ NM securities at or below the best (inside) bid when the current inside bid is below the previous inside bid. To effect a "legal" short sale in a NM security on a down-bid, the short sale must be executed at a price at least \$.01 above the current inside bid.

In December 2002, the SEC approved a rule change allowing NASDAQ to modify the method it uses to calculate the best bid by having it refer to the "NASDAQ Inside", which is comprised of quotations from all participants in SuperMontage, rather than referring to the National Best Bid, which is derived from quotations of every market trading NASDAQ securities. NASDAQ's decision to move from the National Best Bid to the NASDAQ Inside was based on the belief that the bid test in NASDAQ's Short Sale Rule should be based on NASDAQ's high-quality quote data, which is never locked or crossed during regular market hours and is under NASDAQ control. Firms were notified that they must transition their systems from the National Bid Tick Indicator to the NASDAQ Bid Tick Indicator by February 1, 2004.

More Information

- SEC proposed Regulation SHO
 - [Release No. 34-48709 \(Oct. 28, 2003\); 68 FR 62972 \(Nov. 6, 2003\)](#)
- [NASDAQ Bid Tick Transition Form](#)

Contact Information

If you have any questions about this information, please contact:

- NASDAQ MarketWatch, 800.211.4953 or 240.386.6049,
- Your NASDAQ Market Sales Representative,
- NASDAQ Market Sales at 800.846.0477 or
- Send an email to sales@nasdaq.com

If you have any legal questions regarding this topic, please contact:

- NASDAQ Office of General Counsel, 202.912.3000.