

The Open Meeting scheduled for Wednesday, May 28, 2003 at 10 a.m., has been changed to Tuesday, May 27, 2003 at 2 p.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: May 23, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-13495 Filed 5-23-03; 4:26 pm]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47899; File No. SR-DTC-2003-06]

### Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of Proposed Rule Change To Restrict the Next-Day Matched Reclamation Process

May 21, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 7, 2003, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

DTC is seeking to restrict the ability of participants to effect reclamations to reverse completed Deliver Order ("DO") and Payment Order ("PO") transactions processed on the previous business day.

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

In its filing with the Commission, DTC 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. DTC has prepared

summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

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

DTC's current reclamation procedures allow participants to submit reclamations to reverse completed DO and PO transactions. When reclamation instructions are received, DTC currently attempts to match the reclaim with a completed original transaction processed on the current day ("same-day reclaims") or on the preceding business day ("next-day reclaims"). Reclamations that are not matched to original deliveries are considered unmatched reclaims and are subject to the same rules and controls as original transactions. Reclamations that are matched to original deliveries are considered matched reclaims and are permitted to bypass the Receiver Authorized Delivery ("RAD") system and override DTC's risk management controls if they are DOs less than \$15 million or POs less than \$1 million.<sup>3</sup> In addition, matched reclamations can be processed in the exclusive reclaim period (3:20 p.m. to 3:30 p.m.) and cannot be re-reclaimed by the receiver.

Reclamations in general and next-day reclamations in particular impair the finality of settlement and prolong the period during which delivering participants and DTC are at risk. To minimize this exposure, DTC plans to eliminate the next-day matched reclamation process. Under its proposed procedures, DTC would continue to accept reclamation instructions and link those reclaim transactions to original transactions. However, only reclamation transactions that are linked to original transactions processed the same processing day would be considered matched. Only these matched reclaim transactions would be permitted to bypass RAD and DTC's risk management controls. In addition, only these matched reclaim transactions could be submitted in the exclusive reclaim period and would be blocked from subsequent re-reclamation by the original deliverer.

<sup>2</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>3</sup> RAD is a control mechanism that allows participants to review transactions prior to completion of processing and that limits participants' exposure from misdirected or erroneously entered deliveries or payment orders. The override of DTC's risk management controls is designed to address industry concern that the receiver not be "stuck" with a delivery it does not know because of the depository's risk management controls.

Reclamation transactions that are linked to original transactions processed prior to the current processing day would be processed in the same manner as other deliveries. That is, they would not bypass RAD or DTC's risk management controls. These linked reclamations would have to be submitted during normal input times and would not be allowed in the exclusive reclaim period. Furthermore, a participant receiving a linked reclamation that it believes is inappropriate would be able to re-reclaim that transaction. To allow participants to continue automatically tracking transaction status changes, however, both matched and linked reclaim output will contain the Relative Block Number of both the reclamation and the original transaction.

DTC plans to implement the enhancements to the reclamation process in phases. Beginning July 17, 2003, subject to Commission approval, DTC will eliminate the next-day matched reclaim process for money market instruments ("MMIs"). After that date, MMI reclaim transactions that cannot be matched to original transactions processed on the same business day will be processed in the same manner as other deliveries. DTC plans to eliminate the next-day matched reclaim capability for all other securities late in 2003 or early in 2004. At that time, DTC also proposes to begin linking reclamation transactions with original transactions processed in the preceding 60 days.

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act<sup>4</sup> and the rules and regulations thereunder applicable to DTC. By restricting the next-day matched reclamation process, the proposed rule change should remove impediments to the finality of the settlement process and should shorten the period during which delivering participants and DTC are at risk. As a result, the proposed rule change should promote the prompt and accurate clearance and settlement of securities transactions.

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

DTC perceives no impact on competition by reason of the proposed rule change.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>4</sup> 15 U.S.C. 78q-1.

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

DTC has discussed this proposed rule change in its current form with various industry groups and distributed Important Notice #4639 (February 26, 2003) to participants soliciting their comments. No comments were received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five 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 ninety 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 self-regulatory organization 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, including whether the proposed rule change 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-DTC-2003-06. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC.

All submissions should refer to File No. SR-DTC-2003-06 and should be submitted by June 19, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-13449 Filed 5-28-03; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-47897; File No. SR-NASD-2003-48]**

**Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify the Display Charge Associated With the Use of the Nasdaq Workstation II Service by Persons That Are Not NASD Members**

May 21, 2003.

On March 21, 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"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to modify the display charge associated with the use of the Nasdaq Workstation II Service ("Service") by persons that are not NASD Members. Specifically, the proposal would provide a discount on each additional Service logon to subscribers with more than 150 logons.<sup>3</sup> The proposed rule change was published for comment in the **Federal Register** on April 21, 2003.<sup>4</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association<sup>5</sup> and, in particular, the

<sup>5</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Commission notes that Nasdaq also submitted a separate proposed rule change, pursuant to section 19b(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A), to modify this charge for NASD members. See Securities Exchange Act Release No. 47637 (April 7, 2003), 68 FR 17849 (April 11, 2003) (File No. SR-NASD-2003-47).

<sup>4</sup> See Securities Exchange Act Release No. 47679 (April 15, 2003), 68 FR 19593.

<sup>5</sup> In approving this proposed rule change, the Commission has considered the proposed rule's

requirements of section 15A of the Act<sup>6</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposal is consistent with the requirements of section 15A(b)(5) of the Act,<sup>7</sup> because it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that NASD operates. Nasdaq has represented that it is proposing to modify the display charge to reflect the economies of scale realized when providing a subscriber with a large number of logons. Further, Nasdaq has already implemented a similar fee schedule for members.<sup>8</sup> The Commission believes that the proposed fee discount on each additional Service logon to subscribers with more than 150 logons should assist in reducing costs incurred by all market participants using Nasdaq's systems and services.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-NASD-2003-48) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-13445 Filed 5-28-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-47906; File No. SR-NASD-2003-62]**

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, by National Association of Securities Dealers, Inc. To Allow Internet Access to the Primex Auction System and To Specify the Charges for Such Access**

May 22, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 31, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, the Nasdaq Stock

impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>6</sup> 15 U.S.C. 78o-3.

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

<sup>8</sup> See *supra* note 3.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.