

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50182; File No. SR-DTC-2004-05]

Self-Regulatory Organizations; the Depository Trust Company; Order Granting Approval of Proposed Rule Change Relating to the Look-Ahead Process

August 11, 2004.

On May 7, 2004, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") proposed rule change File No. SR-DTC-2004-05 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposed rule change was published in the **Federal Register** on July 2, 2004.² No comment letters were received. For the reasons discussed below, the Commission is now granting approval of the proposed rule change.

I. Description

The purpose of this filing is to allow DTC to expand the application and extend the benefits of its Look-Ahead process to all equity transactions, all valued pledge transactions, and all valued release transactions.³ DTC's Look-Ahead process is designed to reduce transaction settlement blockage. Currently, it is available only for municipal and corporate debt transactions.⁴ The Look-Ahead processing system reduces transaction settlement blockage by identifying a receive transaction pending due to a net debit cap insufficiency and determines whether there is an offsetting delivery transaction in the same security that is pending because of a quantity deficiency. The system calculates the net effect of the offsetting transactions in the accounts of the three participants involved. If the net effect of the offsetting transactions is that each of the three accounts is in compliance with DTC's risk management systems controls, the transactions will be completed.

As a result of the Look-Ahead process reducing transaction settlement blockages in municipal and corporate debt transactions, DTC participants have experienced improved timeliness of completion of transactions in the system, increased trade certainty, and

improved straight-through processing. DTC intends to extend the benefits and to expand the application of its Look-Ahead process to all equity transactions, all valued pledge transactions, and all valued release in the third quarter of 2004.

II. Discussion

Section 17A(b)(3)(F)⁵ of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. By expanding the securities to which its Look-Ahead process will be applied, the proposed rule change should reduce the number of blocked transactions at DTC. As such, the proposed rule change is consistent with DTC's statutory obligation to promote the prompt and accurate clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁶ that the proposed rule change (File No. SR-DTC-2004-05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50183; File No. SR-NASD-2004-109]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the National Association of Securities Dealers, Inc. To Increase the Initial Inclusion Requirements for Certain Foreign Securities Seeking To List on the Nasdaq SmallCap Market

August 11, 2004.

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 July 15,

2004, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), 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 Nasdaq. 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 the Substance of the Proposed Rule Change

Nasdaq proposes to modify Rule 4320 to increase the initial inclusion requirements for non-Canadian foreign securities and American Depository Receipts seeking to list on the Nasdaq SmallCap Market ("SmallCap Market"). Nasdaq will implement the proposed rule change immediately upon approval by the Commission.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in [brackets].³

* * * * *

4320. Qualification Requirements for Non-Canadian Foreign Securities and American Depository Receipts

To qualify for inclusion in Nasdaq, a security of a non-Canadian foreign issuer, an American Depository Receipt (ADR) or similar security issued in respect of a security of a foreign issuer shall satisfy the requirements of paragraphs (a), (b) or (c), and (d) and (e) of this Rule.

(a)-(d) No change.

(e) In addition to the requirements contained in paragraphs (a), (b) or (c), and (d), the security shall satisfy the criteria set out in this subsection for inclusion in Nasdaq. In the case of ADRs, the underlying security will be considered when determining the ADR's qualification for initial or continued inclusion on Nasdaq.

(1) No change.

(2) (A) For initial inclusion, *the issue shall have a minimum bid price of \$4 and the issuer shall have:*

(i)-(iii) No change.

(B)-(D) No change.

(3)-(4) No change.

(5) There shall be at least 1,000,000 publicly held shares for initial inclusion

³ Changes are marked to the text for Rule 4320 that appears in the electronic NASD Manual found at www.nasdaq.com, which was current as of the date of this filing. No other pending rule filings would affect the text of this rule. Telephone conversation between Arnold P. Golub, Associate Vice President, Nasdaq, and Florence Harmon, Senior Special Counsel, Division, Commission on August 11, 2004.

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 49924 (June 28, 2004), 69 FR 40426.

³ Securities Exchange Act Release No. 48007 (June 10, 2003), 68 FR 35744 (June 16, 2003) (File No. DTC-2003-07) (order allowing DTC to establish Look-Ahead processing).

⁴ *Id.*

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.