

[www.nyse.com](http://www.nyse.com)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

## 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 self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

#### 1. Purpose

The Exchange has recently amended Exchange Rule 123C to, among other things, establish a new Closing Offset ("CO") order.<sup>3</sup> The CO order is a conditional-instruction limit order that is eligible to participate in the closing transaction to offset an order imbalance at the close. The CO order is not guaranteed to participate in the closing transaction but is eligible to participate when there is an imbalance of orders to be executed on the opposite side of the market from the CO order and there is no other interest remaining to trade at the closing price. The Exchange does not propose to charge transaction fees with respect to the execution of CO orders and proposes to amend its 2010 price list to make this policy explicit. The Exchange will commence using the CO order type on March 1, 2010.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6<sup>4</sup> of the Act in general and furthers the objectives of Section 6(b)(4)<sup>5</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes that the proposal does not constitute an inequitable allocation of dues, fees and other

charges, as all Exchange participants have the ability to enter CO orders.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>6</sup> of the Act and Rule 19b-4(f)(2)<sup>7</sup> thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2010-14 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2010-14. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use

only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission,<sup>8</sup> 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 Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2010-14 and should be submitted on or before March 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Florence E. Harmon,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61620; File No. SR-DTC-2010-04]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Its Registered Transfer Agent Notification Methods for Assumption or Termination of Services

March 1, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 3, 2010, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and

<sup>8</sup> The text of the proposed rule change is available on the Commission's Web site at <http://www.sec.gov/rules/sro.shtml>.

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

<sup>3</sup> See Securities Exchange Act Release No. 61233 (December 23, 2009), 74 FR 69169 (December 30, 2009) (SR-NYSE-2009-111).

<sup>4</sup> 15 U.S.C. 78f.

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

III below, which Items have been prepared primarily by DTC. DTC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4)<sup>3</sup> thereunder so that the proposal was effective upon filing with the Commission. 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 purpose of the proposed rule change is to modify the registered transfer agent notification methods for assumption or termination of services.

### **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 such statements.<sup>4</sup>

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

Rule 17Ad-16 under the Act is designed to help reduce delays in securities transfers. The rule requires registered transfer agents to notify the appropriate qualified registered securities depository when the transfer agent assumes or terminates services on behalf of an issuer or when the transfer agent changes its name or address.

In 1995, DTC filed a proposed rule change with the Commission in which DTC requested designation as the appropriate qualified registered securities depository for purposes of Rule 17Ad-16 and also sought approval of its procedures to receive and transmit such notices. The Commission approved the rule filing and ordered that DTC be designated as the appropriate qualified registered securities depository.<sup>5</sup> Existing DTC Procedures allow transfer agents to provide their notices to DTC

by e-mail to DTC's Transfer Agent Services Mailbox, by fax, or by mail.

To increase certainty regarding where transfer agents should direct these notices to DTC, as well as to reduce costs and administrative burdens, DTC proposes modifying its Procedures so that registered transfer agents would only notify DTC by sending e-mails to DTC's Transfer Agent Services Mailbox. The proposed changes to DTC's Procedures can be found in Exhibit 5 to proposed rule change SR-DTC-2010-04 at [http://www.dtcc.com/downloads/legal/rule\\_filings/2010/dtc/2010-04.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2010/dtc/2010-04.pdf)

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>6</sup> and the rules and regulations thereunder applicable to DTC because the proposed rule change promotes efficiencies in the clearance and settlement of securities transactions by modifying DTC's Procedures to expedite the notification process for transfer agent changes and decrease transfer delays.

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

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

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

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(4)<sup>8</sup> thereunder because the proposed rule change effects a change in an existing service of a registered clearing agency that: (i) Does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **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. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Electronic comments may be submitted by using the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-DTC-2010-04 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549-1090.

All submissions should refer to File Number SR-DTC-2010-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at [http://www.dtcc.com/legal/rule\\_filings/dtc/2010.php](http://www.dtcc.com/legal/rule_filings/dtc/2010.php).

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>3</sup> 17 CFR 240.19b-4(f)(4).

<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>5</sup> Securities Exchange Release Act No. 35378 (February 15, 1995), 60 FR 9875 (February 22, 1995) (File No. SR-DTC-95-02).

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(4).

submissions should refer to file number SR-DTC-2010-04 and should be submitted on or before March 29, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61606; File No. SR-NASDAQ-2010-026]

### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate Erroneous Citations From Rule 9557

March 1, 2010.

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 February 24, 2010, The NASDAQ Stock Market LLC (“Nasdaq”) 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 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 Substance of the Proposed Rule Change

Nasdaq is proposing to eliminate erroneous citations found under Rule 9557. The text of the proposed rule change is below. Proposed new language is in italics and proposed deletions are in brackets.

9557. Procedures for Regulating Activities Under Rules 4110A[,] and 4120A [and 4130A] Regarding a Member Experiencing Financial or Operational Difficulties

(a) Notice of Requirements and/or Restrictions; Nasdaq Action

Nasdaq Regulation staff may issue a notice directing a member to comply with the provisions of Rule 4110A[,] or 4120A [or 4130A] or restrict its business activities, either by limiting or ceasing to conduct those activities consistent with Rule 4110A[,] or 4120A [or 4130A], if Nasdaq Regulation staff has reason to believe that a condition specified in Rule 4110A[,] or 4120A [or 4130A]

exists. A notice served under this Rule shall constitute Nasdaq action.

(b)–(f) No change.

(g) Additional Requirements and/or Restrictions or the Removal or Reduction of Requirements and/or Restrictions; Letter of Withdrawal of the Notice

(1) Additional Requirements and/or Restrictions

If a member continues to experience financial or operational difficulty specified in Rule 4110A or 4120A [or 4130A], notwithstanding an effective notice, Nasdaq Regulation staff may impose additional requirements and/or restrictions by serving an additional notice under paragraph (b) of this Rule. The additional notice shall inform the member that it may apply for relief from the additional requirements and/or restrictions by filing a written request for a letter of withdrawal of the notice and/or a written request for a hearing before the Office of Hearing Officers under Rule 9559. The procedures delineated in this Rule shall be applicable to such additional notice.

(2) No change.

(A)–(B) No change.

(h) No change.

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below, and is set forth in Sections A, B, and C below.

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

###### 1. Purpose

Nasdaq is proposing to eliminate erroneous citations found under Rule 9557. Many of Nasdaq’s rules are based on rules of Financial Industry Regulatory Authority (“FINRA”). Nasdaq endeavors to keep these common rules consistent with the analogous rules of FINRA, to the extent possible. FINRA recently adopted new consolidated financial responsibility rules found under a new FINRA Rule 4000 series.<sup>3</sup> On January 20, 2010, Nasdaq filed a proposed rule change to make conforming changes to its rules, which

included the adoption of a new Rule 4000A series<sup>4</sup> and certain amendments to Rules 9557 and 9559.<sup>5</sup> The proposed changes were immediately effective, and became operative on February 19, 2010. In adopting the new consolidated rules, FINRA eliminated Rule 3131 and in its place adopted a new Rule 4130 that concerns the regulation of activities of Section 15C members experiencing financial and/or operational difficulties and made conforming changes to citations found under FINRA Rule 9557. Section 15C of the Exchange Act<sup>6</sup> applies to government securities brokers and dealers, which does not apply to Nasdaq’s membership as no such class of membership exists under Nasdaq rules. As a consequence, Nasdaq did not adopt an analogous Rule 4130A. In revising citations in Rule 9557, however, Nasdaq inadvertently included erroneous references to Rule 4130A. Accordingly, Nasdaq is proposing to eliminate the erroneous references to Rule 4130A found in Rule 9557.

###### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>7</sup> in general and with Section 6(b)(5) of the Act,<sup>8</sup> in particular in that it is 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. The proposed rule change corrects certain erroneous citations inadvertently included in Rule 9557 when adopting the new Rule 4000A series.

##### B. Self-Regulatory Organization’s Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

<sup>4</sup> Nasdaq currently has rules under its 4000 series, so to mirror the changes made by FINRA as closely as possible, Nasdaq created a new Rule 4000A series.

<sup>5</sup> See *supra*, note 3.

<sup>6</sup> 15 U.S.C. 78o–5.

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</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> Securities Exchange Act Release No. 60933 (November 4, 2009), 74 FR 58334 (November 12, 2009) (SR-FINRA-2008-067).