

should refer to File No. SR-DTC-2002-06 and should be submitted by July 28, 2003.

IV. Discussion

Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.¹³ The rule change should allow DTC to reduce settlement risk and improve its safeguarding of securities and funds by reducing the risk that the completion of settlement will be delayed because a settling bank is late or is unable to wire funds to DTC in settlement of its obligations.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. Participants and their settling banks have been on notice for over a year that DTC intended to require the use of NSS, and some have been working with DTC during this time to address procedural or operational issues they had with the DTC proposal. Now that those issues have been resolved by DTC's amendments to the proposed rule change, accelerated approval will allow DTC to implement the requirement to use NSS as soon as possible, which in turn will allow DTC to improve its risk reduction efforts.

V. 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 with the requirements of section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2002-06) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48110; File No. SR-NASD-2003-97]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the National Association of Securities Dealers, Inc. Relating to Extension on a Pilot Basis of NASD Rule 7010(k) Relating to Fees for the Trade Reporting and Compliance Engine (TRACE)

June 30, 2003.

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 June 17, 2003, the National Association of Securities Dealers, Inc. ("NASD"), 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 NASD. NASD filed an amendment to the proposed rule change on June 27, 2003.³ NASD has designated the proposed rule change as "establishing or changing a due, fee,

or other charge" under section 19(b)(3)(A)(ii) of the Act⁴ and Rule 19b-4(f)(2) thereunder,⁵ which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

NASD is proposing to amend NASD Rule 7010(k) relating to fees for the Trade Reporting and Compliance Engine ("TRACE") prior to the expiration of the pilot program for fees on June 30, 2003. NASD is proposing to extend the pilot program for TRACE fees to January 31, 2004. NASD is not proposing any revisions to the current fee structure for TRACE as part of this rule filing. Therefore, as a result of the proposed rule change, the current fee structure would remain in effect to January 31, 2004. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

7010. System Services

(a) through (j) No Change.

(k) Trade Reporting and Compliance Engine (TRACE)

(Rule 7010(k) shall expire on [June 30, 2003] *January 31, 2004*, unless amended, extended, or permanently adopted by NASD pursuant to SEC approval at or before such date).

The following charges shall be paid by participants for the use of the Trade Reporting and Compliance Engine ("TRACE"):

System fees	Transaction reporting fees	Market data fees
From 07/01/02 to 12/31/02: Web Browser Access: \$85/month for 1 user ID; \$75/month for 2-9 user IDs; \$70/month for 2-10+ user, IDs, except If less than 25 trades per month, in October, November, or December 2002-\$25/month per user ID	From 07/01/02 to 12/31/02: Trades up to and including \$200,000 par value—\$0.50/trade; Trades between \$201,000 and \$999,999 par value—\$0.0025 times the number of bonds traded/trade; Trades of \$1,000,000 par value or more— \$2.50/trade	BTDS Professional Display—\$60/month per terminal, except For a period of one calendar month to be an- nounced: Waiver of fee (\$0)

¹³ 15 U.S.C. 78q-1(b)(3)(F).

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Kosha K. Dalal, Assistant General Counsel, NASD, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated June 27, 2003 (Amendment No. 1). In Amendment No. 1, NASD moved the placement of a footnote

marked for deletion in the rule filing to clarify that the footnote was part of the actual rule text and not simply a footnote to the rule filing.

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).