

funds ("ETFs"), the Dow Jones Industrial Average ETF ("DIA") and the Standard & Poor's 500 Index ETF ("SPY").<sup>7</sup> By its terms, the December 2004 Order continued the exemption from the trade-through provisions of the ITS Plan of any transactions in the two ETFs that are effected at prices at or within three cents away from the best bid and offer quoted in the Consolidated Quote System ("CQS") for a period of nine months, which ended on September 4, 2005.

Our August 2002, May 2003, March 2004, and December 2004 orders discussed our basis for determining that issuing and extending the *de minimis* exemption was consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system. The December 2004 Order further noted that:

In March 2004 and in May 2003, the Commission extended the three cent *de minimis* exemption for additional nine-month periods, in order to assess trading data associated with the *de minimis* exemption and to consider whether to adopt the *de minimis* exemption on a permanent basis, to adopt some other alternative solution, or to allow the exemption to expire. As a result of its review of trading data associated with the *de minimis* exemption, the Commission has proposed, as part of its market structure initiatives, Regulation NMS under the Act, which would include a new rule relating to trade-throughs.

On April 6, 2005, the Commission approved Regulation NMS under the Act.<sup>8</sup> In Regulation NMS, the Commission adopted an approach that, among other things, protects only automated quotations and excludes manual quotations from trade-through protection, and renders the *de minimis* exemption unnecessary. However, until Regulation NMS is implemented in this regard, the reasons for maintaining the

<sup>7</sup> The Commission limited the *de minimis* exemption to these two securities because they share certain characteristics that may make immediate execution of their shares highly desirable to certain investors. In particular, trading in the two ETFs is highly liquid and market participants may value an immediate execution at a displayed price more than the opportunity to obtain a slightly better price. Unlike prior orders, the December 2004 extension of the *de minimis* exemption applied only to the DIA and the SPY, and not the QQQ, because, on December 1, 2004, trading of the QQQ transferred from the American Stock Exchange to Nasdaq, and thus trades in the QQQ ceased to be subject to the trade-through provisions of the ITS Plan. Accordingly, an exemption for the QQQ was no longer necessary. See December 2004 Order.

<sup>8</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

*de minimis* exemption in effect continue to be valid.

Therefore, to maintain the status quo and avoid requiring market participants to make short-term trading or programming changes pending such implementation, it is appropriate to extend the *de minimis* exemption through June 28, 2006, the day before the first scheduled date of that implementation under Regulation NMS. The Commission will consider whether to extend the *de minimis* exemption further if the DIA or the SPY are not chosen to be included in the NMS compliance phase that begins on June 29, 2006. The Commission emphasizes, as it did in the December 2004 Order, the March 2004 Order, the May 2003 Order, and the August 2002 Order, that the *de minimis* exemption does not relieve brokers and dealers of their best execution obligations under the federal securities laws and SRO rules.

Accordingly, *it is ordered*, pursuant to Section 11A of the Act and Rule 608(e) thereunder,<sup>9</sup> that participants of the ITS Plan and their members are hereby exempt from Section 8(d) of the ITS Plan during the period covered by this Order with respect to transactions in DIAs and SPYs that are executed at a price that is no more than three cents lower than the highest bid displayed in CQS and no more than three cents higher than the lowest offer displayed in CQS. This Order extends the *de minimis* exemption from September 4, 2005 through June 28, 2006.

By the Commission.

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### Order of Suspension of Trading

September 7, 2005.

In the Matter of Advanced Media, Inc., Air Packaging Technologies, Inc., American Film Technologies, Inc., American Plastics & Chemicals, Inc., AmeriQuest Technologies, Inc., Apparel Technologies, Inc., BPI Packaging Technologies, Inc., Chantal Pharmaceutical Corp., CML Group, Inc., Compositect, Ltd., Crown Laboratories, Inc., DBS Industries, Inc., Dental Medical Diagnostic Systems, Inc., Dispatch Management Services Corp., Eglobe, Inc., Enamelon, Inc., Finantra Capital, Inc., First Scientific, Inc., Hayes Corp., Hybrid Networks, Inc., iPrint Technologies, Inc.,

<sup>9</sup> 17 CFR 242.608(e).

Microage, Inc., MigraTEC, Inc., Network Computing Devices, Inc., Pacific Systems Control Technology, Inc., Paracelsian, Inc., Pharmaprint, Inc., Pinnacle Micro, Inc., Semiconductor Laser International Corp., Socrates Technologies Corp., Star Technologies, Inc., Sunrise Technologies International, Inc., Telemonde, Inc., thehealthchannel.com, Inc., Transmedia Asia Pacific, Inc., Tristar Corp., VDC Communications, Inc., Vianet Technologies, Inc., and Visionamerica, Inc.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Advanced Media, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Air Packaging Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Film Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of American Plastics & Chemicals, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending August 31, 1995.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of AmeriQuest Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Apparel Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the

Securities Exchange Act of 1934, having not filed a periodic report since the period ending February 28, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of BPI Packaging Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Chantal Pharmaceutical Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CML Group, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending July 31, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Compositech, Ltd., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Crown Laboratories, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of DBS Industries, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Dental Medical Diagnostic Systems, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of

the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Dispatch Management Services Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Eglobe, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Enamelon, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Finantra Capital, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of First Scientific, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hayes Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending October 3, 1998.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hybrid Networks, Inc., because despite a June 29, 2000 court order permanently enjoining it against future violations of Section 13(a) of the Securities and

Exchange Act of 1934 and Rules 13a-1 and 13a-13 thereunder, it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of iPrint Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Microage, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending July 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of MigraTEC, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Network Computing Devices, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pacific Systems Control Technology, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Paracelsian, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pharmaprint, Inc., because it is

delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pinnacle Micro, Inc., because despite an October 3, 1997 Commission cease-and-desist order against future violations of Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-1 and 13a-13 thereunder, it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 25, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Semiconductor Laser International Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Socrates Technologies Corp., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Star Technologies, Inc., because despite a November 15, 1993 Commission cease-and-desist order against future violations of Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-1 and 13a-13 thereunder, it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sunrise Technologies International, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information

concerning the securities of Telemonde, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending June 30, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of thehealthchannel.com, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending September 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Transmedia Asia Pacific, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tristar Corp., because despite a September 29, 1995 Commission cease-and-desist order against future violations of Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-1 and 13a-13 thereunder, it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending February 24, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of VDC Communications, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending March 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vianet Technologies, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having not filed a periodic report since the period ending December 31, 2002.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Visionamerica, Inc., because it is delinquent in its periodic filing obligations under Section 13(a) of the Securities Exchange Act of 1934, having

not filed a periodic report since the period ending June 30, 2000.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

*Therefore, it is ordered*, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on September 7, 2005, through 11:59 p.m. EDT on September 20, 2005.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 05-17991 Filed 9-7-05; 11:52 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52376; File No. SR-NASD-2005-102]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto To Allow Members To Report Certain Trades in Exchange-Listed Securities Through the Execution Services of the Nasdaq Market Center

September 1, 2005.

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 August 26, 2005, 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") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On August 31, 2005, Nasdaq filed Amendment No. 1 to the proposed rule change.<sup>3</sup> Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(5)<sup>5</sup> thereunder, and therefore the proposed rule change is effective upon filing with the Commission. The Commission is publishing this notice to solicit

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

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

<sup>3</sup> 3 Amendment No. 1 clarified the scope of NASD Rule 4720 prior to adoption of the proposed rule change, corrected typographical errors, and made other clarifying changes in response to comments from the Commission staff.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(5).