

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-29156 Filed 12-9-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59035; File No. SR-DTC-2007-07]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change To Amend the Applicant Disqualification Criteria Contained in Its Rules

December 1, 2008.

I. Introduction

On April 30, 2007, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on February 7, 2008, and March 18, 2008, amended proposed rule change SR-DTC-2007-07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ The proposed rule change was published for comment in the **Federal Register** on July 16, 2008.² No comment letters were received on the proposal. This order approves the proposal.

II. Description

The proposed rule change amends the applicant disqualification criteria contained in DTC's rules in order to harmonize them with similar rules of DTC's affiliates, National Securities Clearing Corporation ("NSCC") and Fixed Income Clearing Corporation ("FICC").

A. Statutory Disqualification

DTC Rule 2 sets forth the basic standards for the admission of DTC Participants and defines certain criteria that may disqualify an applicant from participation. While the factors that may disqualify an applicant are generally consistent among DTC, FICC, and NSCC rules, DTC's rules do not specifically reference an order of statutory disqualification as defined in Section 3(a)(39) of the Act³ among its disqualification criteria.⁴ To promote uniformity among the rules of DTC and

its affiliates, DTC is adding such a provision to its rules.

B. Associated Persons

DTC rules include applicant disqualification criteria for persons and/or entities "associated" with an applicant. Because it is not easily ascertainable as to what entities or individuals are "associated" with a particular entity, DTC is amending these provisions in its rules so that they are consistent with internal surveillance procedures. DTC is changing references to persons "associated" with the applicant to references to "controlling management," which shall be defined to mean the Chief Executive Officer, Chief Financial Officer, and Chief Operating Officer, or their equivalents. These are the officers that are currently screened by DTC's risk management pursuant to internal procedures. DTC is also adding language to its rules that would require applicants to inform DTC as to any member of its controlling management that is or becomes subject to statutory disqualification.

C. Amendment to Willful Violation

DTC rules currently include as a disqualification criterion the applicant's or an associated person's "willful" violation of the Securities Act of 1933,⁵ the Act, the Investment Company Act of 1940,⁶ the Investment Advisors Act of 1940,⁷ or any rule or regulation promulgated thereunder. DTC is removing the word "willful" from this provision because DTC believes that any violation of these provisions should be a disqualification criterion.

Changes similar to those outlined in Sections A, B, and C above will be made to DTC Rule 10, "Discretionary Termination."

III. Discussion

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 registered clearing agency. In particular, the Commission believes the proposal is consistent with the requirements of Section 17A(b)(3)(F),⁸ which, among other things, requires that the rules of a clearing agency are designed to remove impediments to and perfect the mechanisms of a national system for the prompt and accurate clearance and settlement of securities transactions and with the requirements of Section

17A(b)(3)(H)⁹ which, among other things, requires that the rules of a clearing agency provide a fair procedure with respect to the disciplining of participants and the denial of participation to any person seeking to be a participant. The Commission finds that the proposed rule change, which amends DTC's applicant disqualification criteria contained within its rules, is consistent with those statutory obligations.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act¹⁰ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (File No. SR-DTC-2007-07) be, and hereby is, approved.¹²

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹³

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-29135 Filed 12-9-08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59043; File No. SR-NASDAQ-2008-089]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for Members Using the Nasdaq Options Market

December 3, 2008.

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 November 21, 2008, 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. Nasdaq has filed

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 58122 (Jul. 9, 2008), 73 FR 40888.

³ 15 U.S.C. 78c(a)(39).

⁴ As a clearing agency registered under the Act, DTC must evaluate its participants subject to an order of statutory disqualification.

⁵ 15 U.S.C. 77a et seq.

⁶ 15 U.S.C. 80a-1 et seq.

⁷ 15 U.S.C. 80b-1 et seq.

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 15 U.S.C. 78q-1(b)(3)(H).

¹⁰ 15 U.S.C. 78q-1.

¹¹ 15 U.S.C. 78s(b)(2).

¹² In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the proposal pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposal 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

Nasdaq proposes to modify Rule 7050 governing pricing for Nasdaq members using the NASDAQ Options Market ("NOM"), Nasdaq's facility for executing and routing standardized equity and index options. Specifically, Nasdaq proposes to adopt a credit of \$0.35 per executed contract to members who provide liquidity using price-improving orders through NOM. Nasdaq will make the proposed rule change effective on December 1, 2008. The text of the proposed rule change is below. Proposed new language is in *italics*.⁵

* * * * *

7050. NASDAQ Options Market.

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market by members for all securities.

(1) Fees for Execution of Contracts on the NASDAQ Options Market.

Charge to member entering order that executes in the NASDAQ Options Market: \$0.45 per executed contract.

For a pilot period ending July 31, 2009, charge for members or non-members entering order via the Options Intermarket Linkage that executes in the Nasdaq Options Market.

Credit to member providing liquidity through the NASDAQ Options Market: \$0.30 per executed contract.

Credit to member providing liquidity using price-improving orders through the NASDAQ Options Market: \$0.35 per executed contract.

(2)—(4) No Change.

* * * * *

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 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. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Nasdaq is proposing to modify Rule 7050 to allow for a credit of \$0.35 per executed contract to members who provide liquidity using price-improving orders through NOM. Currently, members that provide liquidity through NOM receive a credit of \$0.30 per executed contract. Nasdaq believes increasing the credit to \$0.35 per executed contract for those members that provide liquidity using price-improving orders through NOM should help to encourage additional price improvement, which should in turn, benefit takers of liquidity and investors.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁶ in general, and with Section 6(b)(4) of the Act,⁷ in particular, in that 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 which Nasdaq operates or controls. Nasdaq believes that the proposed credit should encourage additional price improvement which should, in turn, benefit takers of liquidity and investors in general.

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. To the contrary, Nasdaq has designed its fees to compete effectively for the execution and routing of options contracts and to reduce the overall cost to investors of options trading.

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

Written comments were neither solicited nor received.

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)(ii) of the Act⁸ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁹

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. Please include File Number SR-NASDAQ-2008-089 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-NASDAQ-2008-089. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington,

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ Changes are marked to the rule text that appears in the electronic Nasdaq Manual found at <http://nasdaqomx.cchwallstreet.com>.

⁶ 15 U.S.C. 78f.

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(a)(iii).

⁹ 17 CFR 240.19b-4(f)(2).

DC 20549, 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 Nasdaq. 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-NASDAQ-2008-089 and should be submitted on or before December 31, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8-29136 Filed 12-9-08; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

SBA North Florida District Advisory Council

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the SBA North Florida District Advisory Council. The meeting will be open to the public.

DATES: The meeting will be held on Tuesday, January 27th, 2009 from 12 p.m. to 2 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the Hilton Garden Inn, 145 Park Avenue, Orange Park, Florida, USA 32073.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the SBA North Florida District Advisory Council. The SBA North Florida District Advisory Council is tasked with providing advice and opinions to SBA regarding the effectiveness of and need for SBA programs, particularly within North Florida and for listening to what is currently happening in the Florida small business community.

The purpose of the meeting is to discuss with the council the current status of small business across North Florida and to discuss the agency status through the transition period after the

Presidential Inauguration. The agenda includes: an overview of the status of the SBA as an agency from Wilfredo J. Gonzalez, SBA District Director as well as a luncheon/meeting to hear from the members of the council and to hear from the SBA staff on SBA updates for the District.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public however advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the SBA North Florida District Advisory Council must contact Lola Kress Naylor by January 20th, 2009, by fax or e-mail in order to be placed on the agenda. Lola Kress Naylor, Business Development Specialist, SBA North Florida District Office, lola.naylor@sba.gov, (904) 443-1933, fax (202) 481-4188.

Additionally, if you need accommodations because of a disability or require additional information, please contact Lola Kress Naylor, Business Development Specialist, SBA North Florida District Office, lola.naylor@sba.gov, (904) 443-1933.

Cherylyn Lebon,

SBA Committee Management Officer.

[FR Doc. E8-29198 Filed 12-9-08; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 6447]

Public Hearings on Study of Critical Sources of Phosphorus Loadings to Missisquoi Bay

The International Joint Commission (the Commission) will launch its study of phosphorus loadings to Missisquoi Bay on Lake Champlain by holding public hearings, at the times and locations listed below.

In August of this year, the Canadian and United States federal governments asked the Commission to help them coordinate initiatives in both countries to reduce phosphorus loadings to Missisquoi Bay. Recognizing the recent advances made by the Province of Quebec, the governments asked the Commission to help develop complementary measures in the U.S. portion of the basin, in close partnership with the Lake Champlain Basin Program.

In October, the Commission appointed the International Missisquoi Bay Study Board to help it carry out this request. The public is invited to meet the members of the Study Board and provide comments on sources of phosphorus loadings and any other

matters that the Study Board should consider.

The hearings will be held at the following times and locations:

December 15, 2008, 7 p.m. to 9 p.m., Village of Swanton Office, 120 First Street, Swanton, Vermont.

December 16, 2008, 7 p.m. to 9 p.m., Centre des loisirs, 1 Tourangeau Street, Saint-Georges-de-Clarenceville, Quebec.

Written comments may also be submitted for receipt by January 5, 2009, at either address below:

U.S. Section Secretary, International Joint Commission, 2401 Pennsylvania Avenue, NW.

Canadian Section Secretary, International Joint Commission, 234 Laurier Avenue, NW.

4th Floor, Washington, DC 20440,

Fax: 202-254-4562, E-mail:

Commission@washington.ijc.org.

22nd Floor, Ottawa, Ontario K1P 6K6,

Fax: 613-993-5583, E-mail:

Commission@ottawa.ijc.org.

The International Joint Commission is an international Canada-United States organization established by the Boundary Waters Treaty of 1909. It assists the governments in managing waters along the border for the benefit of both countries in a variety of ways including examining issues referred to it by the two federal governments.

The full text of the letter of reference from the governments to the Commission and the directive from the Commission to its Study Board may be found on the Commission's Web site at <http://www.ijc.org>.

Dated: December 3, 2008.

Charles A. Lawson,

Secretary, United States Section, International Joint Commission, Department of State.

[FR Doc. E8-29212 Filed 12-9-08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2008-0293]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt thirty-nine individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in

¹⁰ 17 CFR 200.30-3(a)(12).