

security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.³ Applicants believe that the proposed transactions are necessary or appropriate in the public interest because they allow the Retail Funds and the Remote Variable Product Funds and their shareholders the opportunity to participate in investment opportunities that meet the Funds' investment objectives and avoid a reduction in or possible loss of investment opportunities. Applicants also assert that the types of abuses the Act was intended to prevent are unlikely to occur in the proposed transactions for the reasons discussed above. Accordingly, applicants submit that the proposed transactions meet the requirements for an exemption under section 6(c).

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Retail Funds and the Remote Variable Product Funds will purchase Securities of the Company in an Offering only if such Securities are part of an issue registered under the Securities Act that is being offered to the public. All such purchases will be effected at the public offering price stated in the prospectus and in the same manner as sales to the general public.

2. All Offerings will be underwritten on a firm commitment basis by members of the NASD.

3. No registered investment company that is an affiliated person or an affiliated person of an affiliated person of the Company, other than by reason of sharing a common investment adviser with a Controlled Variable Product Fund, will be permitted to purchase Securities in an Offering, including Securities issued pursuant to the underwriters' over-allotment option.

4. Applicants will not offer any incentives to the investment advisers of the Retail Funds or the Remote Variable Product Funds to purchase Securities of the Company, and will take no action to induce fund managers to deviate from the Funds' stated investment policies.

³ Applicants seek relief under section 6(c) as well as section 17(b) because section 17(b) could be interpreted as giving the SEC power to exempt only a single transaction from section 17(a), as opposed to a class of transactions. See *Keystone Custodian Funds, Inc.*, 21 S.E.C. 295 (1945).

5. No investment adviser to a Retail Fund or a Remote Variable Product Fund will be an affiliated person of applicants other than by reason of being an investment adviser to a Variable Product Fund.

For the SEC, by the Division of Investment Management, under delegated authority Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-3064 Filed 2-6-97; 8:45 am]

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[Release 34-38224; File No. 600-24]

Self-Regulatory Organizations; Delta Clearing Corp.; Notice of Filing and Order Approving Application for Extension of Temporary Registration as a Clearing Agency

January 31, 1997.

On January 17, 1997, Delta Clearing Corp. ("DCC")¹ filed with the Securities and Exchange Commission ("Commission") a request pursuant to Section 19(a) of the Securities Exchange Act of 1934 ("Act")² for extension of its registration as a clearing agency under Section 17A of the Act³ for a period of six months or for such longer period as the Commission deems appropriate.⁴ The Commission is publishing the notice and order to solicit comments from interested persons and to grant DCC's request for an extension of its temporary registration as a clearing agency through July 31, 1997.

On January 12, 1990, the Commission granted DCC's application for registration as a clearing agency pursuant to Sections 17A(b)(2) and 19(a) of the Act⁵ on a temporary basis for a period of thirty-six months.⁶ Since that time, the Commission has extended DCC's temporary registration as a clearing agency through January 31, 1997.⁷ DCC now requests that the Commission grant an extension of its original order granting DCC temporary registration as a clearing agency subject to the same terms and conditions for a period of six months or for such longer

¹ Formerly Delta Government Options Corp.

² 15 U.S.C. 78s(a).

³ 15 U.S.C. 78q-1.

⁴ Letter from Robert C. Mendelson, Esq., Morgan, Lewis and Bockius, to Jerry W. Carpenter, Assistant Director, Division of Market Regulations, Commission (January 16, 1997).

⁵ 15 U.S.C. 78q-1(b)(2) and 78s(a).

⁶ Securities Exchange Act Release No. 27611 (January 12, 1990), 55 FR 1890.

⁷ Securities Exchange Act Release Nos. 31856 (February 11, 1993), 58 FR 9005 (extension until January 12, 1995) and 35198 (January 6, 1995), 60 FR 3286 (extension until January 31, 1997).

period as the Commission deems appropriate.

As discussed in detail in the order granting DCC's initial temporary registration as a clearing agency,⁸ one of the primary reasons for DCC's registration is to enable it to provide for the safe and efficient clearance and settlement of transactions involving the over-the-counter trading of options on U.S. Treasury securities. Since the time, the Commission has approved DCC's request to begin clearance and settlement of repurchase agreement transactions involving U.S. Treasury securities as the underlying instrument.⁹ Currently, repurchase agreement transactions constitute the majority of the transactions cleared by DCC.

In light of DCC's past performance, the Commission believes that DCC has the capacity to comply with the statutory obligations set forth under Section 17A(b)(3) of the Act,¹⁰ which sets forth the prerequisites for registration as a clearing agency. However, the Commission believes that DCC should continue to be registered on a temporary basis. Currently, DCC has an exemption from the fair representation requirements of Section 17A(b)(3)(C) of the Act.¹¹ The Commission believes that this should be resolved prior to DCC's registration becoming permanent. Further, DCC has only recently begun providing clearance services for repurchase agreement transactions, which constitutes the vast majority of its operations.¹² The Commission would like the opportunity of observing DCC's performance in this area prior to a grant of permanent registration as a clearing agency. Comments received during DCC's temporary registration will be considered in determining whether DCC should receive permanent registration as a clearing agency under Section 17A(b) of the Act.¹³

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the

⁸ Supra note 6.

⁹ Securities Exchange Act Release No. 36367 (October 13, 1995), 60 FR 54095.

¹⁰ 15 U.S.C. 78q-1(b)(3).

¹¹ 15 U.S.C. 78q-1(b)(3)(C).

¹² DCC also has recently or is in the process of making several major changes to its operational structure. For example, DCC was recently sold by its original owner, Cawsl Corp., to three purchasers led by Intercapital Group Ltd. In addition, DCC is in the process of selecting a new facilities manager and in automating several of its processes.

¹³ 15 U.S.C. 78q-1(b).

Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the request for extension of temporary registration as a clearing agency that are filed with the Commission, and all written communications relating to the requested extension 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DCC. All submissions should refer to the File No. 600-24 and should be submitted by February 28, 1997.

Conclusion

On the basis of the foregoing, the Commission finds that DCC's request for extension of temporary registration as a clearing agency is consistent with the Act and in particular with Section 17A of the Act.

It is therefore ordered, that DCC's temporary registration as a clearing agency (File No. 600-24) be, and hereby is extended through July 31, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-38226; File No. SR-NASD-97-03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. and the Nasdaq Stock Market, Inc. Relating to the Filing of Changes to Total Shares Outstanding and Corporate Name of Nasdaq Issuers

January 31, 1997.

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 January 22, 1997, the National Association of Securities Dealers, Inc. ("NASD") and the Nasdaq Stock Market, Inc.

("Nasdaq") filed with the Securities and Exchange Commission ("SEC" or "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 and to grant accelerated approval to the proposed rule change.

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

NASD and Nasdaq are proposing to amend Nasdaq's listing requirements to restore a filing requirement that requires a Nasdaq-listed company to notify NASD and Nasdaq when it changes the amount of shares outstanding by more than 5% or changes its corporate name. Below is the text of the proposed rule change. Proposed new language is in italics; there are no deletions.

Qualification Requirements for Domestic and Canadian Securities

* * * * *

Rule 4310(c)(20)

The issuer shall notify the Association promptly in writing of any change in the general character or nature of its business and any change in the address of its principal executive offices. *The issuer also shall file on a form designated by the Association notification of any corporate name change no later than 10 days after the change.*

Rule 4310(c)(24)

The issuer shall file, on a form designated by the Association no later than 10 days after the occurrence, any aggregate increase of any class of securities included in Nasdaq that exceeds 5% of the amount of securities of the class outstanding.

Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

* * * * *

Rule 4320(e)(19)

The issuer shall notify the Association promptly in writing of any change in the general character or nature of its business and any change in the address of its principal executive offices. *The issuer also shall file on a form designated by the Association notification of any corporate name change no later than 10 days after the change.*

Rule 4320(e)(21)

The issuer shall file, on a form designated by the Association no later than 10 days after the occurrence, any aggregate increase or decrease of any class of securities included in Nasdaq that exceeds 5% of the amount of securities of the class outstanding.

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

In their filing with the Commission, the NASD and 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 Items III 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

Effective July 15, 1996, the SEC eliminated Rules 13a-17 and 15d-17, and Form 10-C under the Exchange Act. These rules required Nasdaq-listed companies to report to the SEC and the NASD: (1) Aggregate increases or decreases of a class of securities that exceed 5% of the amount of securities of the class outstanding; and (2) corporate name changes. The SEC eliminated these requirements as part of a general streamlining of their disclosure requirements, stating that the information could be found in a company's financial statements.³

Because NASD Rules 4310(c)(14) and 4320(e)(13) require Nasdaq issuers to file with the NASD and Nasdaq any filings submitted to the SEC, the elimination of the SEC requirements has, in effect, eliminated timely notification of this information to the NASD and Nasdaq.

It is important, however, for the NASD and Nasdaq to continue to receive this information from issuers as it becomes available. Information concerning total shares outstanding is necessary to calculate market capitalization and adjust the various market indices that contain Nasdaq securities. In addition, the information is relevant to Nasdaq listing

¹⁴ 17 CFR 200.30-3(a)(50)(i).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Exchange Act Release No. 37262 (May 31, 1996), 61 FR 30397 ("Phase One Recommendations of Task Force on Disclosure Simplification").