

to admit, several non-U.S. entities. DTC is seeking an extension of the temporary approval so it can complete the admission of these non-U.S. entities and gain further experience with the admission standards of non-U.S. entities and the unique risks posed by the activities of non-U.S. entities as direct DTC participants.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations promulgated because the admission criteria takes into account the unique risks to DTC raised by the admission of non-U.S. entities while not unfairly discriminating against non-U.S. entities seeking admission as participants.

(b) Self-Regulatory Organization's Statement on Burden on Competition

While DTC acknowledges that the proposed additional admissions criteria applicable to non-U.S. entities may impose some additional burden, for the reasons stated above, we believe that any such burden is necessary and 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

DTC has not sought or received comments on the proposed rule change.

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

Section 17A(b)(3)(F) of the Act 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.⁴ The Commission finds that the rule change is consistent with this obligation because DTC's admission criteria has been designed in a manner which takes into account jurisdiction differences in regulatory structure and in business operations of non-U.S. entities with respect to risk control and management. Furthermore, DTC admission criteria should bind non-U.S. entities to DTC's rules and procedures in a manner similar to domestic participants and should lesson or eliminate the negative effects that jurisdictional issues could have on DTC's exercise of its rights against non-U.S. entities. Therefore, the Commission finds that the admissions criteria will assist DTC in assuring the safeguarding of securities and funds which are in its

custody, control, or for which it is responsible.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing because accelerated approval will permit DTC to continue to use and study the effectiveness of its admission criteria without interruption.

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. Persons making written submission should file six copies thereof with the 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 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR-DTC-99-12 and should be submitted by June 25, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-99-12), be, and hereby is, temporarily approved on an accelerated basis through May 31, 2000.

For the Commission by the Division of Market Regulation pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41457; File No. SR-MSRB-99-03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Reports of Sales and Purchases, Pursuant to Rule G-14

May 26, 1999.

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 April 28, 1999, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-99-03). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The MSRB has designated this proposal as one constituting a stated policy, practice or interpretation with respect to the enforcement of an existing rule under Section 19(b)(3)(A)³ of the Act which renders the proposal effective upon receipt of the filing by 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 Board is filing a proposed rule change concerning the Board's Transaction Reporting Program. The proposed rule change states the Board's intention to publish for comments a sample Daily Transaction Report which covers a five day period and contains information on individual transactions in frequently-traded municipal securities, as reported by dealers under Rule G-14.

The proposed rule change is as follows in *italics*:

Notice—Sample Transparency Reports With Data on Individual Transactions in Frequently-Traded Securities Available for Review

A long standing goal of the Municipal Securities Rulemaking Board is providing market participants with more information about the value of securities.⁴ Toward this end, the Board

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ See "From the Chairman," MSRB Reports, Vol. 8, No. 5 (December 1988) at 2.

⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁵ 17 CFR 200.30-3(a)(12).

established its Transaction Reporting Program, which has provided increasing levels of information during the past five years. The Board has consistently stated that its ultimate goal for the Program is to collect and make available transaction information in a comprehensive and contemporaneous manner.⁵

The Board is now publishing for comment sample Daily Transaction Reports with individual transaction information for issues that trade four or more times on an give day. The sample Daily Transaction Reports represents the next step in making transaction price information more readily available to investors and other market participants. Release of the sample reports builds upon tow earlier phases of transparency—the Board's Inter-Dealer Daily Report and the Combined Daily Report.

Background

The Inter-Daily Report

The Board began disseminating price and volume information on municipal securities on January 1995 with the production of the Inter-Dealer Daily Report. Each business day since its inauguration, this report has provided statistics on total inter-dealer market activity the previous day and information about price and volume for each frequently traded issue—i.e., each issue that was traded between dealers four or more times during the day. The report includes the total par value traded in each frequently traded issue, the high and low prices, and average prices of representative trades.⁶

The initial design of the Inter-Dealer Daily Report was based upon the distinctive aspects of the municipal securities market that distinguish it from the exchange-listed and NASDAQ markets, where transaction price transparency is the norm. A primary distinguishing characteristic of the municipal securities market is the large number of outstanding issues. There are approximately 1.3 million municipal securities that are distinct, non-fungible entities for purposes of trading and reporting, compared to a much smaller number of equity issues, and their

frequency of trading also differs substantially from patterns in the exchange and NASDAQ markets. While, on any given day, a certain number of municipal securities are traded frequently, the identity of these frequently traded issues is continually changing over time. Another distinguishing characteristic is that, in the municipal securities market, most issues are purchased by "buy and hold" investors relatively quickly after initial issuance. When frequent trading does occur in an issue, it generally occurs in connection with issuance and then subsides.

The Board identified a reporting threshold of four trades a day in 1994, based upon its belief that reporting an isolated transaction in a security does not necessarily provide a reliable indicator of "market price" and might be misleading to an observer not familiar with the market. At the same time, the Board made a commitment to review the use of the Inter-Dealer Daily Report as experience was obtained and to consider expanding the information included.⁷ In its approval order for the Inter-Dealer Daily Report, the Commission noted that the MSRB, in proceeding to subsequent levels of transparency, "should continue to work toward publicly disseminating the maximum level of useful information to the public while ensuring that the information and manner in which it is presented is not misleading."⁸

The Combined Daily Report

The Board proposed in August 1996 to expand the transparency program by adding to the daily public report information about transactions between dealers and their customers.⁹ The Commission approved the expansion in November 1996.¹⁰ Dealers have been required to report customer transaction information to the Board since March 1, 1998, and the Board began production of a Combined Daily Report which incorporated both inter-dealer and customer transaction information on August 24, 1998.¹¹ This report, which is made available on T+1 prior to the beginning of the trading day, is used by

market participants to help gauge the value of municipal securities.

The Board currently has nine subscribers to the Combined Daily Report. Most of these are information vendors that redistribute to their own subscribers and/or use the information in various securities valuation products that they market. The Board has used the customer transaction information to create a surveillance database of all trade data which is has made available to the Commission, the National Association of Securities Dealers (NASD) and the bank regulatory agencies for market surveillance and enforcement purposes.

Proposed New Daily Transaction Report

As a step to increase transparency beyond the market summary information provided in Combined Daily Reports, the Board now is proposing to make data available on individual transactions in securities that were traded four or more times on the previous day and is publishing samples of a new Daily Transaction Report for comments. The new Daily Transaction Report, once it receives Commission approval and becomes operational, would substantially increase the amount of available information compared to that provided in the Combined Daily Report. Currently, the Combined Daily Report provides a one-line summary of trading in each of approximately 1,072 frequently-traded issues. In comparison, for each transaction in a frequently-traded security,¹² the sample Daily Transaction Reports display the CUSIP number and a short description of the traded issue, the time of trade execution, the par value traded, and the dollar price of the trade.¹³ As part of the format of the sample Reports, prices of sales to customers, which represent the

¹² In determining whether a reported transactions will be included for purposes of the Daily Report eligibility, certain transaction records are eliminated from consideration if they contain what appear to be obvious errors (e.g., invalid or unknown CUSIP number, missing dollar price). The Board continually monitors the data it receives for errors and informs the dealer or its agent of each error that would eliminate a transaction from the Report. The Board is working continually with dealers and enforcement agencies such as the NASD to improve the quality of reported data and dealer compliance with rule G-14 reporting requirements.

¹³ An attempt is made to calculate a dollar price on when-issued transactions submitted with a yield but no dollar price. In such a case, if there is sufficient securities data available to calculate dollar price from yield (e.g., if coupon or dated date are not known) or if the dollar price cannot be calculated using a standard semiannual compounding formula and a 30/360 day-count, the transaction is not included in the Daily Transaction Report. See "Public Reporting of Transactions in Municipal Securities: Rule G-14," MSRB Reports, Vol. 18, No. 2 (August 1998) at 25-27.

⁵ See, e.g., "Board to Proceed with Pilot Program to Disseminate Inter-Dealer Transaction Information," MSRB Reports, Vol. 14, No. 1 (January 1994) at 13; "Reporting Inter-Dealer Transactions to the Board: Rule G-14," MSRB Reports, Vol. 14, No. 5 (December 1994) at 3-6; and "Transaction Reporting Program for Municipal Securities," MSRB Reports, Vol. 15, No. 1 (April 1995) at 11-15.

⁶ The average price of all trades with par value between \$100,000 and \$1 million is displayed in the report.

⁷ See Securities Exchange Act Release No. 34458 (July 28, 1994).

⁸ See Securities Exchange Act Release No. 34955 (November 9, 1994).

⁹ See "Board to Proceed with Customer Transaction Reporting Program," MSRB Reports, Vol. 16, No. 3 (September 1996) at 3-10.

¹⁰ See Securities Exchange Act Release No. 37998 (November 29, 1996).

¹¹ See "Availability of Information on Transactions in Municipal Securities: Rule G-14," MSRB Reports, Vol. 19, No. 1 (February 1999) at 23.

prices that customers can expect to pay when purchasing securities, are in a column separate from prices of all other trades (i.e., purchases from a customer or inter-dealer trades), which represent wholesale market activity. Issues are ordered by frequency of trading, and, within an issue, trades are displayed in order of time of trade, from the earliest reported time of trade to the latest.¹⁴ Trade data now being received by the Board indicates that the new Daily Transaction Reports on average would provide detailed information daily on approximately 9,000 individual transactions in the 1,000 frequently-traded issues. As these statistics illustrate, the detailed transaction data in the new Reports would increase greatly the amount of available municipal securities price information and would display a more complete picture of the market than any existing public records.

Five sample Daily Transaction Reports will be available beginning April 29, 1999. The Reports will include information on transactions reported to the Board by midnight on trade date between March 22 and March 26, 1999. The sample Daily Transaction Reports will be available on the Board's Web site at WWW.MSRB.ORG. Subscribers to the current Inter-Dealer Daily Report also will be able to access the sample Reports through the computer bulletin board that they normally use to access Daily Reports. Printed copies will be available for inspection at the Board's offices.

The Board intends to disseminate the Daily Transaction Report by a service similar to that now used for the Inter-Dealer and Combined Daily Reports. In this service, electronic files are made available via the Transaction Reporting System's Bulletin Board. Electronic versions of the reports will be made available by approximately 7:00 am each business day to subscribers. The Board will continue to make the surveillance database of all trade data, including dealer identities, available to the Commission, the NASD and the bank regulatory agencies.

Comments Requested

The Board invites comment on the format of Daily Transaction Reports so that the Board can make the new Reports as useful as possible. Is the organization of the proposed Report appropriate for effective use? When operational, should the proposed reports be made available electronically

by the same means and in the same computerized formats as the Inter-Dealer and Combined Daily Reports? Is there value in continuing to produce the Combined Daily Report, which summarizes the price and volume data of the Daily Transaction Report? The Board requests that comment on the sample Daily Transaction Report be made in writing prior to July 1, 1999.

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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section 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

As a step to increase transparency beyond the market summary information provided in Combined Daily Reports, the Board intends to publish a sample Daily Transaction Report covering a five day period containing information on individual transactions in frequently-traded municipal securities, as reported by dealers under Rule G-14. The sample Daily Transaction Report represents the next step in disseminating meaningful and comprehensive transaction information. The Board is inviting comments from market participants and the public on the format to be used in disseminating large quantities of information about individual transactions.

The new Daily Transaction Report, once it receives Commission approval and becomes operational, would substantially increase the amount of information available compared to that currently provided in the Combined Daily Report. Currently, the Combined Daily Report provides a one-line summary of trading in each of approximately 1,072 frequently-traded issues. In comparison, for each transaction in a frequently-traded security, the sample Daily Transaction Report will display the CUSIP number and a short description of the traded issue, the time of trade execution, the

par value traded, and the dollar price of the trade. In addition, the sample Daily Transaction Report shows prices of sales to customers, which represent the prices that customers can expect to pay when purchasing securities, in a column separate from prices of all other trades (i.e., purchases from a customer or inter-dealer trades), which represent wholesale market activity. Issues will be ordered by frequency of trading and within an issue trades will be displayed in order of time of trade, from the earliest reported time of trade to the latest. Trade data now being received by the Board indicates that the new Daily Transaction Reports on average would provide detailed information daily on approximately 9,000 individual transactions in the 1,000 frequently-traded issues. As these statistics illustrate, the detailed transaction data in the new Reports should increase greatly the amount of available municipal securities price information and should display a more complete picture of the market than any existing public records.

2. Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall: be 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

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

The Board does not believe that the proposed rule change will impose any burden on competition in that it applies equally to all dealers in municipal securities.

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

Written comments have been solicited. However, none have been received to date.

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

The Board has designated this proposed rule change as constituting a

¹⁴ Where trades were reported with invalid or no time of trade, the report shows the time of trade as "0" and these trades are listed first within the issue.

stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing Board rule under section 19(b)(3)(A) ¹⁵ of the Act, and rule 19b-4(f)(1) thereunder,¹⁶ which renders the proposed rule change effective upon receipt of this filing by the Commission. The proposed rule change describes the plan for the Board to provide sample data from the Board's Transaction Reporting System so that the Board can obtain comment on the format of a new Daily Transaction Report and move expeditiously forward with its previously announced plan to make public transaction data more useful and comprehensive. At any time within sixty 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, D.C. 20549-0609. 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. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-99-03 and should be submitted by June 25, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-14113 Filed 6-3-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41461; File No. SR-NASD-99-08]

Self-Regulatory Organizations; filing of Proposed Rule Change and Amendment No. 1 by the National Association of Securities dealers, Inc. Relating to the Arbitration Process for Claims of Employment Discrimination

May 27, 1999.

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 February 1, 1999, the National Association of Securities Dealers, Inc., ("NASD") or "Association"), through its wholly-owned subsidiary, NASD Regulation, Inc. ("NASD Regulation") 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 NASD Regulation. On May 10, 1999, NASD Regulation amended its proposal.³ 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 Regulation is proposing to amend Rules 10201 and 10202, and to add new Rule 3080 and new Rule Series 10210 of the NASD. The proposed rule change is intended to enhance the dispute resolution process for the handling of employment discrimination disputes, and to expand disclosure to employees concerning the arbitration of all disputes. The text of the proposed rule change follows. Proposed new rule language is in italics; proposed deletions are in brackets.

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RULES OF THE ASSOCIATION

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3000. RESPONSIBILITIES RELATING TO ASSOCIATED PERSONS, EMPLOYEES, AND OTHERS' EMPLOYEES

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated May 10, 1999 ("Amendment No. 1"). Amendment No. 1 made substantive changes to the proposed rule language, including the provisions for arbitrator qualifications and coordination of claims filed in court and arbitration.

3080. Disclosure to Associated Persons When Signing Form U-4

A member shall provide an associated person with the following written statement whenever the associated person is asked to sign a new or amended Form U-4.

The Form U-4 contains a predispute arbitration clause. It is in item 5 on page 4 of the Form U-4. You should read that clause now. Before signing the Form U-4, you should understand the following:

(1) You are agreeing to arbitrate any dispute, claim or controversy that may arise between you and your firm, or a customer, or any other person, that is required to be arbitrated under the rules of the self-regulatory organizations with which you are registering. This means you are giving up the right to sue a member, customer, or another associated person in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.

(2) A claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute is not required to be arbitrated under NASD rules. Such a claim may be arbitrated at the NASD only if the parties have agreed to arbitrate it, either before or after the dispute arose. The rules of other arbitration forums may be different.

(3) Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.

(4) The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.

(5) The arbitrators do not have to explain the reason(s) for their award.

(6) The panel of arbitrators may include arbitrators who were or are affiliated with the securities industry, or public arbitrators, as provided by the rules of the arbitration forum in which a claim is filed.

(7) The rules of some arbitration forums may impose time limits for bringing a claim in arbitration. In some cases, a claim that is ineligible for arbitration may be brought in court.

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1000. CODE OF ARBITRATION PROCEDURE

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10200. INDUSTRY AND CLEARING CONTROVERSIES

10210. Required Submission

(a) Except as provided in paragraph (b) or Rule 10216, a dispute, claim, or

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 U.S.C. 240.19b-4(f)(1).

¹⁷ 17 CFR 200.30-3(a)(12).