

a national securities exchange<sup>6</sup> and, in particular, the requirements of Section 6 of the Act.<sup>7</sup> Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>8</sup> in that the proposal has been designed to promote just and equitable principles of trade, and to protect investors and the public interest.

In addition, the Commission believes that a Market Maker must have an affirmative obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis to justify receiving market maker margin. The Commission believes that CBOE's rules impose such affirmative obligations on DPMs that choose to operate remotely and notes that, under the proposal, a DPM acting from a remote location would still be required to meet the obligations of a DPM set forth in CBOE Rule 8.85.

#### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-CBOE-2006-94), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55491A; File No. SR-CBOE-2006-95]

#### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 1 and 2 Thereto to List for Trading Options on the Vanguard<sup>®</sup> Emerging Markets Exchange Traded Fund

March 26, 2007.

#### Correction

FR Doc. E7-5423, issued on March 26, 2007 on page 14145, regarding Securities Exchange Act Release No. 34-55491, incorrectly cited the date of the

<sup>6</sup> The Commission has considered the amended proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

release as March 19, 2006. The date should read March 19, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>1</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

Release No. 34-55519; File No. SR-NASDAQ-2007-025)

#### Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Trading One-, Two-, and Three-Character Symbols

March 26, 2007.

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 March 21, 2007, 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 substantially prepared by Nasdaq. Nasdaq has filed this proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(5) thereunder,<sup>4</sup> 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 the Substance of the Proposed Rule Change

Nasdaq proposes to trade the securities of Delta Financial Corporation using the three-character symbol "DFC."

#### 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

Historically, securities listed on Nasdaq have traded using four or five character symbols.<sup>5</sup> In 2005, however, Nasdaq announced its intent to allow companies listed on Nasdaq to also use one-, two-, or three-character symbols.<sup>6</sup> Nasdaq announced a series of dates throughout December 2006 and January and February 2007 where market participants could test trading Nasdaq stocks using one-, two-, or three-character symbols on weekends, in after hour sessions, and during full day sessions.<sup>7</sup> Beginning February 20, 2007, Nasdaq had the ability to accept and distribute Nasdaq-listed securities with one-, two-, or three-character symbols. Nasdaq reminded market participants about this change again on March 1, 2007, stressing that "[a]ll customers should have completed their coding and testing efforts to ensure their readiness to support 1-, 2- and 3-character NASDAQ-listed issues."<sup>8</sup>

Nasdaq believes that the changes to its systems to accommodate one-, two-, and three-character symbols will promote competition among exchanges and enhance the strength of the U.S. capital

<sup>5</sup> This includes securities listed on Nasdaq's predecessor market, operated as a facility of the NASD.

<sup>6</sup> See Head Trader Alert 2005-133 (November 14, 2005), available at: <http://www.nasdaqtrader.com/Trader/News/2005/headtraderalerts/hta2005-133.stm> and Vendor Alert 2005-070 (November 14, 2005), available at: <http://www.nasdaqtrader.com/Trader/News/2005/vendoralerts/nva2005-070.stm>. See also Head Trader Alert 2006-144 (September 29, 2006), available at: <http://www.nasdaqtrader.com/Trader/News/2006/headtraderalerts/hta2006-144.stm>, Head Trader Alert 2006-193 (November 16, 2006), available at: <http://www.nasdaqtrader.com/Trader/News/2006/headtraderalerts/hta2006-193.stm> and Vendor Alert 2006-065 (October 4, 2006), available at: <http://www.nasdaqtrader.com/Trader/News/2006/vendoralerts/nva2006-065.stm>.

<sup>7</sup> See Head Trader Alert 2006-201 (December 6, 2006), available at: <http://www.nasdaqtrader.com/Trader/News/2006/headtraderalerts/hta2006-201.stm>, Head Trader Alert 2007-008 (January 25, 2007), available at: <http://www.nasdaqtrader.com/Trader/News/2007/headtraderalerts/hta2007-008.stm>, Head Trader Alert 2007-011 (January 30, 2007), available at: <http://www.nasdaqtrader.com/Trader/News/2007/headtraderalerts/hta2007-011.stm>, Head Trader Alert 2007-020 (February 7, 2007), available at: <http://www.nasdaqtrader.com/Trader/News/2007/headtraderalerts/hta2007-020.stm>, and Head Trader Alert 2007-034 (February 16, 2007), available at: <http://www.nasdaqtrader.com/Trader/News/2007/headtraderalerts/hta2007-034.stm>.

<sup>8</sup> Head Trader Alert 2007-050 (March 1, 2007), available at: <http://www.nasdaqtrader.com/Trader/News/2007/headtraderalerts/hta2007-050.stm>.

<sup>1</sup> 17 CFR 200.30-3(a)(12).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 17 CFR 240.19b-4.

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

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

markets. Specifically, Nasdaq believes that issuers should have the freedom of choice and competition. As issuers face the important choice of where to list their equities, the symbol an issuer currently uses should not factor prominently in the listing decision process. Similarly, the symbol that a market assigns to an issuer should not serve as an anchor if the issuer wishes to transfer to a competing market.<sup>9</sup> As such, permitting the portability of this symbol will enhance competition among exchanges. Furthermore, as a result of the technological changes noted above, all Nasdaq systems, including the Securities Information Processor (SIP), are able to support all NYSE- and Amex-listed securities using their original symbols over its core transaction and data platforms. Nasdaq states that this provides an added level of redundancy and resiliency for the U.S. capital markets, and is key to its ability to provide full back-up for other equity markets in the event of a national or local emergency thereby enhancing the strength of the U.S. capital markets.

Nasdaq now proposes to allow one company, Delta Financial Corporation, to keep its current symbol, DFC, when it transfers from Amex to Nasdaq on March 22, 2007.<sup>10</sup> Investors were notified of this change on March 12, 2007 when the company announced its transfer and continued use of the symbol "DFC"<sup>11</sup> and Nasdaq notified market participants on the same day.<sup>12</sup> Moreover, Nasdaq believes that forcing the company to change its trading symbol will cause confusion among its investors.

Given the foregoing, Nasdaq believes that market participants were provided adequate notice of this change and are prepared to accommodate the trading of

this company using the symbol DFC. Further, Nasdaq believes that any change to the symbol will cause confusion among investors and market participants. As such, Nasdaq proposes to begin trading the common stock of Delta Financial Corporation on Nasdaq using the symbol DFC on March 22, 2007. While this filing relates to the transfer of this issuer, Nasdaq states that it remains committed to working with the Commission and other markets to establish an equitable and transparent symbol assignment plan.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>13</sup> in general and with Section 6(b)(5) of the Act,<sup>14</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

### 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.

### 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) of the Act<sup>15</sup> and Rule 19b-4(f)(5) thereunder<sup>16</sup> in that it effects a change to an order-entry or trading system that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. As such, this proposed rule change is effective upon filing with the Commission.

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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2007-025 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-NASDAQ-2007-025. 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. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-2007-025 and should be submitted on or before April 23, 2007.

<sup>9</sup>In that regard, Nasdaq notes that symbols are freely transferred when securities switch between the American Stock Exchange ("Amex"), the New York Stock Exchange ("NYSE"), and NYSE Arca. See, e.g., Yamana Gold Inc. (on January 12, 2007 switched from Amex to NYSE keeping the symbol AUY), VAALCO Energy (on October 12, 2006 switched from Amex to NYSE keeping the symbol EGY), and the transfer of 15 iShares ETFs from Amex to NYSE Arca announced on September 27, 2006. Now that Nasdaq is also a national securities exchange, allowing companies to maintain their symbol when transferring to Nasdaq would be consistent with the practice of other exchanges.

<sup>10</sup>Nasdaq notes that Amex has raised no objections to Delta Financial's continued use of the symbol DFC.

<sup>11</sup>See company press release "Delta Financial to Keep Its 'DFC' Ticker on NASDAQ" dated March 12, 2007, available at: <http://www.snl.com/irweblinkx/file.aspx?IID=107286&FID=3528005>.

<sup>12</sup>See Head Trader Alert 2007-057 (March 12, 2007), available at: <http://www.nasdaqtrader.com/Trader/News/2007/headtraderalerts/hta2007-057.stm>. See also Vendor Alert 2007-020 (March 12, 2007), available at: <http://www.nasdaqtrader.com/Trader/News/2007/vendoralerts/nva2007-020.stm>.

<sup>13</sup> 15 U.S.C. 78f.

<sup>14</sup> 15 U.S.C. 78f(b)(5).

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

<sup>16</sup> 17 CFR 240.19b-4(f)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55526; File No. SR-NASD-2007-025]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt New NASD Rule 7000E Series Relating to Fees and Credits for the NASD/NYSE Trade Reporting Facility

March 26, 2007.

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 March 21, 2007, the National Association of Securities Dealers, Inc. (“NASD”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared substantially by NASD. NASD filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders it 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

NASD proposes to adopt a new NASD Rule 7000E Series relating to fees and credits for the NASD/NYSE Trade Reporting Facility (“NASD/NYSE TRF”). The text of the proposed rule change is available at <http://www.nasd.com>, NASD, and the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

On February 1, 2007, NASD filed for immediate effectiveness a proposed rule change relating to the establishment of the NASD/NYSE TRF.<sup>5</sup> The NASD/NYSE TRF will provide NASD members with another mechanism for reporting to NASD locked-in transactions in exchange-listed securities effected otherwise than on an exchange. The NASD/NYSE TRF will commence operation upon successful completion of system testing and certification, which is currently anticipated to be in April 2007. The instant proposed rule change would adopt a new NASD Rule 7000E Series relating to fees and credits applicable to the NASD/NYSE TRF.

NASD is proposing that under new Rule 7002E there will be no transaction fee for reporting locked-in trades to the NASD/NYSE TRF in securities listed on the New York Stock Exchange (“Tape A”), the American Stock Exchange (“Tape B”), and the Nasdaq Exchange (“Tape C”). Although NASD is not required to file a proposed rule change where no fees are to be assessed, for members’ convenience and to avoid potential confusion with the fee structures of other NASD facilities, NASD is proposing Rule 7002E to clarify that there will be no charge for use of the NASD/NYSE TRF to report locked-in transactions in exchange-listed securities effected otherwise than on an exchange. The text of proposed Rule 7002E is identical to the text of current Rule 7002C relating to the NASD/NSX Trade Reporting Facility (“NASD/NSX TRF”) and Rule 7002D relating to the NASD/BSE Trade Reporting Facility (“NASD/BSE TRF”).

In addition, NASD is proposing a transaction credit program under new Rule 7001E that is identical to the existing transaction credit program for the NASD/NSX TRF under Rule 7001C. NASD members reporting trades in Tape A, Tape B and Tape C stocks to the NASD/NYSE TRF will receive a 50%

pro rata credit on gross market data revenue earned by the NASD/NYSE TRF with respect to those trade reports. Credits will be paid on a quarterly basis. To the extent that market data revenue is subject to any adjustment, credits may be adjusted accordingly.<sup>6</sup>

Tape A and Tape B revenue is currently distributed to NASD and the exchanges based on number of trades reported, while Tape C revenue is distributed based on an average of the number of trades and number of shares reported. Thus, under the proposed program, the Tape A and Tape B revenue attributable to a member will be based on number of trades reported, while the Tape C revenue attributable to a member would be based on number of trades and number of shares reported. A member will receive 50% of the gross revenue attributable to it in each of the three tapes. “Gross revenue” is the revenue received by the NASD/NYSE TRF from the three tape associations after the tape associations deduct allocated support costs and unincorporated business costs.

NASD filed the proposed rule change for immediate effectiveness. NASD proposes to implement the proposed rule change on the first day of operation of the NASD/NYSE TRF, which is currently anticipated to be in April 2007.

###### 2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>7</sup> in general, and with Section 15A(b)(5) of the Act,<sup>8</sup> in particular, which requires, among other things, that NASD rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that NASD operates or controls. NASD believes that the proposed rule change is a reasonable and equitable fee and credit structure in that there will be no fees charged for trade reporting to the NASD/NYSE TRF and the proposed transaction credit program is identical to existing credits for the NASD/NSX TRF.

<sup>6</sup> NASD also notes that the proposed transaction credit program is substantially equivalent to the existing transaction credit program for the NASD/Nasdaq Trade Reporting Facility (“NASD/Nasdaq TRF”) under Rule 7001B and the NASD/BSE TRF under Rule 7001D. However, under the transaction credit programs for the NASD/Nasdaq TRF and NASD/BSE TRF, members do not receive 50% of gross revenue; instead, members receive 50% of revenue after deducting the amount, if any, that the respective TRF pays to the Consolidated Tape Association or the Nasdaq Securities Information Processor for capacity usage.

<sup>7</sup> 15 U.S.C. 78o-3.

<sup>8</sup> 15 U.S.C. 78o-3(b)(5).

<sup>17</sup> 17 CFR 200.30-3(a)(12).

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

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6). NASD gave the Commission written notice of its intent to file the proposed rule change on March 6, 2007.

<sup>5</sup> See Securities Exchange Act Release No. 55325 (February 21, 2007), 72 FR 8820 (February 27, 2007) (SR-NASD-2007-011).