

proposed rule change will help DTC maintain adequate liquidity resources and therefore should help assure DTC's ability to safeguard securities and funds.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder applicable.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2003-08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48136; File No. SR-MSRB-2003-05]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Electronic Mail Contacts

July 8, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and rule 19b-4 thereunder<sup>2</sup> notice is hereby given that on July 1, 2003, 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-2003-05). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. 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 herewith a proposed rule change relating to technical amendments to Form G-40, on electronic mail contacts. The proposed rule change will become operative on

August 4, 2003. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

\* \* \* \* \*

#### Form G-40

##### Electronic Mail Contacts

MSRB Registration Number \_\_\_\_\_

Check one:

Original Form

Amended Form

Name of Dealer: \_\_\_\_\_

Date: \_\_\_\_\_

The dealer named above designates (name) \_\_\_\_\_ as its Primary Electronic Mail Contact for purposes of electronic communications with the MSRB. This Primary Contact person is *either a Series 53-registered municipal securities principal or a Series 51-registered municipal fund securities limited principal* with the dealer.

E-Mail Address of Primary Contact: \_\_\_\_\_

Phone Number of Primary Contact: \_\_\_\_\_

Individual CRD Number of Primary Contact (NASD member firms only): \_\_\_\_\_

(Optional): The dealer named above designates (name) \_\_\_\_\_ as its Optional Electronic Mail Contact.

E-mail Address of Optional Contact: \_\_\_\_\_

Phone Number of Optional Contact: \_\_\_\_\_

Name and title of person preparing this Form: \_\_\_\_\_

Signature: \_\_\_\_\_

Telephone number: \_\_\_\_\_

#### *New Forms Must be Mailed to*

MSRB, 1900 Duke Street, Suite 600, Alexandria, VA 22314.

[Updates to the Form Shall be Submitted] *Forms May Be Amended Electronically [Via the G-40 Log-In On] By Logging on to the MSRB'S Web Site ([www.msrb.org](http://www.msrb.org)) and Using the Primary Contact's User ID and Password to Change Information Relating to That Person, or Using the Optional Contact's User ID and Password To Change Information Relating to That Person.*

\* \* \* \* \*

#### 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 MSRB 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 MSRB 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 June 6, 2002, the SEC approved MSRB Rule G-40, on electronic mail ("E-mail") contacts, and Form G-40, as well as related amendments to Rule G-8, on books and records, and Rule G-9, on preservation of records.<sup>3</sup> Rule G-40 requires each broker, dealer and municipal securities dealer (collectively referred to as "dealers") to use Form G-40 to appoint an E-mail contact to serve as the official contact person for purposes of electronic communication between the dealer and the MSRB (the "Primary Contact"). This E-mail contact must be a registered municipal securities principal with the dealer.<sup>4</sup>

Previously, the MSRB provided that dealers whose only municipal securities activities consisted of transactions in municipal fund securities (Section 529 college savings plans and local government investment pools) could appoint either a general securities principal (Series 24) or an investment company/variable contracts limited principal (Series 26) as their Primary Contact until March 31, 2003.<sup>5</sup> In addition to serving as a Primary Contact pursuant to Rule G-40, a Series 24 or 26 principal was permitted, pursuant to Rule G-3, to supervise the dealer's activities with respect to municipal fund securities until March 31, 2003. This transition period was meant to accommodate such dealers until the new Series 51 examination for municipal fund securities limited principals became available.<sup>6</sup> As of April 1, 2003, every dealer is required, pursuant to Rule G-3 on professional qualifications, to have either a municipal fund securities limited principal (Series 51) or a municipal securities principal (Series 53), as appropriate, even if the dealer's only municipal securities activities consist of transactions in municipal fund securities. In addition, every dealer is required to have either a Series 51 or Series 53 principal as their Primary Contact. The proposed rule change

<sup>3</sup> Release No. 34-46043 (June 6, 2002) 67 FR 40762. The Rule became effective on September 4, 2002.

<sup>4</sup> Dealers also have the option of appointing a second contact person (the "Optional Contact").

<sup>5</sup> See MSRB Notices 2003-1 (January 9, 2003) and 2003-6 (February 28, 2003).

<sup>6</sup> The Series 51 examination has been available since January 2, 2003, and is administered through NASD's PROCTOR system.

<sup>6</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.

clarifies that, for purposes of Rule G-40, the dealer's Primary Contact may be either a Series 53-registered municipal securities principal or a Series 51-registered municipal fund securities limited principal. Thus, dealers who previously listed a Series 24 or 26 principal as their Primary Contact on Form G-40 should amend their form electronically by visiting the MSRB's Web site (<http://www.msrb.org>) and listing either a Series 53 or 51 principal as their new Primary Contact. Of course, no amendment is necessary if this is the same person, *i.e.*, the Series 24 or 26 previously listed has taken and passed the Series 53 or 51 examination.

The proposed rule change also clarifies that a dealer may amend its Form G-40 electronically by logging on to the MSRB's web site. Finally, the amendments require that dealers note whether the form they are submitting is an original or amended Form G-40; this will facilitate the MSRB's processing of such forms.

## 2. Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(I) of the Exchange Act, which authorizes the MSRB to adopt rules that provide for the operation and administration of the MSRB. The MSRB also believes that the proposed rule change will facilitate effective electronic communications between dealers and the MSRB.

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

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers.

### *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

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the SEC for its review at least five business days prior to the filing date; and (iv) does not become operative until August 4, 2003, which is more than thirty (30) days after the date

of its filing, the MSRB has submitted this proposed rule change to become effective pursuant to section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> In particular, the MSRB believes the proposed rule change qualifies as a "non-controversial filing" in that the proposed rule change does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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. Copies of the filing will also be available for inspection and copying at the Board's offices. All submissions should refer to File No. SR-MSRB-2003-05 and should be submitted by August 4, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48138; File No. SR-NASD-2003-71]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Regarding Fees for the Automated Confirmation Transaction Service**

July 8, 2003.

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 April 14, 2003 the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed a proposed rule change with the Securities and Exchange Commission ("SEC" or "Commission"). On April 22, 2003, Nasdaq filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On May 28, 2003, Nasdaq filed Amendment No. 2 to the proposed rule change.<sup>4</sup> On June 19, 2003, Nasdaq filed Amendment No. 3 to the proposed rule change.<sup>5</sup> The proposed rule change is described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq has designated this proposal as one establishing or changing a due, fee, or other charge imposed by Nasdaq under Section 19(b)(3)(A)(ii) of the Act,<sup>6</sup> and Rule 19b4 thereunder, 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.

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

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

<sup>3</sup> See letter from John M. Yetter, Assistant General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation ("Division"), Commission dated April 21, 2003. In Amendment No. 1, Nasdaq replaced its proposed rule change in its entirety.

<sup>4</sup> See letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division, Commission dated May 27, 2003. In Amendment No. 2, Nasdaq replaced its proposed rule change in its entirety.

<sup>5</sup> See letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division, Commission dated June 18, 2003. In Amendment No. 3, Nasdaq altered its original notice of a proposed rule change to re-designate it as effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act (15 U.S.C. 78s(b)(3)(A)(ii)). See n. 22 *infra*.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 200.30-3(a)(12).