

provide investors with a "profile" that contains a summary of key information about a fund, including the fund's investment objectives, strategies, risks and performance, and fees, in a standardized format. The profile provides investors the option of buying fund shares based on the information in the profile or reviewing the fund's prospectus before making an investment decision. Investors purchasing shares based on a profile receive the fund's prospectus prior to or with confirmation of their investment in the fund.

Consistent with the filing requirement of a fund's prospectus, a profile must be filed with the Commission thirty days before first use. Such a filing allows the Commission to review the profile for compliance with Rule 498. Compliance with the rule's standardized format assists investors in evaluating and comparing funds.

It is estimated that approximately 1 initial profile and 252 updated profiles are filed with the Commission annually. The Commission estimates that each profile contains on average 1.25 portfolios, resulting in 1.25 portfolios filed annually on initial profiles and 315 portfolios filed annually on updated profiles. The number of burden hours for preparing and filing an initial profile per portfolio is 25. The number of burden hours for preparing and filing an updated profile per portfolio is 10. The total burden hours for preparing and filing initial and updated profiles under Rule 498 is 3,181, representing a decrease of 1,269 hours from the prior estimate of 4,450. The reduction in burden hours is attributable to the lower number of profiles actually prepared and filed as compared to the previous estimates.

The estimates of average burden hours are made solely for the purposes of the Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

The collection of information under Rule 498 is voluntary. The information provided by Rule 498 is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or e-mail to: David_Rostker@omb.eop.gov; and (ii) R.

Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: January 24, 2006.

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27215; 812-13008]

Hutchinson Technology Incorporated; Notice of Application

January 25, 2006.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application under section 3(b)(2) of the Investment Company Act of 1940 (the "Act").

Summary of Application: Hutchinson Technology Incorporated ("HTI") seeks an order under section 3(b)(2) of the Act declaring it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. HTI, directly and through its wholly-owned subsidiaries, develops, manufactures, markets and services suspension assemblies for hard disk drives.

Filing Dates: The application was filed on August 18, 2003, and amended on October 23, 2003 and January 23, 2006.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 21, 2006, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303. Applicant, c/o John A. Ingleman,

Vice President and Chief Financial Officer, 40 W. Highland Park Dr. NE., Hutchinson, Minnesota 55350.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 551-6813, or Nadya B. Roytblat, Assistant Director, at (202) 551-6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Desk, 100 F Street, NE., Washington, DC 20549-0102 (tel. 202-551-5850).

Applicant's Representations

1. HTI, a Minnesota corporation, is in the business of developing, manufacturing, marketing and servicing suspension assemblies for hard disk drives. HTI estimates that it produces a majority of all suspension assemblies sold to disk drive manufacturers and their suppliers, including recording head manufacturers, worldwide. HTI represents that suspension assemblies are critical components of disk drives that hold the recording heads in position above the spinning magnetic disks. In addition to HTI's suspension assembly products, HTI has developed a medical device that uses an optical technology to measure local oxygen saturation of hemoglobin in tissue.

2. HTI states that it requires substantial liquid capital to fund its global operations, including research and development activities and capital expenditures. HTI states that the disk drive industry is subject to rapid technological change, and HTI's ability to remain competitive depends on, among other things, its ability to anticipate and respond to these changes. As a result, HTI has devoted and will continue to devote substantial resources to product development and process engineering efforts. HTI also requires substantial liquid capital for capital expenditures. HTI expects that it will need to make substantial capital expenditures over the next several years to remain at the forefront of industry technology transitions. In particular, technology transitions in the disk drive industry require HTI to dramatically increase its level of capital expenditures. HTI also states that demand for disk drives is subject to rapid or unforeseen changes resulting from, among other things, changes in disk drive inventory levels, technological advances, responses to competitive price changes and unpredicted high or low market

acceptance of new drive models. HTI seeks to preserve its capital and maintain liquidity, pending the use of such capital for its current and future operations, by investing in short-term investment grade and liquid fixed income and money market investments that earn competitive market returns and provide a low level of credit risk ("Capital Preservation Investments"). HTI's board of directors ("Board of Directors") oversees HTI's investment practices and defines the parameters for investment activities. HTI states that it does not invest in securities for short-term speculative purposes.

Applicant's Legal Analysis

1. HTI seeks an order under section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities, and therefore not an investment company as defined in the Act.

2. Under section 3(a)(1)(C) of the Act, an issuer is an investment company if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40 percent of the value of the issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Section 3(a)(2) of the Act defines "investment securities" to include all securities except government securities, securities issued by employees' securities companies, and securities issued by majority-owned subsidiaries of the owner which (a) are not investment companies, and (b) are not relying on the exclusions from the definition of investment company in section 3(c)(1) or 3(c)(7) of the Act. HTI states that as of September 25, 2005, approximately 15.8% of its total assets (exclusive of government securities and cash items), on an unconsolidated basis, consisted of investment securities as defined in section 3(a)(2) of the Act.

3. Rule 3a-1 provides an exemption from the definition of investment company if no more than 45% of a company's total assets consist of, and not more than 45% of its net income over the last four quarters is derived from, securities other than government securities, securities of majority-owned subsidiaries and primarily controlled companies. HTI states that it cannot rely upon rule 3a-1 under the Act because such other securities frequently exceed 45% of its total assets. For example, in the second and third quarters of fiscal 2004, had all HTI's available liquid capital other than cash required for

immediate use been invested in such other securities, the percentage of HTI's total assets represented by such securities would have been 46.3% and 46.6%, respectively. HTI further states that it cannot rely on rule 3a-1 because the percentage of its net income derived from investment securities fluctuates unpredictably with the cycles of the disk drive industry. HTI states that the cyclical nature of the industry, rather than any change in HTI's business or financial management policies, has led to significant variations in the ratio of HTI's income from investment securities relative to net operating income.

4. Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(1)(C) of the Act, the Commission may issue an order declaring an issuer to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses. HTI requests an order under section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities, and therefore not an investment company as defined in the Act.

5. In determining whether a company is primarily engaged in a non-investment company business under section 3(b)(2), the Commission considers: (a) The issuer's historical development; (b) its public representations of policy; (c) the activities of its officers and directors; (d) the nature of its present assets; and (e) the sources of its present income.¹

a. *Historical Development.* HTI was incorporated in 1965 in Minnesota, and conducted its initial public offering in 1985. Until 1976, HTI derived a substantial portion of its revenues from photoetching and from laminating precision components primarily for use by original equipment manufacturers in the computer peripheral industry. In 1976, HTI began adding laser welding steps to the production of some components, and by 1979 had developed significant abilities in precision forming as well. In 1982, HTI began to use its forming and welding processes, in combination with proprietary cleaning processes, to manufacture suspension assemblies for both Winchester and the newer Thin-Film technology disk drives. In the late 1980s, HTI's revenue began to come almost exclusively from the sale of

suspension assemblies, and HTI has continued to focus on suspension assembly sales and development ever since.

b. *Public Representations of Policy.* HTI states that it has consistently represented itself as a company that manufactures and sells products for the disk drive industry, rather than a company focused on investments.

c. *Activities of Officers and Directors.* HTI states that its Board of Directors has eight members who focus on maintaining HTI's position as a leading supplier of suspension assemblies. HTI's Investment Goals and Guidelines require the Board of Directors to review them at least annually. Historically, the Board has approved the guidelines on an annual basis. Aside from these activities, none of HTI's directors is involved with HTI's investments for any significant amount of time. HTI's treasurer and chief financial officer are the only officers who devote time to HTI's investments. An estimated 5% of the treasurer's time and 1% of the chief financial officer's time is spent on investment-related work, and HTI expects that this will continue to be the case if the requested order is granted. HTI currently has approximately 5,300 regular employees working in its four domestic manufacturing plants and overseas.

d. *Nature of Assets.* As of September 25, 2005, approximately 15.8% of the value (as defined in section 2(a)(41)(A) of the Act) of HTI's total assets (excluding government securities and cash items), on an unconsolidated basis consisted of investment securities.

e. *Sources of Income and Revenue.* Applicant states that since the late 1980s, it has derived virtually all of its revenue, and net income after taxes, from the sale of suspension assemblies. For fiscal 2005, net income after taxes from investments was 10.3% of HTI's total net income after taxes. Net income after taxes from investments (including government securities, money market fund shares and interest on cash balances) was 9.5%, 6.8% and 35.4% of HTI's total net income after taxes in fiscal 2004, 2003 and 2002, respectively. In addition, for fiscal 2005, revenue from investments was only 1.2% of HTI's total revenue. In fiscal 2004, 2003 and 2002, revenue from investments was only 1.0%, 1.2%, and 1.8% of total revenue. HTI submits that an analysis of the sources of its revenue (especially in periods where HTI reported net losses) provides a more meaningful, and even more compelling, picture of the nature and extent of HTI's primary business operations. In the future, HTI expects substantially all of its revenues to come

¹ Tonopah Mining Company of Nevada, 26 SEC 426, 427 (1947).

from operations and less than 2% from investment securities.

6. HTI thus asserts that it satisfies the standards for an order under section 3(b)(2) of the Act.

Applicant's Conditions

1. HTI will continue to allocate and utilize its accumulated cash and investments for bona fide business purposes.

2. HTI will refrain from investing or trading in securities for short-term speculative purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Nancy M. Morris,
Secretary.

[FR Doc. E6-1226 Filed 1-31-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53181; File No. SR-CHX-2005-40]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Session Fee Increase for the Regulatory Element of the Continuing Education Program

January 26, 2006.

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 December 30, 2005, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CHX. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by CHX under section 19(b)(3)(A)(ii) of the Act,³ 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

The CHX proposes to amend its Participant Fee Schedule (the "Fee

Schedule") to incorporate the session fee for the Regulatory Element of the continuing education requirements set out in CHX rules. The text of this proposed rule change is available on the Exchange's Web site at http://www.chx.com/rules/proposed_rules.htm, at the CHX, and at 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, the CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 Changes

1. Purpose

The Exchange is proposing to incorporate, in its Fee Schedule, the session fee paid by Exchange participants for the Regulatory Element of the continuing education program required by CHX Rules. Under Exchange rules, registered persons associated with CHX participant firms are required to complete the Regulatory Element of the continuing education program on the second anniversary of their registration and every three years after that date, or as otherwise prescribed by the Exchange.⁵ The Regulatory Element is a computer-based education program administered by the National Association of Securities Dealers ("NASD") that is designed to help ensure that registered persons are kept up-to-date on regulatory, compliance and sales practice matters in the industry. The Regulatory Element is a component of the Securities Industry Continuing Education Program (the "Program"). The Securities Industry/Regulatory Council on Continuing Education (the "Council") was organized in 1995 to facilitate cooperative industry and regulatory coordination of the administration and future development of the Program in keeping with applicable industry regulations and changing industry needs. Its roles include recommending

and helping develop specific content and questions for the Regulatory Element, defining minimum core curricula for the Firm Element component of the Program and developing and updating information about the Program for industry-wide dissemination.

The Exchange understands that it is the Council's responsibility to maintain the Program on a revenue neutral basis while maintaining adequate reserves for unanticipated future expenditures.⁶ In December 2003, the Council voted to reduce the Regulatory Element session fee from \$65 to \$60, effective January 1, 2004. Although there was no change to the fee for 2005, the Council has decided to increase the Regulatory Element session fee from \$60 to \$75, effective January 1, 2006, in order to meet costs and maintain an adequate reserve in 2006.⁷ Through this filing, the Exchange proposes to incorporate the \$75 fee into its Fee Schedule.

2. Statutory Basis

The Exchange believes this proposed rule change is consistent with section 6(b)(4) of the Act⁸ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition.

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

No written comments were either solicited or received.

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

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2) thereunder,¹⁰ because it establishes or changes a due, fee or other charge imposed by the

⁶ The Council currently consists of 20 individuals, including six representatives of self-regulatory organizations and 14 persons who are associated with NASD member firms. The Commission and the North American Securities Administrators Association have liaisons to the Council. The Exchange does not have a representative serving on the Council.

⁷ See Securities Exchange Act Release No. 52947 (December 13, 2005), 70 FR 75517 (December 20, 2005) (SR-NASD-2005-132).

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ See CHX Article VI, Rule 9.