SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 75168 / June 12, 2015

Admin. Proc. File No. 3-15432

In the Matter of the Application of

ATLANTIS INTERNET GROUP CORPORATION

For Review of Action Taken by

THE DEPOSITORY TRUST COMPANY

OPINION OF THE COMMISSION

REGISTERED CLEARING AGENCY PROCEEDING

Suspension of Services with Respect to Issuer's Securities

Registered clearing agency stopped accepting new deposits of issuer's securities and subsequently suspended all book-entry clearing and settlement services with respect to issuer's securities held by clearing agency's Participants. *Held*, registered clearing agency provided issuer with notice and an opportunity to be heard, and kept a record of the proceeding. But registered clearing agency did not provide a statement of the specific grounds for the suspension, as required under the Securities Exchange Act of 1934, and proceeding is *remanded* to clearing agency in order to do so.

APPEARANCES:

Simon S. Kogan, Esq., Staten Island, NY, for Atlantis Internet Group Corporation.

Gregg M. Mashberg, Lawrence S. Elbaum, and Aimee T. Bandler, of Proskauer Rose LLP, New York, NY, for the Depository Trust Company.

Appeal filed: August 20, 2013
Last brief received: January 2, 2014

I.

Atlantis Internet Group Corporation ("Atlantis" or "the Company") appeals from two actions of The Depository Trust Company ("DTC").[1] On July 8, 2011, DTC stopped accepting additional deposits of Atlantis shares for depository and book-entry transfer services (the "Deposit Chill").[2] On August 24, 2012, DTC suspended all book-entry and related depository services provided to DTC's Participants with respect to the shares of Atlantis (the "Global Lock").[3]

II.

A. DTC notified Atlantis of the Deposit Chill, and the parties exchanged written submissions related thereto.

On May 9, 2012, DTC informed Atlantis in writing of the July 8, 2011 Deposit Chill.[4] DTC explained that it "detected that one or more [DTC] participants made unusually large deposits of the [Atlantis] issue during the period of September 9, 2010 to the date of the Deposit Chill" and that "[t]he volume and timing of the deposits [raised] substantial questions as to whether these shares are freely tradable, a prerequisite for shares being deposited into the DTC system for book-entry services." DTC further stated that the Deposit Chill would be released if

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[1] DTC is a wholly owned subsidiary of The Depository Trust & Clearing Corporation, a non-regulated holding company. DTC, as a registered clearing agency, falls within the definition of a self-regulatory organization ("SRO"). 15 U.S.C. § 78c(a)(26). DTC provides clearance, settlement, custodial, underwriting, registration, dividend, and proxy services for a substantial portion of all equities, corporate and municipal debt, exchange-traded funds, and money market instruments available for trading in the United States.

[2] A Deposit Chill blocks the further deposit of securities of the issuer at DTC, but other DTC services, including book-entry transfer services, continue to be provided with respect to securities of the issuer deposited at DTC before the Deposit Chill.

[3] The Global Lock terminates all DTC services with respect to the issuer's securities. DTC's "Participants" are generally broker-dealers.

[4] In *International Power Group, Ltd.* ("*IPWG*") (discussed in greater detail below), where DTC had imposed a Global Lock on the issuer applicant's shares, the Commission found that issuers of securities with respect to which a clearing agency provides clearance and settlement services were "persons" entitled to Commission review of DTC actions denying or limiting them "with respect to access to [DTC] services." Securities Exchange Act Release No. 66611, 2012 WL 892229, at *6 (Mar. 15, 2012). The Commission further found that, to comply with its statutory obligation to provide fair procedures, DTC must provide notice of its determination to the issuer specifying the basis for DTC's action, and must also provide the issuer with an opportunity to be heard. *See id.* at *6-7. Before the issuance of *IPWG*, DTC took the position that issuers (as non-DTC Participants) were not entitled to notice and an opportunity to be heard when DTC suspended certain of its services with respect to the issuer's securities. Thus, DTC did not provide Atlantis notice of the pre-*IPWG* Deposit Chill when it was initially imposed.

Atlantis could demonstrate that the sale and transfer of the shares at issue "was made pursuant to an effective registration statement or entitled to an exemption from registration," supported by a legal opinion to that effect, issued by an independent attorney.

On June 20, 2012, in an effort to obtain the release of the Deposit Chill, Atlantis submitted a proposed legal opinion letter in which it asserted that the majority of the Atlantis shares on deposit at DTC were "freely tradable when deposited with DTC," because the securities had been offered pursuant to valid exemptions from registration or acquired in debt conversion transactions for which the holding period had passed.[5] Atlantis's letter further stated that Atlantis's counsel could not opine as to 74,100,000 Atlantis shares held by brokers, representing "approximately 10% of the total shares in question," but that Atlantis was "not aware of any shares that became free trading without legal opinions in accordance with transfer agent requirements to remove restrictive legend."

On July 3, 2012, DTC rejected the letter Atlantis submitted and provided Atlantis with a template of the legal opinion it required, asking that Atlantis's counsel "follow this form as closely as possible." DTC also requested documentation, including copies of executed securities purchase agreements and any applicable private placement memoranda, as well as accredited investor certifications for investors in any private placements of Atlantis stock. Atlantis did not provide the legal opinion letter or any of the additional information DTC requested. Atlantis submitted no further documentation opposing the Deposit Chill from July 2012 until it filed this appeal.

B. DTC imposed the Global Lock, and the parties exchanged written submissions and conducted numerous discussions related thereto.

On August 14, 2012, the Commission filed a complaint in the United States District Court for the Eastern District of Texas alleging that TJ Management Group, LLC ("TJM"), a New York limited liability company, had engaged in a distribution of unregistered shares of eleven companies, including Atlantis, when no valid exemption from registration was available (the "TJM Action").[6] The complaint alleged that "TJM bought 33.9 million shares of [Atlantis] in eleven unregistered offerings for $435,791 and resold all 33.9 million shares into the public

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[5] Atlantis requested, and DTC granted, an extension of time from the initial thirty days specified in DTC's May 9 letter to file its proposed opinion letter.

[6] *SEC v. Kahlon, et al.*, No. 4:12-CV00517 (E.D. Tex. Aug. 14, 2012), Lit. Rel. No. 22452, 2012 WL 3560643 (Aug. 17, 2012). The complaint stated that venue for the proceeding lies in Texas because twenty-five of the alleged unregistered offerings at issue took place, in whole or in part, in McKinney, Texas, where one of the issuers other than Atlantis was headquartered. The complaint also stated, as a basis for its jurisdiction over the proceeding, that TJM "improperly sought to avail [itself] of a securities registration exemption of the Texas Securities Act."

market without registration for $793,879, representing gains of 82%." The complaint further alleged that "[n]o registration statement was in effect and no valid exemption from registration applied to TJM's resale of [Atlantis] shares with a view to distribution." As a result, the Commission alleged that TJM violated Section 5 of the Securities Act of 1933.[7]

After the institution of the TJM Action, DTC imposed the Global Lock with respect to Atlantis's securities on August 24, 2012, issuing an "Important Notice" to its Participants, Depository Facilities, and Pledgee Banks (although not directly to Atlantis).[8] On September 14, 2012, DTC directly informed Atlantis of the Global Lock in writing.[9] DTC stated that its "records demonstrate that some or all of the [Atlantis shares traded by TJM] were deposited at DTC and commingled with shares of the Issue on deposit at DTC for book entry services. As a result, DTC has imposed the Global Lock in order to prevent, among other things, the unregistered securities from being transferred on the books of DTC."

DTC subsequently learned of another Commission enforcement action in the United States District Court for the Southern District of New York alleging that E-Lionheart Associates, LLC, a Delaware limited liability company with its principal place of business in New York City, had engaged in an illegal purchase and distribution of penny stocks similar to that alleged in the TJM complaint (the "E-Lionheart Action").[10] The complaint in that action stated that E-Lionheart "obtained and illegally resold the stock of approximately 100 companies, reaping profits of more than $10 million while depriving the investing public of the protections of the registration requirements of the securities laws." Although the complaint does not specifically refer to Atlantis as one of the issuers whose securities the defendants were alleged to have illegally distributed, DTC's records show, and Atlantis does not dispute, that Atlantis shares on deposit at DTC at the time were registered to E-Lionheart.

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[7] 15 U.S.C. § 77e.

[8] Although DTC did not provide written notice of the Global Lock directly to Atlantis until September 14, 2012, the record makes clear that Atlantis was aware of the Global Lock before then. On August 30, 2012, Atlantis's counsel sent a proposed letter appealing the Global Lock to DTC, although the cover email stated that Atlantis "remain[s] amenable to trying to work something out without litigation or hearings." On September 10, 2012, Atlantis's counsel sent another follow-up email asking for the status of the Global Lock.

[9] In *IPWG*, we stated, "If DTC believes that circumstances exist that justify imposing a suspension of services with respect to an issuer's securities in advance of being able to provide the issuer with notice and an opportunity to be heard on the suspension, it may do so. However, in such circumstances, these processes should balance the identifiable need for emergency action with the issuer's right to fair procedures under the Exchange Act. Under such procedures, DTC would be authorized to act to avert an imminent harm, but it could not maintain such a suspension indefinitely without providing expedited fair process to the affected issuer." *IPWG*, 2012 WL 892229, at *7.

[10] *SEC v. Bronson, et al.*, No. 7: 12-cv-6421 (S.D.N.Y. Aug. 22, 2012), Lit. Rel. No. 22457 (Aug. 23, 2012).

On September 19, 2012, Atlantis made a request for a DTC hearing on the Global Lock. On October 15, 2012, Atlantis submitted a proposed legal opinion letter in which it claimed that the Atlantis securities registered to TJM and E-Lionheart on deposit at DTC "were issued in transactions conducted in accordance with Rule 504 of Regulation D and were not required to be registered with [the Commission]."[11] On October 26, 2012, DTC's outside securities counsel responded to the proposed Atlantis legal opinion letter, stating that, "based on the information currently available to [the outside counsel]," the issuances of Atlantis shares to TJM and E-Lionheart did not qualify for the exemption from registration claimed by Atlantis under Rule 504(b)(1)(iii) of Regulation D. This provision exempts from registration offers and sales of securities that are made "exclusively according to state law exemptions from registration that permit general solicitation and general advertising so long as sales are made only to 'accredited investors.'"[12] Specifically, DTC's outside counsel noted that it appeared that the TJM and E-Lionheart transactions lacked a "sufficient nexus" to Texas and Delaware, respectively, to permit them to rely on exemptions under the laws of those states. Further, DTC's outside counsel stated that it did not appear that the Texas and Delaware statutes in question permit general solicitation and advertising, as required under Rule 504(b)(1)(iii).[13]

On November 5, 2012, Atlantis submitted a response to the DTC outside counsel's letter, attaching copies of subscription agreements and legal opinion letters, and maintaining that the issuances of Atlantis stock to TJM and E-Lionheart were exempt from registration under Rule 504. In an email exchange on December 2 and 3, 2012, Atlantis continued to press its argument that the issuances were exempt from registration, and DTC's outside counsel responded that it found Atlantis's arguments unpersuasive for the reasons provided in its October 26 letter.

Subsequently, Atlantis proposed various solutions to the Global Lock involving registering its shares with the Commission. For example, Atlantis proposed to file a registration statement with the Commission for the shares at issue. DTC responded that, if Atlantis did so, "DTC would accept that as a resolution of the matter and release the chill." But Atlantis never filed a registration statement. Later, in April 2013, Atlantis "contemplat[ed] a registered transaction involving a reverse merger with a public shell; or a similar transaction designed to

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[11] The record establishes that Atlantis's and DTC's counsel engaged in email discussions about the content of the necessary opinion letter during the intervening weeks between Atlantis's hearing request and the Company's submission of the proposed opinion letter.

[12] 17 C.F.R. § 230.504(b)(1)(iii).

[13] The TJM Action remains pending before the federal district court in Texas. In the E-Lionheart Action pending in New York, the district court issued an Opinion and Order denying the defendants' motion to dismiss the proceeding against them. The court held that, "'according to the law' of Delaware, there is an insufficient nexus between the transactions [at issue in the E-Lionheart Action] and Delaware to allow defendants to invoke [the Delaware statutory provision that was the claimed basis for an exemption from registration]." *SEC v. Bronson*, 14 F. Supp. 3d 402, 417 (S.D.N.Y. 2014). In light of this finding, the court did not address whether, as the defendants claimed, the Delaware statute permitted general solicitation, as required under Rule 504.

eliminate any restrictions on transferability of Atlantis's common shares." But DTC subsequently informed Atlantis that it had consulted with the Commission staff, which "advised DTC that [the Commission staff] are not of the view that such a transaction would result in freely tradable shares."

On or about June 4, 2013, Atlantis returned to its December 2012 proposal to file a registration statement. It wrote to the Commission staff requesting "its position regarding the use of Form S-4 to register shares to be issued in exchange for all outstanding shares issued." But "[Atlantis was] advised by SEC staff that Atlantis . . . would not be issued a no-action letter with respect to its issuing shares pursuant to a new registration statement that would be used to replace DTC's existing inventory."[14] Shortly thereafter, Atlantis filed this appeal.

III.

A. Exchange Act Section 17A requires clearing agencies to provide a fair procedure to issuers such as Atlantis, and the parties dispute whether DTC complied with this requirement.

Under Section 17A(b)(3)(H) of the Exchange Act, registered clearing agencies must "provide a fair procedure with respect to . . . the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency."[15] Pursuant to Exchange Act Section 17A(b)(5)(B), in a proceeding involving a limitation with respect to access to services offered by the clearing agency, clearing agencies must "notify [the issuer] of, and give [the issuer] an opportunity to be heard upon, the specific grounds for denial or prohibition or limitation under consideration and keep a record."[16] Clearing agencies are also required to support such denials, prohibitions, or limitations "by a statement setting forth the specific grounds on which the denial or prohibition or limitation is based."[17] In *IPWG*, we determined that this requirement applied in the case of DTC actions such as the Deposit Chill and Global Lock at issue here.[18]

Atlantis claims that DTC denied it the required fair procedure. In support of this argument, Atlantis complains that DTC has not yet implemented rules providing fair procedures for issuers subject to Deposit Chills and Global Locks, as we instructed DTC to do in *IPWG*. Specifically, Atlantis contends that it was unfair that DTC imposed the Deposit Chill and Global Lock without advance notice and then "create[d] impediments to [Atlantis in] seeking to resolve

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[14] This is according to an August 15, 2013 email from DTC to Atlantis's counsel. On appeal, Atlantis does not address its attempts to resolve the Global Lock by registering its shares with the Commission.

[15] 15 U.S.C. § 78q-1(b)(3)(H).

[16] 15 U.S.C. § 78q-1(b)(5)(B).

[17] *Id.*

[18] *IPWG*, 2012 WL 892229, at *6.

the chill," such as requiring Atlantis to provide supplemental legal opinion letters attesting that all of its shares deposited with DTC were freely tradable and thus "eligible securities" under DTC Rules.

Atlantis also claims that DTC has not provided it with the hearing it requested. Specifically, Atlantis argues that "due process requires the Petitioner be afforded the opportunity to challenge the Commission allegations [in the TJM and E-Lionheart complaints]." Atlantis contends that the Commission should overturn the Deposit Chill and Global Lock because it "will send a powerful message to [DTC] that it cannot continue to ignore its [due process] obligations" and will "prevent[] [DTC] from imposing guilt by association that is anathema to due process."

DTC argues that it provided Atlantis the required fair procedure. DTC acknowledges that it did not provide Atlantis with advance notice prior to imposing the Global Lock, but claims that doing so was "appropriate under the circumstances in order to 'avert an imminent harm' to DTC and its Participants." DTC also contends that it satisfied the requirement to provide Atlantis with an opportunity to be heard through "consideration of [Atlantis's] legal and factual arguments, discussion of DTC's responses to Atlantis's arguments as well as proposed creative solutions for resolving the dispute." DTC also rejects Atlantis's position that a full testimonial hearing is required, claiming that no such requirement exists under Section 17A or our decision in *IPWG*. DTC concedes that no final decision was reached, but states that this was caused by Atlantis's filing of its application for review "despite DTC's willingness to entertain any further arguments that Atlantis wished to present."

B. DTC provided the requisite notice and opportunity to be heard, and kept a record, but did not adequately identify the basis for its action.

1. We find that DTC provided the required notice and opportunity to be heard to Atlantis here. DTC informed Atlantis in writing that it had imposed the Deposit Chill because "unusually large deposits" of Atlantis shares at DTC raised "substantial questions as to whether [the] shares are freely tradable." DTC provided Atlantis a template of a legal opinion letter that was required to lift the Deposit Chill, but Atlantis never submitted one.

After learning of the TJM Action, DTC imposed the Global Lock. DTC informed Atlantis in writing that it had done so based on allegations that TJM had engaged in an unregistered distribution of Atlantis shares when no exemption from registration was available. Although DTC's written notification here did not expressly state that it had imposed the Global Lock pursuant to the expedited authority specified in *IPWG*,[19] DTC now contends that it "implemented the Global Lock before giving Atlantis notice in order to avoid the imminent harm to the depository, its Participants and the clearance and settlement system that would result from providing further book-entry services with respect to a security that, according to the Commission's allegations in the TJM Action, did not satisfy DTC's eligibility requirements." DTC's imposition of the Global Lock without advance notice was an appropriate exercise of its

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[19] *See supra* note 9.

authority to act to prevent imminent harm, and DTC promptly provided Atlantis with information about how to lift the Global Lock. Communications between DTC and Atlantis began within a few days of the imposition of the Global Lock, and the record makes clear that Atlantis was aware of the Global Lock weeks before DTC sent its formal notice.

Atlantis then requested a hearing, and DTC reviewed a proposed legal opinion letter Atlantis submitted in an effort to lift the Global Lock. DTC permitted Atlantis to make numerous arguments regarding the TJM and E-Lionheart proceedings and the registration exemptions claimed by the defendants in those proceedings. DTC also considered and discussed with Atlantis other approaches to lift the Global Lock, including the potential of Atlantis registering its shares with the Commission. DTC engaged in ongoing discussions with Atlantis and, where relevant, the Commission staff, stating that, if Atlantis was able to register its shares, DTC would lift the Global Lock. DTC also kept a record of the communications between Atlantis and DTC after Atlantis requested a hearing.

In light of the extensive communication between DTC and Atlantis, there is no merit to Atlantis's claim that DTC denied it the requisite fair procedure by not providing a formal hearing. A formal hearing is not required to satisfy DTC's obligations under Section 17A to provide issuers such as Atlantis with an opportunity to be heard. As we stated in *IPWG*, "DTC may design such [Section 17A procedures] in accordance with its own internal needs and circumstances."[20] The approach DTC followed here differs substantially from the approach it took in *IPWG*. Under the circumstances, the procedures afforded to Atlantis here satisfied DTC's obligations under Section 17A to provide an issuer with notice and an opportunity to be heard.[21]

2. As discussed above, Section 17A(b)(5)(B) also requires that a determination to prohibit or limit a person with respect to access to services offered by the clearing agency shall be supported by a "statement setting forth the specific grounds on which the denial or prohibition or limitation is based." DTC has pointed to no such statement, and we are unable to identify one in the record before us.

Indeed, DTC asserts that it did not reach a final decision. The October 26, 2012 letter from DTC's outside counsel arguably could be such a statement. That letter analyzed and rejected Atlantis's arguments that the shares at issue in the TJM and E-Lionheart Actions were exempt from registration. But DTC has not identified that letter as a final agency action and, on appeal to the Commission, argues that it made no determination, in its outside counsel's October 26, 2012 letter or elsewhere, as to the validity of the exemptions for the sales of TJM and E-Lionheart shares at issue. Our finding is further supported by DTC's assertion that, in August

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[20] *IPWG*, 2012 WL 892229, at *7 n. 36.

[21] While we find that DTC provided Atlantis notice and an opportunity to be heard based on the record before us in this case, we reiterate our statement in *IPWG* that "we believe that DTC should adopt procedures that accord with the fairness requirements of Section 17A(b)(3)(H), which may be applied uniformly in any future such issuer cases." *IPWG*, 2012 WL 892229, at *8.

2013 (just before Atlantis filed this appeal), "DTC was prepared to continue with the discussion regarding additional procedures with respect to the restriction on Atlantis." Thus, DTC itself acknowledges that, after providing Atlantis notice and an opportunity to be heard, DTC did not provide a statement specifying the grounds for the Deposit Chill and Global Lock.

In *IPWG*, we found that issuers such as Atlantis, which are subject to a Deposit Chill or a Global Lock, are entitled to Commission review under Exchange Act Section 19(f),[22] which governs our review of an SRO's limitation with respect to access to services offered by that SRO.[23] Under Section 19(f) of the Exchange Act, we must dismiss Atlantis's appeal if we find that (i) the specific grounds on which DTC based the Deposit Chill and Global Lock exist in fact; (ii) the Deposit Chill and Global Lock were in accordance with DTC Rules; and (iii) those rules are, and were applied in a manner, consistent with the purposes of the Exchange Act. The absence of a statement specifying the grounds for the Deposit Chill and Global Lock makes it impossible for us to exercise our statutory review authority over DTC's actions.[24] We therefore remand this proceeding to DTC.

On remand, DTC should provide a final, definitive statement setting forth the specific grounds for the Deposit Chill and Global Lock. We note that DTC Rule 5 defines an "Eligible Security" as "a Security accepted by the [DTC], in its sole discretion, as an Eligible Security. The [DTC] shall accept a Security as an Eligible Security only (a) upon a determination by the [DTC] that it has the operational capability and can obtain information regarding the Security necessary to permit it to provide its services to Participants and Pledgees when such security is Deposited and (b) upon such inquiry, or based upon such criteria, as the [DTC] may, in its sole discretion, determine from time to time." In addition, DTC's Operational Arrangements, Section 1.A.1, state, "Generally, the issues that may be made eligible for DTC's book-entry delivery and depository services are those that: (i) have been registered with the United States Securities and Exchange Commission ('SEC') pursuant to the Securities Act of 1933, as amended ('Securities Act'); (ii) are exempt from registration pursuant to a Securities Act exemption that does not involve transfer or ownership restrictions; or (iii) are eligible for resale pursuant to Rule 144A or Regulation S (and otherwise meet DTC's eligibility criteria)."

In this appeal, somewhat inconsistently with the October 26, 2012 letter, DTC contends that it "relies on the filing of an enforcement action as the basis for imposing a global lock," and that "it would be improper, both legally and from a policy perspective, to require DTC to provide a duplicative and competing forum for the issuer to litigate the same allegations asserted in the regulatory proceeding."[25] Therefore, DTC contends on appeal that it made no determination

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22 15 U.S.C. § 78s(f).

23 *IPWG*, 2012 WL 892229, at *6.

24 *See Jonathan Feins*, Exchange Act Release No. 37091, 1996 WL 169441, at *2 (Apr. 10, 1996) ("[I]t is important that a self-regulatory organization clearly explain the bases for its conclusions. If it fails to do so, we cannot discharge properly our review function.").

25 DTC describes the October 26, 2012 letter not as a final determination regarding the exemptions being claimed, but rather as an effort by its counsel, "in light of the Commission's

(continued…)

about the availability of the exemptions from registration claimed by Atlantis and the defendants in the TJM and E-Lionheart Actions.[26] To the extent that DTC relies on the Commission complaints in the TJM and E-Lionheart Actions as the sole basis for the Deposit Chill and Global Lock, it should explain how such a finding is consistent with DTC's Rules and Operational Arrangements and their definition of what constitutes an "eligible security."[27] While a statement is required under Section 17A, as with our finding that DTC must provide issuers with notice and an opportunity to be heard, DTC may design that statement in accordance with its own internal needs and circumstances,[28] so long as it sets forth the specific grounds on which DTC based its decision.

(…continued)
allegations in the TJM Action and the E-Lionheart Action," to explain why the offerings at issue in those proceedings might not meet the requirements for an exemption from registration claimed by the defendants in those actions.

[26] This argument, however, does not release DTC from the statutory requirement that it provide a definitive final statement setting forth the grounds for its actions (which DTC acknowledges it did not do). We must base our decision on the record before us, and parties may not use arguments in briefs, such as these, and other unsworn representations to fill in gaps in the record. *Cf. SmartHeat Inc.*, Exchange Act Release No. 73555, 2014 WL 5768703, at *8 & n.27 (Nov. 6, 2014) (finding that applicant's memorandum in support of its appeal did not present an evidentiary basis on which Commission could make a factual finding); *CleanTech Innovations, Inc.*, Exchange Act Release No. 69968, 2013 WL 3477086, at *8 & n.56 (July 11, 2013) (finding that Commission cannot base its factual findings on unsworn representations made by counsel in briefs or memoranda).

[27] Unlike the rules of other SROs, DTC's Rules at issue here do not expressly permit it to consider the existence of a pending regulatory action in reaching its determination. *Compare* DTC Operational Arrangements, Section 1.A.1 (defining "eligible securities" as, among other things, those that "are exempt from registration") *and* FINRA Rule 6490(d)(3) (permitting FINRA to find a Company-Related Action to be deficient if, among other reasons, "FINRA has actual knowledge that . . . officers [or] directors . . . connected to the issuer or the [Company-Related Action requested] . . . are the subject of a **pending**, adjudicated or settled regulatory action or investigation by a federal, state or foreign regulatory agency, or a self-regulatory organization; or a civil or criminal action related to fraud or securities laws violations") (emphasis added).

[28] *See supra* note 20.

Accordingly, we remand the proceeding to DTC to provide a statement setting forth the specific grounds on which the Deposit Chill and Global Lock are based, as required by Exchange Act Section 17A(b)(5)(B). We do not intend to suggest any view on the outcome of this remand.

An appropriate order will issue.[29]

By the Commission (Chair WHITE and Commissioners AGUILAR, GALLAGHER, STEIN and PIWOWAR).

Brent J. Fields
Secretary

[29] We have considered all of the parties' contentions. We have rejected or sustained them to the extent that they are inconsistent or in accord with the views expressed in this opinion.

UNITED STATES OF AMERICA
before the
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SECURITIES EXCHANGE ACT OF 1934
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THE DEPOSITORY TRUST COMPANY

ORDER REMANDING PROCEEDING TO REGISTERED CLEARING AGENCY

On the basis of the Commission's opinion issued this day, it is

ORDERED that this proceeding with respect to Atlantis Internet Group Corporation be, and it hereby is, remanded to The Depository Trust Company for further consideration.

By the Commission.

Brent J. Fields
Secretary