

## **Datek Is Expected To Delay Offering Due to SEC Probe**

*By Rebecca Buckman. [Wall Street Journal](#). (Eastern edition). New York, N.Y.: [Jul 9, 1998](#). pg.*

1

NEW YORK -- Regulatory questions have prompted Datek Online Holdings Corp. to delay an initial public stock offering that was to have raised \$40 million to \$60 million sometime this summer, according to Wall Street securities professionals.

The IPO was to have been co-managed by Piper Jaffray Inc. and CIBC Oppenheimer Corp., people close to the deal said. Datek had hoped to complete the offering this summer to capitalize on what are expected to be strong second-quarter earnings, one person said. Piper and CIBC declined to comment.

In a statement yesterday, Datek said it doesn't comment on its capital-raising plans, financing activities or "press reports of investigations." The firm added that since 1997, its top officials have "developed a comprehensive strategic plan for the overhaul and development of new management controls," including retaining a Big Six accounting firm and hiring several new people to head up its online brokerage unit.

In March, Datek spun off its "day-trading" unit to focus on Internet trading. Datek Securities, which specialized in trading through Nasdaq's Small Order Execution System, was fined several times for various trading violations over the last 10 years by the National Association of Securities Dealers, records show.

Securities and Exchange Commission officials declined to comment on an investigation into Datek, which was reported by the New York Times in May. The Times said yesterday that the probe had triggered a delay in the Datek offering.

Specifically, the Times said the SEC was probing whether Datek had any role in manipulating the shares of unregistered stock sold overseas by companies under the "Regulation S" provision of the securities laws.

Separately, the SEC in April filed a civil lawsuit in federal court in Miami, against five people, including a former trader at Datek Securities, alleging that they engaged in a scheme to manipulate shares of a Florida auto-parts company under Regulation S. The trader couldn't be reached yesterday.

According to the complaint, the people arranged to have the company, *Alter Sales Co.*, issue millions of unregistered shares at steep discounts. The shares were then resold at market prices, yielding illegal profits of more than \$6.5 million. Some shares were deposited in a Datek account for which the Datek trader was the broker, the SEC said. Datek itself wasn't named in the suit, said Erich Schwartz, an assistant director of enforcement at the SEC.

## **Vulcan Ventures Withdraws From Planned Investment in Datek**

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Vulcan Ventures, the venture capital fund financed by the Microsoft co-founder Paul Allen, has pulled out of its part of a planned \$300 million investment in the Datek Online Holdings Corporation, partly because of concerns about criminal and regulatory investigations into the on-line brokerage firm, according to people close to the situation.

A spokeswoman for Vulcan, Susan Pierson Brown, confirmed that the fund had withdrawn from the deal, announced two months ago, but she declined to elaborate. Just before the deal closed, Vulcan changed its mind, citing "due diligence" problems, according to people who worked on the deal.

Datek officials said that the two other venture capital firms, Groupe Arnault of Paris and TA Associates, of Boston, that had been part of the original announcement signed contracts on Tuesday to complete their Datek investments, though they lowered the amount to \$195 million from the expected \$225 million to \$250 million.

Vulcan, which is based in Bellevue, Wash., was expected to invest \$50 million to \$75 million in Datek, people close to the situation said. Vulcan also dropped plans for an additional \$25 million investment, or 12 percent interest, in the Island E.C.N., a fast-growing electronic stock exchange operated by Datek.

Vulcan's withdrawal is a serious setback to Datek Online, which in mid-1998 canceled an initial public offering of stock after the Manhattan District Attorney said he was investigating whether Datek had taken part in money laundering and former traders at Datek said they were interviewed by the Securities and Exchange Commission about whether there were illegal trading practices at the firm.

Neither the S.E.C. nor the Manhattan District Attorney would comment yesterday on whether those investigations were continuing, but law-enforcement officials said that Datek remained under investigation by at least two regulatory and law enforcement bodies.

Separately, Datek was named, but not charged, in a Federal indictment in Florida last month that accused five non-Datek individuals, including two with ties to organized crime, with mail fraud, securities fraud and money laundering.

In April, Sheldon Maschler, a former owner and trader at Datek, was sued by the S.E.C., which accused him of improperly handling one account at the center of the Florida indictments. The

beneficiary of that account was named Martin Clainey, according to the S.E.C. Prosecutors in Florida now say that Mr. Clainey was really Philip Gurian, who was banned for life from the securities industry and worked closely with Philip C. Abramo, a leader of the Decavalcante crime family. Datek officials said yesterday that they had not been informed of the Florida case.

In May, Datek was sanctioned by the S.E.C. and fined \$50,000 for filing false financial reports and illegally dipping into customer money to pay its bills in spring 1998. The company was censured and the former chief financial officer was fined and suspended from Datek. The company says he is no longer on the payroll.

For its part, Datek has said that since around mid-1998 it has reorganized its operations and hired well-respected executives to lead an aggressive push into the booming online trading arena.

The company is now the nation's fourth-largest on-line broker with more than \$6 billion in customer assets and 253,000 on-line trading accounts. Last May, its credibility was enhanced when it won the backing of the three prominent venture capital firms, and in particular Mr. Allen, one of the best-known names in high technology.

Datek was expecting to use the infusion of cash, about \$300 million in all, to upgrade its technology at its fast-growing on-line brokerage firm and help prepare the Island E.C.N., which has petitioned the S.E.C. to become a full-fledged stock exchange. To do so, it will have to come up with a regulatory scheme, among other costly endeavors.

The company remains upbeat about its prospects and said yesterday that it was exploring other financing options. Earlier this year, Waterhouse Securities, another big on-line trading firm, made a \$25 million investment in Datek.

Robert O. Bethge, a spokesman for Datek, said yesterday that TA Associates and Groupe Arnault had agreed to invest \$195 million, cut from a proposed \$225 million to \$250 million. As for Vulcan Ventures, Mr. Bethge said: "The investment has closed, and Vulcan has opted, for whatever reason, not to participate."

Asked whether Vulcan had expressed concern about Datek's past, including its long history of regulatory problems and being under various investigations, Mr. Bethge said, "I can't give you the specifics but that's the sense I've gotten; that's a fair statement."

Officials at TA Associates and Groupe Arnault each said yesterday that they remained confident in Datek and their investment. They had no comment on the decision by Vulcan Ventures.

"We did our due diligence very seriously," said Jean-Bernard Tellio, head of the Internet unit at Group Arnault, a private holding company run by the French businessman Bernard Arnault. "The story of the company is very complicated, and there were some clouds, but we spent three months investigating this company and it looks terrific. We wouldn't risk our reputation if we weren't confident."

TA Associates, a venture capital fund, said it was also confident about its investment in Datek, which was arranged through Credit Suisse First Boston. "We were given all the facts by Datek and we did our own investigation," said Kenneth Schiciano, a principal at TA Associates.

Although Datek has won praise from Wall Street analysts as a powerful on-line brokerage firm, even company officials concede that Datek's history is troublesome. "There's no hiding from the fact that Datek Securities had a questionable past," Mr. Bethge said yesterday, speaking of the company that is now Datek Online.

The company, which began in the 1970's as Datek Securities, gained fame in the 1980's and early 1990's as a day trading firm that specialized in Nasdaq stocks under its two chief traders, Mr. Maschler and Jeffrey Citron, now the chief executive of Datek Online.

But with that success came repeated regulatory scrutiny and fines against Datek traders, including Mr. Maschler and Mr. Citron for engaging in illegal trading practices. Datek officials said Mr. Maschler was no longer an owner of the company.

According to people close to the investigations into Datek, while Mr. Citron and Mr. Maschler were the principal traders at the company, Datek was involved in a number of money-laundering operations.

In the Florida case with Mr. Gurian, the five men were accused of clandestinely and illegally touting shares of the Alter Sales Company between 1993 and 1999. The profits were then moved offshore. In one case, Mr. Gurian arranged to transfer \$2 million from Datek Securities office in Boca Raton, Fla., to the Bahamas.