

Exchange staff's response to be filed within 15 days of the date the Respondent's request for review is filed with the Secretary of the Exchange and the Respondent's reply to be filed within 15 days of service of staff's response. In addition, the proposed rule change clarifies that the Respondent's petition for review and Respondent's reply should be filed with the Secretary of the Exchange and the Exchange's Office of Enforcement.

### III. Discussion

The Commission believes the proposed rule change is consistent with Section 6 of the Act, in general, and Section 6(b)(7) in particular in that it provides a fair procedure for the disciplining of members and persons associated with members. The Commission believes the proposed rule change will make the review process more fair and efficient by formalizing the current appeal practice to ensure that both parties have the opportunity to make an additional submission to the Board and by clarifying with which office of the Exchange the petition for review should be filed. The proposed rule change will ensure a more fair and thorough process because each party will have an opportunity to clarify its position to the Board on the specific issues of contention addressed in the petition for review. As is the case under the current rules, the proposed rule change will ensure that the Respondent ordinarily will have the opportunity to make the final submission to the Board. In addition, the proposed rule change will reduce the amount of time the Board spends on administrative matters by eliminating the need for the staff to request approval before the submission of each response.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR-CBOE-96-49 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-37617; File No. SR-DTC-96-14]

### **Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Permanent Approval of a Proposed Rule Change Relating to Procedures for Inter-Depository Deliveries**

August 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on August 11, 1996, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-96-14) as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant permanent approval of the proposed rule change on an accelerated basis.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change seeks permanent approval of DTC's existing procedures for deliveries through the interface between DTC and the Philadelphia Depository Trust Company ("Philadep"). The Commission previously granted temporary approval to a proposed rule change establishing DTC's procedures for inter-depository deliveries as part of the conversion of DTC's money settlement system to an entirely same-day funds settlement system.<sup>2</sup>

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

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

<sup>1</sup> 15 U.S.C. § 78s(b)(1) (1988).

<sup>2</sup> Securities Exchange Act Release No. 36861 (February 20, 1996), 61 FR 287 [File No. SR-DTC-95-21] (order granting temporary approval of a proposed rule change on a temporary basis through August 31, 1996).

<sup>3</sup> The Commission has modified the text of the summaries submitted by DTC.

#### **(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The proposed rule change seeks permanent approval of the procedures for deliveries through the interface between DTC and Philadep. The Commission previously granted temporary approval of the inter-depository delivery procedures to allow DTC to implement the procedure so it could monitor and report to the Commission the number of inter-depository reversals of deliveries that caused a DTC participant's net debit cap to be exceeded.

When processing a participant's delivery to Philadep, DTC employs an immediate update technique whereby the delivering participant's security position, collateral, and settlement account are immediately updated if the delivering participant has sufficient securities and collateral to allow the delivery to be completed. The delivering participant's position is reduced by the quantity of securities delivered, its settlement account is credited for the settlement value of the transaction, and its collateral monitor is increased by the settlement credit incurred and is reduced by the collateral value of the securities delivered (provided the securities being delivered are part of the participant's collateral position).

Once the delivery satisfies risk management controls and completes at DTC (i.e., the participant has sufficient securities to make the delivery and the participant's collateral monitor will not become negative because of the delivery), DTC sends the delivery to Philadep where it is subject to Philadep's internal risk management controls. In certain instances, Philadep's internal risk management controls will prevent a delivery from completing (e.g., the receiving participant does not have sufficient collateral or the receipt would cause the participant to exceed its net debit cap) and will cause the delivery to pend in Philadep's system. At the end of each processing day, Philadep returns to DTC delivery orders that fail to complete in Philadep's system, and DTC reverses the deliveries to the original delivering participants.

Reversals from Philadep are processed at DTC until approximately 3:37 P.M. DTC's reversals are not subject to its Receiver-Authorized Delivery ("RAD") processing<sup>4</sup> or other risk management

<sup>4</sup> RAD allows a participant to review and either approve or cancel incoming deliveries before they are processed in DTC's system. For a further discussion of DTC's RAD procedures, refer to

controls (*i.e.*, net debit cap and collateral monitor).

As expected, the number of deliveries through the interface from DTC to Philadep have been low. Consequently, the number of reversals to such deliveries also have been low. During the five month period from March 1, 1996, through July 31, 1996, there were an average of 5,706 deliveries (both valued deliveries and free deliveries) each day from DTC to Philadep through the interface. During that five month period, DTC reversed a total of twenty-three deliveries back to its participants. Of those twenty-three reversals, the largest reversal had a settlement value of \$5,640,372, and the remaining twenty-two reversals had an aggregate settlement value of \$2,307,547. None of the twenty-three reversals caused a DTC participant to violate its net debit cap.

DTC believes the proposed rule change is consistent with Section 17A of the Act<sup>5</sup> and the rules and regulations thereunder because the proposed rule change will contribute to efficiencies in processing deliveries in the interface between DTC and Philadep. DTC also believes the proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible because the proposed rule change has operated safely pursuant to the Commission's temporary approval on February 20, 1996.

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

DTC perceives no adverse impact on competition by reason of the proposed rule change.

#### *(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

All participants were informed of the proposed rule change by a DTC Important Notice.<sup>6</sup> Written comments from DTC's participants or others have not been solicited or received on the proposed rule change.

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

Section 17A(b)(3)(F) of the Act<sup>7</sup> requires that the rules of a clearing agency be designed to foster cooperation

and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that DTC's proposed procedures relating to inter-depository deliveries are consistent with DTC's obligations under Section 17A(b)(3)(F) because the proposed rule change establishes procedures for the processing of inter-depository deliveries between DTC and Philadep.

Under the proposed procedures, DTC will immediately update a participant's account for deliver orders and payment orders sent to a Philadep participant through the interface. In the event that the delivery fails to complete at Philadep by the end of the day, the procedures provide a mechanism by which DTC will reverse the transaction to the original delivering participant without subjecting that reversal to RAD or risk management controls.

Because the Commission was concerned that the inter-depository delivery procedures could create the situation where an inter-depository reversal arising from an uncompleted delivery at Philadep would cause a DTC participant to violate its net debit cap at DTC near the end of the day, the Commission previously approved the proposed rule change on a temporary basis in order that the procedures and their effects could be carefully monitored and modified if needed before they were permanently approved. During the temporary approval period, there were only twenty-three inter-depository deliveries reversed back to DTC participants, and none of those twenty-three reversals caused a DTC participant to violate its net debit cap. Therefore, the Commission is permanently approving DTC's inter-depository delivery procedures. However, the Commission continues to encourage DTC to examine and to consider future enhancements to the interface to provide a mechanism through which DTC participants can receive notification of transactions pending at Philadep.<sup>8</sup> In this regard, DTC must report to the Commission on a quarterly basis the number and extent of inter-depository reversals that caused DTC participants to violate their net debit caps by \$1 million or more.

DTC has requested that the Commission find good cause for

approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because the Commission has previously noticed the procedures without receiving any comment letters and because accelerated approval will allow DTC to continue to utilize the procedures for deliveries between DTC and Philadep participants through the interface without any disruption when the current temporary approval expires on August 31, 1996.

#### 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, N.W., Washington, D.C. 20549. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR-DTC-96-14 and should be submitted by September 26, 1996.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-96-14) be, and hereby is, permanently approved.

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 Exchange Act Release No. 25886 (July 6, 1988), [File No. SR-DTC-88-07] (notice of filing and immediate effectiveness of a proposed rule change implementing DTC's RAD procedures).

<sup>5</sup> 15 U.S.C. § 78q-1 (1988).

<sup>6</sup> DTC Important Notice (January 9, 1996).

<sup>7</sup> 15 U.S.C. § 78q-1(b)(3)(F) (1988).

<sup>8</sup> The Commission understands that such enhancements were considered but were not initiated because of the costs involved and because of the low number of inter-depository reversals that were expected. However, the Commission believes if the number of inter-depository reversals substantially increases, DTC should implement such enhancements or take other steps to control the risks created by inter-depository reversals.

<sup>9</sup> 17 CFR 200.30-3(a)(12) (1995).