

NRC's Public Document Room, 2120 L Street, N.W., Washington, DC 20555.

For additional information, contact Donna S. Moser, Health Physicist, Materials Decommissioning Section, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, (301) 415-6753.

Dated at Rockville, Maryland, this 23rd day of October 1996.

For the Nuclear Regulatory Commission.

Michael F. Weber,

*Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 96-27794 Filed 10-29-96; 8:45 am]

BILLING CODE 7590-01-P

### **Cancellation of Proposed Generic Communication; Licensee Qualification for Performing Safety Analyses (M91599)**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of cancellation of proposed generic communication.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) was preparing to issue a supplement to Generic Letter 83-11, Licensee Qualification for Performing Safety Analyses, for the purpose of presenting criteria that licensees could choose to comply with to verify to the NRC their qualifications to use approved codes and methods for performing safety analyses. By complying with these criteria, a licensee would eliminate the need to submit a topical report for qualifying their use of a previously approved methodology. A draft of the supplement and a notice of opportunity for public comment was published in the Federal Register (60 FR 54712) on October 25, 1995. Comments were received from 12 licensees, 3 fuel vendors, and 3 industry interest groups.

Because of issues that have arisen at a nuclear power reactor facility regarding the improper application of approved methods, and because of increased complexities in core reload analyses due to mixed core designs, the NRC has reevaluated its plans to issue this generic letter supplement. The NRC has concluded that the potential reduction in staff oversight which would result from its issuance is not justified. Therefore, the generic letter supplement has been cancelled.

**DATES:** (Not applicable.)

**ADDRESSEES:** (Not applicable.)

**FOR FURTHER INFORMATION CONTACT:** Laurence I. Kopp, (301) 415-2879.

**SUPPLEMENTARY INFORMATION:** (Not applicable.)

Dated at Rockville, Maryland, this 24th day of October 1996.

For the Nuclear Regulatory Commission.  
David B. Matthews,

*Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 96-27792 Filed 10-29-96; 8:45 am]

BILLING CODE 7590-01-P

### **Sunshine Act Meeting**

**DATES:** Weeks of October 28, November 4, 11, and 18, 1996.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

*Week of October 28*

*Thursday, October 31*

11:00 a.m.—Affirmation Session  
(Public Meeting) (if needed).

*Week of November 4—Tentative*

*Monday, November 4*

2:00 p.m.—Discussion of Interagency  
Issues (Closed—Ex. 9).

*Week of November 11—Tentative*

*Wednesday, November 13*

2:00 p.m.—Briefing on Control and  
Accountability of Licensed Devices  
(Public Meeting) (Contact: John  
Lubinski, 310-415-7868).

3:30 p.m.—Affirmation Session  
(Public Meeting) (if needed).

*Thursday, November 14*

2:00 p.m.—Briefing on Spent Fuel  
Pool Study (Public Meeting)  
(Contact: Ernie Rossi, 301-415-  
7379).

3:30 p.m.—Discussion of Management  
Issues (Closed—Ex. 2).

*Week of November 18—Tentative*

*Thursday, November 21*

9:00 a.m.—Affirmation Session  
(Public Meeting) (if needed).

1:30 p.m.—Briefing by DOE on  
International Nuclear Safety  
Program (Public Meeting).

*Friday, November 22*

1:30 p.m.—Briefing on Integrated  
Materials Performance Evaluation  
Program (Public Meeting).

The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292.

**CONTACT PERSON FOR MORE INFORMATION:**  
Bill Hill (301) 415-1661.

The NRC Commission Meeting  
Schedule can be found on the Internet

at: <http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [wmmh@nrc.gov](mailto:wmmh@nrc.gov) or [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: October 25, 1996.

William M. Hill, Jr.,

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 96-27947 Filed 10-28-96; 11:28 am]

BILLING CODE 7590-01-M

### **SECURITIES AND EXCHANGE COMMISSION**

[Investment Company Act Release No. 22296; International Series Release No. 1023; 812-10170]

#### **Deutsche Bank AG; Notice of Application**

October 24, 1996.

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

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** Deutsche Bank AG.

**RELEVANT ACT SECTIONS:** Order under section 6(c) of the Act for an exemption from section 17(f).

**SUMMARY OF APPLICATION:** Applicant seeks an order that would supersede an existing order granting conditional exemptive relief from section 17(f) of the Act. The requested order would allow certain foreign subsidiaries of applicant to maintain assets of registered investment companies in custody, in accordance with an agreement among applicant, the investment company (or its custodian), and the foreign subsidiary. The requested order would also allow these foreign subsidiaries to maintain such assets pursuant to a custody agreement between applicant and the investment company (or its custodian) and a separate subcustodian agreement between applicant and the foreign subsidiary.

**FILING DATE:** The application was filed on May 24, 1996 and amended on September 11, 1996.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 18, 1996 and should be accompanied by proof of service on the applicant, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant: Post Box D, 60262 Frankfurt-am-Main, Germany; cc: J. Eugene Marans, Esq., Cleary, Gottlieb, Steen & Hamilton, 1752 N Street, NW., Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Harry Eisenstein, Staff Attorney, at (202) 942-0552, or Alison E. Baur, Branch Chief, at (202) 942-0564 (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 from the SEC's Public Reference Branch.

#### Applicant's Representations

1. Applicant is a bank organized and existing under the laws of Germany. Applicant is regulated in Germany by the Federal Bank Supervisory Office (Bundesaufsichtamt für Kreditwesen). Applicant is the largest banking institution in Germany and currently provides worldwide financial services to foreign governments, central banks, financial institutions, and corporate and retail customers. Applicant has shareholders' equity in excess of \$200 million and, as of December 31, 1995, had consolidated worldwide assets of \$491 billion.

2. In 1995, the SEC exempted applicant (the "Existing Order")<sup>1</sup> from section 17(f) of the Act to permit applicant to serve as custodian or subcustodian of the securities and other assets of any management investment company registered under the Act other than an investment company registered under section 7(d) of the Act (a "U.S. Investment Company"), and to maintain foreign securities and other assets in

Malaysia with applicant (Malaysia) Berhad ("DBM").

3. Applicant requests an order superseding the Existing Order and granting several requests for exemptive relief. First, under the relief requested, Assets (as defined below) could be maintained in the custody of an Exemptive Order Network Subsidiary (as defined below) in accordance with an agreement ("Delegation Agreement") among applicant, the Exemptive Order Network Subsidiary, and a U.S. Investment Company or its custodian (Custodial arrangements under a Delegation Agreement are referred to as "Tri-Party Arrangements").

4. Second, as an alternative to Tri-Party Arrangements, Assets could be maintained in custody in accordance with an agreement (the "Custody Agreement") between (i) applicant and (ii) a U.S. Investment Company or its custodian, whereby applicant would act as the custodian or subcustodian of the Assets of the U.S. Investment Company and would delegate its responsibilities to its foreign subsidiaries under an agreement with such subsidiaries ("Subcustodian Agreement," and custodial arrangements under Custody and Subcustodian Agreements, "Agency Custody Arrangements").

5. Third, applicant seeks relief so that Assets could be maintained in custody with DBM, Deutsche Bank Argentina, S.A. ("DBA"), Deutsche Bank S.A.—Banco Alemão (Brazil) ("DBBA", and together with DBA and DBM, the "Foreign Subsidiaries") and all additional foreign subsidiaries of applicant that do not meet the minimum shareholder equity requirement of rule 17f-5 ("Additional Foreign Subsidiaries," and together with the Foreign Subsidiaries, "Exemptive Order Network Subsidiaries") at such time as such Exemptive Order Network Subsidiaries meet the terms and conditions applicable to the provision of the custodial services under the Tri-Party Arrangements and Agency Custody Arrangements.

6. DBM, DBA and DBBA each is a subsidiary of applicant. DBM, DBA and DBBA are regulated as banking institutions by the central banks of Malaysia, Argentina, and Brazil, respectively. Each of the Foreign Subsidiaries offers custody services to support local and foreign investors. Each Exemptive Order Network Subsidiary satisfies the standards of rule 17f-5, except with respect to the minimum shareholder equity requirement.

7. For purposes of this application, the term "Foreign Securities" includes: (i) securities issued and sold primarily

outside the United States by a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country; and (ii) securities issued or guaranteed by the Government of the United States or by any state or any political subdivision thereof or by any agency thereof or by any entity organized under the laws of the United States or of any state thereof which have been issued and sold primarily outside the United States. Foreign Securities, cash and cash equivalents are referred to collectively as "Assets."

#### *Tri-Party and Agency Custody Arrangements*

8. Pursuant to Tri-Party Custody Arrangements, Assets would be maintained in custody pursuant to a Delegation Agreement that would be required to remain in effect at all times during which the Exemptive Order Network Subsidiary fails to meet the minimum shareholders' equity requirements of rule 17f-5. Pursuant to such Delegation Agreement, applicant would undertake to perform specified custodial or subcustodial services and would delegate to the Exemptive Order Network Subsidiary such of the duties and obligations of applicant as would be necessary to permit the Exemptive Order Network Subsidiary to hold in custody in the country in which it operates Assets of U.S. Investment Companies.

9. Pursuant to the Agency Custody Arrangements, Assets would be maintained in the custody of an Exemptive Order Network Subsidiary only in accordance with a Custody Agreement that is required to remain in effect at all times during which such Exemptive Order Network Subsidiary fails to meet the minimum shareholders' equity requirements of rule 17f-5. Pursuant to the Custody Agreement, which would be between applicant and a U.S. Investment Company or its custodian, applicant would act as custodian or subcustodian of Assets. Under the terms of a Subcustodian Agreement with the Exemptive Order Network Subsidiary, applicant would additionally delegate such of its duties and obligations as would be necessary to permit the Exemptive Order Network Subsidiary to hold in custody in the country in which it operates Assets of U.S. Investment Companies or their custodians. Each Subcustodian Agreement would also explicitly provide that U.S. Investment Companies or their custodian, as the case may be, that have entered into a Custody Agreement with applicant are third

<sup>1</sup> See Deutsche Bank AG, Investment Company Act Release No. 21278 (Aug. 11, 1995).

party beneficiaries of such Subcustodian Agreement, are entitled to enforce the terms of such Subcustodian Agreement, and are entitled to seek relief directly against the applicable Exemptive Order Network Subsidiary or against applicant.

10. Applicant contends that Agency Custody Arrangements would be a more efficient arrangement for certain U.S. Investment Companies, since the protection afforded to such companies by applicant would be confirmed immediately upon execution of the Custody Agreement, rather than piecemeal through the time-consuming and more onerous process of entering into separate Delegation Agreements with the various Exemptive Order Network Subsidiaries. Applicant states that it would continue to offer the traditional Tri-Party Custody Arrangements for clients not desiring Agency Custody Arrangements.

#### Applicant's Legal Analysis

1. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain enumerated entities, including "banks" having at all times aggregate capital, surplus, and undivided profits of at least \$500,000. A "bank", as that term is defined in section 2(a)(5) of the Act, includes: (a) a banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; and (c) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any state or of the United States, a substantial portion of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised or examined by state or federal authority having supervision over banks, and which is not operated for the purposes of evading the Act.

2. The only entities located outside the United States that section 17(f) authorizes to serve as custodians for registered management investment companies are the overseas branches of qualified U.S. banks. Rule 17f-5 expands the group of entities that are permitted to serve as foreign custodians. Rule 17f-5(c)(2)(i) defines the term "Eligible Foreign Custodian" to include a banking institution or trust company, incorporated or organized under the laws of a country other than the United States, that is regulated by that company's government or an agency

thereof and that has shareholders' equity in excess of \$200,000,000.

3. Applicant meets the requirements for an Eligible Foreign Custodian under the rule since it has shareholders' equity well in excess of the equivalent of \$200,000,000, is organized and existing under the laws of a country other than the United States, and is regulated as a bank under the laws of Germany.

4. Each of the Foreign Subsidiaries also satisfies, and each of the Additional Foreign Subsidiaries will satisfy, the requirements of rule 17f-5 insofar as it is a banking institution incorporated or organized under the laws of a country other than the United States and is or will be regulated as such by that country's government or an agency thereof. However, none of the Foreign Subsidiaries meets, and none of the Additional Foreign Subsidiaries will meet, the minimum shareholders' equity requirement of rule 17f-5. Accordingly, none of the Foreign Subsidiaries is, and none of the Additional Foreign Subsidiaries will be, an Eligible Foreign Custodian under the rule, and, absent exemptive relief, they could not perform custodial or subcustodial services for U.S. Investment Companies.

5. Section 6(c) provides, in relevant part, that the SEC may, conditionally or unconditionally, by order, exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicant submits that its request satisfies this standard.

#### Applicant's Conditions

Applicant agrees that any order of the SEC granting the requested relief shall be subject to the following conditions:

1. The foreign custody arrangements proposed with respect to the Exemptive Order Network Subsidiaries will satisfy the requirements of rule 17f-5 in all respects other than with regard to the shareholders' equity of the Exemptive Order Network Subsidiaries.

2. Assets held in custody for U.S. Investment Companies or their custodians pursuant to Tri-Party Custody Arrangements will be maintained with an Exemptive Order Network Subsidiary only in accordance with a Delegation Agreement required to remain in effect at all times during which such Exemptive Order Network Subsidiary fails to satisfy all the requirements of rule 17f-5. Pursuant to such Delegation Agreement, applicant would undertake to provide specified

custodial or subcustodial services and would delegate to such Exemptive Order Network Subsidiary such of applicant's duties and obligations as would be necessary to permit such Exemptive Order Network Subsidiary to hold in custody in the country in which it operates Assets of U.S. Investment Companies. The Delegation Agreement among applicant, such Exemptive Order Network Subsidiary and a U.S. Investment Company or its custodian would further provide that applicant's delegation of duties to such Exemptive Order Network Subsidiary would not relieve applicant of any responsibility to the U.S. Investment Company or its custodian for any loss due to such delegation, except such loss as may result from political risk (e.g., exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities) or other risks of loss (excluding bankruptcy or insolvency of the Exemptive Order Network Subsidiaries) for which neither applicant nor the Exemptive Order Network Subsidiary would be liable under rule 17f-5 (e.g., despite the exercise of reasonable care, Acts of God and the like).

3. Assets held in custody for U.S. Investment Companies or their custodians pursuant to Agency Custody Arrangements will be maintained with an Exemptive Order Network Subsidiary only in accordance with a Custody Agreement required to remain in effect at all times during which such Exemptive Order Subsidiary fails to satisfy all the requirements of rule 17f-5. The Custody Agreement would be between applicant and a U.S. Investment Company or its custodian and would provide that applicant would act as the custodian or the subcustodian, as the case may be, of the Assets of the U.S. Investment Company and would be able to delegate its responsibilities to the Exemptive Order Network Subsidiaries. The Custody Agreement would further provide that applicant's delegation of duties to the Exemptive Order Network Subsidiaries would not relieve applicant of any responsibility to a U.S. Investment Company or its custodian for any loss due to such delegation, except such loss as may result from political risk (e.g., exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities) or other risks of loss (excluding bankruptcy or insolvency of the Exemptive Order Network Subsidiaries) for which neither applicant nor the Exemptive Order

Network Subsidiaries would be liable under rule 17f-5 (e.g., despite the exercise of reasonable care, Acts of God and the like).

4. With respect to the Agency Custody Arrangements, applicant will enter into a Subcustodian Agreement with each Exemptive Order Network Subsidiary pursuant to which applicant will delegate to the Exemptive Order Network Subsidiary such of applicant's duties and obligations as would be necessary to permit the Exemptive Order Network Subsidiary to hold in custody in the country in which it operates Assets of U.S. Investment Companies or their custodians. Each Subcustodian Agreement will provide an acknowledgement by the applicable Exemptive Order Network Subsidiary that it is acting as a foreign custodian for U.S. Investment Companies pursuant to the terms of the order requested hereby. Each Subcustodian Agreement will also explicitly provide that U.S. Investment Companies or their custodians, as the case may be, that have entered into a Custody Agreement with applicant will be third party beneficiaries of such Subcustodian Agreement, will be entitled to enforce the term thereof and will be entitled to seek relief directly against the applicable Exemptive Order Network Subsidiary so acting as foreign custodian or against applicant.

5. Applicant will attempt to have such Subcustodian Agreement governed by New York law. However, if any Subcustodian Agreement is governed by the local law of the foreign jurisdiction in which the applicable Exemptive Order Network Subsidiary is located, applicant shall obtain an opinion of counsel from such foreign jurisdiction opining as to the enforceability of the rights of a third party beneficiary under the laws of such foreign jurisdiction. Applicant will not utilize Agency Custody Arrangements involving a Subcustodian Agreement governed by the law of a foreign jurisdiction that does not provide for the enforceability of third party beneficiary rights.

6. Applicant currently satisfies and will continue to satisfy the minimum shareholders' equity requirement set forth in rule 17f-5(c)(2)(i).

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

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-27807 Filed 10-29-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37861; File No. SR-DCC-96-09]

**Self-Regulatory Organizations; Delta Clearing Corp.; Order Granting Approval of a Proposed Rule Change Relating to Securities Eligible for Margin**

October 24, 1996.

On July 2, 1996, Delta Clearing Corp. ("DCC") filed a proposed rule change (File No. SR-DCC-96-09) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> On August 16, 1996, DCC filed an amendment to the proposed rule change.<sup>2</sup> Notice of the proposal was published in the Federal Register on September 12, 1996, to solicit comments from interested persons.<sup>3</sup> No comments were received. As discussed below, this order approves the proposed rule change.

**I. Description**

DCC's proposal expands the permissible forms of margin that may be deposited by participants to include U.S. Treasury notes and bonds. Previously, DCC allowed only U.S. Treasury bills or central bank funds as margin collateral for trades in over-the-counter options and for repurchase and reverse repurchase ("repo") agreements. With respect to options, participants also can continue to post margin in the form of cover (i.e., Treasury securities that would be deliverable upon exercise of an option).

The proposal also changes the haircuts applicable to Treasury securities deposited as margin collateral. Previously, such securities were valued at the lesser of the market value or the par value if deposited as margin for options trades or 95% of the market value of deposited as margin for repo trades. Under the proposal, DCC will use the Commission's schedule for valuation of government securities as set forth in the Commission's uniform net capital rule.<sup>4</sup>

**II. Discussion**

Section 17A(b)(3)(F) of the Act requires that a clearing agency's rules be designed to ensure the safeguarding of securities and funds in its custody or control or for which it is responsible.<sup>5</sup>

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

<sup>2</sup> Letter from John Grebenstein, Executive Director, DCC, to Michele Bianco, Division of Market Regulation, Commission (August 16, 1996).

<sup>3</sup> Securities Exchange Act Release No. 37639 (September 4, 1996), 61 FR 48186.

<sup>4</sup> 17 CFR 240.15c3-1 (1966). The schedule for valuation of government securities is set forth in paragraph (c)(2)(vi)(A)(1) of Rule 15c3-1.

<sup>5</sup> U.S.C. § 78q-1(b)(3)(F) (1988).

While DCC participants trade and maintain inventory in a wide range of U.S. Treasury Securities, they do not always maintain inventory in U.S. Treasury bills. As a result, participants have incurred costs in meeting DCC's requirements that only U.S. Treasury bills could be posted as margin collateral. By expanding the types of collateral DCC will accept for margin purposes, the likelihood that participants will be able to fulfill their margin obligations from inventory is greatly increased. Furthermore, the combination of the highly liquid nature of U.S. Treasury notes and bonds and the haircuts imposed by DCC should allow DCC to accept these securities as margin collateral without adding additional risk to DCC's clearing and settlement operations.

**Conclusion**

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and particularly with Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (File No. SR-DCC-96-09) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-27808 Filed 10-29-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37859; File No. SR-MSRB-96-10]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Reports of Sales and Purchases, Pursuant to Rule G-14**

October 23, 1996.

On August 29, 1996, 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-96-10), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1). 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

<sup>6</sup> 15 U.S.C. § 78s(b)(2) (1988).

<sup>7</sup> 17 CFR 200.30(a)(12) (1996).