

that investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in their Application described herein. Applicants submit that having them file additional applications would impair their ability effectively to take advantage of business opportunities as they arise. Further, Applicants state that if they were required repeatedly to seek exemptive relief with respect to the same issues addressed in the Application described herein, investors would not receive any benefit or additional protection thereby.

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in section 6(c) of the Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that, therefore, the Commission should grant the requested order.

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

**Jonathan G. Katz,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. PA-28; File No. S7-27-99]

### Privacy Act of 1974: Notice of Modifications to a System of Records and the Establishment of a New System of Records

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice of intended modifications to an existing system of records and the establishment of a new system of records.

**SUMMARY:** The Securities and Exchange Commission proposes to modify an existing system of records by excluding records submitted by broker-dealers and to add a new system of records consisting of these broker-dealer records. This proposal reflects the assumption of certain registration functions, including maintenance of broker-dealer registration records in the new Internet-based Central Registration Depository (CRD), by the National Association of Securities Dealers, Inc. (NASD).

Also, the Commission is proposing to make major changes in its "Pay and Leave System (SEC-15)." The changes are designed to reflect the transfer of some of its payroll functions to the National Business Center of the U.S. Department of the Interior (DOI). As a result of the transfer, certain SEC-15 records would become a part of DOI's integrated, automated payroll system.

**DATES:** Comments must be received by January 10, 2000. The proposed changes and the new system of records will take effect January 18, 2000, unless the SEC receives comments that would require a different determination.

**ADDRESSES:** Please send three copies of your comments to Jonathan G. Katz, Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549-0609. You may also send your comments electronically to the following electronic address: rule-comments@sec.gov. All comments should refer to File No. S7-27-99 and, if sent electronically, should include this file number on the subject line. Comment letters will be available for public inspection and copying at our Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. If sent electronically, comment letters will also be available on our Web site (<http://www.sec.gov>).

**FOR FURTHER INFORMATION CONTACT:** Betty A. Lopez, Privacy Act Officer, (202) 942-4320, Office of Filings and Information Services, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

**SUPPLEMENTARY INFORMATION:** The Commission gives notice of major changes to "Applications for Registration/Exemption under the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, and the Investment Company Act of 1940 (SEC-2)," which results in the establishment of a new system—"Broker-Dealer Records (SEC-49)." It also gives notice of major changes to "Pay and Leave System (SEC-15)."

### SEC-2

Currently, the Commission treats paper and microfiche copies of applications for registration by broker-dealers (Form BD) and investment advisers (Form ADV) and their related amendments, withdrawal notices, and other forms as agency records subject to the Privacy Act. Accordingly, the Commission has published and periodically updated a system of records notice for these records, designated as SEC-2. These records contain names of individuals and information about those individuals, such as disciplinary information. However, the current

Privacy Act notice does not address the electronic filing of such forms and new ways of maintaining and retrieving them through any SEC or non-SEC system. The Commission is therefore proposing to transfer broker-dealer records, whether in paper, microfiche, or electronic format, from SEC-2 to the "Broker-Dealer Records" (SEC-49), a new Privacy Act records system. In addition, the Commission is proposing to restate the routine uses in plain English and to delete outdated or redundant uses.<sup>1</sup>

### SEC-15

Moreover, the Commission gives notice of major changes to its "Pay and Leave System (SEC-15)." On June 20, 1999, the Commission transferred some of its payroll functions to DOI. This transfer required the integration of its notices of personnel action and other pay-related records with the DOI's automated payroll and personnel system. The Commission, however, would continue to maintain its electronic payroll files, official personnel files, time and attendance reports, and service history files pertaining to SEC employees. To reflect this development and restate the routine uses of SEC-15 records in plain English, the Commission is proposing major changes to SEC-15.

### SEC-49

On April 30, 1999, the Commission adopted amendments to Form BDW and Rules 15b3-1, 15b6-1, 15Ba2-2, 15Bc3-1, 15Ca1-1, and 15Cc1-1 under the Securities Exchange Act of 1934 (Exchange Act).<sup>2</sup> On July 2, 1999, the Commission adopted amendments to Form BD and Rules 15b3-1, 15Ba2-2, and 15Ca2-1 under the Exchange Act.<sup>3</sup> These amendments require broker-dealers to submit all Form BD amendments and Form BDW withdrawal requests electronically to Web CRD. As a result of these amendments, the NASD, which is responsible for the operation and maintenance of Web CRD, will be the custodian of broker-dealer registration records filed on or after August 16, 1999. As custodian, the NASD must maintain the records in accordance with federal record-keeping requirements.<sup>4</sup> Under 5 U.S.C. 552a(m), the NASD has entered into a Memorandum of Understanding with

<sup>1</sup> See 5 U.S.C. 552a(b), Conditions of Disclosure.

<sup>2</sup> Securities Exchange Act Release No. 41356 (April 30, 1999), 64 FR 25143 (May 10, 1999).

<sup>3</sup> Securities Exchange Act Release No. 41394 (July 2, 1999), 64 FR 37586 (July 12, 1999).

<sup>4</sup> 36 CFR 1220, Federal Records—General, 36 CFR 1222, Creation and Maintenance of Federal Records, and 36 CFR 1234, Electronic Records Management.

the Commission, under which the NASD also assumes, among other things, all responsibilities for compliance with the Privacy Act with respect to those records.

All broker-dealer records on paper and microfiche, received by the Commission before August 16, 1999, will remain in its custody and control and their routine uses are unchanged by the development of the Web CRD.

As 5 U.S.C. 552a(r) requires, the Commission has submitted its reports of the new and the altered systems of records to the Congress and the Office of Management and Budget. This complies with Appendix I to OMB Circular A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," as amended on February 20, 1996.<sup>5</sup>

Accordingly, the Commission proposes to amend SEC-2 and SEC-15 and establish SEC-49, to read as follows:

#### **SEC-2**

##### **SYSTEM NAME:**

Applications for Registration or Exemption under the Investment Advisers Act of 1940 and the Investment Company Act of 1940.

##### **SYSTEM LOCATION:**

SEC, 450 Fifth Street, NW, Washington, DC 20549.

##### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Officers, directors, and other individuals related to investment advisers or investment companies.

##### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, date of birth, address, telephone numbers, social security number, education, past and present employment, disciplinary history, business relationships, and similar information.

##### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

15 U.S.C. 77f, 77g, 77h, 77j, 78l, 78m, 78n, 78o(d), 78p, 79e, 80a-6, 80a-8, 80b-3, and 80b-6a.

##### **PURPOSES:**

To help the SEC staff process applications for registration or exemption and related forms under the Investment Advisers Act of 1940 and the Investment Company Act of 1940 and implement the Federal securities laws and rules.

##### **ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to the conditions of disclosure under 5 U.S.C. 552a(b), the SEC staff may provide these records to:

- (1) Any member of the general public upon request;
- (2) Any Federal, state, local, or foreign government authority or securities self-regulatory organization that is investigating a violation or potential violation of a statute, rule, regulation, or order;
- (3) Any Federal, state, local, or foreign bar association or similar licensing authority responsible for possible disciplinary action;
- (4) Any Federal, state, or local government or governmental authority that is deciding to hire or retain an individual, sign a contract, or issue a license, grant, or benefit;
- (5) Any individual or entity appointed by a court of competent jurisdiction or agreed upon by the parties to a pending court action or administrative proceeding alleging a violation of the Federal securities laws or rules; and
- (6) Any contractor that performs, on the SEC's behalf, services requiring the use of these records.

##### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

###### **STORAGE:**

These records are maintained in paper, microfiche, or electronic format.

###### **RETRIEVABILITY:**

These records are retrievable by the name of, or a file number assigned to, the registrant. Individual name access to these records is available through the SEC's Name-Relationship Search Index.

###### **SAFEGUARDS:**

Non-computer records are maintained in a central records facility that only authorized individuals may access. The facility is locked, with security cameras and 24-hour security guards. Computer records, which are subject to data integrity controls, require passcodes for database access.

###### **RETENTION AND DISPOSAL:**

These records are transferred to the Federal Records Center periodically for storage. They are controlled by file number and retained under 17 CFR 200.80f. Permanent files are sent to the National Archives and Records Administration after a specified storage time at the Federal Records Center.

###### **SYSTEM MANAGER(S) AND ADDRESS:**

Records Officer, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

##### **NOTIFICATION PROCEDURE:**

Requests to determine whether this system of records contains a record pertaining to the requesting individual should be sent to the Privacy Act Officer, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

##### **RECORDS ACCESS PROCEDURES:**

Persons wishing to access or contest these records should write the Privacy Act Officer, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

##### **CONTESTING RECORD PROCEDURES:**

See Records Access Procedures, above.

##### **RECORD SOURCE CATEGORIES:**

Applications for Registration or Exemption and related forms filed with the SEC under the Investment Advisers Act of 1940 and the Investment Company Act of 1940.

##### **EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

#### **SEC-15**

##### **SYSTEM NAME:**

Pay and Leave System.

##### **SYSTEM LOCATIONS:**

(1) Payroll files, official personnel files, time and attendance reports, and service history files: SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413;

(2) Notices of personnel action and other pay-related records: Department of the Interior, National Business Center, Payroll Operations Division, Mail Stop D-260, 7301 West Mansfield Avenue, Lakewood, CO 80235-2230; and

(3) Retired personnel files: National Archives and Records Administration, National Personnel Records Center (Civilian Personnel Records Center), 111 Winnebago Street, St. Louis, MO 63118.

##### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Past and present SEC employees.

##### **CATEGORIES OF RECORDS IN THE SYSTEM:**

Payroll files, time and attendance reports, official personnel files, and service history files.

##### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. app. 21-89.

##### **PURPOSE(S):**

To locate SEC employees and determine such matters as their period of service, type of leave, qualifications, benefits, and pay.

<sup>5</sup> 61 FR 6428, 6435-39.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to the conditions of disclosure under 5 U.S.C. 552a(b), the SEC staff may provide these records to:

- (1) The National Business Center of the U.S. Department of the Interior;
- (2) Any Federal, state, or local government compiling tax withholding, retirement contributions, or allotments to charities, labor unions, and other authorized recipients;
- (3) Any Federal governmental authority or its agents investigating (a) a violation or potential violation of a statute, rule, regulation, or order, or (b) an employee's grievance or complaint;
- (4) Any member of the public for employment verification at an employee's written request;
- (5) Any judgment creditor for the purpose of garnishment;
- (6) Any arbitrator under a negotiated labor agreement;
- (7) The General Accounting Office, the Office of Management and Budget, and other Federal agencies to support payments of salaries and benefits to SEC employees; and
- (8) The Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, the Federal Parent Locator System and the Federal Tax Offset System to (a) locate individuals, (b) identify income sources, (c) establish paternity, (d) verify social security numbers or employment, (e) issue, modify, or enforce orders of support, or (f) administer the Federal Earned Income Tax Credit Program.

**STORAGE:**

Payroll files, official personnel files, and time and attendance reports are kept in paper or electronic format.

**RETRIEVABILITY:**

Official personnel files and payroll files are retrievable by an employee's name or social security number.

**SAFEGUARDS:**

Only authorized employees of the SEC and other Federal government agencies may access these records.

**RETENTION AND DISPOSAL:**

These records are maintained and disposed of under General Records Schedule Nos. 2 and 20 of the General Services Administration.

**SYSTEM MANAGER(S) AND ADDRESS:**

Office of Administrative and Personnel Management, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

**NOTIFICATION PROCEDURE:**

Requests to determine whether this system of records contains a record pertaining to the requesting individual should be sent to the Privacy Act Officer, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

**RECORDS ACCESS PROCEDURES:**

Persons wishing to access or contest these records should write the Privacy Act Officer, SEC, Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

**CONTESTING RECORD PROCEDURES:**

See Record Access Procedures, above.

**RECORD SOURCE CATEGORIES:**

Notices of personnel action, electronic time and attendance records, withholding certificates, and other pay-related records prepared by employees or the Office of Administrative and Personnel Management.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**SEC-49****SYSTEM NAME:**

Broker-Dealer Records.

**SYSTEM LOCATION:**

Records filed before August 16, 1999: SEC, 450 Fifth Street, NW, Washington, DC 20549; and

Records filed on or after August 16, 1999: NASD, 1390 Piccard Drive, Rockville, MD 20850.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Registrants and officers, directors, principal shareholders, or other individuals related to them.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name, address, telephone number, social security number, education, past and present employment, disciplinary history, business relationships, and similar information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

15 U.S.C. 78o.

**PURPOSE(S):**

To help the SEC staff process applications for registration or exemption and related forms under the Securities Exchange Act of 1934 and implement the Federal securities laws and rules.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to the conditions of disclosure under 5 U.S.C. 552a(b), the SEC staff may provide these records to:

(1) Any member of the general public upon request;

(2) Any Federal, state, local, or foreign government authority or securities self-regulatory organization that is investigating a violation or potential violation of a statute, rule, regulation, or order;

(3) Any Federal, state, local, or foreign bar association or similar licensing authority responsible for possible disciplinary action;

(4) Any Federal, state, or local government or governmental authority that is deciding to hire or retain an individual, sign a contract, or issue a license, grant, or benefit;

(5) Any individual or entity appointed by a court of competent jurisdiction or agreed upon by the parties to a pending court action or administrative proceeding alleging a violation of the Federal securities laws or rules; and

(6) Any contractor that performs, on the SEC's behalf, services requiring the use of these records.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

Records filed before August 16, 1999 in the SEC's custody are maintained in paper, microfiche, or electronic formats. Records filed on or after August 16, 1999 in the NASD's custody are maintained in paper or electronic format (Web CRD).

**RETRIEVABILITY:**

These records are retrievable by the name of, or a file number assigned to, the registrant. Individual name access to these records is available through the SEC's Name-Relationship Search Index.

**SAFEGUARDS:**

Non-computer records in the SEC's custody are maintained in a central records facility that only authorized individuals may access. The facility is locked, with security cameras and a 24-hour security guard. Computer records, which are subject to data integrity controls, require passcodes for database access.

**RETENTION AND DISPOSAL:**

The records in the SEC's custody are transferred to the Federal Records Center periodically for storage. They are controlled by file number and retained under 17 CFR 200.80f. Permanent files are sent to the National Archives and Records Administration after a specified storage time at the Federal Records Center. Nine years from their receipt by the NASD, the records in the NASD's custody are transferred to the SEC for proper disposition.

**SYSTEM MANAGERS AND ADDRESSES:**

Records filed before August 16, 1999—Records Officer, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

Records filed on or after August 16, 1999—NASD, 1390 Piccard Drive, Rockville, MD 20850.

**NOTIFICATION PROCEDURE:**

Requests to determine whether this system of records contains a record pertaining to the requesting individual should be sent to the Privacy Act Officer, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

**RECORDS ACCESS PROCEDURES:**

Persons wishing to access or contest these records should write the Privacy Act Officer, SEC Operations Center, 6432 General Green Way, Alexandria, VA 22312-2413.

**CONTESTING RECORD PROCEDURES:**

See Records Access Procedures, above.

**RECORD SOURCE CATEGORIES:**

Applications for registration or exemption and related forms filed with the SEC under the Securities Exchange Act of 1934.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

Dated: December 2, 1999.

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-42192; File No. SR-DTC-99-23]

**Self-Regulatory Organizations; Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Tax Services**

December 1, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 8, 1999, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The

Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The proposed rule change revises the fee structure and clarifies the features of DTC's TaxInfo<sup>SM</sup> service.

**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 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 these statements.<sup>2</sup>

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

DTC TaxInfo<sup>SM</sup> (formerly TAXI) was developed to provide information on withholding tax relief opportunities for DTC-eligible securities for various foreign countries of investment from the point of view of four countries of the investor: U.S., Canada, U.K., and Japan.<sup>3</sup> TaxInfo is currently available on DTC's Participant Terminal System ("PTS") and currently contains information on ten countries of investment from a U.S. investor's perspective. TaxInfo was originally made available to participants in March of 1997 in support of DTC's foreign withholding tax relief service available via the Elective Dividend Service or EDS (which has been renamed TaxRelief<sup>SM</sup> function on PTS with withholding tax information relative to France and the United Kingdom.<sup>4</sup> Additional country documents have been added and updated in 1999, and more will be added over time. The information contained in TaxInfo on PTS is provided to participants so that they

may be able to make informed elections on TaxInfo.<sup>SM</sup><sup>6</sup>

TaxInfo advises participants of the opportunities, risks, and legal conditions for using TaxRelief and provides information on filing tax reclaims. Additional, TaxInfo provides information on tax withholding rates for various investor types (e.g., individuals, mutual funds, pension plans, and charities) as well as information on tax treaties, tax relief processing procedures, and documentation requirements. TaxInfo also provides tax relief information for cross-border portfolio investments and simplifies and expedites tax-withholding research for DTC-eligible securities.

DTC proposes to offer DTC TaxInfo to DTC Participants over DTC's closed website.<sup>7</sup> TaxInfo via the Internet may be used in conjunction with TaxRelief or by itself as a withholding tax information resource. According to DTC, Internet delivery opens up the availability of TaxInfo to a much wider audience for participants because its contents may be accessed via any computer with Internet access rather than requiring a specialized PTS terminal. For example, this increased audience may include participants' internal tax advisory staff and other non-operational areas. Members of DTC's foreign taxes legal working group, who often need to advise their operations staff on DTC related tax matters, have expressed to DTC a need to have a way to access TaxInfo which is more accessible than PTS.

TaxInfo provided via PTS will only relate to countries where DTC has in place a DTC TaxRelief mechanism. The charge for this service will continue to be \$.09 per inquiry.

TaxInfo provided via the Internet will include the same information provided on PTS as well as information on other countries and security types that are not supported by TaxRelief. Additionally, TaxInfo via the Internet will have increased functionality, including the

<sup>6</sup> The following disclaimer relates to DTC TaxInfo<sup>SM</sup>: DTC does not represent or warrant the accuracy, adequacy, timeliness, completeness, or fitness for any particular purpose for the information contained in DTC TaxInfo, which is based in part on information obtained from third parties and not independently verified by DTC and which is provided as is. The information contained in DTC TaxInfo is not intended to be a substitute for obtaining tax advice from an appropriate professional advisor. In providing this service, DTC shall not be liable for (1) any loss resulting directly or indirectly from mistakes, errors, omissions, interruptions, delays, or defects in such service, unless caused directly by gross negligence or willful misconduct on the part of DTC, and (2) any special, consequential, exemplary, incidental, or punitive damages.

<sup>7</sup> DTC's website is located at <http://www.dtc.org>.

<sup>2</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>3</sup> In September 1999, DTC introduced TaxVantage—a new family of tax products. The TaxVantage family includes the following products: TaxReclaim, TaxInfo, and TaxRelief. For a complete description of TaxVantage, refer to DTC's website at <http://www.dtc.org>.

<sup>4</sup> TaxRelief<sup>SM</sup> allows DTC participants to electronically certify shares of record date positions at DTC that are eligible for tax relief opportunities.

<sup>5</sup> Securities Exchange Act Release No. 32171 (April 19, 1993), 58 FR 22003.

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