

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 Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-AMEX-2001-31 and should be submitted by August 1, 2001.

## V. Conclusion

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>21</sup> that the proposed rule change is hereby approved on an accelerated basis on a six-month pilot basis until January 3, 2002.

For the Commission by the Division of Market Regulation, Pursuant to delegated authority.<sup>22</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-17304 Filed 7-10-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44509; File No. SR-DTC-2001-09]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change To Raise Maximum Net Debit Caps and Required Participants Fund Contributions

July 3, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 29, 2001, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change 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 accelerated approval of the proposed rule change.

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

The proposed rule change consists of (i) an increase to \$1.80 billion from \$1.15 billion in the maximum net debit

cap for any participant in the daily money settlement system of DTC, (ii) an increase of \$200 million in the cash deposits to DTC's Participants Fund so that the aggregate amount of the required deposits to DTC's Participants Fund plus the required preferred stock investments of participants will increase to \$600 million from \$400 million and (iii) a decrease in the maximum net debit monitoring level in DTC's Mortgage-Backed Securities Division (the "MBS Division") to \$1.75 billion from \$2 billion.

#### 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 employs several risk management controls in its daily money settlement system to protect DTC and its participants against the risk that a participant will fail to pay its net debit balance. One of those risk management controls is the net debit cap control, which imposes net debit caps on all participants. Each participant's net debit is limited throughout the processing day to a net debit cap that is the lesser of four amounts: (1) A net debit cap based on the average of the three largest net debits that the participant incurs over a rolling 70 business day period, (2) an amount, if any, determined by the participant's settling bank, (3) an amount, if any, determined by DTC or (4) the aggregate of the cash deposits in the Participants Fund plus DTC's committed lines of credit minus a cushion, which amount is currently \$1.15 billion.

Similarly, in the MBS Division each participant's net debit is limited throughout the processing day to a net debit monitoring level. The maximum net debit monitoring level in the MBS Division is the lesser of two amounts: (1) 100% of the total committed lines of

credit available to DTC for the MBS Division (such total currently being \$2 billion) or (2) an amount, if any, determined by DTC.

As trading volumes, particularly money market instruments, have increased, and as associated settlement values have increased, participants increasingly have had to make settlement progress payments, which are funds wired to DTC intraday, in order to avoid having their receipts of securities blocked by their net debit caps. Participants have requested that DTC raise the maximum net debit cap, which would increase operational efficiency for participants.

In order to provide liquidity in the event of a participant's failure to settle with DTC after the proposed increase in the maximum net debit cap, DTC is increasing the amount of the required deposits to the DTC Participants Fund. The required deposits are presently an aggregate of \$325 million in cash and an aggregate of \$75 million in required preferred stock investments. The required cash deposits to the Participants Fund will be increased to \$525 million so that the aggregate amount of the required cash deposits and preferred stock investments of participants will be \$600 million.

DTC and the National Securities Clearing Corporation are also jointly obtaining a committed credit facility to replace their existing separate credit facilities. As part of the new credit facility, the amount of the credit facility supporting DTC's money settlement system will be increased to \$1.75 billion from \$1 billion. This will give DTC aggregate available liquidity resources of \$2.35 billion (*i.e.*, \$1.75 billion credit facility plus \$600 million Participants Fund and preferred stock investments). The amount of the credit facility supporting the MBS Division will be decreased to \$1.75 billion from \$2 billion.<sup>3</sup>

As a result of increasing the aggregate liquidity resources to \$2.35 billion, DTC will be able to increase the maximum net debit cap for any participant to \$1.8 billion from \$1.15 billion.

The proposed rule change is consistent with the requirements of Section 17A of the Act<sup>4</sup> and the rules and regulations thereunder applicable to DTC because the proposed rule change will be implemented consistently with the safeguarding of securities and funds

<sup>3</sup> The decrease in the amount of the credit facility supporting the MBS Division corresponds with a decrease in the volume of transactions being processed through the division and with an effort to more efficiently allocate the amount of credit available to DTC, NSCC, and the MBS Division.

<sup>4</sup> 15 U.S.C. 78q-1.

<sup>21</sup> 15 U.S.C. 78s(b)(2).

<sup>22</sup> 17 CFR 200.30-3(a)(12).

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

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

in DTC's custody or control or for which it is responsible because all of DTC's risk management controls will continue in effect.

*(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*

The proposed rule change has been discussed with several participants. Written comments from participants or others have not been solicited or received on the proposed rule change. In addition to informing participants through this notice and order, all participants will be informed of the proposed rule change by a DTC Important Notice.

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

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.<sup>5</sup> The Commission believes that the proposed rule change is consistent with DTC's obligations under the Act because an increase in DTC's liquidity resources will help DTC protect itself, its participants, and investors from the risks associated with the failure of one or more of its participants to settle their obligation with DTC at the end of a business day. Furthermore, Commission approval of the rule change is consistent with the Commission's past approvals of increases in DTC's liquidity resources and maximum net debit cap.<sup>6</sup> Therefore, the Commission finds that DTC's proposed rule change is consistent with its obligations under Section 17A(b)(3)(F) of the Act.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after

publication of the notice of filing because accelerated approval will permit DTC to immediately increase its liquidity resources.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-2001-09 and should be submitted by August 1, 2001.

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2001-09) be, and hereby is, approved on an accelerated basis.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-17269 Filed 7-10-01; 8:45 am]

**BILLING CODE 8010-01-M**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-44502; File No. SR-GSCC-2001-05]**

**Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding a Participant Rebate Program**

July 2, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on

May 14, 2001, the Government Securities Clearing Corporation ("GSCC") 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 GSCC. 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 purpose of the proposed rule change is to initiate a participant rebate program that will distribute excess income pro rata back to members each calendar quarter based upon their gross fees paid to GSCC.

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

In its filing with the Commission, GSCC included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>2</sup>

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

The purpose of the proposed rule change is to initiate a participant rebate program that will distribute excess income pro rata back to members each calendar quarter based upon their gross fees paid to GSCC. The rebate program is immediately effective and the first rebate, if any, will be paid with respect to activity that took place during the second quarter of 2001.

GSCC states that there is no longer a need to continue to increase GSCC's level of shareholders' equity beyond a \$30 million level since a sustained capital level of \$30 million will be sufficient to provide for: (1) Adequate risk protection and (2) a cushion for temporary decreases in volumes and revenues. Moreover, GSCC expects that it will be able to fund all projects out of current revenues.

GSCC has structured the rebate program so that: (1) Rebates of excess net income will be made on a quarterly basis; (2) the amount of rebate provided to individual members will be based on

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>6</sup> See, e.g., Securities Exchange Act Release No. 40330 (August 17, 1998), 63 FR 45100.

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The Commission has modified parts of these statements.