

options, futures or options on futures on such currency, or any other derivatives based on such currency. The Commission believes that these requirements are designed to minimize the potential for manipulating the underlying currency held by the Units.

In addition, the Units must be traded on a national securities exchange or through the facilities of a registered securities association and, as the Exchange has proposed, must be an "NMS stock" as defined under Rule 600(b)(47) of Regulation NMS.<sup>19</sup> The Units must also either: (1) Meet the criteria and guidelines under CBOE Rule 5.3 (Criteria for Underlying Securities); or (2) be available for creation or redemption each business day from and through the issuing trust, investment company, or other entity in cash or in-kind at a price related to net asset value, and the issuer is obligated to issue Units in a specified aggregate number.<sup>20</sup> The Commission notes that the Exchange has represented that the expansion of the types of investments that may be held by Units will not have any effect on the rules pertaining to position and exercise limits or margin.

Finally, under the proposed change to CBOE Rule 5.4, Interpretation and Policy .08, Units would not be deemed to meet the requirements for continued approval, and the Exchange would not open for trading any additional series of option contracts of the class covering such Units, if, among other things, the Units are delisted in accordance with the terms of CBOE Rule 5.4, Interpretation and Policy .01(f), or the Units are halted from trading in their primary market. The Commission believes that the Exchange's proposal to expand CBOE Rule 5.4, Interpretation and Policy .08 to address the effect of a trading halt or a delisting of the Units is consistent with the protection of investors and the public interest. The Commission also believes that the proposed change by which the Exchange will consider the suspension of opening transactions for Units if the value of the non-U.S. currency on which the Units are based is no longer calculated or available is similarly consistent with the protection of investors and the public interest.<sup>21</sup>

The Commission notes that the Exchange has represented that it has an adequate surveillance program in place for options on Units based on the value of a non-U.S. currency. In addition, the

Exchange is able to obtain currency-related trading information via the ISG from other exchanges who are members or affiliates of the ISG, as discussed above, in connection with options and futures trading on those exchanges.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Exchange has requested accelerated approval because this proposed rule change is based on, and is substantially similar to, a proposal by the ISE that the Commission recently approved.<sup>22</sup> Accordingly, this proposal raises no new or novel regulatory issues that have not been previously considered by the Commission. In addition, the Commission notes that it did not receive any comments on the ISE's proposal. The Commission believes that expanding CBOE Rule 5.3 to encompass options on Units that represent interests in a trust that holds a non-U.S. currency deposited with the trust will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading these products on the CBOE without further delay. Additionally, the proposal contains measures that are designed to minimize the potential for manipulation of the underlying currency held by the Units. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act, to approve the proposal on an accelerated basis.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>23</sup> that the proposed rule change, as amended, (SR-CBOE-2006-74) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>24</sup>

**Nancy M. Morris,**

*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54701; File No. SR-DTC-2006-11]

### Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change To Allow the Inventory Management System To Accept Real-Time and Late Affirmed Trades From Omgeo

November 3, 2006.

#### I. Introduction

On July 11, 2006, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on September 20, 2006, amended proposed rule change SR-DTC-2006-11 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on October 3, 2006.<sup>2</sup> The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description

DTC seeks to expand its Inventory Management System ("IMS") to accept in real-time non-Continuous Net Settlement ("non-CNS") institutional trades from Omgeo LLC ("Omgeo") and to accept late affirmed trades into IMS for automated settlement at DTC.

##### 1. Current Process for IMS

Omgeo's TradeSuite system currently feeds DTC a batch file of approximately 320,000 eligible affirmed institutional trades at approximately 1 p.m. on T+2. Delivering DTC participants then authorize or exempt these trades in IMS for automated settlement to be attempted at DTC. Any trades affirmed after 12 p.m. on T+2 are ineligible for automated settlement at DTC via the TradeSuite interface. These late affirmed trades are typically settled by the broker-dealer or custodian by processing a DTC Delivery Order ("DO"). These DOs experience a higher reclaim rate than deliveries of eligible affirmed trades.

##### 2. Proposed Changes

DTC proposed to enhance its interface with Omgeo to accept eligible affirmed non-CNS trades from Omgeo's TradeSuite system in real-time. Although DTC will receive affirmed

<sup>19</sup> 17 CFR 242.600(b)(47).

<sup>20</sup> See proposed CBOE Rule 5.3, Interpretation and Policy .06(E).

<sup>21</sup> See proposed CBOE Rule 5.4, Interpretation and Policy .08(c).

<sup>22</sup> See Securities Exchange Act Release No. 54087 (June 30, 2006), 71 FR 38918 (July 10, 2006) (SR-ISE-2005-60).

<sup>23</sup> 15 U.S.C. 78s(b)(2).

<sup>24</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 54521 (September 27, 2006), 71 FR 58457.

trades from Omgeo's TradeSuite system in real-time as they are affirmed, participants will still have the ability to process authorizations and exemptions as they do today.

Participants will be able to authorize trades as they are received into IMS through the existing options (*i.e.*, globally or on a trade-for-trade basis). Omgeo will continue to produce the Cumulative Eligible Trade report/file at approximately 1 p.m. on T+2. This batch report/file notifies participants of affirmed Matched Institutional Trades ("MITS") sent to IMS for the following settlement date. However, IMS will continue the current practice of applying a participant's authorization profile for MITS after the midday cut-off on T+2 (at approximately 1 p.m.).

In addition, some new functionality is also being introduced through the enhanced Omgeo and DTC interface. Omgeo will send "late affirmed"<sup>3</sup> trades to IMS. Late affirmed trades will be stored and identified in IMS as a new transaction type, Late Matched Institutional Trades ("LMIT"). These trades are currently ineligible for automated settlement at DTC. This new functionality will allow participants to eliminate settling these transactions as DOs at DTC, which experience a higher reclaim rate than affirmed eligible trades, and will provide for the automated settlement of these transactions.

For the new LMITs, IMS will default to the "active" authorization mode (*i.e.*, deliveries would not be processed unless they are authorized). Unauthorized "late affirmed" trades will remain in IMS until settlement date + 21 days (the current IMS trade retention time frame). For authorized LMIT items, IMS will apply a participant's authorization profile as the items are received from Omgeo. LMITs will bypass DTC's Receiver Authorized Delivery ("RAD") processing as do all Omgeo deliveries.

Omgeo will continue to update IMS and notify DTC participants using a status message of any Change of Eligibility ("COE").<sup>4</sup> COE (*i.e.*, DTC-

eligible to DTC-ineligible) messages will be passed to IMS by TradeSuite up until midnight of T+1. IMS will process COE-related messages on a real-time basis for both authorized and yet to be authorized trades. IMS will "reauthorize" a previously authorized DTC-eligible trade in the event the trade becomes DTC-eligible, again. In addition, an appropriate audit trail will be provided by IMS for participants. Ineligible MITS transactions in IMS will be cancelled at end of day on settlement date.

DTC will charge the following delivery fees for LMITs:

- \$0.17 (current "night DO" fee) if authorized by the participant before the night cycle.
- \$0.45 (current "day DO" fee) if authorized by the participant after the night cycle.
- \$0.006 per delivery (current IMS delivery fee) for every trade that is processed through the IMS authorization profile.

Participants that currently submit machine-readable authorization/exemption instructions can choose to continue to process their Omgeo deliveries as they do today. The proposed change is scheduled to be implemented in November 2006.

### III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.<sup>5</sup> The Commission finds that DTC's proposed rule change is consistent with this requirement because it should promote the prompt and accurate clearance and settlement of securities transactions by enhancing the IMS interface with Omgeo to accept eligible affirmed trades from Omgeo's TradeSuite system in real-time and to accept late affirmed trades into IMS for automated settlement at DTC. In addition, the proposed rule change

resent to IMS by Omgeo with an indicator that it is now Ineligible (IMS status updated to ineligible). A trade may become ineligible for DTC settlement processing if prior to settlement date, the participant, security, or ID agent become ineligible for DTC processing.

(3) If a previously sent DTC eligible trade changed to ineligible becomes eligible for settling at DTC, again, the trade is re-sent to IMS by Omgeo with an indicator that it is now eligible (IMS status is updated to eligible from ineligible).

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

should provide for the equitable allocation of reasonable dues, fees, and other charges among DTC's members as required by Section 17A(b)(3)(D).<sup>6</sup>

### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2006-11) be and hereby is approved.

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

Nancy M. Morris,  
Secretary.

[FR Doc. E6-18958 Filed 11-8-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54682; File No. SR-FICC-2006-15]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Modify its Rules To Diversify and Standardize Clearing Fund Collateral Requirements Across the Divisions To Improve Liquidity and Minimize Risk for its Members

November 1, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 4, 2006, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by FICC. 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 seeks to modify the rules of both of the Government Securities Division ("GSD") and the Mortgage-Backed Securities Division ("MBS")

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(D).

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

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Late affirmed trades are defined as trades affirmed after the 12:00 p.m. cutoff on T+2 until 12:00 p.m. on settlement date.

<sup>4</sup> COE-related messages can be sent for the following reasons:

(1) When a DTC eligible trade changes to CNS eligible, the trade is resent to IMS by Omgeo with an indicator that it is now ineligible (IMS status becomes ineligible). Omgeo will then send the trade to NSCC for settlement in CNS. A trade can become CNS eligible after being DTC eligible, if the security, ID agent (a prime broker), clearing agent, and clearing broker all are CNS eligible.

(2) When a DTC eligible trade subsequently becomes ineligible for settling at DTC, the trade is