

7. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, if and to the extent such exemption is 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. For the reasons stated above, applicants believe that the requested exemption meets the standards set forth in section 6(c) of the Act and would be in the best interests of the Funds and their shareholders.

Applicants' Condition

Applicants agree that the order granting the requested relief shall terminate with respect to a Fund upon the effective date of a registration statement under the Securities Act of 1933 for any future public offering by a Fund of its shares other than: (1) a rights offering to shareholders of the Fund, provided that (a) if the rights are exercisable between the date a dividend to the Fund's shareholders is declared and the record date of the dividend, each offeree is provided prominent disclosure of the tax effect if the offeree exercises the rights and a portion of the dividend consists of long-term capital gains, and (b) the Fund has not engaged in more than one rights offering during any given calendar year; and (2) an offering in connection with a merger, consolidation, acquisition, or reorganization of a Fund; unless applicants have received from the staff of the Commission written assurance that the order will remain in effect.

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. 34-40445; International Series Release No. 1157; File No. SR-DTC-98-19]

Self-Regulatory Organizations; The Depository Trust Company; Notice of a Proposed Rule Change Relating to the Enhancement of the Current Link With Deutsche Borse Clearing AG

September 16, 1998.

Pursant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),¹ notice is hereby given that on September 15, 1998, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a 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 from interested persons on the proposed rule change.

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

Under the proposed rule change, DTC will open a free of payment omnibus account at Deutsche Borse Clearing AG ("DBC"), which currently has a participant account at DTC, in order to create a two-way interface between DTC and DBC.

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 such statements.²

(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 facilitate the efficient processing of cross-border securities transactions between participants of DTC and DBC. Under the proposed rule change, DTC will open an omnibus account at DBC in order to create a two-way interface between DBC and DTC. This will enable efficient inventory positioning by participants of DTC and DBC that is needed to settle securities transactions at either DTC or DBC.³ The two-way interface would allow, but would not require, DTC positions in

DBC-eligible issues to be held in DTC's account at DBC.

Under the existing link between DTC and DBC, DBC has an omnibus account at DTC which enables DBC to effect book-entry transactions with other DTC participants. The current link allows DBC and its participants to use the custody, book-entry, and delivery services of DTC for transactions involving securities eligible in both systems. The current link allows a DTC participant to settle, on a free of payment basis, a cross-border transaction with a DBC counterparty by making a book-entry delivery from its participant account at DTC to the DBC omnibus account at DTC and by identifying the DBC participant account to which the delivered securities should be credited. However, the current link limits book-entry deliveries from a DBC participant to a DTC counterparty by requiring that the securities be physically held at DTC. A DBC participant is therefore not able to deliver by book-entry means positions held in its account at DBC.

DTC anticipates that once German ordinary shares are made DTC-eligible, the existing link between DTC and DBC will be inadequate. A DBC participant attempting to deliver such shares in settlement of a trade with a DTC counterparty may have sufficient position in its account at DBC, but unless DBC has sufficient position in its account at DTC, settlement could not occur through the existing link. The DBC participant would be required to physically withdraw the securities from DBC in order to make a physical deposit at DTC. Unless participants of DTC and DBC are able to interconnect their respective inventories at the two depositories via book-entry movements, same-day delivery of securities may not be possible. As a result, a participant may incur certain expenses associated with its failure to deliver. Additionally, the costs and risks associated with physically withdrawing and transporting certificates for purposes of redepositing them at DTC, which involves reregistration and forwarding of certificates to the U.S., can be significant.

The proposed enhancement (*i.e.*, opening a DTC free of payment omnibus account at DBC and thereby creating a two-way interface) would substitute book-entry movements for physical movement of securities when west-bound movements of securities occur between DBC and DTC and would eliminate costs and risks associated with physical movement. A DBC participant would be able to settle, on a free of payment basis, a cross-border

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by DTC.

³ Currently, the only DTC-eligible German issues are in the form of American Depositary Receipts or Global Depositary Receipts. However, DTC anticipates that the securities of DaimlerChrysler AG, the successor company formed by the proposed merger of Daimler-Benz Aktiengesellschaft and Chrysler Corporation, will be made DTC-eligible prior to November 1998.

transaction with a DTC counterparty by making a book-entry delivery from its participant account at DBC to the DTC omnibus account at DBC and by identifying the DTC participant account to which the delivered shares should be credited. The receiving DTC participant could then redeliver on a free or versus payment basis within DTC. There would be no need for transporting physical certificates to DTC.

Under the proposal, DBC would, if required, provide subcustody services such as income collection, maturity presentments, and reorganization processing on securities held in DTC's omnibus account at DBC in accordance with DBC procedures as DTC currently does on securities held by DTC on behalf of DBC. Whether DTC is holding its underlying inventory in Germany or in the U.S., DTC services to participants would be the same as currently provided.

According to DTC, the primary benefits of opening an omnibus account at DBC are: (i) avoidance of failed transactions on the trade settlement date as a result of delays resulting from the current link;⁴ (ii) elimination of most physical movements of German securities between DBC, DTC, and U.S. and German transfer agents and the costs and risks associated with such movements; and (iii) reduction of costs to DTC and DBC participants related to (i) and (ii). The realization of these benefits is consistent with DTC's objectives of providing efficient book-entry clearance and settlement facilities and of reducing risk to DTC participants by immobilizing certificates.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(A) of the Act⁵ and the rules and regulations thereunder because the proposed enhancements will reduce risks and associated costs to participants of DTC and DBC by streamlining the processing of cross-border securities transactions between U.S. and German entities.

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

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments from DTC participants 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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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. 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-98-19 and should be submitted by October 14, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40442; File No. SR-PCX-98-43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to OptiMark Pricing

September 16, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 8, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The PCX proposes to change its Schedule of Fees and Charges for Exchange Services by adding OptiMark transaction charges. The text of the proposed rule change is available at the Office of the Secretary, PCX and at the Commission.

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

In its filing with the Commission, PCX 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. PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Background. OptiMark is an electronic communications and information system operated by OptiMark Services, Inc., to support trading services offered by the Exchange. The OptiMark System is a computerized, screen-based trading service intended for use by Exchange

⁴ As noted above, DTC anticipates that this will become a problem once German securities are made DTC-eligible.

⁵ 15 U.S.C. 78q-1(b)(3)(A).

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).