

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42010; File No. SR-Amex-99-35]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC to Rescind Exchange Rule 106

October 14, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 1, 1999, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 Exchange proposes to rescind Exchange Rule 106, "Substitute Principal," in its entirety. The Exchange believes that Rule 106 no longer serves any purpose and may allow parties to Exchange contracts to break trades without appropriate justification. The text of the proposed rule change is available at the Exchange 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, the Exchange 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 Items IV below. The Exchange 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 106 currently provides that: "No party to a contract shall be compelled to accept a substitute

principal unless the name proposed to be substituted was declared in, and as part of, the bid or offer giving rise to the contract." Although the Exchange traces Rule 106 back to the 1921 Constitution of the New York Curb Market,³ a predecessor of the Exchange, the Exchange could not determine the original purposes of Rule 106. While the original rationale underlying Rule 106 is unknown, an exchange member recently invoked Rule 106 to attempt to renege on a contract when the member's counterparty initially provided an incorrect give-up, and later sought to correct the error by substituting the name of the correct clearing member.

The Exchange believes that Rule 106 is an artifact of another era and no longer serves any useful purpose in view of modern comparison and settlement facilities. The Exchange further believes that the substitution of the National Securities Clearing Corporation as the contraside to every compared trade and the clearing corporation guarantee obviate any former need that Exchange members may have had to maintain control overtrading counterparties. Because Rule 106 may have the pernicious effect of permitting parties to Exchange contracts to break trades without appropriate justification, the Exchange believes that Rule 106 should be deleted in its entirety.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Section 6(b)(5),⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices; promote just and equitable principles of trade; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; remove impediments to and perfect the mechanism of a free and open market and a national market system; protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

³ Section 7 of Article XXIV of the 1921 Constitution of the New York Curb Market stated: "No party to a contract shall be compelled to accept a substitute principal, unless the name proposed to be substituted shall be declared in making the offer and as a party thereof."

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Within 35 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 90 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 the Exchange 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, N.W., Washington, D.C. 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, N.W., Washington, D.C. 20549-0609. 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-Annex-99-35 and should be submitted by November 12, 1999.

¹ 15 U.S.C. 78s(b)(1)

² 17 CFR 240.19b-4.

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

Jonathan G. Katz,

Secretary.

[FR Doc. 99-27603 Filed 10-21-99 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42013; File No. SR-DTC-99-11]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Liability With Respect to Affiliated Entities

October 15, 1999.

On May 12, 1999, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-99-11) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on August 3, 1999.² On August 9, 1999, DTC amended the proposed rule change.³ No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The Boards of Directors of DTC and the National Securities Clearing Corporation ("NSCC") have initiated a plan to integrate DTC and NSCC. As a step in the integration plan, a holding company has been established which will own DTC and NSCC as operating subsidiaries.⁴ DTC has informed the Commission that a consideration in the DTC/NSCC integration plan is to insulate DTC and NSCC from the risks and obligations of the other.

The rule change adds a new section 7 to DTC Rule 2 to provide that notwithstanding any affiliation between DTC and any other entity, including any clearing agency, except as otherwise expressly provided by written agreement: (1) DTC shall not be liable for any obligations of such other entity; (2) the participants fund or other assets of DTC shall not be available to such

other entity; (3) such other entity shall not be liable for any obligations of DTC; and (4) any assets of such other entity shall not be available to DTC. The Commission has approved similar revisions to NSCC's rules.⁵

As a separate matter, DTC's rules currently provide that if it were to cease providing some or all of its services, DTC's participants fund would be available to cover any DTC wind down costs not otherwise defrayed by service fees or other available resources. The rule change amends Section 1 of DTC Rule 4 to make it clear that the required funds deposits of participants would be increased if necessary to cover such costs.

II. Discussion

Section 17A(b)(3)(F) of the Act⁶ requires that the rules of a clearing agency assure the safeguarding of securities and funds which are in the custody of control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule change is consistent with DTC's obligations under Section 17A(b)(3)(F) because it should ensure that DTC's assets, including its participants fund, are not diminished as a result of its affiliation with NSCC. In addition, the proposed rule change should ensure that DTC would have available to it funds sufficient to cover its costs if it were to voluntarily cease operations. This should help to ensure that any voluntary liquidation of DTC would be carried out in an orderly manner.

III. Conclusion

On the basis of the foregoing, the Commission finds that DTC's proposal is consistent with the requirements of the Act and in particular with the requirements of 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-99-11) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Jonathan G. Katz,

Secretary.

[FR Doc. 99-27600 Filed 10-21-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42020; File No. SR-DTC-99-21]

Self-Regulatory Organizations; The Depository Trust Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Charges

October 15, 1999.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on September 29, 1999, The Depository Trust Corporation ("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 from interested persons on the proposed rule change.

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

The proposed rule change revises DTC's fee schedule to add a fee for training customers on DTC's TradeSuite[®] software at the customer's office.

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 establish fees for training customers at the customers' sites on DTC's TradeSuite[®] software.³ DTC's windows-based TradeSuite software is available for investment managers,

¹ 15 U.S.C. § 78s(b)(1).

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

³ The TradeSuite[®] training fee will be \$650 for the first training day at the customer's site and \$350 for each subsequent training day at the customer's site.

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 41663 (July 27, 1999), 64 FR 42157.

³ The amendment represented technical amendments to the proposed rule change and as such did not require republication of notice.

⁴ For a description of the holding company structure, refer to Securities Exchange Act Release No. 41786 (August 24, 1999), 64 FR 47882 [File No. SR-DTC-99-17].

⁵ Securities Exchange Act Release No. 42014 (October 15, 1999), [File No. SR-NSCC-99-07]

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 17 CFR 200.30-3(a)(12).