

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 at the Commission's Public Reference Room.

Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-00-09 and should be submitted by April 28, 2000.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42597; File No. SR-DTC-99-26]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Enhancement of Custody Reorganization and Redemption Services

March 30, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 27, 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 would implement the short-term redemption service as an ancillary service of the custody reorganization and redemption 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

The purpose of the proposed rule change is to implement the short-term redemption service. The short-term redemption service will enhance the custody reorganization and redemption services, which are a part of DTC's custody service. DTC believes that the proposed rule change will provide its participants with additional flexibility in their use of the custody reorganization and redemption services.<sup>3</sup>

The short-term redemption service will be available for the following instruments as they are handled within the custody reorganization and redemption services: certificated bankers acceptances, municipal variable-rate demand obligations issued in commercial paper mode, institutional certificates of deposit, and other instruments held in custody which must be presented to the paying agent on, but not before, the scheduled payable date with the agent making payment of principal or income proceeds later that same afternoon, which is too late for processing through DTC's settlement system. Some instruments may also have certificates with different payable dates identified by the same CUSIP number.

Under the short-term redemption service, the payable date and other relevant payment details are captured at

the certificate level by DTC when the eligible instruments are deposited into custody. A short-term redemption payment projection report detailing instruments with payable dates within the next five business days is produced daily and forwarded to the participant. It is the participant's responsibility to verify the completeness and accuracy of this report and to immediately notify DTC of any discrepancies (e.g., a security payable within the next five days is not shown on the report or an incorrect paying agent name or address is shown on the report). Securities shown on the projection report are automatically routed by DTC to the short-term redemption prep box. DTC then arranges for the securities to be delivered to the paying agent on the payable date. The securities are accompanied by a letter of transmittal instructing the agent to wire the proceeds directly to the bank account designated by the participant for this purpose. It is the participant's responsibility to follow-up with the agent to ensure timely payment and reconcile any payment discrepancies.

The fee per item for this enhanced service is \$32.25, which fee is an aggregate of several custody service fees previously filed with DTC's 1999 fee schedule.<sup>4</sup>

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>5</sup> and the rules and regulations thereunder because the proposal will give participants greater flexibility in use of the custody reorganization and redemption services. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible since the operation of the custody reorganization and redemption services, as modified by the proposed rule change, will be similar to the current operation of the function.

##### (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 developed through discussions with several participants. Written comments

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

<sup>3</sup> Securities Exchange Act Release No. 37314 (June 21, 1996), 61 FR 31989.

<sup>4</sup> Securities Exchange Act Release No. 41508 (June 17, 1999), 64 FR 32574.

<sup>5</sup> 15 U.S.C. 78q-1.

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

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

relating to the proposed rule change have not yet been solicited or received on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) <sup>6</sup> of the Act and Rule 19b-4(f)(4) <sup>7</sup> promulgated thereunder because the proposal effects a change in an existing service of DTC that does not adversely affect the safeguarding of securities or funds in the custody or control of DTC and that does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### 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-99-26 and should be submitted by April 28, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42584; File No. SR-DTC-99-22]

### Self-Regulations Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Revisions to the Procedures for Running Call Lotteries for Book Entry Only Securities

March 28, 2000.

On September 23, 1999, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-99-22) 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 December 28, 1999.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### I. Description

Currently, DTC's call lottery process allocates called book-entry only ("BEO") securities among participants having positions in the called securities as of the close of business on the day DTC announces the call lottery ("DTC call announcement date"). DTC adopted these procedures in March 1998 with the approval of the Commission and the endorsement of the Corporate Actions Division of the Securities Industry Association ("Corporate Actions Division").<sup>3</sup> Prior to March 1998, DTC ran its lotteries based on participants' positions as of the close of business on the day prior to the publication date ("call publication date").<sup>4</sup>

<sup>8</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. 42257 (Dec. 20, 1999), 64 FR 72709 (Dec. 28, 1999).

<sup>3</sup> See Securities Exchange Act Release No. 39658 (Feb. 12, 1998), 63 FR 8726 (Feb. 20, 1998) [File No. SR-DTC-97-14].

<sup>4</sup> For a history of DTC's call lottery process, refer to Securities Exchange Act Release Nos. 21523 (Nov. 27, 1984), 49 FR 47352 [File No. SR-DTC-84-09] (notice of filing and immediate effectiveness of proposed rule change); 30552 (Apr. 2, 1992) 57 FR 12352 [File No. SR-DTC-90-02] (order temporarily approving a proposed rule change by DTC relating to the establishment of a procedure to recall certain deliveries which have created short positions as a result of call lotteries); 35034 (Nov.

At times, DTC receives notice of a call of BEO securities after the redemption date. Under DTC's current BEO call lottery procedures, the DTC call announcement date in such a situation will necessarily be after the date as of which the called securities are deemed to have been redeemed by the issuer. Use of the DTC call announcement date in these instances can have an adverse impact on participants and their customers who have acquired a security position during the period between the redemption date and the DTC call announcement date because they have acquired the called security without notice that the security has been redeemed. Therefore, for call notices received after the redemption date, DTC is amending its BEO securities call lottery procedures so that the allocation lotteries will be run using participants' positions as of the close of business on the day prior to the call publication date. Use of the call publication date to determine lottery allocations for calls of BEO securities where DTC receives notice of the call after the redemption date is consistent with DTC's procedures for lotteries in certificated issues. Allocation lotteries for other calls of BEO securities, where notice is received on or before the redemption date, will continue to be run using participant's positions as of the DTC call announcement date.

#### II. Discussion

Section 17A(b)(3)(F) <sup>5</sup> 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. The Commission believes that DTC's rule change is consistent with DTC's obligations under the Act because the new procedures will mitigate the negative impact of calls of BEO securities that are processed through DTC's lottery process where DTC receives the notification of the call after the redemption date.

30, 1994) 59 FR 63396 [File Nos. SR-DTC-94-08 and SR-DTC-94-09] (order granting temporary approval of proposed rule changes to establish procedures to recall certain deliveries which have created short positions as a result of call lotteries and rejected deposits); 36651 (Dec. 28, 1995) 61 FR 429 [File No. SR-DTC-21] (order granting accelerated permanent approval of a proposed rule change concerning short position reclamation procedures); and 39658 (Feb. 20, 1998) 63 FR 8726 [File No. SR-DTC-97-14] (order approving proposed rule change regarding call lottery procedures for BEO securities).

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>7</sup> 17 CFR 240.19b-4(f)(4).