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Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Principal and Income Payments to Participants

February 13, 1996

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 23, 1996, 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 persons.

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 clarify and restate several procedures related to DTC's payment of principal and income ("P&I") to participants.

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 clarify and restate DTC procedures for the payment of P&I in light of the planned conversion of DTC's money settlement system to an entirely

same-day funds settlement ("SDFS") system.

In the current next-day funds settlement ("NDFS") and SDFS systems, DTC often earns interest overnight on P&I payments received by DTC on the payment date in same-day funds and paid to participants in next-day funds. At the end of each month, DTC distributes or refunds that month's overnight interest earnings to participants on a pro rata basis.³ After DTC converts entirely to an SDFS system, which conversion is scheduled for February 22, 1996, it will normally pay P&I in same-day funds. Because overnight interest on such payments will decrease dramatically, monthly refunds to participants correspondingly will be much smaller. When interest is earned due to exceptional conditions, DTC will distribute refunds to its participants in conformity with its present rule.

Currently, DTC sometimes credits participants in next-day funds on the payable date for P&I payments not yet received. In many cases, the money is received in same-day funds after DTC has settled with its participant but before the end of the business day on the payable date. Consequently, the money is available for next-day funds payments to participants on the payable date. After the conversion to an entirely SDFS system, P&I payments made after 2:30 p.m. (eastern standard time) on the payable date may be received by DTC too late to fund payments to participants in a net credit position but early enough to avoid the need for an overnight borrowing. DTC has extensive historical business records of its dealings with paying agents and has developed a model to predict which late P&I payments received after DTC's settlement should nevertheless come in early enough to avoid the need to borrow overnight. Based upon this historical mode, in some cases of late P&I payments DTC will make a final

³ For a description of DTC's P&I payment refund procedures, refer to Securities Exchange Act Release Nos. 17203 (October 8, 1980), 45 FR 68817 [File No. SR-DTC-80-06] (notice of filing and immediate effectiveness of a proposed rule change implementing a refund policy); 23219 (May 8, 1986), 51 FR 17845 [File No. SR-DTC-86-03] (notice of filing and immediate effectiveness of a proposed rule change modifying procedures for crediting corporate cash P&I payments); 23686 (October 7, 1986), 51 FR 37104 [File No. SR-DTC-86-04] (order approving a proposed rule change modifying DTC's procedures regarding crediting P&I payments, charging back P&I payments, and refunding dividend investment income to paying agents); and 25869 (June 30, 1988), 53 FR 25557 [File No. SR-DTC-88-08] (notice of filing and immediate effectiveness of a proposed rule change modifying procedures to allocate to participants P&I payments on SDFS securities in next-day funds on payable date).

allocation at approximately 4:00 p.m. to participants for such P&I payments in anticipation of receipt of good funds (*i.e.*, same-day funds) from the paying agent later on that same business day. In order to do so, DTC has to be prepared to take out an intraday or overnight loan when necessary. Therefore, DTC will commit to a line of credit. The commitment cost will be charged to participants monthly on a pro rata basis based on the P&I payments each participant received during the previous calendar year or other reasonably determined period. This commitment charge will be assessed whether or not borrowing was necessary during that month. On occasions when there is borrowing, the interest cost of the loan will be assessed on a pro rata basis among participants receiving payments on the payable date(s) that were funded by such borrowing. Each participant will receive a statement that will identify issues and/or issuers and their agents that paid DTC late and the participant's share of the interest cost for each one.

DTC believes that the proposed rule change is consistent with Section 17A of the Act⁴ and the rules and regulations thereunder because it will provide for the equitable allocation of dues, fees, and other charges among participants.

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

DTC does not believe that the proposed rule change will have an impact on or impose a burden on competition 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

In 1990, after reviewing the recommendations of the Group of Thirty,⁵ the U.S. Working Committee, Group of Thirty, Clearance and Settlement Project concluded, among other things, that depositories should pay dividends, interest, redemption, and reorganization payments to their

⁴ 15 U.S.C. 78q-1 (1988).

⁵ The Group of Thirty was established in 1978 as an independent, nonpartisan, nonprofit organization composed of international financial leaders whose focus is on international economic and financial issues. In March 1989, the group approved a report setting forth nine recommendations for improving and harmonizing securities clearance and settlement systems in the world's principal markets. Group of Thirty, Clearance and Settlement Systems in the World's Securities Markets (March 1989).

¹ 15 U.S.C. 78s(b)(1) (1988).

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

participants in same-day funds.⁶ In August 1993, the report of the Same-Day Funds Payment Task Force to the U.S. Working Committee, Group of Thirty, Clearance and Settlement Project issued its report ("Task Force Report") on how to achieve this goal.⁷

In July 1994, DTC distributed its document entitled "Same-Day Funds Settlement System Conversion," which states, "Participants should be mindful that once DTC's conversion to same-day funds settlement takes place, both the dividend and interest and the reorganization refunds will substantially decline and change in nature."⁸ In December 1994, DTC discussed the Task Force Report in a memorandum to participants and others. Among other things, DTC stated that it was "exploring temporarily borrowing funds not received from agents by 2:30 p.m." eastern standard time and that "DTC reports will identify for participants certain relevant information concerning the resulting interest expense."⁹

This proposed rule change for refunds and borrowing was also discussed in many other publications that DTC sent to participants and others. In the fall of 1995, DTC sent a customized letter to each participant "to assist [the participant] in assessing the impact of the SDFS conversion on [the participant's] 1995 budget."

No comments have been received by DTC. Interested persons previously submitted comments to the U.S. Working Committee in response to the 1993 Task Force Report.

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

The foregoing rule change has become effective pursuant to Sections 19(b)(3)(A)(i) and (ii)¹⁰ of the Act and pursuant to Rules 19b-4(e)(1) and (2)¹¹ promulgated thereunder in that the proposal constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, and the proposal also establishes a due, fee, or other charge. At any time within sixty

days of the filing of such 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. 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 Room, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-96-02 and should be submitted by March 12, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Stock Exchange Incorporated Relating to a Program To Display Price Improvement on the Execution Report Sent to the Entering Firm

February 12, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on January 31, 1996, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") 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 by the self-regulatory organization. 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 PSE is proposing to implement a program that will calculate and then display on the execution reports sent to member firms, the dollar amounts realized as savings to their customers as a result of price improvement in the execution of their orders on the Exchange.

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 self-regulatory organization 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. The self-regulatory organization 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

The purpose of the proposed rule change is to implement a program for calculating and displaying on execution reports sent to member firms entering orders, the dollar value saved by their customers as a result of price improvement of orders executed on the PSE. This program does not in any way affect the actual execution of orders. The Exchange is proposing to refer to this calculated dollar savings as the "NATIONAL BESTSM."

The NATIONAL BEST will be made available for intra-day market orders entered via the Exchange's P/Coast system¹ that are not tick sensitive and are entered from off the Floor.¹ The NATIONAL BEST (amount of price improvement) is calculated in

SM NATIONAL BEST is a service mark of the Chicago Stock Exchange, Inc.

¹ The NATIONAL BEST program will entail enhancements to the Exchange's CMS (common message switch) and P/COAST System.

² Also excluded from the NATIONAL BEST feature are orders received when the spread between the national best bid and offer is one minimum variation, and floor broker orders.

⁶ "Implementing the Group of Thirty Recommendations in the U.S.," U.S. Working Committee, Group of Thirty, Clearance and Settlement Project (November 1990).

⁷ "Report of the Same-Day Funds Payment Task Force to the U.S. Working Committee," U.S. Working Committee, Group of Thirty, Clearance and Settlement Project (August 1993).

⁸ The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 29, 1994).

⁹ The Depository Trust Company, Memorandum to Participants (December 5, 1994).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(i) and (ii) (1988).

¹¹ 17 CFR 240.19b-4(e)(1) and (2) (1995).

¹² 17 CFR 200.30-3(a)(12) (1995).