

and such failure was without sufficient justification or excuse, then the arbitrators have the authority to award up to two times the amount of the brokerage bill, in addition, to whatever determinations the arbitrators may ordinarily make concerning arbitration fees, interest, and attorney's fees or other expenses.]

\* \* \* \* \*

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

In its filing with the Commission, CBOE 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 CBOE 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, Proposed Rule Change

The purpose of this rule change is to revise certain Exchange rules governing arbitration procedures. First, the authority of the Director of Arbitration to appoint the arbitration panels in disputes between members will be codified. Currently, paragraph (a) of CBOE Rule 18.2 specifies that the Chairman of the Arbitration Committee shall appoint the arbitration panel. However, in practice, the Chairman of the Arbitration Committee delegates the authority to select the panel to the Director of Arbitration, the Exchange employee charged with administering CBOE's arbitration forum. Therefore, this change would conform the rule to current practice. It should also be noted that in disputes between non-members and members or persons associated with members, the Director of Arbitration is authorized, under Exchange Rules 18.4 and 18.10, to appoint a sole arbitrator and the members of an arbitration panel. Thus, this rule change will make the rules governing the selection of arbitrators consistent.

A second change would more closely conform Rule 18.2 with a rule governing arbitrations in non-member disputes. Rule 18.12, *Challenges*, authorizes the Director of Arbitration to award additional peremptory challenges and to extend the time for exercising peremptory challenges. Paragraph (b) of Rule 18.2 would be changed to grant the Director of Arbitration the right to deny

peremptory challenges in member disputes, if both the Director and the Chairman of the Arbitration Committee agree that the number of such challenges has been unreasonable. In addition, paragraph (b) would set a five business day time limit for notifying the Director of Arbitration concerning peremptory challenges. Paragraph (b) would also state that there may be unlimited challenges for cause, consistent with Rule 18.12.

Existing paragraph (c) of Rule 18.2 is proposed to be deleted because the fees are already more completely governed by Rule 18.33, *Schedule of Fees*. In addition, the second sentence of existing paragraph (c) of Rule 18.2, which concerns the retention of \$50 of the filing deposit, is superseded by and inconsistent with paragraph (a) of Rule 18.33 which states that the filing fee is non-refundable.

Rule 18.34 will be deleted, and its provisions will be incorporated into Rule 18.2 as new paragraph (c). This change will combine in a single rule, related provisions governing procedures in member controversies.

Finally, a few editorial revisions, for clarification purposes, are proposed to be made to current paragraph (e), and that paragraph will be re-lettered as paragraph (d).

The proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and the protection of investors and the public interest by improving the administration of an impartial arbitration forum for the resolution of disputes between members, persons associated with members and public investors.

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

CBOE does not believe that the proposed rule change will impose any burden on competition.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

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

This proposed rule filing has been filed by the Exchange as a "noncontroversial" rule change pursuant to paragraph (e)(6) of Rule 19b-4. Consequently, the rule change

will become operative thirty days after the filing of this rule proposal.

At any time within 60 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. Copies of the filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR-CBOE-95-61 and should be submitted by December 8, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 95-28400 Filed 11-16-95; 8:45 am]

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[Release No. 34-36476; File No. SR-DTC-95-16]

## Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Modification of DTC's Reclamation Procedures

November 9, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on August 23, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

change (File No. SR-DTC-95-16) as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

#### 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 modify DTC's reclamation procedures as part of the conversion of DTC's money settlement system to an entirely same-day funds settlement ("SDFS") system. The proposed rule change will affect reclamations that are processed in both the SDFS system and the next-day funds settlement ("NDFS") system.<sup>2</sup> The revisions include (1) extending the period DTC will match reclaims with deliveries from the business day the reclaim is submitted to the business day the reclaim is submitted and the prior business day and (2) processing unmatched reclaims instead of rejecting them.

#### 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 that 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.<sup>3</sup>

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

DTC planned to implement modifications to its reclamation procedures in the second quarter of 1995, but the implementation was postponed until the third quarter of 1995 at the request of participants.<sup>4</sup> Some participants were concerned that the modified reclamation procedures would be implemented at a time when the number of reclamations might

increase as a result of the implementation of the shortened settlement time frame required under Commission Rule 15c6-1, which became effective on June 7, 1995.<sup>5</sup>

Furthermore, after additional discussions with participants, The Cashiers Association of Wall Street, the Securities Lending Division of the Securities Industry Association, and the New York Clearing House Association, DTC revised the planned modifications to the reclamation procedures as discussed below. The revisions include (1) extending the period for matching reclaims with deliveries from the business day the reclaim is submitted to the business day the reclaim is submitted and the prior business day and (2) process unmatched reclaims instead of rejecting them.

The reclaim matching period is the period in which DTC's system will search for the original securities delivery or payment order being reclaimed in order to determine whether the reclaim should be processed as a matched reclaim or as an unmatched reclaim. The original version of the revised reclaim procedures provided for a reclaim matching period of sixty business days in certain cases. DTC later concluded that almost all reclaims are likely to be matched using two business days, and any complications presented by a longer period for matching reclaims are unnecessary. Therefore, under the proposed rule change DTC will attempt to match reclaims to transactions processed either on the same day the reclamation is entered or on the prior business day. All reclaims with a corresponding original transaction that completed on the current or the preceding business day will be processed as "matched reclaims."

Matched SDFS reclaims will not be subject to Receiver-Authorized Delivery ("RAD") processing, which means that the receiver of a matched SDFS reclaim will not have the opportunity to review and approve the reclaim before it is processed. All matched SDFS reclaims with a settlement value less than \$15 million will not be subject to participants' risk management controls (i.e., collateral monitor and net debit caps). Matched SDFS reclaims with a settlement value of \$15 million or more will be subject to normal risk management controls.

The receiver of a matched reclaim will not be able to enter a reclaim reversal through DTC's automated

reclamation facility. If a matched reclaim needs to be reversed, it must be entered through the free form mode and it will be treated as an unmatched reclaim.<sup>6</sup>

Under the proposed rule change, DTC will process unmatched reclaims subject to certain controls instead of rejecting them. Unmatched reclaims are those that cannot be matched to a completed original transaction. Unmatched reclaims also include partial reclaims, reclaims received by DTC during the night cycle, and reclaims of transactions that were processed more than one business day prior to the day on which the reclaim is submitted. All unmatched SDFS reclaims will be subject to RAD processing, which means the receiver of an unmatched reclaim will have an opportunity to review and approve the reclaim before it is processed. Unmatched SDFS reclaims also will be subject to participants' collateral and risk management controls regardless of the settlement value.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal will facilitate the processing of reclaims of securities deliveries and payment orders which were made through DTC's facilities. DTC believes the proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody and control or for which it is responsible because the proposed rule change modifies DTC's existing reclamation procedures.

##### (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 Received From Members, Participants, or Others

DTC informed participants of the proposed revisions to the reclamation procedures by a DTC Important Notice dated June 22, 1995. No written comments have been received.

<sup>2</sup> The changes described in this notice and order apply to both NDFS and SDFS reclaims unless specified as otherwise.

<sup>3</sup> The Commission has modified the text of the summaries submitted by DTC.

<sup>4</sup> A reclaim is the return of a delivery order or a payment order by a participant.

<sup>5</sup> Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adoption of Rule 15c6-1) and 34952 (November 9, 1994) 59 FR 59137 (changing the effective date of Rule 15c6-1).

<sup>6</sup> A reclaim submitted in a free form mode refers to a reversal submitted as a deliver order or a payment order through either Mainframe Dual Host, Computer-to-Computer Facility, or Participant Terminal System and identified as a reclaim by its reason code, which returns the securities or payment order to the original delivering party.

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

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 and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.<sup>7</sup> The Commission believes that DTC's reclamation procedures are consistent with DTC's obligations under section 17A(b)(3)(F) to promote the prompt and accurate clearance and settlement of securities transactions because the proposed procedures extend the period in which reclaims are matched and processed from one business day to two business days, which should reduce the number of unmatched or rejected reclaims. DTC believes that almost all reclaims will be processed within the two business day period. In addition, under the proposal DTC will process unmatched reclaims subject to certain risk management controls rather than rejecting them thus further reducing the number of rejected reclaims.

The Commission also believes the proposal is consistent with DTC's obligation to safeguard securities and funds in its custody or control or for which it is responsible because the processing of matched reclaims with settlement values exceeding \$15 million will be subject to DTC's risk management controls and unmatched reclaims will be subject to DTC's risk management controls and RAD processing. Matched reclaims with settlement values exceeding \$15 million and all unmatched reclaims that violate receiving or delivering participants' net debit caps or collateral monitors will not be completed and will await processing until sufficient collateral or credits are applied to the participants' accounts. Unmatched reclaims also will be subject to RAD processing. Therefore, receiving participants will have the opportunity to review and approve unmatched reclaims of \$15 million or more before they are processed.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will allow DTC participants to benefit from the expanded reclamation matching period

and the processing of unmatched reclaims subject to certain controls immediately upon implementation of the necessary system changes. The Commission also believes that accelerated approval will provide DTC participants with ample time to become familiar with the new reclamation procedures prior to final implementation of SDFS on February 22, 1996.

### 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 Section, 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 the File Number SR-DTC-95-16 and should be submitted by December 8, 1995.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-95-16) be, and hereby is, approved.

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

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 95-28397 Filed 11-16-95; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. IC-21487; No. 812-9642]

### AIM Variable Insurance funds, Inc., et al.

November 9, 1995.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of Application for an exemption pursuant to the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** AIM Variable Insurance Funds, Inc. ("Company"), AIM Advisors, Inc. ("AIM"), and certain life insurance companies ("Participating Insurance Companies") and their separate accounts ("Separate Accounts") that currently or in the future will invest in the Company.

**RELEVANT 1940 ACT SECTIONS:** Order requested pursuant to Section 6(c) granting exemptions from the provisions of Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order to permit shares of the Company and shares of any other investment company that is offered as a vehicle to fund insurance products and for which AIM, or any of its affiliates, may serve as manager, investment adviser, administrator, principal underwriter or sponsor (such other investment companies, including any series thereof, together with the Company and each of its series, are the "Funds") to be sold to and held by: (a) Separate Accounts funding variable annuity and variable life insurance contracts issued by both affiliated and unaffiliated Participating Insurance Companies, and (b) qualified pension and retirement plans outside of the context of Separate Accounts ("Qualified Plans" or "Plans").

**FILING DATE:** The application was filed on June 22, 1995 and amended on October 23, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 4, 1995, and must be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Applicants, c/o Nancy L. Martin, Esq., AIM Advisors, Inc., 11 Greenway Plaza, Suite 1919, Houston, Texas 97046-1173.

**FOR FURTHER INFORMATION CONTACT:** Kevin M. Kirchoff, Senior Counsel, or Wendy Friedlander, Deputy Chief, Office of Insurance Products (Division

<sup>7</sup> 15 U.S.C. § 78q-1(b)(3)(F) (1988).

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1994).