

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 the file number SR-DTC-97-01 and should be submitted by March 24, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland
Deputy Secretary.

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[Release No. 34-38333; File No. SR-DTC-97-02]

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

February 24, 1997.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on February 3, 1997, 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 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 establishes fees for DTC's Foreign Tax Withholding Service and Non-Transferable Issue Safekeeping Service and eliminates the fee DTC charges its participants for unnecessary inquiries.

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

(1) Foreign Tax Withholding Service Fee

DTC's Foreign Tax Withholding Service allows DTC participants to certify to foreign-issue paying agents for DTC-eligible issues the tax-treaty and, where applicable, the tax exempt withholding rates that they are entitled to based on the tax classes of their customers.³ DTC's participants make the certification to the foreign-issue paying agents by using the Elective Dividend Service ("EDS") which is supported by DTC's Participant Terminal System ("PTS"). This procedure eliminates the need for processing more complex and time-consuming reclamations of previously withheld taxes.⁴

According to DTC, it has expended considerable time and incurred significant legal fees to implement the Foreign Tax Withholding Service and continues to devote its resources to monitoring individual distributions to ensure that existing arrangements are processed correctly or to facilitate any special arrangements, if necessary. DTC also states that the processing of

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

³ For a more detailed description of the Foreign Tax Withholding Service, refer to Securities Exchange Act Release No. 3211 (April 19, 1993), 58 FR 22003 [File No. SR-DTC-92-17] (notice of filing and immediate effectiveness relating to eligibility in the foreign securities option of the existing elective dividends function).

⁴ EDS was developed for issues from foreign countries that have tax treaties with the U.S. that permit the withholding of foreign taxes from distributions of foreign issues at different rates for different classes of beneficial owners. EDS enables a DTC participant to use PTS to certify the number of foreign securities credited to the participant's account as of the record date that are entitled to favorable tax treatment at source (i.e., the tax exempt benefit to which the participant is entitled will be included in the payment DTC receives from the foreign payor). Without this service, many DTC participants that are entitled to favorable tax treatment find the procedures for claiming refunds so burdensome that they forgo their refund and thereby frustrate the purpose of the tax treaty.

withholding certifications on individual distributions sometimes requires DTC's staff to contact the participant to obtain additional information to complete the certifications. Accordingly, the proposed rule change establishes a fee for DTC's Foreign Tax Withholding Service of \$7.00 per CUSIP regardless of the number of tax classifications requested by a participant for a single CUSIP. This fee is in addition to the cash or stock dividend fee, as applicable, which is charged on a per credit basis.

(2) Non-Transferable Issue Safekeeping Fee

DTC established the Non-Transferable Issue Safekeeping Service to allow nontransferable securities to be deposited at DTC.⁵ The service requires DTC's staff to periodically follow up on each nontransferable security (i.e., generally, at least annually) to determine the issuer's status in its state of incorporation, to determine if the issue is again transferable, and to make the results of these inquiries available to interested participants.

According to DTC, as a result of its absorption of the Midwest Securities Trust Company, the number of nontransferable issues on DTC's books has doubled from roughly 8,000 to more than 16,000. DTC also believes that the ongoing effort and cost to carefully monitor these additional non-transferable issues should be apportioned among those holding positions in these securities. Therefore, the proposed rule change establishes a fee for DTC's Non-Transferable Issue Safekeeping Service of \$.17 per CUSIP per month in addition to regular monthly long position charges for these issues.

(3) Elimination of Fees Regarding Unnecessary Dividend, Reorganization and Reconciliation Inquiries

Currently, DTC charges its participants \$6.00 when a participant submits certain unnecessary inquiries for processing at DTC's Dividends, Reconciliation, and Reorganization departments. DTC classifies an inquiry as unnecessary if a participant could have obtained the information independently from automated DTC sources readily available to a participant rather than have DTC staff conduct the research. An inquiry with incomplete or inaccurate data from a participant also is considered unnecessary. Because the average daily volume of unnecessary

⁵ Securities Exchange Act Release No. 31673 (December 30, 1992), 58 FR 3046 [File No. SR-DTC-92-16] (order approving proposed rule change).

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

inquiries has declined to less than twenty submissions, DTC proposes to eliminate the fee related to such unnecessary inquiries.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act⁶ and the rules and regulations thereunder because DTC's fees will be more equitably allocated among DTC participants. DTC also believes that the proposed rule change will not affect the safeguarding of the securities and funds in DTC's custody or control or for which it is responsible.

(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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)⁷ of the Act and pursuant to Rule 19b-4(e)(2)⁸ promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by DTC. 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 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-97-02 and should be submitted by March 24, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-38330; File No. SR-MBSCC-97-01]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Modification of Electronic Pool Notification Fee Schedule

February 24, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 29, 1997, the MBS Clearing Corporation ("MBSCC") 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 MBSCC. 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 proposed rule change makes technical modifications to the schedule of charges for the Electronic Pool Notification ("EPN") 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, MBSCC 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. MBSCC 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 make technical modifications to the schedule of charges for the EPN service. The EPB schedule of charges currently reflects that MBSCC charges its participants access fees for connectivity to the EPN service based on each circuit that they have to MBSCC's MetroTech facility only. However, MBSCC also charges its participants access fees for each circuit that they have to MBSCC's Water Street facility. The proposed rule change modifies the EPN schedule of charges to reflect that MBSCC charges its access fees "per circuit to MetroTech and Water Street."

The proposed rule change also makes an additional technical modification to the EPN schedule of charges to delete the reference to an AutoLink Request. AutoLink was a method to request a retransmission of previously transmitted messages. Participants no longer use AutoLink but instead use the Retransmission Request as the method to request a retransmission of previously transmitted messages.

MBSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act³ and the rules and regulations thereunder because it provides for the equitable allocation of reasonable dues, fees, and other charges among MBSCC's participants.

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

MBSCC does not believe that the proposed rule change will impose any 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

No written comments have been solicited or received. MBSCC will notify the Commission of any written comments received by MBSCC.

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

³ 15 U.S.C. 78q-1(b)(3)(D).

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 17 CFR 240.19b-4(e)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).