

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38561; File No. SR-DTC-97-01]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Implementing the Dividend Processing Phase of the Custody Service for Non-depository Eligible Securities

April 30, 1997.

On January 23, 1997, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-97-01) 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 March 3, 1997.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change implements the third phase of DTC's custody service to offer to its participants dividend processing services for certain non-depository eligible securities.³ In connection with the new service, DTC will announce, collect, and distribute dividend, interest, periodic principal, and other distributions ("dividend payments") to participants that hold securities through DTC's custody service ("custody issues").

To facilitate the collection of dividends on custody issues and to permit the book-entry movement of securities when a customer wishes to move its account from one participant to another, DTC proposes to register certificates held in its custody service in a second nominee name, DTC & Co., when requested to do so by a participant.⁴ Such registration is

¹ 15 USC 78s(b)(1).

² Securities Exchange Act Release No. 38323 (February 21, 1997), 62 FR 9473.

³ For a more detailed description of DTC's custody service, refer to Securities Exchange Act Release No. 37314 (June 14, 1996), 61 FR 29158 [File No. SR-DTC-96-08] (order approving a proposed rule change establishing custody service) ("June approval order").

⁴ In the June approval order, the Commission noted that securities certificates will be held in customer or firm name only and would not be transferred into DTC's nominee name utilized for regular depository eligible securities, Cede & Co. Although the basic custody service and the redemption and reorganization services phases do not require custody issues to be registered in the new DTC nominee name, participants wishing to use the dividend processing feature of the custody service for custody issues must have such custody issues registered in DTC's new nominee name of DTC & Co.

necessary so DTC under its nominee name DTC & Co. can collect dividend payments relating to custody issues directly from paying agents.⁵ Without such registration, paying agents would disburse individual dividend payments for the custody issues directly to the participant or participants' customer instead of to DTC.

II. Discussion

Section 17A(b)(3)(F)⁶ of the Act provides that the rules of a clearing agency be designed 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. The Commission believes the proposed rule change is consistent with DTC's obligations under Section 17A(b)(3)(F) because implementation of the dividend processing phase should increase the use of the custody service by holders of custody issues. This increase should result in more securities being held at the depository facilities of a registered clearing agency, DTC, and being subject to DTC's safekeeping procedures. Furthermore, because certificates held through the custody service must be registered in DTC's second nominee name, DTC & Co, to be eligible for dividend processing, such registration will permit the book-entry movement of custody issues if a customer wishes to move its position from one participant to another. Accordingly, the dividend processing feature should help to reduce the processing of physical certificates and therefore reduce the associated risks.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of Section 17A(b)(3)(F) 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-97-01) be, and hereby is, approved.

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

Margaret H. McFarland,

Deputy Secretary.

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⁵ Letter from Lori A. Brazer, Assistant Counsel, DTC (February 4, 1997).

⁶ 15 USC 78q-1(b)(3)(F).

⁷ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38564; File No. SR-DTC-96-22]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change To Amend DTC's Charge Back and Return of Funds Procedures

April 30, 1997.

On December 4, 1996, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-96-22) 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 March 5, 1997.² The Commission received one comment letter in response to the filing.³ For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change amends DTC's charge back and return of funds policies to shorten from ten business days to one business day after the payable date the period within which a paying agent can request that DTC return principal and income ("P&I") payments that have been allocated to participants.⁴ The rule change also amends the procedure so if an agent requests the return of a P&I payment more than one business day after a payable date, DTC will work with the agent and participant to resolve the matter; but DTC will not return the allocated payments without the participant's consent.

Under its previous procedures,⁵ if the paying agent notified DTC in writing

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 38340 (February 26, 1997), 62 FR 10104.

³ Letter from Thomas S. Dillon, Chairman, PSA Corporate Bond Operations Committee (March 26, 1997).

⁴ Although the rule change reduces the time within which a paying agent can request a reversal of allocated funds from ten business days to one business day following payable date, the actual reversal may take up to two or three business days after the payable date. For example, if a paying agent requests a reversal from DTC late in the day of the first business day after the payable date ("P+1"), DTC would likely notify its participants on the morning of the following business day ("P+2"). In the interest of fairness and pursuant to DTC's procedures, DTC must notify all affected participants one business day prior to the date on which DTC enters the reversal into its participants' daily settlement accounts. Accordingly, the actual reversal will not occur until P+3. Telephone conversation with Larry E. Thompson, Deputy General Counsel and Senior Vice President, DTC (December 18, 1996).

⁵ For a complete description of the procedures relating to DTC's procedures, refer to Securities