

the proposal is consistent with the Section 6(b)(5)<sup>6</sup> requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.<sup>7</sup>

The Exchange represents that the proposal will enable those who solicit and those who wish to effect "facilitation" crosses to understand and abide by their disclosure obligations. In addition, the Exchange represents that the proposed change will aid in achieving uniformity with regard to trading crowd expectations, as well as to the type and amount of information disclosed on crossed and solicited orders. The Commission supports the Exchange's efforts to review and clarify its rules relating to disclosure obligations of market participants. This is particularly true where, as here, the rule being clarified addresses priority accorded to orders on the floor of the Exchange. The Commission believes that the proposed rule change will help specify what information must be disclosed on crossed and solicited orders.

In November, 1994, when the Exchange adopted Rule 6.9, Solicited Transactions, the Exchange recognized the importance of fully disclosing the orders that comprise a solicited transaction to the trading crowd. The Exchange stated that if orders comprising a solicited transaction were not suitably exposed to the trading crowd "the execution of such orders would be inconsistent with the open auction market principles governing the execution of orders on the CBOE's floor."<sup>8</sup> By clarifying disclosure requirements with respect to solicited transactions, the current proposal should improve the ability of the Exchange to ensure that customer orders receive full consideration by the trading crowd.

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 2 adds option class and series to the definition of "Terms and Conditions." The Exchange has represented that this merely codifies the practice on the

options trading floor to disclose an option's class and series in effecting a "facilitation" cross or solicited transaction.<sup>9</sup> Further, the Commission notes that the original proposal was published for the full 21-day comment period and no comments were received by the Commission. Accordingly, the Commission believes it is appropriate to approve Amendment No. 2 to the Exchange's proposal on an accelerated basis.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 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, N.W., Washington, D.C. 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 provision 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 above-mentioned self-regulatory organization. All submissions should refer to File No. SR-CBOE-97-40 and should be submitted by May 19, 1998.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-CBOE-97-40) is approved as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39894; File No. SR-DTC-97-23]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying Issue Eligibility Requirements

April 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 5, 1998, 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 proposed rule change modifies DTC's existing operational arrangements necessary for a securities issue to become eligible for the services of DTC.

#### 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.<sup>2</sup>

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

DTC's operational arrangements<sup>3</sup> currently incorporate the guidelines for income, reorganization, and redemption payments ("principal and income payments") established by the Same Day Funds Payment Task Force of the U.S. Working Committee, Group of Thirty Clearance and Settlement Project

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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>3</sup> See Securities Exchange Act Release Nos. 24818 (August 19, 1987), 52 FR 31833; 25948 (July 27, 1988), 53 FR 29294; 30625 (April 23, 1992), 57 FR 18534; and 35649 (April 26, 1995), 60 FR 21576.

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> Securities Exchange Act Release No. 34959 (November 9, 1994), 59 FR 59446 (November 17, 1994).

<sup>9</sup> Telephone conversation between Stephanie C. Mullins, Attorney, CBOE and David Sieradzki, Attorney, SEC on February 18, 1998.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

("P&I Task force").<sup>4</sup> The purpose of the proposed rule change is to update DTC's issue eligibility requirements.<sup>5</sup>

DTC's operational arrangements include requirements that all payments to DTC of principal and income be made in same-day funds on payment date by 2:30 p.m. Eastern Time ("ET") and that CUSIP information be provided in automated form early enough to allow the funds received to be matched with the related issues. In order to help assure that these requirements are met, the operational arrangements have been modified to require issuers to remit funds for all principal and income payments to paying agents or intermediaries by 1:00 p.m. ET or by such earlier time as required by the paying agent to guarantee that DTC will receive payment in same-day funds by 2:30 p.m. ET on payable date.<sup>6</sup>

In addition, the current operational arrangements require the submission of individual letters of representations ("LORs") each time an issuer wants to distribute securities of a type for which DTC requires an LOR. DTC uses sixteen different LORs for various types of municipal and corporate securities and money market instruments. The modified arrangements introduce the use of a blanket LOR which an issuer only needs to submit to DTC once for all issues. A blanket LOR eliminates the need for the submission of individual LORs each time the issuer wishes to distribute certain securities.<sup>7</sup>

The proposed rule change replaces only three of the LORs with the blanket LORs: the book entry only municipal bond LOR, the book entry only municipal note LOR, and the book entry only municipal variable rate demand obligation LOR.<sup>8</sup> As issuers gain experience with the use of blanket

LORs, DTC will eliminate additional individual LORs.

DTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F)<sup>9</sup> in that it should maximize the number of issues that can be made depository eligible while ensuring orderly processing and timely payments to participants.

*(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 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*

The subject principal and income guidelines incorporated in the proposed operational arrangements have been endorsed by the Corporate Trust Advisory Board of the American Bankers Association, the Bank Depository User Group, the Corporate Trust Advisory Committee of the Corporate Fiduciaries Association of New York City, the New York Clearing House Securities Committee, The Bond Market Association, and the Securities Industry Association.

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

Because the foregoing rule change constitutes an interpretation with respect to the meaning, administration, or enforcement of an existing rule of DTC, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act<sup>10</sup> and Rule 19b-4(e)(1) thereunder.<sup>11</sup> At any time within sixty days of the filing of the 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 N.W., Washington, D.C. 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 N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the DTC. All submissions should refer to the File No. SR-DTC-97-23 and should be submitted by May 19, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-39904; File No. SR-MSRB-97-14]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G-32, on Disclosures in Connection With New Issues**

April 22, 1998.

On March 12, 1998,<sup>1</sup> the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-97-14), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

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

<sup>1</sup> The Board initially filed this proposal on December 22, 1997. However, a substantive amendment was requested to restore rule language that had been deleted. The Board filed Amendment No. 1 on March 12, 1998. Pursuant to section 19(b), Amendment No. 1 is subject to notice and comment; thus, the proposed rule change is deemed filed as of the date of the amendment. 15 U.S.C. 78s.

On April 22, 1998, the Board filed Amendment No. 2 clarifying the underwriter's obligation if it prepares the official statement on behalf of issuers. See letter from Ernesto A. Lanza, Assistant General Counsel, MSRB, to Katherine A. England, Esq., Assistant Director, Division of Market Regulation, SEC, dated April 22, 1998.

<sup>4</sup> The U.S. Working Committee of the Group of Thirty is an organization consisting of representatives from broker-dealers, banks, and financial intermediaries charged with analyzing the existing clearance and settlement systems in the U.S.

<sup>5</sup> DTC included the text of its updated operational arrangements as an exhibit to its proposed rule change which is available for inspection and copying at the Commission's public reference room and through DTC.

<sup>6</sup> If an issuer or agent continually fails to make payments and provide the related payment detail in a timely manner, DTC may decide not to allocate such payments to participants on the payable date.

<sup>7</sup> DTC undertakes to make available to issuers that execute blanket LORs any future modifications in the operational arrangements. Upon review, issuers will have the opportunity to withdraw their blanket LORs.

<sup>8</sup> These LORs were chosen to be replaced first because these securities types account for the highest volume of repeat requests for DTC eligibility from issuers.

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>11</sup> 17 CFR 240.19b-4(e)(1).