believes that the proposed rule change should augment the ability of floor brokers and market makers to respectively seek best price execution for orders and provide depth and liquidity to the Exchange market.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–CHX–98–19) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23765 Filed 9–2–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40368; File No. SR–DTC–97–21]

Self-Regulatory Organizations; The Depository Trust Corporation; Order Approving a Proposed Rule Change Relating to Modification of Processing Bankers' Acceptances

August 26, 1998.

On October 14, 1997, The Depository Trust Corporation (''DTC'') filed with the Securities and Exchange Commission (''Commission''), and on November 6, 1997, and February 23, 1998, amended a proposed rule change (File No. SR–DTC–97–21) 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 April 21, 1998.[2] No comment letters were received. For the reasons below, the Commission is approving the proposed rule change.

I. Description

In 1994, the Commission approved an expansion of DTC's money market instruments (''MMI'') settlement program to include, among other things, BAs,[3] which allowed DTC to process non-fungible BAs.[4] The purpose of the proposed rule change is to modify DTC's procedures to allow an accepting bank, at its option, to assign one CUSIP number to a bundle of its BAs that are issued at a discount and that have the same maturity date. DTC will treat all such BAs assigned the same CUSIP number as fungible.

Under existing practices in the BA market, an issuing bank and an investor may agree that a single issuance transaction can be settled by the bank's delivery of a bundle of drafts, which may involve different drawers, different underlying transactions, different goods, or different countries of origin or destination, so long as each component draft has been accepted by the issuing bank and has the same maturity date. The program for processing BAs will reflect industry practice by permitting an issuing bank to settle a single issuance transaction by book-entry delivery of interests in a bundle of drafts accepted by the bank, maturing on the same date, and identified by a single CUSIP number.

Subsequent to the initial issuance of these fungible BAs, the issuing bank may increase the total amount of the issue outstanding by including additional accepted drafts of the same or longer tenure as the other component drafts.[5] Similarly, the issuing bank may substitute for a component draft of an outstanding issue of fungible BAs another accepted component draft having the same or longer maturity date. DTC will make available to participants though its Participant Terminal System information about the features (*e.g.*, identity of drawer, goods, country of origin, and destination) of each component draft of fungible BAs that has been provided by the bank's issuing agent as of the date of the inquiry.

Market participants will remain responsible for complying with regulations of the U.S. Treasury Department's Office of Foreign Assets Control (''OFAC'') as they pertain to DTC-eligible BAs. In providing issuance instruction to DTC, the bank's issuing agent will be required to acknowledge that the issuance complies with OFAC regulations. The acknowledgement shall constitute a representation that the issuing agent maintains an appropriate system for assuring compliance with OFAC regulations and that the subject issuance complies with those regulations.

The bank's issuing agent will also be required to indicate in the issuance instructions whether or not the BAs being issued are eligible for purchase and discount at a federal reserve bank. DTC will make the information available to participants but will not verify the accuracy of information provided by the issuing agent with respect to the BAs. DTC will not be liable for any loss related to the accuracy or completeness of information about BAs made available by it.

In the event of the accepting bank's insolvency, DTC's MMI program procedures relating to MMI issuer insolvency will apply. Furthermore, in order to put participants in a position to independently pursue claims against the bank or any other party (*e.g.*, the drawer of an accepted draft), DTC will seek to have accepted drafts which had been made payable or endorsed to DTC's nominee, Cede & Co., at the time the BAs were first issued, exchanged for accepted drafts made payable or endorsed to each participant having a position in each issue of the bank's BAs.[6] If DTC is unable to arrange for such exchanges, DTC will act with respect to matters involving each issue of BAs (*i.e.*, CUSIP) in accordance with the written instructions of the participants having sixty-six and two-thirds percent or more of the total position in that issue.

As with other types of financial instruments in DTC's MMI program, BAs rated in one of the top two ratings categories by at least one of the largest bank-debt rating agencies and investment grade or above by other rating agencies will receive a two percent haircut from market price for purposes of collateral valuation. BAs rated as investment grade only by the ratings agencies will receive a five percent haircut and all lower-rated or unrated BAs will receive a 100 percent haircut (resulting in zero collateral value). BAs that are in default will not be eligible for deposit at DTC.

II. Discussion

Section 17A(b)(3)(F) of the [7] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in this custody or

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Exchange, and that no adverse effects have been experienced since the implementation of the pilot program. The report was filed pursuant to Securities Exchange Act Release No. 39519 (January 6, 1998), 63 FR 1985 (January 13, 1998) (order approving amendment to the Exchange's clearing the post policy for cabinet securities). *See* Report on the Effectiveness of the Pilot Program for Clearing the Cabinet Post by Phone, dated June 5, 1998.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 39861 (April 14, 1998), 63 FR 19772.

[3] Securities Exchange Act Release Nos. 33958 (April 22, 1994), 59 FR 22879 (order approving proposal on temporary basis); and 35655 (April 28, 1995), 60 FR 22423 (extension of temporary approval).

[4] Non-fungible BAs consist of those with only one underlying customer, draft, and accepting bank. A CUSIP number is assigned to each BA as opposed to a bundle of BAs, as is currently proposed by the rule change.

[5] Where the component drafts have different maturity dates, the bank issuing fungible BAs will be required to pay full maturity on the earliest date that the component draft matures.

[6] A participant having a position on DTC's books in an issue of fungible BAs accepted by the insolvent bank would receive component drafts with each draft in an amount proportional to the participant's position in that issue.

[7] 15 U.S.C. 78sq–1(b)(3)(F).

control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule change is consistent with DTC's obligations under Section 17A(b)(3)(F) because it provides a more efficient manner in which industry participants may process BA transactions while potentially reducing the risks associated with current industry processing methods. Furthermore, DTC has put in place sufficient safeguards to protect the interests of other DTC participants engaged in the clearance and settlement of securities.[8]

The Commission previously examined the risk management features of the MMI program when DTC proposed to add it to DTC's Same-Day Funds Settlement system[9] and when permanent approval was sought.[10] At those times, the Commission found and continues to believe that the risk management controls adopted by DTC are sufficient to address the risks associated with processing BAs. Furthermore, with the inclusion of DTC's additional risk management efforts incorporated by this rule, namely requiring OFAC compliance and establishing insolvency procedures, the Commission believes that any additional risks that may arise as a result of DTC processing fungible BAs are also sufficiently addressed.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A 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–97–21) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–23766 Filed 9–2–98; 8:45 am]

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[8] DTC's BA program has been designed in consultation with and with the approval of the Federal Reserve Bank of New York.

[9] *Supra* note 3.

[10] *Id.*

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40379; File No. SR–NASD–98–58]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Elimination of the Requirement for Personal Service of Decisions in Cases Involving Bars and Expulsions

August 27, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 7, 1998, the National Association of Securities Dealers, Inc. (''NASD''), through its regulatory subsidiary, NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The filing was subsequently amended on August 18, 1998 and August 20, 1998.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend Rules 9269 and 9360 of the Code of Procedure of the NASD, to eliminate the requirement for personal service of decisions in cases involving bars and expulsions.[4] The text of the proposed rule change is set forth below. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

9000. Code of Procedure

9200. Disciplinary Proceedings

9269. Default Decisions

(a) through (c).
No change.

(d) Final Disciplinary Action of the Association; Effectiveness of Sanctions.

If a default decision is not appealed pursuant to Rule 9311 or called for review pursuant to Rule 9312 within 25 days after the date the Office of Hearing Officers serves it on the Parties, the default decision shall become the final disciplinary action of the Association for purposes of SEC Rule 19d–1(c)(1). Unless otherwise provided in the default decision, the sanctions shall become effective 30 days after the default decision becomes the final disciplinary action of the Association, except that a bar or expulsion shall become effective immediately upon the default decision becoming the final disciplinary action of the Association. *The Association shall serve the decision on a Respondent by overnight courier, facsimile or other means likely to obtain prompt service when the sanction is a bar or an expulsion.*

* * * * *

9360. Effectiveness of Sanctions

Unless otherwise provided in the decision issued under Rule 9349 or Rule 9351, a sanction (other than a bar or an expulsion) specified in a decision constituting final disciplinary action of the Association for purposes of SEC Rule 19d–1(c)(1) shall become effective [on a date established by the Chief Hearing Officer, which shall not be earlier than] 30 days after the date of service of the decision constituting final disciplinary action. A bar or an expulsion shall become effective upon service of the decision constituting final disciplinary action of the Association for purposes of SEC Rule 19d–1(c)(1), unless otherwise specified therein. The Association shall [take reasonable steps to obtain personal service of] *serve the decision on* a Respondent *by overnight courier, facsimile or other means reasonably likely to obtain prompt service* when the sanction is a bar or an expulsion.

* * * * *

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

In its filing with the Commission, NASD Regulation 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. NASD Regulation has prepared summaries, set forth in Sections A, B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Joan C. Conley, Secretary, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated August 18, 1998 and E-mail from Eric Moss, Office of General Counsel, NASD Regulation, to Mandy Cohen, Division of Market Regulation, Commission, dated August 20, 1998. All amendments are included in this Notice.

[4] NASD Regulation has also filed a related rule change with the Commission in Exchange Act Release No. 40378 (August 7, 1998) (File No. SR–NASD–98–57). The text of the proposed rule change contained herein treats SR–NASD–98–57 as already having been approved.