

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42013; File No. SR-DTC-99-11]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Liability With Respect to Affiliated Entities

October 15, 1999.

On May 12, 1999, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-99-11) 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 August 3, 1999.² On August 9, 1999, DTC amended the proposed rule change.³ No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The Boards of Directors of DTC and the National Securities Clearing Corporation ("NSCC") have initiated a plan to integrate DTC and NSCC. As a step in the integration plan, a holding company has been established which will own DTC and NSCC as operating subsidiaries.⁴ DTC has informed the Commission that a consideration in the DTC/NSCC integration plan is to insulate DTC and NSCC from the risks and obligations of the other.

The rule change adds a new section 7 to DTC Rule 2 to provide that notwithstanding any affiliation between DTC and any other entity, including any clearing agency, except as otherwise expressly provided by written agreement: (1) DTC shall not be liable for any obligations of such other entity; (2) the participants fund or other assets of DTC shall not be available to such

other entity; (3) such other entity shall not be liable for any obligations of DTC; and (4) any assets of such other entity shall not be available to DTC. The Commission has approved similar revisions to NSCC's rules.⁵

As a separate matter, DTC's rules currently provide that if it were to cease providing some or all of its services, DTC's participants fund would be available to cover any DTC wind down costs not otherwise defrayed by service fees or other available resources. The rule change amends Section 1 of DTC Rule 4 to make it clear that the required funds deposits of participants would be increased if necessary to cover such costs.

II. Discussion

Section 17A(b)(3)(F) of the Act⁶ requires that the rules of a clearing agency assure the safeguarding of securities and funds which are in the custody of 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 should ensure that DTC's assets, including its participants fund, are not diminished as a result of its affiliation with NSCC. In addition, the proposed rule change should ensure that DTC would have available to it funds sufficient to cover its costs if it were to voluntarily cease operations. This should help to ensure that any voluntary liquidation of DTC would be carried out in an orderly manner.

III. Conclusion

On the basis of the foregoing, the Commission finds that DTC's 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-99-11) be and hereby is approved.

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

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42020; File No. SR-DTC-99-21]

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

October 15, 1999.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on September 29, 1999, The Depository Trust Corporation ("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 revises DTC's fee schedule to add a fee for training customers on DTC's TradeSuite[®] software at the customer's office.

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

The purpose of the proposed rule change is to establish fees for training customers at the customers' sites on DTC's TradeSuite[®] software.³ DTC's windows-based TradeSuite software is available for investment managers,

¹ 15 U.S.C. § 78s(b)(1).

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

³ The TradeSuite[®] training fee will be \$650 for the first training day at the customer's site and \$350 for each subsequent training day at the customer's site.

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 41663 (July 27, 1999), 64 FR 42157.

³ The amendment represented technical amendments to the proposed rule change and as such did not require republication of notice.

⁴ For a description of the holding company structure, refer to Securities Exchange Act Release No. 41786 (August 24, 1999), 64 FR 47882 [File No. SR-DTC-99-17].

⁵ Securities Exchange Act Release No. 42014 (October 15, 1999), [File No. SR-NSCC-99-07]

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 17 CFR 200.30-3(a)(12).