

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. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2003-38 and should be submitted by June 11, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47826; File No. SR-DTC-2002-19]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Establish an Inventory Management System

May 9, 2003

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 19, 2002, 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 parties.

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

DTC is seeking to establish an Inventory Management System ("IMS") which will provide new central control capabilities for the settlement process including new capabilities for transaction authorization and new controls for the management of pending deliveries.

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 these statements.²

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

The industry's prolonged discussions of the development of a new matching model that promotes straight through processing ("STP") for institutional transactions identified a series of deficiencies in the processing systems for settling those transactions.³ Industry members, particularly members of the Securities Industry Association's Institutional Trade Processing Committee, pressed DTC to develop a series of capabilities to permit participants to centrally manage their own settlements as a way of furthering STP in the settlement process itself. A working group under the Settlement Advisory Board of The Depository Trust & Clearing Corporation ("DTCC") assisted in crafting the framework for IMS.

Today, participants control the processing of their institutional deliveries received from a matching utility (such as Omgeo's TradeSuite system) through the Authorization and Exception system ("ANE"). ANE will not send a delivery to the processing system without an affirmative authorization from the delivering participant. This affirmative authorization is given either on an item-by-item basis or through a "global" authorization. A participant can submit exceptions to explicitly withhold a delivery from processing. Conversely, deliveries from the National Securities Clearing Corporation's ("NSCC's") Continuous Net Settlement system ("CNS") are automatically processed

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

³ The present U.S. system has evolved over time in different ways for different instruments, participants, and marketplaces. While the current system has met the needs of the industry well, the result is an intricate web of processing steps that are not standardized and are quite complex and inflexible. Many participants manage their processing with late-cycle interventions such as (a) withholding or "exempting" trades from more automatic processes, subsequently intervening in the system to reintroduce the transaction when they are ready to process it and (b) reversing or "reclaiming" problem transactions before or after settlement has occurred. These practices late in the settlement cycle disrupt automated processing and contribute to the incidence of fails, which creates costs and risks for participants and for the system as a whole.

unless the participant instructs NSCC otherwise via an exemption. Other deliveries (e.g., Night Deliver Orders ["NDOs"]) along with authorized institutional deliveries and CNS deliveries are processed by DTC at predefined times. All of these transactions may pend ("recycle") in the event of a position deficiency or a problem with system controls. Recycles are processed based on one of two recycle options; a "First In First Out" process or a DTC preestablished recycle queue.

Participants generally have sought greater control over the processing of their deliveries than these procedures permit. Therefore, participants have built internal inventory management systems or adopted internal manual procedures that exempt deliveries from automatic processing so that the participants can control the sequence and timing of their deliveries. This has created an STP shortfall, caused the industry to build redundant systems, and has increased the number of reclaims.

DTC is now seeking to allow a participant to choose how it wants to authorize its deliveries. The key components of IMS include:

- (1) New authorization capabilities (replacing the ANE system) which participants can use to stage transactions for automated settlement;
- (2) A new "profiling" system which will allow participants greater control over the timing and order of their deliveries by transaction type and asset class via predefined profiles to eliminate today's frequent direct intervention in the settlement process that inhibits STP;

(3) Capabilities permitting the linkage of transactions so particular receive transactions are associated with particular deliveries;⁴ and

(4) Controls permitting the retention of failed deliveries for the following settlement day eliminating participants' need to reinput these instructions.

As a result of industry feedback, DTC has designed IMS to permit authorization and control of different transaction types (e.g., NDOs, etc.) within each asset class (e.g., equities) and to permit increased authorization options. The creation of IMS also makes possible a warehousing⁵ facility for

⁴ Such a linkage would permit customers to associate securities they expected to receive with specific securities they expected to deliver so that they no longer need to exempt a delivery until they receive providing the securities for it has been processed.

⁵ DTC's current front-end edits do not permit a delivery to have a future settlement date. The current NDO function only permits deliveries to

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

future deliveries through the NDO function and the reintroduction of dropped deliveries.⁶ At the participant's option, the system could require reauthorization of reintroduced "drops" before they are resubmitted for processing on the following day.

If approved by the Commission, IMS will be implemented in two phases. Three initiatives, (1) the replacement of ANE, (2) warehousing, and (3) the reintroduction of dropped deliveries, will be available in Phase I. Phase I is scheduled to begin in July 2003. Phase II, scheduled to be implemented in December 2003, will create an optional customized delivery and recycle profile.⁷

A participant can choose to authorize its deliveries either actively or passively. In the active mode, deliveries will not be processed unless an authorization is sent. Authorizations and exemptions can be on a trade-for-trade basis or a global basis. Global authorization or exemption capabilities will also be available via the Participant Browser System display screens. The new passive mode authorization option will immediately authorize a delivery when it is received and process it on its settlement day unless the participant exempts it.

Recognizing the need for flexibility and options, a participant will be able to create authorization profiles for the following asset classes: equity, municipal debt, corporate debt, and money market instruments. Within each asset class, a participant can choose which authorization mode it would like applied as its default for the different transaction types.⁸ For example, for the asset class equities, a participant could choose to use active mode authorization for matched institutional deliveries and passive mode authorization for CNS deliveries.

Participants would not be required to make systemic changes and can

have a future settlement date of the next business day or earlier. The IMS warehouse feature will store deliveries on its database and direct these deliveries into the processing system as NDOs that are due to settle on the appropriate settlement day.

⁶ "Dropped" deliveries are deliveries from the previous day that were incomplete. Under this new option, "drops" would be automatically retained and reintroduced into the system for processing on the following day.

⁷ DTC will file another proposed rule change for Commission approval before implementing Phase II.

⁸ In Phase I, authorization modes can be assigned for the following transaction types:

- (1) Institutional deliveries from a matching utility;
- (2) CNS;
- (3) NDOs;
- (4) Reintroduced drops; and
- (5) ACATS auto deliveries.

continue to process their deliveries as they do today. All IMS features will be optional, and participants will be able to migrate to any or all features they deem valuable. As a result of this new system, participants will be able to centrally manage their own settlements and achieve higher levels of straight through processing.

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act⁹ and the rules and regulations thereunder applicable to DTC because it will permit the accurate clearance and settlement of securities by allowing participants to centrally manage their own settlements and control the order and timing of their deliveries earlier in the settlement cycle.

(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, in the public interest, and for the protection of investors.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC has discussed this rule change proposal in its current form with various DTC participants and industry groups, a number of whom have worked closely in developing the proposed IMS system.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-DTC-2002-19. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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-2002-19 and should be submitted by June 11, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁰

J. Lynn Taylor,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47875; File No. SR-DTC-2003-08]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to Rule 4A, Pledge of Property to the Corporation and Its Lenders

May 15, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 6, 2003, 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

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

⁹ 15 U.S.C. 78q-1.