the Exchange's future reports on the Pilot Program, the Exchange should include analysis of (1) the impact of the additional series on the Exchange's market and quote capacity, and (2) the implementation and effects of the delisting policy, including the number of series eligible for delisting during the period covered by the report, the number of series actually delisted during that period (pursuant to the delisting policy or otherwise), and documentation of any customer requests to maintain QOS strikes that were otherwise eligible for delisting.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–CBOE–2007–96), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4389 Filed 3–6–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57392; File No. SR–DTC–2007–16]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to the Admission of Foreign Entities as Direct Depository Participants

February 27, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 16, 2007, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') and on February 5, 2008, amended 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 would amend DTC's policy statement regarding the admission of participants to permit entities that are organized in a foreign country and are not subject to U.S. federal or state regulation (''foreign entities'') to become eligible to become direct DTC participants (''Foreign Entity Policy Statement'').[2]

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.[3]

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

In 1990, DTC adopted a Policy Statement on the Admission of Participants (''1990 Policy Statement'') to make clear that in determining whether to grant access to its services, DTC regards as a critical factor that an applicant is subject to comprehensive U.S. federal or state regulation relating to, among other things, capital adequacy, financial reporting and recordkeeping, operating performance, and business conduct.[4] Generally under the 1990 Policy Statement, unless an applicant is subject to U.S. federal or state regulatory agency oversight, the applicant would not be eligible to become a DTC participant.[5] Since 1990, DTC has admitted a small number of foreign entities where their obligations to DTC have been guaranteed by creditworthy DTC participants.

The purpose of the proposed Foreign Entity Policy Statement is to establish admissions criteria that will permit a well-qualified foreign entity to become a participant of DTC and to obtain direct access to DTC's services while assuring that the unique risks associated with the admission of foreign entities are adequately addressed.[6]

The admission of foreign entities as participants raises a number of unique risks and issues, including that (1) the entity is not subject to federal or state regulation, (2) that the operation of the laws of the entity's home country and time zone differences[7] may impede the successful exercise of DTC's rights and remedies particularly in the event of the entity's failure to settle, and (3) financial information about the foreign entity made available to DTC for monitoring purposes may be less adequate than the financial information about U.S.-based entities.

The Foreign Participant Policy Statement would require that in addition to executing the standard DTC Participation Agreement the foreign entity enter into a series of undertakings and agreements that are designed to address jurisdictional concerns and to assure that DTC is provided with audited financial information that is acceptable to DTC.[8] The proposed policy statement would also require that the foreign entity (1) be subject to regulation in its home country and (2) be in good standing with its home country regulator.

The Foreign Participant Policy Statement was previously approved by the Commission on a temporary basis in 1997.[9] As currently proposed, the

(4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program.

[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] The National Securities Clearing Corporation (''NSCC'') has filed a similar proposed rule change that would permit NSCC to adopt a similar policy statement with respect to the admission of foreign entities as members. Securities Exchange Act Release No. 57391 (February 27, 2008) (File No. SR–NSCC–2007–15).

[3] The Commission has modified parts of these statements.

[4] Securities Exchange Act Release No. 28754 (January 8, 1991), 56 FR 1548 (January 15, 1991) (File No. SR–DTC–90–01).

[5] DTC recognized, however, that any person designated by the Commission pursuant to Section 17A(b)(3)(B)(vi) of the Act, even if not subject to such regulatory oversight, would be eligible for admission. The 1990 Policy Statement was approved by the Commission on January 8, 1991.

[6] DTC's proposed ''Policy Statement on the Admission of Non-U.S. Entities as Direct Depository Participants'' is attached as Exhibit 5 to its filing, which can be found at *http://www.dtcc.com/downloads/legal/rule_filings/2007/dtc/2007–16.pdf.*

[7] Time zone differences may complicate communications between a foreign participant and its U.S. Settling Bank with respect to the timely payment of the participant's net debit to DTC including intraday demands for payment. These differences may also delay DTC's receipt of information available in the foreign participant's home country to others including its other creditors about the foreign participant's financial condition on the basis of which DTC would have taken steps to protect the interests of DTC and its participants.

[8] In the Foreign Entity Policy Statement, DTC has reserved the right to waive certain of these criteria where such criteria are inappropriate to a particular applicant or class of applicants (*e.g.,* a foreign government or international or national central securities depositories).

[9] Securities Exchange Act Release Nos. 38600 (May 9, 1997), 62 FR 27086 (May 16, 1997) (File No.

Continued

Foreign Participant Policy Statement would retain all the requirements of the previous version with the exception of the ''special financial conditions'' requirements, as explained below. It would also include new requirements with respect to non-U.S. GAAP financial statements and anti-money laundering (''AML'') risk.

The Foreign Entity Policy Statement previously included ''special financial conditions'' requirements applicable to participants that were foreign entities. The special financial conditions requirements mandated that a foreign entity have and maintain minimum net capital of 100% of the minimum net capital for the admission of a U.S. entity. A foreign entity was also required to have additional ''special collateral'' in its account equal to fifty percent of its net debit cap. Any net debit of the foreign entity had to be supported by the value of other, non-special collateral including securities received by the participant valued in accordance with DTC's customary haircuts. Except for U.S. Treasury securities, which received a haircut of 2 percent, securities posted as special collateral received a haircut of 50% of their market value. The foreign entity did not receive credit for special collateral in DTC's collateral monitor. DTC now believes that its net debit cap, collateral monitor, and other risk management controls and procedures applicable to all participants together with the other requirements of the Foreign Entity Policy Statement would adequately limit DTC's exposure in the event of the failure to settle and insolvency of a foreign participant without the need for the special financial conditions requirement.[10]

The Foreign Entity Policy Statement also previously required foreign entities to provide to DTC for financial monitoring purposes audited financial statements prepared in accordance with U.S. generally accepted accounting principles or other generally accepted accounting principles that are satisfactory to DTC. As it is currently proposed, the Foreign Entity Policy Statement retains this requirement but to address the risk presented by accepting financial statements prepared in non-U.S. GAAP, DTC would increase the existing minimum financial requirements for any foreign entity submitting its financial statements in non-U.S. GAAP by a premium. The premiums would be as follows:

(i) 1½ times the existing requirement for a foreign entity submitting financial statements prepared in accordance with International Financial Reporting Standards (''IFRS''), the Companies Act of 1985 (''UK GAAP''), or Canadian GAAP;

(ii) 5 times the existing requirement for a foreign entity submitting financial statements prepared in accordance with a European Union (''EU'') country GAAP other than UK GAAP; and

(iii) 7 times the existing requirement for a foreign entity submitting financial statements prepared in accordance with any other type of GAAP.

Finally, DTC is proposing to add a new requirement to the Foreign Entity Policy Statement that a foreign entity must provide sufficient information to DTC so that DTC can evaluate AML risk.

The proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act. The proposed policy does not unfairly discriminate against foreign entities seeking admission as participants because it appropriately takes into account the unique risks to DTC raised by their admission.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

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

Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

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 the 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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–DTC–2007–16 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–DTC–2007–16. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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 Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2007–16 and should be submitted on or before March 28, 2008.

SR–DTC–96–13); 40064 (June 3, 1998), 63 FR 31818 (June 10, 1998) (File No. SR–DTC–98–11); 41466 (May 28, 1999), 64 FR 30077 (June 4, 1999) (File No. SR–DTC–99–12); 42865 (May 30, 2000), 65 FR 36188 (June 7, 2000) (File No. SR–DTC–00–07); 44470 (June 22, 2001), 66 FR 34972 (July 2, 2001) (File No. SR–DTC–2001–10). Approval of the Foreign Participant Policy Statement as previously filed and temporarily approved by the Commission extended through May 31, 2002.

[10] Additionally, in the Foreign Participant Policy Statement, DTC has reserved the right to require a foreign entity to deposit additional amounts to DTC's participants fund and the right to require a letter of credit as the form of participant fund collateral where DTC in its sole discretion believes the entity presents legal risk.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57413; File No. SR–FINRA–2008–007]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Permanent a Pilot Program That Increases Options Position and Exercise Limits

March 3, 2008.

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 February 28, 2008, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by FINRA. FINRA has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. 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

FINRA seeks to amend NASD Rule 2860 (Options) to make permanent a pilot program that increases options position and exercise limits. In addition, FINRA proposes to amend NASD IM–2860–1 (Position Limits) to revise the examples that illustrate the operation of position limits with the proposed permanent position limits. The text of the proposed rule change is available on FINRA's Web site (*http://www.finra.org*), at FINRA's principal office, and at the Commission's Public Reference Room.

[11] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

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

In its filing with the Commission, FINRA 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. FINRA has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

FINRA is proposing amendments to its options position and exercise limits in NASD Rule 2860 to make permanent a pilot program that increases position and exercise limits for both standardized and conventional options.[5] In addition, FINRA proposes to amend NASD IM–2860–1 (Position Limits) to revise the examples that illustrate the operation of position limits with the proposed permanent position limits.

NASD Rule 2860(b)(3) subjects standardized and conventional options to one of five different position limits. Options exercise limits, which are set forth in NASD Rule 2860(b)(4), and which incorporate by reference the position limits in Rule 2860(b)(3), also would increase. The original pilot program became effective on March 30, 2005, and has been extended five times. It was scheduled to expire on March 1, 2008.[6] FINRA is proposing to make the pilot program permanent in order to preserve the benefits to the marketplace from the higher levels. The proposed rule change also is substantively identical to a proposal by the Chicago Board Options Exchange, Inc. recently approved by the Commission.[7] FINRA anticipates all other self-regulatory organizations (''SROs'') with the pilot program also will seek to make their program permanent. Thus, the proposed rule change will ensure that FINRA's position limits are consistent with those of other SROs.

Position and Exercise Limits

The standard position limits were last increased nine years ago, on December 31, 1998.[8] Since that time, there has been a steady increase in the number of accounts that approach the position limit or have been granted an exemption to the applicable position limit. To the best of FINRA's knowledge, during the operation of the pilot program, there have been very few violations of the position limits or exercise limits and none of these violations were deemed to be a result of manipulative activities.

Growth in Options Market

Since the last position limit increase, there has been an exponential increase in the overall volume in options trading. Part of this volume is attributable to a corresponding increase in the number of overall market participants. This growth in market participants has in turn brought about additional depth and increased liquidity in options trading. FINRA has no reason to believe that the current trading volume in equity options will not continue. Rather, FINRA expects continued options volume growth as opportunities for investors to participate in the options markets increase and evolve. FINRA believes that the non-pilot position and exercise limits might constrain liquidity in the options markets.

Manipulation

Since the last position limit increase, and throughout the duration of the pilot program, FINRA has not encountered any significant regulatory issues regarding the applicable position limits. Moreover, FINRA believes that there is a lack of evidence of market

[5] A ''conventional option'' is an option contract not issued, or subject to issuance by, the Options Clearing Corporation. *See* NASD Rule 2860(b)(2)(O). Currently, position limits for standardized and conventional options are the same with respect to the same underlying security. The proposed rule change would maintain this parity between standardized and conventional options. FINRA has maintained parity between conventional and standardized options since 1999. *See* Securities Exchange Act Release No. 40932 (January 11, 1999), 64 FR 2930, 2931 (January 19, 1999) (SR–NASD–98–92). Before 1999, position limits on conventional options were three times greater than the limits for standardized options. *See* Securities Exchange Act Release No. 40087 (June 12, 1998), 63 FR 33746 (June 19, 1998) (SR–NASD–98–23).

FINRA's limits on standardized equity options are applicable only to those members that are not also members of the exchange on which the option is traded; the limits on conventional options are applicable to all FINRA members. NASD Rule 2860(b)(1)(A); *see also* Securities Exchange Act Release No. 40932 (January 11, 1999), 64 FR 2930, 2931 (January 19, 1999) (SR–NASD–98–92).

[6] *See* Securities Exchange Act Release Nos. 52271 (August 16, 2005), 70 FR 49344 (August 23, 2005) (SR–NASD–2005–097); 53346 (February 22, 2006), 71 FR 10580 (March 1, 2006) (SR–NASD–2006–025); 54334 (August 18, 2006), 71 FR 50961 (August 28, 2006) (SR–NASD–2006–097); 55225 (February 1, 2007), 72 FR 6634 (February 12, 2007) (SR–NASD–2007–007); and 56265 (August 15, 2007), 72 FR 47102 (August 22, 2007) (SR–FINRA–2007–002).

[7] *See* Securities Exchange Act Release No. 57352 (February 19, 2008), 73 FR 10076 (February 25, 2008) (SR–CBOE–2008–07).

[8] *See* Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999).