

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 the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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-CBOE-2008-103 and should be submitted on or before October 30, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58730; File No. SR-DTC-2008-09]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change To Expand DTC's Debit Cap Look-Ahead Processing

October 3, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 12, 2007, 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 would amend the Look-Ahead Process in DTC's Settlement Services Guide to allow Money Market Issuance Deliveries pending for a Custodian's or Dealer's net debit cap to complete against Maturity

Presentments pending for an Issuing/Paying Agent's net debit cap. DTC's processing system would calculate the net effect of the dollar amount of offsetting transactions in the accounts of the two Participants involved. If the net of the transactions would result in positive risk management controls in those two accounts, the transactions would be completed.

#### 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

On June 10, 2003, the Commission approved a proposed rule change to establish a transaction Look-Ahead Process which became available for municipal and corporate bonds, including Money Market Instruments ("MMIs").<sup>3</sup> On August 11, 2004, the Commission approved another proposed rule change which expanded the application and extended the benefit of the Look-Ahead Process to all equity transactions.<sup>4</sup> With this proposed rule change, DTC is proposing to expand the Look-Ahead Process to MMIs.

The purpose of DTC's Look-Ahead Process is to reduce the number of recycling transactions in the system caused by the Net Debit Cap Risk Management Control.<sup>5</sup> The existing Look-Ahead Process finds delivery transactions that are pending because the Receiving Participant has reached its net debit cap.<sup>6</sup> It then looks to see

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

<sup>3</sup> Securities Exchange Act Release No. 48007 (June 10, 2003), 68 FR 35744 (June 16, 2003) (File No. SR-DTC-2003-07).

<sup>4</sup> Securities Exchange Act Release No. 50182 (August 11, 2004), 69 FR 51341 (August 18, 2004) (File No. SR-DTC-2004-05).

<sup>5</sup> Net debit caps help ensure that DTC can complete settlement, even if a Participant fails to settle.

<sup>6</sup> Before completing a transaction in which a Participant is the receiver, DTC calculates the resulting effect the transaction would have on the Participant's account and determines whether the resulting net balance would exceed the Participant's net debit cap. Any transaction that would cause the

whether the Receiving Participant has a pending delivery for the same security to another Participant.<sup>7</sup> In such a situation, DTC's Account Transaction Processor ("ATP")<sup>8</sup> will calculate the net effect to the collateral<sup>9</sup> and net debit cap controls for all three Participants involved. If the net effect will not result in a deficit in the collateral or net debit cap controls for any of the three Participants, ATP processes the transactions simultaneously. Without the Look-Ahead Process, the transaction would pend in DTC's system until another transaction created sufficient credit in the Receiving Participant's account. Most credits are generated when a Participant delivers securities versus payment, pledges securities for value, receives principal, dividend or other interest allocations, or wires funds (a Settlement Progress Payment ("SPP")) to DTC's account at the Federal Reserve Bank of New York in order to reduce its DTC net debit.

In order to further reduce the number of recycling transactions in the system and to improve the timeliness and certainty of transactions completing, DTC is proposing to expand the Look-Ahead Process beyond same securities for MMIs to allow pairs of money market instrument transactions between two Participants (*i.e.*, an Issuing Paying Agent ["IPA"] and a custodian or dealer) that are pending for both party's net debit caps to complete. This situation occurs when an IPA has a delivery of a new money market instrument to a custodian or a dealer for X dollars and that same custodian or dealer has a maturity of a money market instrument of equal or greater value awaiting acceptance by the same IPA. The proposed rule change would allow ATP to process those transactions simultaneously, as long as neither Participant's risk management controls were overridden.

Participant's net settlement debit to exceed its net debit cap is placed in a pending (recycling) queue until another transaction creates credits in the Participant's account.

<sup>7</sup> For example, Participant A is delivering shares to Participant B and Participant B has a delivery obligation of shares with the same CUSIP to Participant C.

<sup>8</sup> ATP is the core processing system for all transaction activity affecting security positions held at DTC.

<sup>9</sup> DTC tracks collateral in a Participant's account through its Collateral Monitor ("CM"). At all times, the CM reflects the amount by which the collateral in the account exceeds the net debit in the account. When processing a transaction, DTC verifies that the deliverer's and receiver's CMs will not become negative when the transaction completes. If the transaction would cause either party to have a negative CM, the transaction will recycle until the deficient account has sufficient collateral for the transaction to complete.

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

This enhancement to the Look-Ahead Process will reduce the number of MMI recycling transactions. The Look-Ahead enhancement to DTC's processing system will not result in any systematic changes for Participants.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC in that the proposed rule change will promote the prompt and accurate clearance and settlement of securities transactions because it will allow transactions to settle through a Look-Ahead Process and as such will allow MMI transactions to clear and settle in a more prompt and efficient manner. The proposed rule change will be implemented in a manner that is consistent with DTC's risk management controls.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

DTC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

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

Written comments from relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

**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](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2008-09 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-DTC-2008-09. 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-2008-09 and should be submitted on or before October 30, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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<sup>10</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-58728; File No. SR-Phlx-2008-70]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the NASDAQ OMX PHLX, Inc. Relating to an Order Entry Port Fee**

October 3, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 24, 2008, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") 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 the Phlx. 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 Exchange, pursuant to Section 19(b)(1) of the Act<sup>3</sup> and Rule 19b-4 thereunder,<sup>4</sup> proposes to adopt a monthly order entry port fee of \$250 assessed per member organization order entry mnemonic.<sup>5</sup>

While changes to the Exchange's fee schedule pursuant to this proposal are effective upon filing, the Exchange has designated the proposed monthly \$250 order entry port fee to be implemented beginning October 1, 2008.

The text of the proposed rule change is available on the Exchange's Web site at [http://www.phlx.com/regulatory/reg\\_rulefilings.aspx](http://www.phlx.com/regulatory/reg_rulefilings.aspx).

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

In its filing with the Commission, the Exchange included statements

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(1).

<sup>4</sup> 17 CFR 240.19b-4.

<sup>5</sup> For purposes of this proposal, order entry mnemonics are codes that identify member organization order entry ports. Member organizations send order flow to the Exchange via these order entry ports. A member organization may have more than one order entry port. To clarify, order entry mnemonics would not include those mnemonics entered through internal Exchange applications, such as the Floor Broker Management System, because the proposed fee is intended to help cover the costs of establishing and maintaining connectivity to the Exchange through external order entry ports. (See Exchange Rule 1063).