

Commission by October 15, 1996 as a proposed rule change pursuant to Section 19(b) of the Act.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. This will permit the pilot program to remain in effect until December 31, 1996 without interruption. In addition, the Exchange has represented that no problems have arisen and no complaints have been received concerning the pilot program since its implementation.⁸ Accordingly, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-96-19 and should be submitted by August 26, 1996.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-CHX-96-19), extending the pilot program until December 31, 1996 and extending the deadline for filing the monitoring report to August 31, 1996, is hereby approved.

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

⁸ Telephone conversation between David T. Rusoff, Esq., Foley & Lardner, and James T. McHale, Attorney, Office of Market Supervision, Division of Market Regulation, SEC on July 17, 1996.

⁹ U.S.C. 78s(b)(2).

¹⁰ CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-37490; File No. SR-DTC-96-12]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding the Quarterly Assessment of Participants for Lines of Credit Costs

July 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 12, 1996, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-96-12) 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 purpose of the proposal is to change from a monthly basis to a quarterly basis DTC's assessment of participants to recover its costs of obtaining a committed line of credit to fund shortfalls resulting from late payments of principal and income ("P&I payments").

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 proposal is to change from a monthly basis to a

quarterly basis DTC's assessment of participants to recover its costs of obtaining a committed line of credit to fund shortfalls resulting from late P&I payments. In order to help assure that DTC is able to allocate P&I payments to participants in same-day funds on the payment date, DTC has obtained a committed bank line of credit to support P&I Payment allocations of funds not received by DTC's 2:30 p.m. cut-off time. DTC's procedures provide that the commitment fee paid by DTC will be charged to participants monthly on a pro-rata basis based upon the P&I payments that each participant received during the previous calendar year or other reasonably determined time period.³ The purpose of the proposed rule change is to provide for this charge to be made quarterly, instead of monthly, because DTC is billed on a quarterly basis.

DTC believes that the proposed rule change is consistent with Section 17A of the Act⁴ and the rules and regulations thereunder, because it will provide for the equitable allocation of dues, fees, and other charges among participants.

(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 not necessary or appropriate in furtherance of the purposes of the Act.

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

DTC did not solicit comments on the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)⁵ of the Act and pursuant to Rule 19b-4(e)(2)⁶ promulgated thereunder in that the proposal changes a due, fee, or other charge. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of

³ Securities Exchange Act Release No. 36837 (February 13, 1996), 61 FR 6404 [File No. SR-DTC-96-02] (notice of filing and immediate effectiveness of proposed rule change regarding principal and income payments to participants).

⁴ 15 U.S.C. § 78q-1 (1988).

⁵ 15 U.S.C. § 78s(b)(3)(A)(ii) (1988).

⁶ 17 CFR 240.19b-4(e)(2) (1995).

¹ 15 U.S.C. 78s(b)(1) (1988).

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

investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-96-12 and should be submitted by August 26, 1996.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37492; File No. SR-NASD-96-30]

Self-Regulatory Organizations; Notice of Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to an Extension and Permanent Approval of the NASD's Short Sale Rule

July 29, 1996.

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 July 24, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. As discussed below, the Commission has also granted accelerated approval to a portion of the proposal.

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

The NASD is proposing to implement its short sale rule ("Rule") on a permanent basis. With this filing, the NASD is also proposing a three-month extension of the pilot program for the short sale rule so that the effectiveness of the Rule does not lapse while the Commission considers the NASD's request for permanent approval of the Rule.

The text of the proposed rule change with respect to the proposal to implement the short sale rule on a permanent basis is as follows (additions are in italics and deletions are bracketed):

NASD Rule 3350

* * * * *

(k)(3)(A) Until February 1, 1996, the term "qualified market maker" shall mean a registered Nasdaq market maker that has maintained, without interruption, quotations in the subject security for the preceding 20 business days. Notwithstanding the 20-day period specified in this subsection, after an offering in a stock has been publicly announced, a registration statement has been filed, or a merger or acquisition involving two issues has been announced, no market maker may register in the stock as a qualified market maker unless it meets the requirements set forth below:

(i) For secondary offerings, the offering has become effective and the market maker has been registered in and maintained quotations without interruption in the subject security for 40 calendar days;

(ii) For initial public offerings, the market maker may register in the offering and immediately become a qualified market maker; provided, however, that if the market maker withdraws on an unexcused basis from the security within the first 20 days of the offering, it shall not be designated as a qualified market maker on any subsequent initial public offerings for the next 10 business days;

(iii) After a merger or acquisition involving an exchange of stock has been publicly announced and not yet consummated or terminated, a market maker may immediately register in either or both of the two affected securities as a qualified market maker

pursuant to the same-day registration procedures in Rule 4611; provided, however, that if the market maker withdraws on an unexcused basis from any stock in which it has registered pursuant to this subsection within 20 days of so registering, it shall not be designated as a qualified market maker pursuant to this subparagraph (3) for any subsequent merger or acquisition announced within three months subsequent to such unexcused withdrawal.

(B) For purposes of this subparagraph (3), a market maker will be deemed to have maintained quotations without interruption if the market maker is registered in the security and has continued publication of quotations in the security through the Nasdaq on a continuous basis; provided, however, that if a market maker is granted an excused withdrawal pursuant to the requirements of Rule 4619, the 20 business day standard will be considered uninterrupted and will be calculated without regard to the period of the excused withdrawal. Beginning February 1, 1996, t]The term "qualified market maker" shall mean a registered Nasdaq market maker that meets the criteria for a Primary Nasdaq Market Maker as set forth in Rule 4612.

[(1) This section shall be in effect until August 3, 1996.]

The text of the proposed rule change with respect to the proposal to extend the short sale rule for a three-month period is as follows (additions are italics and deletions are bracketed):

NASD Rule 3350

* * * * *

(1) This section shall be in effect until [August 3, 1996] November 4, 1996.

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 NASD 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 V below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

⁷ 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.