

result of the proposed rule change, a CDS participant will be able to settle a cross-border transaction with a DTC counterparty by making a book-entry delivery from its participant account at CDS to the DTC omnibus account at CDS.<sup>5</sup> The CDS participant would identify which DTC participant account should be credited with the position. This transaction would then result in an immediate credit to the receiving DTC participant account on DTC's books. The receiving DTC participant could then redeliver on a free or versus payment basis within DTC. Thus, there would be no need for the physical transporting of certificates to DTC. The securities would remain at CDS unless withdrawn by DTC. DTC and CDS would conduct automated daily reconciliation to ensure balanced books. In addition, to minimize any subsequent physical movement of securities, DTC and CDS would engage in weekly netting. The netting would reduce on an omnibus basis the number of securities in the same issue held by each depository on behalf of the other.

CDS would provide subcustody services as income collection, maturity presentments, and reorganization processing on securities held in DTC's omnibus account at CDS in accordance with CDS procedures (as DTC currently provides for securities held by DTC on behalf of CDS). Whether DTC is holding its underlying inventory in Canada or in the U.S., DTC services to participants will be the same as currently provided.

DTC believes that the primary benefits of opening an omnibus account at CDS are: (i) The elimination of failed transactions on the trade settlement date that result from delays in the current process; (ii) the elimination of most physical movements of Canadian securities between CDS, DTC, and Canadian transfer agents, and the costs and risks associated with such movements; and (iii) the reduction of costs to DTC and CDS participants related to (i) and (ii). DTC believes that the realization of these benefits is consistent with DTC's objectives of providing efficient book-entry clearance and settlement facilities and reducing risk to DTC participants by immobilizing certificates.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act<sup>6</sup> and the rules and regulations thereunder applicable to DTC because

the proposed enhancements will reduce risks and associated costs to DTC and CDS participants by streamlining the processing of crossborder securities transactions between U.S. and Canadian entities.

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

DTC perceives no adverse 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*

The proposed rule change was developed through discussions with several participants. 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 DTC 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, 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 the file number SR-DTC-97-22 and should be submitted by March 13, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 98-4251 Filed 2-19-98; 8:45 am]

BILLING CODE 8010-01-M

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-39658; File No. SR-DTC-97-14]

**Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Revisions to the Procedures for Running Call Lotteries on Issues of Book Entry Only Securities**

February 12, 1998.

On July 14, 1997, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-97-14) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on December 8, 1997.<sup>2</sup> The Commission received no comment letters in response to the filing. For the reasons discussed below, the Commission is approving the proposed rule change.

**I. Description**

The proposed rule change amends DTC's procedures for running call lotteries for book-entry only ("BEO") issues of securities.<sup>3</sup> Prior to the rule

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 39373 (November 28, 1997), 62 FR 64612.

<sup>3</sup> For a discussion of DTC's call lottery process, refer to Securities Exchange Act Release Nos. 21523 (November 27, 1984), 49 FR 47352 [File No. SR-DTC-84-09] (filing and immediate effectiveness of proposed rule change); 30552 (April 2, 1992), 57 FR 12352 [File No. SR-DTC-90-02] (order temporarily approving a proposed rule change by the DTC relating to the establishment of a procedure to recall certain deliveries which have created short positions as a result of call lotteries); 35034 (November 30, 1994), 59 FR 63396 [File Nos. SR-DTC-94-08 and SR-DTC-94-09] (order granting temporary approval of proposed rule changes to establish procedures to recall certain deliveries which have created short positions as a result of call lotteries and rejected deposits); and 36651 (December 28, 1995), 61 FR 429 [File No. SR-DTC-95-21] (order granting accelerated permanent approval of a proposed rule change concerning short position reclamation procedures).

<sup>5</sup> International Depository & Clearing LLC, a subsidiary that DTC owns jointly with National Securities Clearing Corporation, is coordinating DTC's development of the proposed enhancement.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

change, DTC's call lottery process allocated partially called securities<sup>4</sup> among participants having positions in the called securities based on the participants' positions on the call publication date.<sup>5</sup> Under the amendment, for BEO issues of securities DTC will run lotteries using its participants' positions as of the close of business on the day DTC announces the lottery instead of the call publication date.<sup>6</sup> The proposed rule change does not set forth any other amendments to DTC's call lottery procedures.

DTC has stated its belief that changing procedures solely for BEO securities will contribute to a reduction in short positions without causing any adverse impact to the parties concerned. The concept of a publication date appears to be far less relevant to BEO securities than to other securities. Generally issuers of these securities do not publish partial call notices but rather inform only the holder of record (which is DTC for BEO issues) which then notifies its participants. Although the issuer may inform DTC of a publication date, DTC believes this is done only for purposes of DTC's lottery, and the date has no other real significance. DTC generally processes calls of BEO issues within twenty-four hours of the call being announced by DTC.

## II. Discussion

Section 17A(b)(3)(F)<sup>7</sup> of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that DTC's proposed rule change is consistent with DTC's obligations under the Act because the new procedures should help reduce the number of short positions created by call lotteries. In particular, the rule change will eliminate short positions that occur when a participant sells its shares between the call publication date and the date DTC announces the lottery. As a result, DTC participants will avoid

the expenses associated with experiencing short positions, including DTC's daily charge of 130% of the market value of each security for which the participant has a short position at DTC.

## III. Conclusion

On the basis of the foregoing, the Commission finds that the 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-97-14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-4254 Filed 2-19-98; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39664; File No. SR-NASD-98-07]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Extension of Time to Answer Arbitration Complaints

February 13, 1998.

Pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 2, 1998,<sup>2</sup> the National Association of Securities Dealers, Inc. ("NASD" or "Association") 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 NASD. The Association has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (e)(6) of Rule 19b-4 under the Act<sup>3</sup> which renders the proposal effective upon receipt of this filing by

the Commission.<sup>4</sup> 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

NASD Regulation is proposing to amend Rule 10314 of the NASD's Code of Arbitration Procedure ("Code") to recognize and conform to current practice and to reduce the administrative burden on NASD Regulation staff. Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in *brackets*.

\* \* \* \* \*

### 10314. Initiation of Proceedings

Except as otherwise provided herein, an arbitration proceeding under this Code shall be instituted as follows:

(a) Unchanged.  
(b) Answer-Defenses, Counterclaims, and/or Cross-Claims

(1) Within twenty (20) business *45 calendar* days from receipt of the Statement of Claim, Respondent(s) shall serve each party with an executed Submission Agreement and a copy of the Respondent's Answer. Respondent's executed Submission Agreement and Answer shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s) along with any deposit required under the schedule of fees. The Answer shall specify all available defenses and relevant facts thereto that will be relied upon at the hearing and may set forth any related Counterclaim the Respondent(s) may have against the Claimant, any Cross-Claim the Respondent(s) may have against any other named Respondent(s) and any Third-Party Claim against any other party or person based upon any existing dispute, claim, or controversy subject to arbitration under this Code.

(2)(A)—(B) Unchanged.

(c) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent, or Third-Party Respondent who fails to file an [a] Answer within [twenty (20) business] *45 calendar* days from receipt of service of a Claim, unless the time to answer has been

<sup>4</sup> The terms of certain issues allows the issuer to call for part or all of the outstanding securities for redemption at certain times during the issue's life. This type of issue is referred to as a callable security. Callable securities are either preferred stock or bonds which the issuer is permitted or required to redeem before the stated maturity. Generally when an issuer calls a security, the issuer's trustee publishes notice that the issue has been called or in the case of registered securities, mails notice to the registered holders.

<sup>5</sup> The call publication date is the date on which the issuer gives notice of the redemption.

<sup>6</sup> A copy of DTC's proposed call lottery procedures is attached as Exhibit A to DTC's proposed rule change, which is available for inspection and copying at the Commission's Public Reference room or through DTC.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The NASD filed a technical amendment on February 11, 1998 to change the operative date of the proposed rule filing from March 1, 1998 to March 16, 1998. See letter from Jean I. Feeney, Assistant General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated February 6, 1998.

<sup>3</sup> 17 CFR 240.19b-4(e)(6).

<sup>4</sup> The Association has represented that this proposed rule change: (i) Will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition, and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Association also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b-4(e)(6) under the Act. *Id.*