

Applicants' Conditions

Applicant agree that any order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee adopted in accordance with rule 12b-1 under the Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules), or if such shares are subject to any such fee, the Adviser will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

2. Before the next meeting of the Board is held for the purpose of voting on an advisory contract under section 15 of the Act, the Board, including a majority of the Independent Trustees, taking into account all relevant factors, shall consider to what extent, if any, the advisory fee charged to the Investing Fund by the Adviser should be reduced to account for reduced services provided to the Investing Fund by the Adviser as a result of Uninvested Cash being invested in the Money Market Funds. In connection with this consideration, the Adviser to the Investing Fund will provide the Board with specific information regarding the approximate cost to the Adviser of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Funds. The minute books of the Investing Fund will record fully the Board's considerations in approving the advisory contract, including the consideration relating to fees referred to above.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment of Uninvested Cash in the Money Market Funds does not exceed 25 percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

4. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectus and statement of additional information.

5. Each Investing Fund, each Money Market Fund, and any future Fund that may rely on the order shall be advised by an Adviser.

6. No Money Market Fund, the shares of which are held by an Investing Fund, shall acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in the Securities Lending Program, a majority of its Board, including a majority of the Independent Trustees, will approve the Fund's participation in a Securities Lending Program. Such Trustees also will evaluate the securities lending arrangement and its results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of the Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-21889 Filed 8-29-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44745; File No. SR-DTC-2001-03]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to Making Foreign Securities Eligible for Depository Services

August 24, 2001.

On February 23, 2001, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-2001-03) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on May 10, 2001.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The purpose of the filing is provide DTC and NSCC participants who are presently using NSCC's clearing services with respect to foreign securities the use, if applicable, of depository services at DTC for these securities. These securities are generally foreign ordinary equities that have been assigned security numbers (CINS) and NASD

symbols to automate comparison process. Most trades in foreign ordinary shares that are executed between two U.S. broker-dealers are forwarded to NASD's automated confirmation transaction (ACT) system and are submitted as locked-in trades to NSCC.

Today, through the NSCC's Foreign Securities Comparison and Netting (FSCN) system, foreign securities are compared and netted on a bilateral basis in a standardized and automated fashion processed through NSCC's over-the-counter system. Receive and deliver instructions are automatically generated by NSCC and are distributed to participants on the morning after comparison, which expedites the settlement process for non-U.S. equity transaction. Trades are netted on a participant-to-participant basis reducing the number of deliveries for settlement in the local market. NSCC does not currently and will not under the proposed rule change, guarantee the ultimate settlement of these transactions or the clearance cash adjustment.

Given the increase in activity over the last few years, U.S. broker-dealers have become concerned about the number of potential risk and operational issues the current process creates, such as the lack of straight through processing ("STP") from the point of trade to settlement. It is DTC's plan to enhance the settlement part of the process and to deliver an automated approach to complete the STP process from trade to settlement. In doing so, many operational issues will be minimized or eliminated.

Today, there is a separation between the physical movement of these securities and the money settlement of the trades (*i.e.*, there is no delivery versus payment ("DVP") as is true for U.S. trades). The delivery of the securities occurs in the foreign location and then some time later the payment is made in the U.S.

Currently, trades in these foreign securities executed in the U.S. must settle in the local market without the benefit of any DTC's infrastructure. Therefore, U.S. based broker-dealer who trade in foreign securities in the U.S. must set up correspondent relationships in the local market. Additionally, each broker-dealers must deal separately with the inherent inefficiencies, such as large time-zone differences, in this structure. Also, the need to set up such correspondent relationships puts smaller broker-dealers at disadvantage because many smaller broker-dealers do not have the resources or trading volumes to justify such relationships and therefore must enlist a large broker-dealer to perform such services for its

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 44260 (May 4, 2001), 66 FR 23956.

clients. As a result, trading costs for the underlying investors are increased.

DTC's plan is to open a custodial account in a local market with an agent bank or central securities depository ("CSD") (collectively "custodian") that will hold shares on DTC's behalf.³ DTC's participants will be able to communicate with DTC with respect to foreign securities as they do today with respect to currently eligible U.S. securities. Due to differences in local market practice from that in the U.S., the eligibility procedures for foreign securities will likely differ from those currently used by DTC. However, participants will be made aware of this fact and of the eligibility criteria and procedures. These securities will be "tagged" in DTC's system in order for DTC participants to readily identify them.

DTC's first such link will be with Citibank N.A., Hong Kong Branch, acting as DTC's custodian. Through the custodian, a participant would move overseas inventory from its current custodian into DTC's account at DTC's foreign custodian. Upon notification from its custodian that the foreign securities are being held in its account, DTC would update the participant's securities position at DTC. Once the position is on DTC's books and records, the participant will be able to move the position by book-entry DVP if desired. In addition, other activity, such as automated customer account transfer services and stock loan, that are currently available for U.S. securities would also be available for foreign securities once they are made DTC eligible.

The DTC Risk Management Committee is responsible for the review and monitoring of this service. The committee will use the same due diligence template for the establishment of custodial arrangements that it uses on all "outward bound" links with foreign CSDs.

The principal benefits that will attend DTC's making these foreign securities eligible for certain depository services are: (1) Connecting the delivery to the settlement on a DVP basis; (2) accelerated speed of settlement of cross-border transactions in these foreign securities; (3) eliminating most physical movements of these foreign securities; (4) reducing costs and risks to DTC participants; and (5) making these services available to a large number of

U.S. entities (*i.e.*, DTC participants and their clients and customers).

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in DTC's custody or control or for which it is responsible. The rule change allows DTC and NSCC participants currently using NSCC's FSCN system the use of depository services at DTC for foreign securities. Making foreign securities eligible for depository services enables broker-dealers to move these positions by book-entry movement and thereby eliminates the inefficiencies and risks associated with the physical movement of security positions. DTC's proposal also allows its participants to settle these trades on a DVP basis instead of the more risky method currently in place where the movement of securities and the payment of money is not necessarily closely related in time. Therefore, the Commission finds that the rule change in making available risk reductions and efficiencies to DTC's participants is done so in a manner consistent with DTC's safeguarding obligations and therefore is consistent with section 17(b)(3)(F) of the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular 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-2001-03) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-21919 Filed 8-29-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44744; File No. SR-Phlx-2001-80]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Adopting a Monthly Fee for Trading Post Space That Includes a Kiosk

August 24, 2001.

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 August 22, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") 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 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 Phlx proposes to amend its schedule of dues, fees, and charges to adopt a fee of \$375 per month for trading post space that includes a kiosk,³ which will be imposed on the users of such kiosks, namely specialists.⁴

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ A kiosk is an open, flat surface that contains computer terminals and allows the specialists to face the trading crowd. Generally, post space is space on the Exchange's trading floor for specialists.

⁴ Currently, the fee for trading post space totals \$250. According to the Phlx, with respect to specialists at trading posts with a kiosk, the \$375 fee would replace the \$250 fee for trading post space. Telephone conversation between Edith Hallahan, First Vice President and Deputy General Counsel, Phlx, and Deborah Flynn, Assistant Director, Division of Market Regulation, Commission, on August 23, 2001.

³ DTC's first custodial account will be with Citibank N.A., Hong Kong Branch. DTC will submit a proposed rule change under Section 19(b)(2) before establishing any new link with any foreign custodian.

⁴ 17 CFR 200.30-3(a)(12).