

of the Notes issuance²⁴ in relation to the net worth of Merrill Lynch.

Finally, the Commission notes that the value of the Biotech Index will be disseminated at least once every fifteen seconds throughout the trading day. The Commission believes that providing access to the value of the Biotech Index at least once every fifteen seconds throughout the trading day is extremely important and will provide benefits to investors in the product.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Exchange has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex.²⁵

The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. Additionally, the Notes will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes there is good cause, consistent with section 6(b)(5) and 19(b)(2) of the Act,²⁶ to approve the proposal, as amended, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,²⁷ that the proposed rule change (SR-Amex-2003-63), as amended, is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48145; File No. SR-DTC-2003-03]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Modifications to Settlement Progress Payments Procedures

July 9, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on February 13, 2003, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-2003-03) 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 will modify DTC's settlement progress payment ("SPP") procedures to allow DTC participants, including issuing/paying agents ("IPAs"), to direct that the proceeds from a specific SPP be used to fund a particular transaction, including the maturity presentments of maturing securities from a particular money market instrument ("MMI") program.

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

Recently, DTC and the Bond Market Association ("BMA") sought industry comment on a series of possible

revisions to DTC's MMI settlement system that were designed to enhance efficiency and reduce the liquidity risk that IPAs incur when making daily payments of billions of dollars on maturing MMIs.³ Among the several problems that were identified, one is that the intraday funds paid by one commercial paper issuer may be used to pay off the maturity presentments of another issuer because IPAs cannot control how their issuers' obligations are processed against their accounts and because IPAs cannot align specific issuer intraday credits from the issuance of new commercial paper to a specific debt due to that same issuer's maturing commercial paper. Although this typically does not cause any problems because all obligations are settled, events such as those of September 11, 2001, can severely disrupt the process.

Under DTC's current procedures for processing of maturity presentments, DTC delivers the maturing commercial paper from the accounts of participants having positions in the maturing instrument to the IPA's MMI participant account early on the maturity date (generally around 2:00 a.m.). Since maturity presentments are processed as the equivalent of book-entry deliveries versus payment, a maturity presentment may recycle (*i.e.* may pend in DTC's system) just as any delivery would if the net debit cap or collateralization controls applicable to the IPA's account prevent the delivery from taking place. In such a situation, the maturity presentment would be processed only when additional funds are credited to the IPA's account. Recycling maturity presentments are processed in the order they are in DTC's recycling queue. This order is without regard to any offsetting payment or reissuance transaction because, as mentioned above, there is no provision in DTC's current procedures that enables an IPA to allocate settlement credits derived from an intraday SPP to a specific issuer's maturity presentment.

DTC's new procedures will enable the IPA to direct settlement credits from an intraday SPP to a specific issuer's maturity presentments. To do so, when an IPA wires funds to DTC's account at the Federal Reserve Bank of New York, the IPA will designate the CUSIP number of the issuer's MMI. DTC will use this information to process recycling transactions containing the designated CUSIP. (Previously, upon receipt of an intraday SPP, DTC would process the

²⁴ The Commission notes that the issuance is \$10 million. See Merrill Lynch & Co., Inc., Accelerated Return Notes Linked to the Amex Biotechnology Index SM, Preliminary Prospectus Supplement dated June 16, 2003.

²⁵ See *supra* note 17.

²⁶ 15 U.S.C. 78f(b)(5) and 78s(b)(2).

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 17 CFR 200.30-3(A)(12).

¹ 15 U.S.C. 78s(b)(1).

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

³ While DTC's filing focuses on commercial paper, the issues and revised procedures are for all instruments settled through the MMI settlement system.

first transaction in the IPA's recycling queue.)

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁴ because it will promote the prompt and accurate settlement of securities transactions and 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 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

The proposed rule change was developed in consultation with participants in the MMI market and was one of the recommendations in a paper issued jointly by The Bond Market Association and The Depository Trust & Clearing Corporation, DTC's parent, on November 25, 2002. In addition, DTC's participants were notified by Important Notice B#4528 on March 31, 2003, about the modifications to DTC's SPP procedures.

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)(iii)⁵ of the Act and Securities Exchange Act Rule 19b-4(f)(4)⁶ because it effects a change in an existing service of DTC that does not adversely affect the safeguarding of securities or funds in DTC's control or for which DTC is responsible and does not significantly affect DTC's or its participants' respective rights or obligations. At any time within 60 days of the filing of such proposed 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 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, 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 5th Street NW., Washington, DC 20549-0069. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR-DTC-2003-03. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at DTC's principal office. All submissions should refer to File No. SR-DTC-2003-03 and should be submitted within August 7, 2003.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48157; File No. SR-ISE-2003-14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments No. 1 and 2 by International Securities Exchange, Inc., Relating to Fee Changes

July 10, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 22, 2003, the International Securities Exchange, Inc. (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the ISE. On May 15, 2003,

the ISE filed Amendment No. 1 to the proposed rule change.³ On July 8, 2003, the ISE filed Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange is proposing changes to its Schedule of Fees in order to establish a fee for CLICKTM through Virtual Private Network ("VPN"), a new type of technical connection to the Exchange. The text of the proposed rule change is available at the Office of the Secretary, the ISE, and at the Commission.

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 ISE 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 ISE 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. Purpose⁵

The Exchange is proposing changes to its Schedule of Fees in order to establish a fee for CLICKTM through VPN. A CLICKTM through VPN connection is available to Electronic Access Members ("EAMs") of the Exchange. CLICKTM through VPN consists of CLICKTM (the same front-end, order entry application

³ See letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 14, 2003 ("Amendment No. 1"). In Amendment No. 1, the ISE clarified that the word CLICK represents a registered trademark, as opposed to a defined term, and that CLICK/Trade Review Terminal fees do not apply to CLICK through VPN.

⁴ See letter from Michael Simon, Senior Vice President and General Counsel, ISE, to Nancy Sanow, Assistant Director, Division, Commission, dated July 3, 2003 ("Amendment No. 2"). In Amendment No. 2, the ISE revises and replaces the original description contained in the purpose section of the notice. In particular, the revised purpose section clarifies that CLICK through VPN is a different means of connecting to the Exchange's existing trading system. ISE also notes that no changes are necessary to the existing ISE surveillance and communication rules to accommodate this connection, or its trading system.

⁵ See Amendment No. 2, *supra* note 4.

⁴ 15 U.S.C. 78q-1.

⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

⁶ 17 CFR 240.19b-4(f)(4).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.