

Louis A. Brilleman, P.C.

1140 Avenue of the Americas, 9th Floor
New York, NY 10036
Phone: 212-584-7805
Fax: 646-380-6635

January 14, 2014

Via Email: rule-comments@sec.gov

Ms. Elizabeth M. Murphy
Secretary, Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: File Number SR-DTC-2013-11
Notice of Filing of Proposed Rule Change
to specify procedures available to issuers of
securities deposited at DTC for book entry services

Dear Ms. Murphy:

This firm primarily represents micro-cap issuers that may be affected from to time by the actions of the Depository Trust Company (“DTC”), either in the context of initial applications for eligibility or as a result of service suspensions. We appreciate the opportunity to comment on the proposed rule.

The proposed rule will greatly improve an issuer’s ability to communicate with DTC in the event of eligibility concerns raised respecting its security. It also creates a clear procedural path forward for affected issuers to resolve DTC services interruptions.

We agree with the concept of the automatic removal of a global lock based on the Rule 144 holding periods. However, we believe that one important aspect that has not been addressed in the proposed rule is the case of issuers whose securities were subjected to a deposit chill prior to the ruling by the Securities and Exchange Commission in *In the Matter of the Application of International Power Group, Ltd.* As is well known, during that period, DTC typically did not communicate directly with issuers or their shareholders. Therefore, if there was an eligibility concern regarding a particular security, neither the issuer nor the holder of the security would find out about DTC’s refusal to deposit or transfer it until much later, often long after the transactional opportunity had passed. This also caused serious delays in affected companies’ ability to challenge the deposit chill.

In addition, to the extent that these companies (who in many cases are small startups) have been unable to persuade DTC to lift the deposit chill, they will now need the additional imposition of a global lock followed by a six month or one year waiting period, as the case may be, before the lock is released automatically. By that time, it may be too late to salvage what is left of the company’s business. It should be noted that to a small company a deposit chill can be as disruptive and harmful as a global lock

as it effectively bars an issuer from raising additional financing. Both DTC actions could seriously imperil a small company's continued existence. From the perspective of the small issuer whose securities were subjected to a deposit chill prior to *International Power*, differentiating between the removal of a deposit chill and a global lock as proposed by the rule also has the counter-intuitive effect that a global lock which is typically imposed as a result of enforcement proceedings is easier to remedy than a deposit chill which is usually imposed based on mere concerns regarding a security's eligibility.

We believe that it would serve the public interest and the investment community to have a deposit chill lifted automatically after a certain period of time, as in the case of a global lock; at least for those deposit chills imposed prior to *International Power*. Alternatively, the rule should include a procedure that allows for a DTC fairness determination based on the facts and circumstances of the particular case that enough time has passed for the pre-*International Power* deposit chill to be lifted. Facts that may weigh in favor of removal of a deposit chill should include the existence of a legitimate business; the length of time the chill has been in effect; and the small number of the issuer's shares as to which there exists an eligibility concern as a proportion of the total number of shares outstanding.

As stated above, we believe that overall the rule proposal represents a significant improvement over past DTC procedures as they relate to small companies. Thank you for your consideration of these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Louis A. Brilleman', with a stylized flourish at the end.

Louis A. Brilleman