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Via Electronic Mail

August 13, 2008

Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

RE: Securities and Exchange Commission Release No. 34-58165
File No. SR-DTC-2008-03, Notice of Filing of Amended Proposed Rule Change
to Establish a Fee Relating to DTC's Settlement Procedures for the Maturity of
Money Market Instruments With Unknown Rates

Dear Sir or Madam:

The American Bankers Association (ABA) is responding to the above proposal of the Depository Trust Company (DTC) to establish a fee relating to DTC's settlement procedures for the maturity of money market instruments (MMIs) with unknown rates.

The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$13.3 trillion in assets and employ more than two million men and women. Our members include issuing agents or paying agents (collectively "IPAs") who will be directly affected by DTC's proposal.

DTC seeks to impose upon IPAs a "disincentive" fee for failing to provide income or principal information for variable rate and periodic principal paying and foreign currency denominated MMIs by 2:30 p.m. ET on the maturity date or periodic payment date. While we understand DTC's desire to avoid the operational complications arising from late filings, ABA believes it is wholly inappropriate to seek to apply the fee to IPAs—as opposed to the parties that actually have the necessary information. Accordingly, ABA strongly opposes this proposal.

Discussion

DTC proposes to implement a daily fee for each day or part thereof that an IPA has not filed the necessary information on MMIs with unknown rates. Under the proposal, if the maturity rate is not in DTC's system by 2:30 p.m. ET on the date of maturity, DTC will charge a fee of \$5,000 on the maturity date and for each subsequent MMI business day, or part thereof, until the rate is submitted.

According to DTC, “[t]he process to monitor the resolution of payments on Unknown Rate Maturities is time-consuming because it involves, among other things, DTC verifying the IPA of the Unknown Rate Maturity, calling the IPA at minimum on a daily basis, and coordinating within DTC to get the issue resolved as quickly as possible.” DTC further argues that this fee is appropriate to “compensate [DTC] for the operational expenses associated with monitoring the resolution of payments on Unknown Rate Maturities and expects such fee to serve as a disincentive to IPAs' delayed notice of the maturity rate.”

As stated above, ABA recognizes DTC's desire to incent IPAs to provide the rate information on a timely basis. *However, IPAs do not have or control the information concerning the rates.* Rather, IPAs serve merely as conduits for that information—they rely on the Issuer or the Issuer's Calculation Agent for that information. The disincentive fee should, therefore, be assessed upon the Issuer who actually controls the information.

Applying the fee to the IPA would place inappropriate financial burden on the IPA who, in turn, would be forced to pursue reimbursement from the Issuer directly, very probably with little success. The realistic result of this proposal is that IPAs would become unwilling collection agents for DTC and would likely have to absorb the fees. IPAs would bear the financial and customer relationship burdens of the proposal, while the Issuer—who controls the information—would feel little impact. That is to say, the intended incentives of this indirect proposal will be ineffective because they have to operate through the buffer of the IPA before their effects ever reach the parties who actually control the information. In short, the proposal will not work as an incentive tool.

It is our understanding that the Issuers are parties to the various contracts with DTC and agree to comply with DTC's MMI Procedures. Accordingly, we believe there should be no barrier to imposing the disincentive fee directly on Issuers. While it may be simpler merely to debit an IPA's account with DTC, for the reasons discussed above that is an inherently unfair position which ultimately does not serve to incent the party that controls the required information.

Finally, although the proposal indicates that the \$5,000/day fee is intended to compensate DTC for its operational costs, as well as serving as a disincentive fee, DTC has provided no information about its own actual costs.

We understand that DTC communicated its intent to charge this fee to at least one industry group. However, we believe that it was unclear from that communication that the IPAs would be required to pay the fee and see reimbursement from the Issuers. Moreover, the amount of the fee discussed was significantly lower than \$5,000 per day.

Conclusion

In conclusion, ABA strongly opposes the proposal as both an unwarranted financial burden on IPAs and as an inherently ineffective means of incenting the appropriate party to timely provide the required rate information.

If you have any questions about ABA's comments, please do not hesitate to contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Cristeena G. Naser". The signature is fluid and cursive, with the first name being the most prominent.

Cristeena G. Naser

cc: Erik Sirri, Director
Division of Trading and Markets
Securities and Exchange Commission