DTCC

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October 13, 2008

Ms. Florence E. Harmon, Acting Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Self Regulatory Organizations; The Depository Trust Company; Proposed Rule Change to Establish a New Disincentive Fee Relating to Money Market Instruments; Release No. 34-58252; File No. SR-DTC-2008-05

Dear Ms. Harmon:

On June 5, 2008, pursuant to Section 19(b)(l) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"),[1] and Rule 19b-4 thereunder, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission (the "SEC" or the "Commission") a proposed rule change on Form 19b-4 to establish a new disincentive fee, which relates to DTC's Defaulting Issuer procedures when an Issuing Paying Agent ("IPA") reverses a refusal to pay instruction. The proposed rule change was amended by DTC by Amendment No. 1 filed with the Commission on July 16, 2008. On July 30, 2008, pursuant to Section 19(b)(l) of the Exchange Act, the Commission published notice of the Proposed Rule Change in the *Federal Register*.[2] DTC appreciates this opportunity to respond to the comment letter submitted by The American Bankers Association ("ABA") with respect to the filing.

The ABA's comment letter raises two concerns which we address in this response. Specifically, the ABA commented that (i) they believe that the disincentive fee should be assessed upon the Issuer who actually controls the information that DTC is seeking, and (ii) applying the proposed fee to the Issuing Paying Agent ("IPA") would place an inappropriate financial burden on the IPA.

I. <u>The Disincentive Fee should be assessed upon the Issuer</u>

[1] 15 U.S.C. § 78s (b)(l), as amended.
[2] Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to Establishing a New Money Market Instrument Procedure Disincentive Fee, 73 Fed. Reg. 46,128 (2008).

While DTC appreciates the IPA's position with regard to recouping the proposed disincentive fee, there is no current mechanism in place at DTC which allows DTC to bill MMI Issuers directly. DTC is aware that some IPAs are concerned that the proposed fee will be merged among the daily settlement charges, making it difficult for IPAs to identify the fee and ultimately pass it on to the appropriate issuer. After some consideration, DTC Operations has agreed that while it plans to levy the proposed fee on the IPA's settlement account, upon request, the IPA can receive a hardcopy debit notice of the specific fee and related CUSIP(s) that the IPA can then forward on to its issuer.

II. Applying the proposed fee to the IPA would place an inappropriate financial burden on the IPA

The ABA indicates that the proposed fee will not serve as a disincentive because IPAs are not likely to recoup such fee from their Issuers. As a result, the ABA believes that the proposed fee will place an inappropriate financial burden on IPAs. Currently, IPAs are in the strongest position to change Issuer behavior relating to the timely payment of maturing obligations.

The proposed fee was discussed with DTC Participants and Issuers as early as September 2007. The meetings attended by IPA banks, Custodian banks and even Bank Issuers to discuss the action to improve the process include the DTCC Operating Advisory Committee (OAC) on September 12, 2007 and December 5, 2007, the Commercial Issuers Working Group on September 20, 2007 and May 22, 2008, and the Securities Industry and Financial Markets Association (SIFMA) and DTCC MMI Working Group meetings during the same periods and most recently on June 18, 2008. The IPA banks represented at these various forums collectively account for over eighty percent of the MMI settlement volume. The IPAs in attendance voiced no opposition to the proposal.

The proposed fee is designed to protect the industry from potential daily liquidity shortfalls to refusals that could reach upwards of billions of dollars and from the ensuing impact of the reversal of these instructions late in the settlement day or on subsequent days.

If you have any questions or would like to discuss these comments further, please contact the undersigned at 212-855-7632 or cfordin@dtcc.com.

Very truly yours,

Candice Fordin

Candice Fordin
Associate Counsel