

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58252; File No. SR-DTC-2008-05)

July 30, 2008

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to Establishing a New Money Market Instrument Procedure Disincentive Fee

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on June 5, 2008, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) and on July 16, 2008, amended the proposed rule change and as 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, as amended, from interested persons.

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

The proposed rule change would establish a new disincentive fee for DTC’s Money Market Instrument (“MMI”) settlement services.

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.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

¹ 15 U.S.C. 78s(b)(1).

The purpose of the proposed rule change is to add a new \$10,000 disincentive fee for “reversal of a failure or refusal to pay instruction” that will be listed in DTC’s fee schedule for settlement services under the heading “Money Market Instruments (MMI) by Book Entry Only.”

As background, DTC automatically sweeps all maturing money market instruments (“MMIs”) positions each morning from investors’ custodian accounts and generates the appropriate maturity payment (“MP”). The MMIs are then delivered to the account of the appropriate issuer paying agent (“IPA”). DTC debits the IPA’s account in the amount of the MP for settlement that day and credits the same MP amount to the investor’s custodian account for payment that day to the investor.

However, because MPs are processed automatically and randomly against the IPAs’ DTC account, IPAs can refuse to pay a specific issuer’s MP if that issuer defaults on its obligation to the IPA. An IPA that refuses payment on an MMI must communicate its intention to do so to DTC by using the MP Refusal function on DTC’s Participant Terminal System (“PTS”). This communication is referred to as an Issuer Failure/Refusal to Pay and it allows the paying agent to enter refusal to pay notifications for a particular defaulting issuer through PTS until 3:00 p.m., eastern time, on the maturity date. The paying agent understands that entering such a notification will cause DTC to follow its Defaulting Issuer procedures, which include devaluing the collateral value of all of the defaulting issuer’s MMI to zero, reversing all of the issuer’s issuances and maturities processed that day, notifying DTC participants of the default, and blocking all further issuances by the issuer from entering DTC. If, thereafter, an IPA contacts DTC to complete all of the transactions that it previously cancelled through the MP Refusal Function, DTC must undo all the actions it took under its Defaulting Issuer procedures. This process of reversing a refusal or failure to pay instruction and effectively resettling the security is

an operational burden to DTC and of great financial concern to investors and their custodians. Accordingly, DTC is proposing to implement a disincentive \$10,000 fee to each IPA that requests such reversal. Additionally, DTC expects such fee to serve as a disincentive to IPAs that request such reversal.

DTC states that the proposed rule change is consistent with the requirements of Section 17A of the Act² and the rules and regulations thereunder applicable to DTC because the disincentive fee is designed to deter the practice of requesting a refusal or failure to pay instruction, thereby promoting the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve such proposed rule change or

² 15 U.S.C. 78q-1.

- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-DTC-2008-05 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-DTC-2008-05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. to 3:00 p.m. Copies of such filing also

will be available for inspection and copying at DTC's principal office and on DTC's Web site at http://www.dtcc.com/legal/rule_filings/dtc/2008.php. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. DTC-2008-05 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.³

Florence E. Harmon
Acting Secretary

³ 17 CFR 200.30-3(a)(12).