

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60036; File No. SR-DTC-2009-09)

June 3, 2009

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish an Alternate Choice in DTC's Profile Modification System Indemnity Insurance Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 11, 2009, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act² and Rule 19b-4(f)(4)³ thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

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

The purpose of the rule change is to establish an alternate choice in DTC's Profile Modification System Indemnity Insurance 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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(iii).

³ 17 CFR 240.19b-4(f)(4).

below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.⁴

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC's Profile Modification System ("Profile") is an electronic communication hub between transfer agents that participate in the Direct Registration System ("DRS"), which transfer agents are Limited Participants ("Limited Participants") of DTC, and broker-dealers that participate in DRS, which broker-dealers are DTC Participants ("Participants;" Participants together with Limited Participants are collectively referred to as "Users").⁵ Profile allows Participants to submit an investor's instruction to move a share position from the investor's DRS account at the transfer agent to the Participant's account at DTC ("Electronic Participant Instruction"). Profile also allows Limited Participants to submit an investor's instruction to move its share position from the Participant's account at DTC to the DRS account at the transfer agent ("Electronic Limited Participant Instruction;" Electronic Limited Participant Instruction and Electronic Participant Instruction are collectively referred to as "Electronic Instructions"). A User submitting an Electronic Instruction through Profile is required to agree to a Participant Terminal System ("PTS") screen indemnity ("Screen Indemnity").⁶

⁴ The Commission has modified the text of the summaries prepared by DTC.

⁵ For a description of Profile, see Securities Exchange Act Release No. 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999) (order approving implementation of Profile).

The Screen Indemnity protects, among others, the party delivering the share position from liability in connection with the transaction arising from a User's breach of the representation of authority and consent to initiate the transaction. For a broader description of the Screen Indemnity, see Securities Exchange Act Release No. 42704 (April 19, 2000), 65 FR 24242 (April 25, 2000) (order approving modification of Profile to incorporate use of the Screen Indemnity).

On August 22, 2005, the Commission approved a rule filing establishing the DTC Profile Indemnity Insurance Program (“PIP”),⁷ on as an alternative to the existing DTC Profile Surety Program (“PSP”).⁸ Profile users who agree to the Screen Indemnity have the option to procure Profile Indemnity Insurance (“Insurance”) relating to a particular transaction according to the value of each individual securities transaction. The Insurance option provides a coverage limit of \$25 million per transaction with an annual aggregate limit of \$100 million. In addition to any pass-through fee from the insurer, DTC charges users participating in PIP an annual administration fee of \$250 and a \$27.50 per transaction fee.

DTC is proposing to provide Profile users an option to procure insurance with a different coverage limit than that currently offered (“PIP II”). The coverage limit for PIP II will be \$7.5 million per transaction with an annual aggregate limit of \$15 million. PIP II users will be required to pay an annual premium of \$6,000 to an insurance provider and a DTC administration fee of \$250. The intent of this program is to provide an alternative insurance option for Profile users with high volume and moderate value and also for contingency planning if a provider is no longer able to provide insurance or surety. Users will be permitted to participate with each provider but will continue to be required to select only one provider per Profile transaction.

⁷ Securities Exchange Act Release No. 42422 (September 14, 2005), 70 FR 55196 (September 20, 2005).

⁸ Under PSP, each user of Profile that agrees to the Screen Indemnity must procure a surety bond to back its obligations under such indemnity (“Surety Bond”). Participation in PSP requires the payment of an annual premium of \$3,150 to a surety provider and a DTC administration fee of \$250. The current PSP surety provider provides for a coverage limit of \$3 million per transaction with an annual aggregate limit of \$6 million. The Commission approved a rule filing establishing an alternate to PSP in June 2008 (“PSP II”). Securities Exchange Act Release No. 58042 (June 26, 2008), 73 FR 39067 (July 8, 2008).

The insurance company issuing the insurance policy will either be a company selected by DTC as the administrator of such insurance program, or an insurance company selected by the User. If a User elects to use an insurance company other than the one DTC has selected, the insurance company selected must issue its insurance policy in a form consistent with the policy issued by the insurance company selected by DTC.

The proposed rule change is consistent with Section 17A of the Act,⁹ as amended, because it modifies an existing service by establishing an alternate choice for Profile insurance users to provide a broader range of options to safeguard transactions processed within Profile.

(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 received by DTC.

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

Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section

⁹ 15 U.S.C. 78q-1.

19(b)(3)(A)(iii) of the Act¹⁰ and Rule 19b-4(f)(4)¹¹ thereunder because the proposed rule change effects a change in an existing service of a registered clearing agency that: (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of the 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. 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 Number SR-DTC-2009-09 on the subject line.

Paper comments:

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

¹⁰ 15 U.S.C. 78s(b)(3)(A)(iii).

¹¹ 17 CFR 240.19b-4(f)(4).

All submissions should refer to File Number SR-DTC-2009-09. 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 am and 3:00 pm. Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at http://www.dtcc.com/legal/rule_filings/dtc/2009-09.pdf. 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 Number SR-DTC-2009-09 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.¹²

Elizabeth M. Murphy
Secretary

¹² 17 CFR 200.30-3(a)(12).