

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51870; File No. SR-DTC-2005-03)

June 17, 2005

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to a Modification of the Fee Structure

I. Introduction

On April 26, 2005, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-DTC-2005-03 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).¹ Notice of the proposal was published in the Federal Register on May 13, 2005.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

DTC is a subsidiary of the Depository Trust and Clearing Corporation (“DTCC”). Participants of DTC and their affiliates may from time to time utilize the services of DTCC subsidiaries that are not registered as clearing agencies with the Commission. Such subsidiaries include Global Asset Solutions LLC and DTCC Deriv/Serv LLC. In addition, participants of DTC and their affiliates may utilize the services of other third parties through DTCC. DTC has determined that it would be more efficient and less costly if the fees that participants agree to pay for such services were collected by DTC rather than through independent billing mechanisms that would otherwise have to be established by each subsidiary of DTCC that is not a registered clearing agency and by each third party that is not a registered clearing agency.

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 51675, (May 9, 2005), 70 FR 25630.

The proposed rule change will make clear that DTC may collect from its participants fees and charges of other subsidiaries of DTCC and of other third party service providers. DTC will enter into appropriate agreements with such subsidiaries and other third party service providers regarding DTC's collection of fees. Furthermore, the rule change makes clear that as a part of its collecting fees and charges for services provided to its participants, DTC may similarly collect fees and charges for services provided to affiliates of its participants.

III. Discussion

Section 17A(a)(1)(B) of the Act provides that inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.³ Although the services provided by unregulated DTCC subsidiaries and by other third parties are not core clearance and settlement services, they are related to the clearance and settlement operations of DTC and of its participants. By streamlining the fee collection process for these services so that DTC's participants will pay these fees to DTC as a part of their normal monthly DTC bills, the proposed rule change should help to improve efficiency in the operations of DTC participants and thereby should remove unnecessary cost for DTC participants and for the persons (i.e., the DTCC subsidiaries and the other entities providing services to DTC participants) facilitating transactions by and acting on behalf of investors. Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act.

³ 15 U.S.C. 78q-1(a)(A)(B).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2005-03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland
Deputy Secretary

⁴ 17 CFR 200.30-3(a)(12).