

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56863; File No. SR-DTC-2007-06)

November 29, 2007

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Amend the Hearing Procedures Afforded to an Interested Person and Harmonize Them with Similar Rules of its Affiliates

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 30, 2007, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The proposed rule change seeks (1) to modify DTC’s rules regarding hearing procedures afforded to Interested Persons<sup>3</sup> and (2) where practicable or beneficial, to harmonize them with similar rules of DTC’s affiliates, the National Securities Clearing Corporation (“NSCC”) and the Fixed Income Clearing Corporation (“FICC”).

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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> “A Participant or Pledgee, [or] applicant to become a Participant or Pledgee or issuer of a Security.” Rule 22, Section 1.

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 these statements.<sup>4</sup>

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

(1) Minor Rule Violation Plan

In 1984, the Commission adopted amendments to Rule 19d-1(c) under the Act<sup>5</sup> that allow self-regulatory organizations to adopt with Commission approval plans for the disposition of minor violations of rules.<sup>6</sup>

Currently under DTC's rules, an Interested Person subject to disciplinary action has a right to a hearing before a member or members of a panel selected by the Chairman of the Board from a pool of persons employed by or partners of participants. Because some rule violations are not sufficiently serious to merit Board review, DTC is proposing to adopt a Minor Rule Violation Plan within the meaning of Rule 19d-1(c)(2) of the Act for those rule violations DTC deems minor. Consistent with Rule 19d-1(c)(2) of the Act, DTC would designate those rule violations for which a fine may be assessed in an amount not to exceed \$5,000 as minor rule violations. If a member were to dispute a fine imposed by DTC by filing a written request for hearing and a written statement, DTC management would have the authority to waive the fine. DTC management would notify the Board of Directors (or a Committee authorized by the Board of Directors) of its determination to waive the fine and would provide the reasons for the waiver. The Board or Committee could in its

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<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>5</sup> 17 CFR 240.19d-1(c).

<sup>6</sup> Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984) [File No. S7-983A].

discretion decide to reinstate any fine waived by DTC management. If DTC management were not to waive the fine, the member could appeal the decision to a panel comprised of DTC officers (“Minor Rule Violation Panel”).

(2) Hearings for All Other Violations and Minor Rule Violation Appeals

For matters involving (i) an alleged violation of a DTC rule or procedure for which a fine in an amount of over \$5,000 is assessed, (ii) applicants for participation, or (iii) other disciplinary actions to which the Minor Rule Violation Plan would not apply or for appeals from a Minor Rule Violation Panel decision adverse to an Interested Person, the Interested Person would be entitled to a hearing before a panel comprised of three individuals selected by the Chairman of the Board from a pool of persons employed by or partners of participants. Persons shall be appointed members of the pool by the Board. Decisions of the panel would be final; however, the full Board of Directors would retain the right to modify any sanction or reverse any decision of the Board panel that is adverse to the Interested Person.

Currently with respect to hearings, an Interested Person is afforded the opportunity to be heard and may be represented by counsel if desired. A record is kept of the hearing, and at the discretion of the Board panel, the associated cost may be charged in whole or part to the Interested Person in the event that the decision is adverse to the Interested Person. The Interested Person is advised of the Board panel’s decision within ten business days after the conclusion of the hearing. These procedures would also apply with respect to the Minor Rule Violation Plan.

(3) Administrative Changes: Uniformity of Time frames

The proposed rule changes seek to implement uniform time periods among DTC, NSCC, and FICC governing actions an Interested Person would be required to take in order to request a

hearing. The deadlines an Interested Person must adhere to in order to request a hearing currently vary between DTC, NSCC, and FICC. Under the proposed rule change, an Interested Person would have five business days from the date on which DTC first informed it of a sanction or a denial of membership by which to request a hearing.

Within seven business days, or three days in the case of a summary action taken against the Interested Person, after filing a request for a hearing with DTC, the Interested Person would be required to submit to DTC a clear and concise written statement setting forth the action or proposed action of DTC with respect to which the hearing is requested, the basis for objection to such action, whether the Interested Person intends to attend the hearing, and whether the Interested Person chooses to be represented by counsel at the hearing. The proposed time frames would be consistent with time frames being proposed by FICC and NSCC.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>7</sup> and the rules and regulations thereunder because the adoption of a Minor Rule Violation Plan furthers the statutory objective of providing a fair procedure for disciplining Participants and will provide DTC with the ability to impose a meaningful sanction for those rule violations that do not necessarily rise to a level of meriting a full disciplinary proceeding. Accordingly, the proposed rule change promotes 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.

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<sup>7</sup> 15 U.S.C. 78q-1.

(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 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

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

(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](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2007-06 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-DTC-2007-06. 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 Section, 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/downloads/legal/rule\\_filings/2007/dtc/2007-06.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2007/dtc/2007-06.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-2007-06 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).