

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59386; File No. SR-DTC-2008-06)

February 11, 2009

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change, As Amended, to Modify End of Day Settlement Procedures Relating to Settlement Acknowledgement Cut-off Time Frames for Settling Banks

I. Introduction

On June 19, 2008, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on August 7, 2008, amended proposed rule change SR-DTC-2008-06 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 August 18, 2008.² The Commission received no comment letters. For the reasons discussed below, the Commission is approving the proposed rule change as amended.

II. Description

DTC is modifying its end of day settlement procedures relating to settlement acknowledgement cut-off time frames for Settling Banks.³

DTC's End-of-Day Settlement Processing controls and coordinates the settling of Participant accounts and Settling Bank accounts on DTC's systems. Settlement occurs through the Fedwire system and is initiated when DTC posts final figures for Participants and Settling Banks. Although the actual settlement process begins with the posting of the final settlement

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 58343 (August 12, 2008), 73 FR 48259.

³ The term "Settling Bank" means a Participant which is a bank or trust company, subject to supervision or regulation pursuant to Federal or State banking laws, which is a party to an effective Settling Bank Agreement.

figures at approximately 3:45 pm each day,⁴ DTC's settlement system provides Participants and Settling Banks with online reports throughout the processing day. These reports reflect gross debits, gross credits, and the net debit or credit for each Participant and a net-net figure for each Settling Bank.

Settling Banks, which settle for themselves, may also settle for other Participants. Currently, the cut-off time for Settling Banks to acknowledge their net-net settlement balance or to refuse to settle for a specific Participant is the later of 4:30 pm or 30 minutes after final net-net settlement balances are first made available by DTC.⁵ Any Participant for which a Settling Bank has refused to settle must make arrangements for payment of any amount due DTC.

Once the Settling Bank acknowledgement process has been completed, DTC utilizes the Federal Reserve Bank of New York's National Settlement Service ("NSS") to effect end-of-day cash settlement.

DTC is proposing that the cut-off time for Settling Banks to acknowledge their settlement balance or refusal to settle for a Participant be the later of 4:15 pm or 30 minutes after DTC has posted final net-net settlement balances. DTC is proposing this change to enable DTC to be in a

⁴ All times are Eastern Standard Time.

⁵ The end-of-day net-net figure is the net of all participants' net balances after cross endorsement with the National Securities Clearing Corporation for which a Settling Bank settles, including its own accounts.

position to release the credit amount due Participants at an earlier time. Since DTC provides each Settling Bank with online reports throughout the processing day which reflect gross debits, gross credits, and the net debit or credit for each Participant and a net-net figure for the Settling Bank, DTC believes that this earlier cut-off time should not cause any undo burden. In the event that a Settling Bank is experiencing difficulty in identifying customer cash flows or has another extenuating circumstance and as a result needs more time to acknowledge settlement or refuses to settle, that Settling Bank would have to notify the Settlement department of its request for additional time prior to 4:15 pm.

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.⁶ The Commission believes that DTC's rule change is consistent with this Section because the rule change should facilitate the prompt and accurate clearance and settlement of securities by enabling DTC to send the NSS file to the Federal Reserve Bank of New York earlier in the day and thus complete settlement earlier.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.⁷

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2008-06) as amended be and hereby is approved.

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

Florence E. Harmon
Deputy Secretary

⁷ In approving the proposed rule change, as amended, the Commission considered the proposal's impact on efficiency, competition, and capital formation.

⁸ 17 CFR 200.30-3(a)(12).