

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61507; File No. SR-DTC-2010-03)

February 5, 2010

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Eliminate the Option to Receive a Physical Certificate from DTC for Un-sponsored American Depositary Receipts that are Part of the Fast Automated Transfer Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder² notice is hereby given that on January 19, 2010, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change 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 from interested persons.

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

The purpose of this proposed rule change is to eliminate the option to receive a physical certificate from DTC for unsponsored American Depositary Receipts (“ADRs”) that are a part of DTC’s Fast Automated Transfer Program (“FAST”).

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 these statements.³

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

An ADR is a security that trades in the United States but represents a specified number of shares in a foreign corporation. ADRs are issued in the US by depositary banks. An ADR issuance is “unsponsored” when there is no formal agreement between the depositary bank(s) issuing the shares and the foreign company whose underlying shares are the basis for the ADR. Because there is no agreement between the issuer and a specific depositary, more than one depositary can be involved in the issuance and cancellation of the ADR in an unsponsored program. Unsponsored ADRs trade in the over-the-counter market.

Currently, in order to deposit an unsponsored ADR at DTC, a depositary bank that is also a DTC participant will have its transfer agent create a certificate for the new issue ADR, which is then deposited at DTC by the depositary bank. In an effort to eliminate some of the risks and costs related to the processing of securities certificates,⁴ DTC recently made unsponsored ADRs eligible for DTC's Fast Automated Securities Transfer Program (“FAST”).⁵

³ The Commission has modified the text of the summaries prepared by DTC.

⁴ The costs and risks associated with physical certificates include, among other things, those associated with safekeeping, transfer, shipping, messengers, and insurance costs.

⁵ FAST was designed to eliminate some of the risks and costs related to the creation, movement, processing, and storage of securities certificates. Under the FAST program, FAST transfer agents hold FAST eligible securities in the name of Cede & Co. in custody and for the

DTC's withdrawal-by-transfer ("WT") service allows participants to instruct DTC to have securities assets which are held in the participant's DTC account reregistered in the name of the participant, an investor, or a third party. Upon receipt of a WT instruction from a participant, DTC either sends a certificate to the transfer agent for reregistration in the name of the person or entity identified in the WT instruction or instructs the transfer agent to debit DTC's FAST position and to issue securities in the name of the person or entity identified in the WT instruction.

As part of DTC's response to an industry effort to reduce the number of securities certificates in the U.S. market (sometimes referred to as "dematerialization"),⁶ DTC initiated a program of steadily increasing its fees for WTs and other withdrawals to create strong disincentives for the use of physical certificates. Consistent with that program, DTC is now proposing to eliminate a participant's ability to use the WT service to have physical certificates issued for unsponsored ADRs that are a part of the FAST Program. DTC believes that this modification of its WT service reaffirms its goals of reducing the number of securities

benefit of DTC. As additional securities are deposited or withdrawn from DTC, the FAST transfer agents adjust the size of DTC's position as appropriate and electronically confirm these changes with DTC. For more information relating to FAST, see Securities Exchange Act Release Nos. 13342 (March 8, 1977) [File No. SR-DTC-76-3]; 14997 (July 26, 1978) [File No. SR-DTC-78-11]; 21401 (October 16, 1984) [File No. SR-DTC-84-8]; 31941 (March 3, 1993) [SR-DTC-92-15]; and 46956 (December 6, 2002) [File No. SR-DTC-2002-15].

⁶ For more information on dematerialization, see Securities Exchange Act Release No. 49405 (March 11, 2004), 69 FR 12922 (March 18, 2004), (File No. S7-13-04).

certificates in the U.S. markets. DTC participants will continue to have the ability to request a physical certificate directly from the transfer agent by using the DWAC process.⁷

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended, ("Act") and the rules and regulations thereunder because it modifies a DTC service in order to reduce the use of physical certificates and the inherent risks associated with the use of physical certificates and as such facilitates the prompt and accurate clearance and settlement of securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change would 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 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:

⁷ DWAC is a method of electronically transferring shares between a DTC Participant and the transfer agent for the shares. For more information about the DWAC service, see Securities Exchange Act Release No. 30283 (January 23, 1992) 56 FR 59307 (November 18, 1991) (SR-DTC-91-16) (order granting approval of the DWAC service).

- (A) by order approve the 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. Please include File Number SR-DTC-2010-03 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.

All submission should refer to File Number SR-DTC-2010-03. 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, N.E., Washington, D.C. 20549-1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also 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/2010/dtc/2010-03.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-2010-03 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.⁸

Florence E. Harmon
Deputy Secretary

⁸ 17 CFR 200.30-3(a)(12).