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OVERNIGHT MAIL

June 14, 2004

Jonathan G. Katz, Secretary
United States Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549-0609

Re: SEC File No. S7-13-04 - Concept Release: Securities Transactions Settlement

Dear Sir/Madam:

EquiServe, Inc. ("EquiServe") appreciates the opportunity to comment on the Commission's Request for Comment per SEC File No. S7-13-04 - Concept Release Nos. 33-8398; 34-49405; and IC-26384: Securities Transactions Settlement, which relates to ways of improving the clearance and settlement system.

EquiServe services approximately 1,300 issuer clients and approximately 20 million of their registered shareholders.

EquiServe understands and commends the goals of the Commission with respect to the collection of information from its registrants concerning the clearance and settlement of securities, and specifically the dematerialization and immobilization of securities certificates.

EquiServe strongly encourages dematerialization through the Direct Registration System ("DRS") and does not support just immobilizing securities. However, we also recognize that dematerialization alone will not lead to streamlined processing and T+1. This is true for a number of reasons, particularly considering the number of certificates outstanding with registered shareholders. We believe the ultimate objective and focus should be to move to T+1 and dematerialization is one necessary component. We encourage the Commission to take the bold steps necessary to foster the changes required to effectively move to T+1. We believe those steps should include:

- Require all participants in the processing chain to post transactions in a real time environment. This is necessary to realize the T+1 timing and to ensure the validity and finality of transactions. This does not happen today even under DRS.

- Require all issuers and broker-dealers to be participants in DRS, and eliminate the routine issuance of certificates, assuming certain state laws can be changed.

- Create a more efficient and cost-effective process for broker-dealer/transfer agent transactions, including leveraging DRS capabilities to support any future systems. Many DRS eligible participants are bypassing DRS today to avoid fees and other costs.

- Enhance DRS to handle all electronic book-entry transactions between transfer agents and broker-dealers, including fractional shares and restricted stock, and to meet other necessary requirements. This will eliminate any reason for participants to bypass DRS.

- Create a more efficient process for handling the remaining certificates in existence.

- Allow the imposition of a fee for the use of certificates instead of processing through DRS or book-entry. This will discourage the use of certificates, but still allow the opportunity for a shareholder or broker-dealer not to use DRS.

- Require greater controls of the books and records of the processing participants, particularly of registered transfer agents. In a dematerialized environment, the books and records of the processing participants are the record of ownership and must reflect the current status of a security to ensure timely and valid transaction processing.

The details of our comments are reflected in our answers to specific questions. In our reply we have italicized the Commission's questions pertaining to *Section IV. Immobilization and Dematerialization of Securities Certificates* and followed each question with EquiServe's comments.

1. Should securities be completely immobilized or dematerialized in the U.S.? If so, which would better serve the market - complete immobilization or dematerialization? Why?

Dematerialization

Dematerialization would be beneficial to issuers and ultimately shareholders by providing an opportunity to reduce costs related to printing, handling, and safeguarding expensive certificates. For shareholders, dematerialization provides for easier and more convenient transactions, and also eliminates the risk of lost, stolen, damaged, or forged certificates as well as the cost of replacement. For the securities industry, dematerialization is part of the foundation for streamlined processing and faster trade/settlement cycles.

EquiServe has been an advocate of the use of DRS since its inception and supports the concept of dematerialization. We have been a vocal industry advocate and have promoted industry initiatives to dematerialize certificates. In our own business practices, we have promoted dematerialization. For example, in our daily processing for DRS issuers, all new shares are issued in book-entry form, unless the shareholder specifically requests a certificate. In addition, in connection with corporate actions, it is our practice to issue any new shares in book-entry form.

EquiServe has been working on ways to reduce settlement cycles. EquiServe, along with other transfer agents, is working with the brokerage community to develop a "Networking for Equities" process to address holding restricted securities and securities held in safekeeping by broker-dealers in book-entry form. In addition, EquiServe has initiated discussions for the "Broker Direct" product with five major broker-dealers. These five broker-dealers were enthusiastic about the product and saw a number of applications for it. EquiServe and the broker-dealers then brought the product concept to The Depository Trust Company ("DTC"). "Broker Direct" would allow broker-dealers to communicate with transfer agents when presented with a certificate to determine if the certificate is valid and to advise transfer agents of a transfer transaction. Transfer agents, relying on an indemnity, would begin the transfer process immediately without waiting for the back-up documentation, which would follow. Both of these processes would support the dematerialization of certificates, as new shares issued upon transfer would be in book-entry form, and would support a shorter settlement cycle.

In order to move to a shortened settlement cycle, either with dematerialization or immobilization, the cooperation of transfer agents, broker-dealers and DTC is necessary. As DTC is the intermediary between broker-dealers and transfer agents, through which the vast majority of securities are processed, we believe it is imperative that DTC develop more highly automated systems for electronic movements as well as provide a cost effective model for broker-dealers and transfer agents. EquiServe has noticed increased activity by brokerage firms to circumvent the process through DTC because of the current fee structure in place. This has resulted in manual transfer processing by transfer agents of requests from broker-dealers that could be processed more efficiently through electronic systems. The commitment from all parties in the clearance and settlement process is necessary to address such issues.

As noted previously, we recommend that all broker-dealers be required to be participants in DRS.

We recommend that the DRS process cycle be streamlined to a real-time basis, with inter-day transactions between transfer agents and broker-dealers. In the current DRS process, because of batch processing, it can take as long as three days to process a transaction.

Immobilization

EquiServe prefers dematerialization to immobilization. Currently, the vast majority of securities are immobilized, through book-entry positions in the registered broker-dealer's street name position. The advantages of immobilization would be that certain infrastructure already exists and could be improved to move to a shorter settlement cycle. Here the shortfall is that this would still not lead to as fast a settlement cycle as dematerialization would provide. Further immobilization of certificated registered positions would require a significant investment for new infrastructure, as well as the development of new processes and procedures at the industry, broker-dealer, transfer agent, and shareholder levels.

In addition, while many of the costs and risks related to certificate-based ownership may be reduced in a fully immobilized environment, the costs and risks related to certificate handling, storage and security would still exist. Dematerialization would reduce costs much more significantly than immobilization.

Finally, we do not recommend a fully immobilized system, as this may limit investor choice and the ability for direct contact between an issuer and its shareholders. For example, currently the debt market is fully immobilized with all investments held at DTC. This prevents any direct contact between the issuer and the shareholder and requires all transactions to be handled by a broker-dealer. We do not believe this type of system would be in the best interest of retail investors of equity investments.

2. What are the costs and benefits of complete immobilization or dematerialization?

We agree with industry analysis concerning the substantial costs of the current certificated environment.

In a dematerialized environment, most of the costs and risks related to certificates could be eliminated, including, but not limited to the following: receiving certificates via mail, canceling certificates, storing cancelled certificates in a secure environment, maintaining a vault and security measures to store unissued certificates (safeguards during the life cycle of the certificate until it is made available to the shareholder or authorized representative), inventory audit policies and procedures for inventory controls, re-silvering, transporting certificates via armored or secure transport, printing small lots of certificates for issuance in a manually intensive and inefficient process, enclosing and mailing certificates in large envelopes, maintaining mail insurance to protect against lost certificates, maintaining procedures to replace lost certificates and protect against certificate fraud, and certificate replacement including a cost to the shareholder, as well as the required reporting to the Securities Information Center.

In a dematerialized environment, statements printed on standard paper stock mailed in standard envelopes would replace certificates. In general, the cost of statements is one-fifth the cost of certificates. Another benefit of dematerialization is that much of the infrastructure required to support a dematerialized environment is currently in place. Finally, the electronic nature of a dematerialized environment offers significant other efficiencies and reduced costs across the industry.

3. Are there operational, legal, or regulatory impediments to immobilization or dematerialization?

In addition to the items noted in EquiServe's response to question number 1, operational impediments include: DRS's inability to accommodate "share-lot" accounting, restricted stock, or fractional shares. Currently, only "whole" shares can be moved through DRS and the ancillary information such as restrictions, original date of purchase, or "share-lots" is not appended to the shares. Additionally, DRS cannot handle certain issues such as privately traded securities without a CUSIP, warrants, or limited partnership units.

New procedures and infrastructure would need to be developed to support securities that are pledged as collateral or held in escrow. Currently, lenders generally hold the certificates or obtain a signed stock power for the pledged shares to secure such collateral, consistent with the provisions of the Uniform Commercial Code. We believe DRS, as the core system, could be enhanced to handle these types of transactions.

Transfer agents should continue to research why shareholders request certificates and create book-entry alternatives, such as gifting of shares. Customized statements would be an alternative, and fees could be required for non-standard statements.

The biggest challenge to dematerialization is how to recall or eliminate the tens of millions of certificates currently in circulation or pledged as collateral.

Legal impediments may include the laws of several states, which currently require that a certificate be made available to investors upon request. As we move to a more electronic book-entry environment, we believe changes to state law, including the Uniform Commercial Code, will naturally follow.

EquiServe does not believe there are any current regulatory impediments. However, dematerialization will require the Commission to (i) provide greater oversight and (ii) enact new regulations to provide the operating rules for processing, recordkeeping and delivery of shareholder confirmations or statements for book-entry transactions.

4. What advantages might certificates have over securities held in book-entry-only form (i.e., proof of ownership in the event of a loss of electronic records of ownership)? What regulatory initiatives should be considered to address these advantages if the markets were to move away from certificates?

It is our opinion that there is greater risk associated with the handling of physical certificates versus book-entry positions on the records of the transfer agent, specifically relating to safeguarding, lost or missing certificates, fraud, and processing efforts.

As noted in the concept release, book-entry ownership is common among other financial holdings (e.g., mutual funds). While it may represent a shift for the securities industry, it is likely that many security owners are already familiar with book-entry and would not be adverse to book-entry ownership.

In order to help instill confidence in book-entry ownership recordkeeping, we believe it would be appropriate for the Commission to consider regulatory initiatives to require transfer agents to maintain sufficient capital relative to their business size on a tiered system, and specifically related to the number of issues serviced. Additionally, as set

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forth in response to question number 12, EquiServe believes more stringent recordkeeping and oversight are required for electronic records and real-time transactions.

While most large financial institutions already have business continuity plans and adequate insurance in place, we believe these should be required of all transfer agents, broker-dealers and other securities processing organizations.

5. Should the existence of a viable, widely available direct registration system that preserves the benefits of holding securities in the form of physical certificates be a prerequisite to complete immobilization or dematerialization?

Yes, it is in the investing public's interest to provide the opportunity for registered ownership of shares, and not only street name ownership. Regardless of the form of ownership, registered or street name, we believe book-entry ownership should be the goal. For example, there are already laws and regulatory authority in place allowing alternative book-entry forms of ownership other than street name.

Under the Gramm-Leach-Bliley Act ("GLB"), transfer agents and issuers offer exclusive book-entry registered security ownership per an exemption from broker-dealer registration[1] and under DRS releases[2]. Transfer agents sponsor or administer the following types of plans or programs:

- Employee stock purchase plans;
- Employee stock option plans;
- Dividend reinvestment plans (unregistered hereafter "Open Market" and registered under the Securities Act of 1933, as amended, hereafter "Registered Plans");
- Bank-sponsored direct stock purchase plans;
- Issuer-sponsored direct stock purchase plans;
- DRS sales facility; and
- Odd-lot issuer programs (shareholder paid and issuer paid).

The Commission should issue regulations to promote book-entry direct stock purchase programs that transfer agents and issuers make available to the public. These programs foster the elimination of certificates.

The ability to educate shareholders and the public in general about these plans is limited. We would request that the Commission consider granting transfer agents the ability to promote such plans, which would support dematerialization and provide alternative book-entry forms.

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[1] See Sections 3(a)(4)(B)(iv)(I), (II), and (III) of the Securities Exchange Act of 1934, as amended.
[2] The most recent release is Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of Proposed Rule Change Relating to the Movement of All DRS Issues Into Profile and the Establishment of the "S" Position as the Default Position, Release No. 34-44696; File No. SR-DTC-2001-07, August 21, 2001.

6. What should be done to increase the availability and use of DRS or to otherwise improve DRS? For example, should the Commission adopt operational or processing rules specifically for processing book-entry transactions (i.e., DRS and dividend reinvestment and stock purchase plans), including, but not limited to, timeframes for processing these transactions?

As noted previously, all issuers and broker-dealers should be required to be participants in DRS. DRS should be enhanced to handle all types of transactions, in order to eliminate any bypassing of the system. The Commission should allow transfer agents and broker-dealers to promote book-entry ownership through DRS and to educate shareholders on the benefits of registered ownership and on the benefits and transaction options available to them through DRS.

The current regulations requiring specific transfer-turnaround requirements should also apply and be expanded upon to relate specifically to the above-referenced book-entry transactions. Any of the changes to the regulations pertaining to processing of items should also apply specifically to book-entry processing.

7. What are the back office costs at broker-dealers to process securities certificates? What are the costs at transfer agents to process securities certificates? How do these costs compare to the costs of processing book-entry securities?

The back office costs of the transfer agent associated with the processing of certificates relate to the following functions: certificate inventory (vendor, receipt, and inventory controls), printing, sorting, mailing, periodic inventory reviews, and safeguarding, including physical security and insurance. Many of these costs are borne by the issuer and ultimately the shareholder through transfer agent fees paid for by the issuer to the transfer agent.

In a dematerialized environment, statements printed on standard paper stock mailed in standard envelopes would replace certificates. In general, the cost of statements is one-fifth the cost of certificates. In addition, the electronic nature of a dematerialized environment offers significant other back-office efficiencies and reduced costs across the industry.

8. What should be done to encourage more companies to issue their securities in a completely immobilized or dematerialized format? Should publicly traded companies be required to do so?

The first step toward dematerialization would be to require that book-entry ownership be available to all shareholders, both registered owners and street name owners. This could be established by all securities exchanges (NYSE, NASDAQ, Regional) requiring their listed securities to be DRS eligible.

Additionally, the industry should take action to significantly reduce or eliminate the number of certificates issued on an ongoing basis. This would require that transfer agent, broker-dealer and DTC systems be enhanced to further support DRS and interface with one another, to facilitate share movement and ultimately dematerialization. All issues with a CUSIP would have to be DRS eligible. Securities that do not have a CUSIP would either require a CUSIP or there would need to be another system to support these limited numbers of issuers.

9. What can broker-dealers do to facilitate complete immobilization or dematerialization on both the retail and institutional customer levels? Are registered representatives sufficiently educated about DRS and do they communicate to investors available options to holding a certificate?

Generally, institutional customers are taking advantage of book-entry shareholder positions, predominantly through brokerage accounts with the securities held in street name.

Broker-dealers should be required to disclose the option of DRS book-entry ownership to their customers, including the benefits of book-entry ownership on the registered file versus physical certificates. Our experience has been that the broker-dealer front office personnel who deal directly with customers need to be better educated with respect to DRS.

10. What can transfer agents do to facilitate complete immobilization or dematerialization on both the issuer and investor level?

In addition to our comments to question number 11 below, transfer agents can do the following to facilitate dematerialization:

- Assist issuers to enroll in DRS;
- Develop and/or improve systems to move towards a dematerialized environment;
- Work with the brokerage industry and DTC to move towards a book-entry environment with straight-through processing and shortened settlement cycles;
- Default all issuance of shares to book-entry form;
- Change shareholder materials to emphasize the benefits of registered ownership in book-entry form and the options available through DRS, and de-emphasize registered ownership in certificate form;
- Make certificate ownership less convenient and more expensive; and

- Enhance compliance programs to encompass changes to a dematerialized environment.

11. What incentives or disincentives can be employed to discourage shareholders from requesting certificates? Will investors be less inclined to request a certificate if they were required to pay more to obtain, transfer, and trade certificated securities than book-entry securities? Should investors who choose to hold certificates bear a greater amount of the overall costs associated with producing and processing those certificates?

As a disincentive to issuing stock certificates, EquiServe would propose charging a fee to shareholders for the issuance of stock certificates. An impediment to this would be the laws of various states providing that shareholders are entitled to certificates, thus prohibiting a fee for certificates to be charged. In addition, it has been a longstanding NYSE business practice to prohibit charging shareholders for certificates. An NYSE rule change would be required to allow this charge to be implemented for shareholders of NYSE listed companies. In addition, shareholders should be discouraged from requesting a certificate to bring to their broker-dealer. We frequently encounter instances where a broker-dealer instructs a shareholder to obtain a certificate so they can perform a transaction. This practice should be eliminated.

12. Are any rules or regulations needed to enhance the safety of book-entry systems operated by transfer agents or broker-dealers?

Transfer agents have book-entry systems that are similar to broker-dealer book-entry systems. The Commission should enact rules or regulations that have similar requirements for both transfer agent and broker-dealer book-entry systems. Focus of the new rules or regulations should be on the safety of these book-entry systems.

Additionally, the NYSE and NASD have proposed new rules concerning business continuity methodologies. The Commission has approved the drafting of such rules. We believe it would be appropriate for similar business continuity rules to be implemented for transfer agents.

In order to promote dematerialization, broker-dealers should be prohibited from "withdrawal by certificate" requests to transfer agents sent through the DTC. We advocate that any issuance of shares at the request of broker-dealers through DTC be made in book-entry form only. If the shareholder wishes to hold in certificate form, the shareholder can make this request directly to the transfer agent.

13. What can be done to engender public confidence in certificate-less systems?

EquiServe believes that educating the public, as was accomplished with the mutual fund industry 30 years ago, should mitigate these concerns about book-entry ownership. Many shareholders also have investments in mutual funds and do not hold certificates for these investments. EquiServe currently provides information concerning DRS to new DRS holders explaining the benefits of book-entry ownership. EquiServe would recommend further education and promotion of DRS through other shareholder communications from

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the issuer, such as an annual report. In addition, our ability to educate shareholders about the benefits and options available through registered ownership in book-entry form is important.

EquiServe would be pleased to discuss any of these comments with the Commission.

Sincerely,

Donald J. Kenney

Donald J. Kenney
Chairman, President, and Chief Executive Officer