

Carl H. Urist
Managing Director and
Deputy General Counsel

January 12, 2001

Tel: 212 855 3220
Fax: 212 855 3215
curist@dtcc.com

24
 DTCC
The Depository Trust &
Clearing Corporation
55 Water Street
New York, NY 10041-0099

Mr. Jonathan G. Katz
Secretary
Securities and Exchange Commission
Judiciary Plaza
450 Fifth Street, N.W.
Washington, D.C. 20549-0609

RECEIVED
OFFICE OF THE SECRETARY
2001 JAN 16 PM 2:16

Re: File No. SR-DTC-00-10 and File No. 600-32

Dear Mr. Katz:

This letter is written in response to the letter to you dated January 3, 2001 (the "GSTP Letter") from Mr. Burkhard H. Gutzeit, Chairman, and Mr. C. Steven Crosby, Acting Chief Executive Officer, both of GSTP AG ("GSTP"). The GSTP Letter comments, on behalf of the shareholders of GSTP, on the proposed rule change and the application, which are the respective subjects of the Commission files referenced above.¹ The GSTP Letter contains several assertions and concerns regarding the proposed joint venture (the "Global Joint Venture") between The Depository Trust & Clearing Corporation ("DTCC"), the corporate parent of The Depository Trust Company ("DTC"), and certain subsidiaries (the "Thomson ESG Business") of The Thomson Corporation.

The GSTP Letter expresses concerns about the relationship between DTC and the Global Joint Venture. Those concerns are unwarranted. As a clearing agency subject to the requirements set forth in Section 17A of the Securities Exchange Act of 1934 (the "Exchange Act"), for more than 25 years DTC has made its services available to Participants, their vendors and other registered clearing agencies at the same time without discrimination among the various users of the services, at fees subject to

¹ Comment letters on the proposed rule change and the application have also been sent to the Commission by Schroder Investment Limited (letter dated December 28, 2000), The Capital Group Companies, Inc. (letter dated January 4, 2001), Northern Trust Corporation (letter dated January 4, 2001), Clay Finlay Inc. (letter dated January 4, 2001), Salomon Smith Barney (letter dated January 4, 2001), Nicholas-Applegate (letter dated January 5, 2001), Merrill Lynch Securities Services Division (letter dated January 5, 2001), State Street Corporation (letter dated January 5, 2001), Deutsche Bank Group (letter dated January 5, 2001) and the Asset Managers Forum (letter dated January 5, 2001). Since the points raised in those comment letters are all raised in the GSTP Letter, this letter will also serve as a response to those comment letters.

Mr. Jonathan G. Katz

January 12, 2001

Page 2

review by the Commission to assure that DTC's fees do not unfairly discriminate among users. Neither the members of the financial industry nor the Commission would permit DTC to change that long-standing practice.

In the following paragraphs, we will address the other assertions and concerns contained in the GSTP Letter.

1. Interoperability

The GSTP Letter asserts that various aspects of interoperability² between the GSTP system and the Global Joint Venture's system should be resolved at this time. Prior to regulatory approval of the Global Joint Venture, there are legal restraints on the ability of the staffs of DTCC and the ESG Business to act together in conducting discussions of interoperability with GSTP. In any event, there should be no cause for concern because the Global Joint Venture is committed to interoperability with competing trade management systems. Interoperability is an integral part of the Global Joint Venture's business plan, which has been approved by its future shareholders. In its application to the Commission for an exemption from registration as a clearing agency, the Global Joint Venture represented that it would "...develop fair and reasonable linkages between the Matching Service and other central matching services that are regulated by the Commission or that receive an exemption from clearing agency registration from the Commission..." If necessary, the Commission can supervise the Global Joint Venture's performance of its commitment to interoperability through the Commission's authority over the exemption to be granted to the Global Joint Venture. The Commission has sufficient regulatory authority to assure the Global Joint Venture's compliance with that commitment.³

² For these purposes, interoperability assures that a customer of one matching service provider may input trade data to that service provider even though the customer's counterparty in a trade is a customer of another matching service provider. The interfaces among matching service providers can take two forms. In one form, one of the service providers acts as a concentrator to a second service provider for trades not matched locally between the first service provider's customers. In this form of interface, the second service provider performs the match and simply reports the results to the first service provider. In the second form of interface (sometimes referred to as "peer to peer"), both service providers exchange customer information on the details of a trade. The service providers decide which service provider performs the match, or they both perform the match and report the results to each other. The Global Joint Venture will have open interfaces that will permit other matching service providers to act as concentrators or as peer to peer service providers.

³ In the Commission's Order approving a similar application by Thomson Technology Services, Inc. ("TFTS") for an exemption from registration as a clearing agency, the Commission stated that "the Commission may modify by order the terms, scope, or conditions of TFTS's exemption from registration as a clearing agency if we determine that such modification is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.

Interoperability is a complex subject that must be worked out through good faith discussions between the staffs of competing trade management systems. In discussions with GSTP several months ago, the staffs of DTCC and the Thomson ESG Business suggested that, immediately upon regulatory approval of the Global Joint Venture, we should begin preliminary discussions of interoperability between the two systems. We also suggested that those discussions should include participation by members of the financial industry, as interested parties, and by staff from the Commission, as the regulatory agency with jurisdiction over this subject. We feel strongly that the Securities Industry Association's Interoperability Committee and the staff of the Commission should play a key role in facilitating a speedy solution to the interoperability issues posed in the Securities Industry Association's Institutional Transaction Processing Committee White Paper version 1.5, dated December 1, 1999, and to any other issues needing a common solution. Attached to this letter is an excerpt on interoperability from that White Paper.

2. Access and Pricing

The formation of the Global Joint Venture will not affect access to DTC's settlement system or the prices that DTC charges for settlement services.⁴ Today vendors acting on behalf of DTC Participants transmit settlement instructions to DTC for entry into DTC's settlement system. DTC does not charge a fee to those vendors; DTC charges only the Participants on whose behalf the vendors are acting. The fees charged to those Participants are the same fees that are charged to Participants that transmit instructions directly to DTC without the use of vendors.

The staffs of DTCC and the Thomson ESG Business have determined that the same procedure for settlement instructions will continue after the formation of the Global Joint Venture. Vendors acting on behalf of DTC Participants will be able to transmit settlement instructions directly to DTC without the involvement of the Global Joint Venture. DTC will charge fees for such services to the Participants on whose behalf the vendors are acting with no additional charges to the vendors. After formation of the Global Joint Venture, DTC's fees for receiving and processing settlement

Furthermore, we may limit, suspend, or revoke this exemption if we find that TFTS has violated or is unable to comply with any of the provisions set forth in this order if such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act." See Release No. 34-41377; File No. 600-31 (May 7, 1999).

⁴ It should be noted that GSTP has never contacted DTC to discuss these concerns. In addition, seven companies or their affiliates are currently represented on the boards of both DTCC and GSTP.

instructions will continue to be subject to review by DTC's Board of Directors as well as review by the Commission under Section 19 of the Exchange Act.

The Global Joint Venture itself will, at the option of its customers, either enter settlement instructions on their behalf into the DTC settlement system (or any other settlement system with which the Global Joint Venture interfaces) or make the settlement instructions available to the customers or their vendors so that the customers or vendors can enter the instructions into a settlement system. The Global Joint Venture will charge fees for such services only to its customers with no additional charges to vendors acting on behalf of the customers.

3. Intellectual Property

Similarly, the formation of the Global Joint Venture will not present customers, their vendors or competing trade management systems with any problems involving intellectual property or access to DTC through low volume channels. DTC has operated standardized interfaces with members of the financial industry for more than 25 years. Participants, their vendors and other registered clearing agencies have standardized access to DTC's services. Both DTC and the Global Joint Venture will certainly be expected by their customers in the financial industry to continue that long-standing practice.

4. Customer Service

The GSTP Letter raises a concern about DTC's client relationships with customers of the Global Joint Venture. That concern is unwarranted. The Global Joint Venture will have a separate sales force that has no connection with DTC. DTC's sales force will have no involvement in selling the services of the Global Joint Venture. Users of DTC's services will be entirely free to use any trade management system that they choose based on the perceived merits of that system.

5. Conclusion

As this letter has shown, the staffs of DTCC and the Thomson ESG Business are committed to achieving interoperability among the Global Joint Venture and competing trade management systems. The Commission has the regulatory authority to monitor and compel the Global Joint Venture's compliance with that commitment. DTC's long-standing practice of providing members of the financial industry with equal, standardized access to DTC's services will continue after formation of the Global Joint

Mr. Jonathan G. Katz
January 12, 2001
Page 5

Venture. That practice is required by Section 17A of the Exchange Act and is subject to the Commission's regulatory oversight. Accordingly, there can be no reason to delay regulatory approval of the Global Joint Venture.

Very truly yours,



Carl H. Urist

Attachment.

cc: Mr. Burkhard H. Gutzeit
Mr. C. Steven Crosby
GSTP AG

CHU\Katz (ltr)

[Excerpt from SIA Institutional Transaction Processing Committee White Paper]

6. Additional Factors for Consideration

At the core of the Institutional Transaction Processing Committee's proposed model is this concept of a "virtual" real-time matching utility, as it is unlikely that a single service will meet the needs of all market participants. Instead, the Committee envisions multiple providers working in concert with full interoperability, enabling the development of a virtual matching engine. It is important, however, that the safety and soundness of the U.S. book-entry settlement system not be in any way compromised.

The Virtual Matching Utility

The proposed matching utility, as noted earlier, clearly calls for multiple providers to co-exist and inter-operate according to an industry-agreed set of standards. Cooperation and interoperability between service providers, including linkages between central securities depositories, will provide industry players with the freedom to choose their specific providers, while at the same time ensuring that each individual firm has a single point of access to a shared post-trade process. Following commentary on this document, the industry will have to reach agreement in the areas outlined in the following sections below as they relate to the necessary linkages between service providers.

Commercial Considerations

To be successful, the proposed matching utility will have to attract critical mass usage. To do so, an economic framework that is viable to both commercial and industry utility providers as well as to their customers will be required. Some key questions for the industry to consider in developing this framework include:

- Should interfaces between service providers be provided without cost?
- Should both parties to a trade be charged an access fee to facilitate universal interoperability?
- Should both parties to a match be charged for the match?
- How would such universal access fees be calculated?

Liability Issues

The Committee believes that a key principle of the virtual matching utility is that each provider will adopt its own liability policy and that these policies will be made known to all customers of all providers. Key questions to be addressed regarding such policies include:

- How do liability issues get resolved across multiple vendors?

- Should the industry establish some standard of liability for participating providers?
- Should the industry create an insurance vehicle to provide equal protection for all participants (e.g., similar to SIPC)?

Operational Issues

Depending on the resolution of the above-mentioned commercial considerations and liability issues, key operational issues will include which provider performs the matching on interfaced transactions, and what standards and protocols are adopted. Some key questions to be considered include:

- Should both service providers in an interfaced transaction perform the match, or should one of the providers perform the match on behalf of all participants?
- If only one provider performs the match, what is the implication to the commercial considerations and liability issues discussed above, and what would the rules of engagement be for determining which provider performs the match?

It should be noted that all questions and open issues outlined in each of the sections above are interdependent, and that decisions on any will impact the resolution of all others under consideration.