

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61216; File No. SR-DTC-2009-16)

December 22, 2009

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding The Depository Trust Company's Board of Directors Election Process

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 16, 2009, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons.

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

DTC's parent company, The Depository Trust & Clearing Corporation ("DTCC") intends in the future to consider nominating for election, to its Board of Directors candidates that are not participants of its clearing agency subsidiaries. ("non-participant candidates").² Because certain of DTCC's organizational documents mandate that the directors of DTCC shall be the same as the directors of DTC, in the future DTC's Board of Directors ("DTC Board") may include directors who are not employees of its participants ("non-participant directors").

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

¹ 15 U.S.C. 78s(b)(1).

² DTCC's clearing corporation subsidiary participants include The Depository Trust Company, National Securities Clearing Corporation, and Fixed Income Clearing Corporation.

and basis for the proposed rule change and discussed any comments it received on the proposed 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 such statements.³

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

DTCC has in the past nominated for election to its Board of Directors employees of its clearing corporation subsidiaries' participants. In the future, DTCC intends to consider nominating for election to its Board of Directors people who are not employees of its clearing corporation subsidiaries' ("non-participant candidates"). Because certain of DTCC's organizational documents mandate that the directors of DTCC shall be the same as the directors of DTC, in the future DTC's Board may include directors who are not employees of its clearing corporation subsidiaries' ("non-participant directors"). DTC believes that non-participant directors may bring additional skills and expertise and introduce different perspectives to the Board. This change will conform DTC's Board of Directors election process to those of DTCC's other clearing corporation subsidiaries – National Securities Clearing Corporation and Fixed Income Clearing Corporation.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to DTC because DTC's rules will continue to provide for a fair representation of its participants in the selection of its directors and in the administration of its affairs.

³ The Commission has modified parts of these statements.

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

DTC does not believe that the proposed rule change would have any impact on or 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 yet 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

Section 17A(b)(3)(C) of the Act requires that the rules of a clearing agency assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs. The Commission has previously found that DTC's participants are fairly represented in the selection of its Board and in the administration of its affairs.⁴ This rule change should not have any adverse effect on DTC's participants' representation in the selection of NSCC's Board or in the administration of NSCC's affairs. The Commission also recognizes that it may benefit DTC to have non-participants directors on the Board because such directors may provide skills or perspectives not possessed by participant directors. Therefore, the Commission finds that DTC's proposed rule change to have non-participant directors serve on its Board should provide benefits while continuing to provide for the fair representation of DTC's participants in the selection of its directors and administration of its affairs.

⁴ See, e.g., Securities Exchange Act Release No. 52922 (December 7, 2005), 70 FR 74070 (December 14, 2005) (File Nos. SR-DTC-2005-16, SR FICC-2005-19, and SR-NSCC-2005-14).

DTC has requested that the Commission approve this rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because by so approving DTC will be able to implement the rule change in time to include non-participant directors on its Board for the 2010 Board term.

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-2009-16 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 submissions should refer to File Number SR-DTC-2009-16. 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 filing 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/legal/rule_filings/dtc/2009-16.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-2009-16 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable.⁵

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2009-16) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁶

Florence E. Harmon
Deputy Secretary

⁵ In approving the proposed rule changes, the Commission considered the proposals' impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁶ 17 CFR 200.30-3(a)(12).