

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-49489; File No. SR-DTC-2004-01)

March 26, 2004

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Termination of TaxReclaim Service

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on March 8, 2004, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change 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 parties.

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

The proposed rule change would permit DTC to terminate its TaxReclaim service.

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 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.<sup>2</sup>

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The Commission has modified the text of the summaries prepared by DTC.

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

The proposed rule change consists of the termination of DTC's TaxReclaim service. TaxReclaim assists DTC participants in preparing foreign tax reclaim forms required for reclaiming taxes withheld by foreign jurisdictions with respect to distributions in foreign securities. Using DTC's Participant Terminal System, DTC participants input data relating to the beneficial owner, foreign security, and payment details as required by the country of issuance. TaxReclaim processes the information and transmits back to the participant the completed tax reclaim form, reclaim calculation, and instructions for filing the reclaim form.

TaxReclaim was introduced in 1999. Usage in recent years has decreased significantly due in part to the expansion of DTC's TaxRelief product. TaxRelief facilitates participants' ability to obtain tax relief at the source, reducing the instances of over-withholding by the taxing authorities of the foreign jurisdiction. The expansion of TaxRelief has reduced the need for participants to use TaxReclaim to file reclaim forms. In calendar year 2003, usage of TaxReclaim declined to 209 transactions processed by seven participants.

DTC notified the users of TaxReclaim in January 2004 that the service would be terminated in 2004. All users have found alternate tax reclaim service providers, and there are currently no users of the TaxReclaim service.

The proposed rule change is consistent with the requirements of Section 17A(b)(3)(A) of the Act<sup>3</sup> and the rules and regulations thereunder applicable to DTC and

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<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

is consistent with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible. The proposed rule change promotes the efficient allocation of DTC's resources and services among DTC's participants by terminating operation of a service that was not being utilized by a sufficient number of DTC participants to support its costs.

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

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

DTC has not solicited nor received written comments on the proposed rule change. DTC will inform the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change relating to the deleted fine has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>4</sup> and Rule 19b-4(f)(4)<sup>5</sup> thereunder because the proposed rule effects a change in an existing service of DTC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public

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<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(4).

interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-DTC-2004-01. 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, comments should be sent in either hardcopy or by e-mail but not by both methods. 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, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of such filing also will be available for inspection and copying at the principal office of DTC and on DTC's

website at <http://www.dtc.org>. All submissions should refer to File No. SR-DTC-2004-01 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>6</sup> 17 CFR 200.30-3(a)(12).