

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52471; File No. SR-DTC-2005-08)

September 19, 2005

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to the New Canadian-Link Service

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 27, 2005, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on August 30, 2005, amended 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 Substance of the Proposed Rule Change

The proposed rule change would enable participants of DTC and participants of The Canadian Depository for Securities Limited ("CDS") (i) to clear and settle securities transactions in Canadian dollars and (ii) to transfer or receive Canadian dollars without any corresponding delivery or receipt of securities.

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

¹ 15 U.S.C. 78s(b)(1).

significant aspects of such statements.²

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

1. Overview of the Canadian Link Service

The purpose of the proposed rule change is to create a new DTC service, the Canadian-Link Service, that will facilitate the clearance and settlement of valued securities transactions and the transfer of funds denominated in Canadian dollars between DTC's Participants using the Canadian-Link Service ("Canadian-Link Participants") and CDS Participants and between Canadian-Link Participants and other Canadian-Link Participants. Currently, DTC processes transactions in U.S. dollars only. The Canadian-Link Service will:

- (1) create a new link between DTC and CDS to leverage the existing CDS infrastructure for clearing and settling valued securities transactions and transferring funds in Canadian dollars so that DTC will not have to replicate this infrastructure;
- (2) apply enhanced DTC risk management controls to the transactions processed for Canadian-Link Participants through the Canadian-Link Service and will also subject DTC to CDS risk management controls, which are similar in most respects to DTC risk management controls; and
- (3) permit DTC Participants to concentrate their securities positions at DTC and not bifurcate inventory between DTC and CDS or a Canadian custodian.

At the present time, CDS maintains a number of links with DTC and the National Securities Clearing Corporation ("NSCC"). These links include:

- (1) the American and Canadian Connection for Efficient Securities Settlement ("ACCESS") Service enables CDS Participants to clear and settle transactions with

² The Commission has modified parts of these statements.

DTC Participants through omnibus accounts maintained by CDS with DTC and NSCC.³ CDS Participants that use the ACCESS Service are not participants or members of DTC or NSCC nor does CDS maintain or sponsor individual accounts at DTC or NSCC for such CDS Participants.

- (2) the New York Link Service enables CDS Participants to clear and settle transactions with DTC Participants through sponsored accounts maintained by CDS with DTC and NSCC. Through such sponsored accounts, CDS Participants may clear and settle transactions on a trade for trade basis or on a continuous net settlement basis through the facilities of DTC and NSCC.
- (3) the DTC Direct Link Service enables CDS Participants to clear and settle transactions with DTC Participants through sponsored accounts maintained by CDS with DTC. Through such sponsored accounts, CDS Participants may clear and settle their transactions on a trade for trade basis through the facilities of DTC.

At the present time, DTC maintains no comparable links with CDS, although DTC Participants may use the ACCESS Service of CDS for free deliveries of securities to and from CDS Participants. With the implementation of the Canadian-Link Service by DTC, Canadian-Link Participants will have the same ability to clear and settle valued securities transactions with CDS Participants and other Canadian-Link Participants in Canadian dollars that CDS Participants now have to clear and settle valued securities transactions with DTC Participants in US dollars. As noted above, this will be accomplished using the existing CDS infrastructure for

³ CDS has advised DTC that it has decided to terminate the ACCESS Service and transfer its users to the New York Link Service. However, the ACCESS Service will continue to be available to DTC Participants for free deliveries of securities to and from CDS Participants.

processing transactions in Canadian dollars together with enhanced DTC risk management controls.

2. The DTC Omnibus Account

CDS will maintain for DTC, as a participant of CDS, a ledger consisting of a series of accounts, including a securities account to record securities held by CDS for DTC and securities to be delivered by DTC to CDS and a funds account to record the net amount of money owing from time to time intraday between DTC and CDS. Such ledger and the accounts included in the ledger are referred to collectively as the “DTC Omnibus Account.”

The DTC Omnibus Account will be subject to all CDS risk management controls, including the full collateralization of securities transactions subject to appropriate haircuts and limits on allowable net debits. DTC will be the account party on the DTC Omnibus Account. As a participant of CDS, DTC will be liable to CDS with respect to transactions processed for Canadian-Link Participants through the DTC Omnibus Account. Such obligations of DTC to CDS will, in turn, be matched by the obligations of Canadian-Link Participants to DTC with respect to such transactions. As an operational matter, DTC will act as a conduit between Canadian-Link Participants and CDS by transmitting to CDS information and instructions received from Canadian-Link Participants and by transmitting to Canadian-Link Participants information and instructions received from CDS. CDS and Canadian-Link Participants will not have a direct relationship with each other.

The DTC Omnibus Account will have its own (i) collateral requirements and controls and net debit requirements and controls, (ii) settlement obligations, and (iii) line of credit from a Canadian bank that is a CDS Participant to secure the settlement obligations of DTC to CDS. In accordance with the Rules and Procedures of CDS, DTC will be a member of a credit ring with

certain other CDS Participants.⁴ Although DTC will take instructions from Canadian-Link Participants with respect to their transactions with CDS Participants through the Canadian-Link Service, DTC will at all times maintain control over the securities and funds credited to the DTC Omnibus Account.

Transactions will be processed in the CDS system on each day that CDS is open for business (“CDS Business Day”) whether or not such day is a day that DTC is otherwise open for business (“DTC Business Day”).

3. Transactions Processed Through the Canadian-Link Service

Transactions between Canadian-Link Participants and CDS Participants will be processed through the DTC Omnibus Account in accordance with the Rules and Procedures of CDS.

Canadian-Link Participants will be able (i) to deliver securities to or receive securities from CDS Participants against payment in Canadian dollars and (ii) to transfer funds to or receive funds from CDS Participants in Canadian dollars without any corresponding delivery or receipt of securities.

Transactions between Canadian-Link Participants and other Canadian-Link Participants will be processed through accounts at DTC in accordance with the Rules and Procedures of DTC. Canadian-Link Participants will be able to (i) deliver securities to or receive securities from other Canadian-Link Participants against payment in Canadian dollars and (ii) transfer funds to or receive funds from other Canadian-Link Participants in Canadian dollars without any corresponding delivery or receipt of securities.

⁴ CDS has advised DTC that (i) DTC will be required to be a member of the Non-Contributing Receivers Credit Ring for Canadian Dollar Settlements, (ii) the only claims that could be made against DTC as a member of this credit ring involve very unusual events, and (iii) no claim has ever been made by CDS against any member of this credit ring.

For both transactions between Canadian-Link Participants and CDS Participants processed through the DTC Omnibus Account and transactions between Canadian-Link Participants and other Canadian-Link Participants processed through accounts at DTC, there will be a single end-of-day Canadian dollar money settlement between DTC and its Canadian-Link Participants (“Canadian-Link Money Settlement”). For the transactions between Canadian-Link Participants and CDS Participants processed through the DTC Omnibus Account, there will be a separate end-of-day Canadian dollar money settlement between CDS and DTC.

4. Eligibility of Participants and Securities

All DTC Participants will be eligible to be Canadian-Link Participants and use the Canadian-Link Service, provided that they comply with (i) the Rules and Procedures of DTC, (ii) the Rules and Procedures of CDS, and (iii) all agreements between DTC and CDS relating to the participation of DTC in CDS. (Such agreements together with the Rules and Procedures of CDS will be referred to as the “Canadian-Link Documents”).

DTC will determine what securities will be eligible for the Canadian-Link Service (“Canadian-Link Securities”). Some securities may be eligible for all purposes of the Canadian-Link Service and some securities may be eligible only for limited purposes (e.g., clearance and settlement through the facilities of CDS but only custody and asset servicing through the facilities of DTC). In no case will a security be eligible for the Canadian-Link Service if the issuer is on an OFAC list of specially designated nationals and blocked persons or is incorporated in a jurisdiction on an OFAC list of sanctioned countries. As is the case with securities processed through the facilities of DTC, it will be DTC rather than CDS that will monitor such compliance with OFAC regulations.

5. Enhanced DTC Risk Management Controls

Each Canadian-Link Participant will be required to make an additional required cash deposit to the DTC Participants Fund (“Canadian-Link Required Participants Fund Deposit”). The amount of the Canadian-Link Required Participants Fund Deposit will be determined by a formula that will be fixed by DTC and will be set forth in DTC’s procedures. For all purposes of the Rules and Procedures of DTC, the Canadian-Link Required Participants Fund Deposit of a Canadian-Link Participant will be considered a part of the Required Participants Fund Deposit of such Participant and will secure all of the obligations of such Participant to DTC, including transactions processed for such Participant through the Canadian-Link Service and other transactions processed by DTC for such Participant.

Each Canadian-Link Participant will be assigned a net debit cap on the transactions that may be processed for such Participant through the Canadian-Link Service (“Canadian-Link Net Debit Cap”). The Canadian-Link Net Debit Cap of a Canadian-Link Participant will be determined by a formula that will be fixed by DTC and will be set forth in DTC’s procedures. Under existing DTC Rules, which will not be affected by new Rule 30, each DTC Participant is assigned a Net Debit Cap on the transactions that may be processed for such Participant through the facilities of DTC (i.e., a limit on the negative funds balance that may from time to time be incurred with respect to its US dollar transactions). The Canadian-Link Net Debit Cap of a Canadian-Link Participant and not its Net Debit Cap will apply to the transactions of such Participant processed through the Canadian-Link Service, including both transactions with CDS Participants processed for such Participant through the DTC Omnibus Account and transactions with other Canadian-Link Participants processed for such Participant through accounts at DTC. The Net Debit Cap of a Canadian-Link Participant and not its Canadian-Link Net Debit Cap will apply to all other transactions processed by DTC for such Participant.

Each Canadian-Link Participant will have a single Collateral Monitor with respect to transactions processed for such Participant through the Canadian-Link Service and other transactions processed by DTC for such Participant. For purposes of the Canadian-Link Service, the Collateral Monitor of a Canadian-Link Participant will be adjusted as follows:

- (1) Canadian dollar net credits from transactions processed for such Participant through the Canadian-Link Service will be converted into US dollar equivalents and added to US dollar net credits from other transactions processed by DTC for such Participant;
- (2) Canadian dollar net debits from transactions processed for such Participant through the Canadian-Link Service will be converted into US dollar equivalents and added to US dollar net debits from other transactions processed by DTC for such Participant;
- (3) the Collateral Value of Canadian-Link Securities delivered by such Participant to CDS Participants through the DTC Omnibus Account and the Collateral Value of Canadian-Link Securities delivered by such Participant to other Canadian-Link Participants through accounts at DTC will be converted into US dollar equivalents and deducted from the Collateral Value of the collateral of such Participant; and
- (4) Collateral Value in US dollars will be given for Canadian-Link Securities received by such Participant from other Canadian-Link Participants but no Collateral Value will be given for Canadian-Link Securities received by such Participant from CDS Participants unless and until such securities are credited to an account of such Participant at DTC.

6. Instructions for Transactions Processed Through the Canadian-Link Service

A Canadian-Link Participant may give DTC an instruction to clear and settle a securities transaction or to effect a funds transaction between such Participant and a CDS Participant as follows:

- (1) an instruction from a Canadian-Link Participant to DTC to clear and settle a delivery of Canadian-Link Securities to a CDS Participant will constitute an instruction for DTC (i) to report or to confirm as appropriate the details of the transaction to CDS for processing in the CDS system and (ii) to transfer the securities subject to such instruction from an account of such Participant at DTC to the DTC Omnibus Account for the purpose of making such delivery on the settlement date;
- (2) an instruction from a Canadian-Link Participant to DTC to clear and settle a receipt of Canadian-Link Securities from a CDS Participant will constitute an instruction for DTC (i) to report or to confirm as appropriate the details of the transaction to CDS for processing in the CDS system and (ii) to transfer subject to CDS risk management controls the Securities subject to such instruction from the DTC Omnibus Account to an account of such Participant at DTC on the settlement date;
- (3) an instruction from a Canadian-Link Participant to DTC with respect to a payment of Canadian dollars to a CDS Participant without any corresponding receipt of Canadian-Link Securities will constitute an instruction for DTC to report or confirm as appropriate the details of the transaction to CDS for processing in the CDS system; and
- (4) an instruction from a Canadian-Link Participant to DTC with respect to a receipt of Canadian dollars from a CDS Participant without any corresponding delivery of Canadian-Link Securities will constitute an instruction for DTC to report or confirm as appropriate the details of the transaction to CDS for processing in the CDS system.

A Canadian-Link Participant may give DTC an instruction to clear and settle a securities transaction or effect a funds transaction with another Canadian-Link Participant as follows:

- (1) an instruction from a Canadian-Link Participant to DTC to clear and settle a delivery of Canadian-Link Securities to another Canadian-Link Participant will constitute an instruction for DTC (i) to match the details of such transaction and (ii) if such details match, to debit the securities from an account of the delivering Participant at DTC and to credit the securities to an account of the receiving Participant at DTC and (iii) credit the delivering Participant and debit the receiving Participant the contract price of the securities in Canadian-Link Money Settlement;
- (2) an instruction from a Canadian-Link Participant to DTC to clear and settle a receipt of Canadian-Link Securities from another Canadian-Link Participant will constitute an instruction for DTC (i) to match the details of such transaction and (ii) if such details match, to credit the securities to an account of the receiving Participant at DTC and debit the securities from an account of the delivering Participant at DTC, and (iii) to debit the receiving Participant and credit the delivering Participant the contract price of the securities in Canadian-Link Money Settlement;
- (3) an instruction from a Canadian-Link Participant to DTC with respect to the payment of Canadian dollars to another Canadian-Link Participant without any corresponding receipt of Canadian-Link Securities will constitute an instruction for DTC (i) to match the details of such transaction and (ii) if such details match, to debit the paying Participant and credit the receiving Participant the appropriate amount of funds in Canadian-Link Money Settlement;
- (4) an instruction from a Canadian-Link Participant to DTC with respect to the receipt of Canadian dollars from another Canadian-Link Participant without any corresponding delivery of Canadian-Link Securities will constitute an instruction for DTC (i) to match the details of such transaction and (ii) if such details match, to credit the

paying Participant and debit the receiving Participant the appropriate amount of funds in Canadian-Link Money Settlement.

All valued securities transactions processed through the Canadian-Link Service will be settled trade for trade on a delivery against payment basis.

7. The Settlement of Transactions Processed through the Canadian-Link Service

On each CDS Business Day, CDS will give DTC a recap of all transactions processed for DTC through the DTC Omnibus Account on such CDS Business Day and the net amount of money that CDS owes DTC or that DTC owes CDS with respect to such transactions. In turn, DTC will give each Canadian-Link Participant a recap of the transactions processed for such Participant through the Canadian-Link Service on such CDS Business Day, including transactions with CDS Participants processed for such Participant through the DTC Omnibus Account and transactions with other Canadian-Link Participants processed for such Participant through accounts at DTC, and the net amount of money that DTC owes such Participant or that such Participant owes DTC with respect to such transactions. Then, in the following order, (i) Canadian-Link Participants with net settlement debits will pay DTC the amounts of such net settlement debits, (ii) DTC will pay CDS the amount of any net settlement debit owing to CDS or CDS will pay DTC the amount of any net settlement credit owing to DTC, and (iii) DTC will pay Canadian-Link Participants with net settlement credits the amounts of such net settlement credits. However, the amount of any net settlement credit owing to a Canadian-Link Participant with respect to transactions processed for such Participant through the Canadian-Link Service may be withheld and applied to any obligation of such Participant to DTC or to any obligation of DTC to another registered clearing agency with respect to such Participant. DTC will not be required to make any payment to Canadian-Link Participants with net settlement credits unless

and until DTC receives payment from all Canadian-Link Participants with net settlement debits and payment of any net amount of money that CDS owes DTC.

If a Canadian-Link Participant fails to pay any Canadian dollar net settlement debit with respect to the transactions processed for such Participant through the Canadian-Link Service.

DTC may apply the DTC Participants Fund to cover any shortfall in its settlement obligations to CDS. If the day of such default is a DTC Business Day, DTC may either:

- (1) declare such Participant to be a Defaulting Participant, in which case DTC will have all of its rights and remedies under the Rules and Procedures of DTC, including the right to sell or to pledge (i) all securities credited to the DTC Omnibus Account at CDS for delivery to the Defaulting Participant, which securities are owned by DTC until they are paid for by the Participant, (ii) all securities provisionally credited to an account of the Defaulting Participant at DTC against payment, which securities are owned by DTC until they are paid for by the Participant, and (iii) all securities which are designated as additional Collateral by the Defaulting Participant pursuant to the Rules and Procedures of DTC or
- (2) translate the amount of such Canadian dollar net settlement debit into a US dollar amount that will be added to or subtracted from, as the case may be, the US dollar net settlement debit or credit of such Participant with respect to other transactions processed for such Participant through the facilities of DTC on that day and if as a result of this process such Participant has a net-net settlement debit with respect to all transactions processed for such Participant and fails to pay such net-net settlement debit to DTC, DTC may declare such Participant to be a Defaulting Participant and will have all of its rights and remedies under the Rules and Procedures of DTC, including the rights and remedies described above.

If the day of such default is not a DTC Business Day and as a result the amount of such Canadian dollar net settlement debit cannot be included in the calculation of the settlement obligations of such Participant with respect to other transactions processed by DTC for such Participant on that day, DTC will deem such Participant to be a Defaulting Participant and DTC will have all of its rights and remedies under the Rules and Procedures of DTC, including the rights and remedies described above. Any amounts withdrawn from the DTC Participants Fund to cover a shortfall in the settlement obligations of DTC to CDS will be restored to the Participants Fund (i) from any payments subsequently received by DTC from the Defaulting Participant and (ii) from any amounts derived by DTC from the operation of its failure to settle procedures and loss allocation rules.

8. Additional Matters

As a member of CDS, DTC must observe and comply with the Canadian-Link Documents. Each Canadian-Link Participant, in order to use the Canadian-Link Service, acknowledges that (i) all transactions processed for such Participant through the facilities of CDS are subject to the Canadian-Link Documents, (ii) the Canadian-Link Documents may include grants of security interests in and liens on securities and funds in the CDS system in which such Participant has an interest, (iii) there are other provisions of the Canadian-Link Documents that could also affect the interest of such Participant in such securities and funds, and (iv) in the event of any conflict between the Rules and Procedures of DTC, which are a contract between DTC and DTC Participants, and the Canadian-Link Documents, which are a contract between DTC and CDS, the requirements of the Canadian-Link Documents will prevail.

9. Fees

DTC is proposing to charge its Canadian-Link Participants the following fees. The fee schedule is set forth in Section 23 of the Canadian-Link Service Guide, which is attached as

Exhibit 2 to this filing. All fees will be collected in U.S. dollars through the existing U.S. dollar settlement system and will be uniquely identified on the DTC U.S. dollar settlement statement bill. The proposed fees are as follows:

(1) Deliver Order Fees

DTC will charge \$2.00 U.S. per submitted Canadian dollar delivery/receive, recall transaction resulting from the automatic recall process, cancel instruction and modify instruction. DTC will not charge for hold instructions of Canadian dollar deliveries/receives, DK instructions, confirm instructions, or end-of-day sweep transactions.

(2) Payment Order Fees

DTC will charge \$2.00 U.S. per submitted Canadian dollar payment order delivery/receive, cancel instruction, and modify instruction. DTC will not charge for hold instructions of Canadian dollar payment order deliveries/receives, DK instructions, or confirm instructions.

(3) Asset Servicing/Custody Fees

DTC will charge for asset servicing and custody services on all Canadian and U.S. securities at the existing DTC Asset Servicing/Custody fees.

10. Statutory Basis for the Proposed Rule Change

Section 17A of the Act requires that DTC be so organized and its rules designed to facilitate and promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the Canadian-Link Service will promote the prompt and accurate clearance and settlement of cross-border securities transactions between DTC Participants and CDS Participants and between DTC Participants and other DTC Participants in a secure, efficient and regulated environment. DTC also believes that the Canadian-Link Service will more efficiently link the facilities of DTC and CDS to maximize service to their respective

Participants and to minimize the duplication of effort and expense. Additionally, the proposed fees are consistent with DTC's policy to price its services commensurate with DTC's costs and to equitably allocate the costs among the users of the services.

(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

No written comments relating to the proposed rule change have been solicited or received by DTC from members, participants, or other persons. DTC will notify the Commission of any written comments it receives.

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:

- (a) by order approve the proposed rule change or
- (b) institute proceedings to determine whether the proposed rule change should be disapproved.

VI. 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-2005-08 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-DTC-2005-08. 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 website (<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. Copies of such filing also will be available for inspection and copying at the principal office of DTC and on DTC's website at

<https://login.dtcc.com/dtcorg>. 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-2005-08 and should be submitted on or before [insert date 21 days from publication in the Federal Register]. For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Jonathan G. Katz
Secretary

⁵ 17 CFR 200.30-3(a)(12).