

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53471; File No. SR-DTC-2005-21)

March 13, 2006

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change to Implement and Revise Fees Related to Non-Participant Services

I. Introduction

On December 20, 2005, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) and on December 20, 2005, January 23, 2006, and January 25, 2006,¹ amended the proposed rule change SR-DTC-2005-21 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).² Notice of the proposal as amended was published in the Federal Register on February 9, 2006.³ The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

DTC is (1) revising fees for special requests for Security Position Reports (“SPRs”) and for weekly, monthly, and quarterly dividend record date SPR subscriptions,⁴ (2) revising existing fees for audit confirmations provided to issuers and their agents, and (3) implementing new fees for (a) audit confirmations for certificates of deposit (“CDs”) provided to issuers and their agents and (b) access by transfer agents to DTC’s imaging database.

¹ The proposed rule change filing was amended twice on January 25, 2006.

² 15 U.S.C. 78s(b)(1).

³ Securities Exchange Act Release No. 53219 (February 3, 2006), 71 FR 6800.

⁴ Weekly reports, monthly reports, and quarterly dividend record date reports are available by annual subscription only.

Fees for Issuance of Security Position Reports

Several types of SPRs are available through DTC. These include: (1) weekly reports showing daily closing positions during that week; (2) monthly reports showing closing positions on the last business day of the month; (3) quarterly dividend record date reports showing closing positions on the dividend record date; and (4) special requests showing closing positions for the date specified.

DTC charges fees for SPRs. Currently, the fee charged to issuers or trustees for weekly, monthly, and quarterly dividend record date SPR subscriptions is \$1,950, \$450, and \$150, respectively. The fee charged to issuers or trustees for special requests is \$85 per special request. The purpose of this filing is to formally seek Commission approval of these fees. Because DTC incurs significantly higher costs for the production of special request SPRs relative to the costs of producing reports by subscription and because DTC has determined that a fee increase is necessary to more fully recover costs associated with such production, DTC is increasing the fee charged to issuers or trustees for special request SPRs from \$85 to \$120 per special request. The increase will become effective on a date in the first quarter of 2006 to be announced by DTC upon the Commission's approval of this proposed rule change.

Fees Charged to Issuers/Agents

1. Audit Confirmations

DTC receives frequent requests from issuers and/or their agents for confirmations of audit information relating to securities held by DTC. In connection with the processing of such requests for audit confirmations, DTC currently charges a fee of \$10.00 per request containing up to and including five CUSIPs and \$2.13 for each CUSIP beyond the fifth CUSIP. DTC also

receives requests from issuers and/or their agents for confirmations relating to information concerning CDs deposited at DTC. A fee is not currently charged to process these CD audit confirmation requests. Providing issuers and/or their agents with audit confirmation information requires the allocation of significant resources to process the requests resulting in considerable cost to DTC. To more fully recover the costs associated with such audit confirmation processing, DTC is (1) increasing fees related to processing of audit confirmations to \$22 per request for requests of up to and including five CUSIPs and an additional \$5.00 per item for each CUSIP beyond the fifth CUSIP and (2) implementing fees for CD confirmation requests that are identical to those for audit confirmation requests relating to securities. The proposed audit confirmation fees will be effective upon approval by the Commission.

2. Imaging

DTC frequently receives requests from transfer agents for access to DTC's security image database to obtain copies of certificates deposited at DTC. DTC incurs significant costs to maintain the database but currently does not charge transfer agents for access to the database. Therefore, in order to recover costs associated with this function, DTC is implementing a new subscription fee of \$350 per month for access to the DTC security image database. This fee will be effective upon approval by the Commission.⁵

⁵ DTC has separately filed a proposed rule change (File No. SR-DTC-2005-22) with the Commission to impose a subscription fee in the same amount on participants who subscribe for access to the DTC security image database. Securities Exchange Act Release No. 53463 (March 10, 2006).

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges.⁶ The Commission believes that DTC's rule change is consistent with this Section because it will provide for the equitable allocation of reasonable dues, fees, and other charges among the users of DTC's services.

IV. 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 Section 17A of the Act and the rules and regulations thereunder.

⁶ 15 U.S.C. 78q-1(b)(3)(D).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2005-21) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Nancy M. Morris
Secretary

⁷ 17 CFR 200.30-3(a)(12).

