

category, "Technical Equipment" assesses the OTC/UTP co-specialist with the cost of computer equipment, monitors and printers dedicated to an OTC/UTP co-specialist's own trading environment. Finally, the "Tools of the Trade Access" category provides for direct rebilling of actual access charges incurred by the Exchange when a co-specialist uses Tools of the Trade for the particular issues traded by the co-specialist.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act⁸ in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that no burden will be placed on competition as a result of the proposed rule change.

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

The CHX held a meeting on March 29, 1999, which was attended by the principals of all UTP Specialist Firms, at which time CHX management outlined the proposed fee structure contained in this proposal, and the rationale for imposition of such fees. There was unanimous consent of the UTP Specialist Firms to the imposition of the proposed fees. Subsequently, the proposal was approved unanimously by the CHX committee (referred to as the OTC Committee) responsible for matters having an impact on unlisted trading at the Exchange.⁹

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

The proposed rule change, as amended, has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁰ and subparagraph (f)(2) of Rule 19b-4 thereunder,¹¹ because it involves a due, fee, or other charge. At any time within 60 days of the filing of the proposed rule change (May 28, 1999), the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise

with respect to automated quotation display and trade execution.

⁸ 15 U.S.C. 78f(b)(4).

⁹ See Amendment No. 1.

¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

in furtherance of the purposes of the Act.¹²

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file number SR-CHX-99-02, and should be submitted by July 12, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41529; File No. SR-DTC-99-08]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to Amendments to Organization Certificate and By-Laws

June 15, 1999.

On March 18, 1999, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on April 12, 1999, amended a proposed rule change (File No. SR-DTC-99-08) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the

Federal Register on April 23, 1999.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Under the rule change, DTC is amending its Organization Certificate and By-Laws to increase the size of its Board of Directors, to redesignate its capital stock, and to modernize its Certification of Organization. The amendments are subject to stockholder approval.

A. Increasing the Number of Board Directors

The Boards of Directors of DTC and the National Securities Clearing Corporation ("NSCC") have decided to integrate DTC and NSCC. An initial step in the integration is to propose at this year's annual shareholders' meeting the reelection of DTC's Board of Directors.³ Subject to regulatory approval, the Boards of DTC and NSCC will be restructured so that the same group of individuals will serve as the Board of Directors for each of the two companies.⁴ Through this process and with the inclusion of DTC and NSCC management directors, the Board of Directors for each company will be comprised of twenty-seven people.⁵

DTC's Organization Certificate and By-Laws currently provide for the number of directors of the Board to be not less than five nor more than twenty. In order to accommodate the number of directors resulting from the consolidated plan described above, paragraph "SEVENTH" of the Organization Certificate (which after elimination of paragraph "FOURTH," as described below, will become paragraph "SIXTH") and Article II, Section 2.1 of the By-laws will be amended to provide that the number of directors be not less than seven nor more than twenty-five. Section 2.1 by the By-Law will also be

² Securities Exchange Act Lease No. 41305 (April 16, 1999), 64 FR 20034.

³ The Commission recently approved a similar proposal submitted by NSCC. Securities Exchange Act Release No. 41520 (June 11, 1999) [File No. SR-NSCC-99-08].

⁴ Simply combining DTC's current Board to NSCC's current Board to achieve uniform Boards would result in certain user and marketplace organizations having more than one representative on the uniform Boards. As a result, each organization represented will be asked to select only one representative.

⁵ Under the Federal Reserve Act, DTC may have no more than twenty-five members on its Board. As a result, after the uniform Boards are elected DTC's Board will have twenty-five members and two non-voting advisors, and NSCC's board will have twenty-seven members.

¹² In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

amended to set the current number of directors at twenty-five.

B. Redesignating DTC's Capital Stock

DTC's Organization Certificate currently limits DTC to only one class of stock, specifically 18,500 shares of capital stock having a par value of \$100.00 per share. All of this stock is issued and outstanding. DTC has informed the Commission that its Board of Directors may in the future wish to consider authorizing the issuance of preferred stock. Therefore, paragraph "THIRD" will be amended, and paragraph "FOURTH" will be eliminated in order to designate the existing class of capital stock as "common stock" and to provide for 1,500,000 shares of preferred stock having a par value of \$100.00 per share.

C. Modernizing the Organization Certificate

DTC's Organization Certificate was originally drafted in 1973. DTC has informed the Commission that provisions of the Organization Certificate relating to DTC's powers refer both explicitly and implicitly to New York State Statutory provisions that are no longer applicable. In addition, the Organization Certificate does not recognize DTC's status as a clearing agency registered with the Commission or provide for powers incidental to that status. Accordingly, paragraph "THIRTEENTH" (which after elimination of paragraph "FOURTH," as described above, will become paragraph "TWELFTH") will be amended to update DTC's Organization Certificate.

II. Discussion

Section 17A(b)(3)(C) of the Act⁶ 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 believes that the proposed rule change is consistent with DTC's obligations under Section 17A(b)(3)(C) because it should not affect the representation of DTC's shareholders and participants in the selection of its directors and the administration of its affairs.

III. Conclusion

On the basis of the foregoing, the Commission finds that DTC's proposal 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.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-99-08) be and hereby is approved.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41528; File No. SR-MSRB-99-4]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Consisting of Technical Amendments to Rules A-3, A-5, A-7, A-11 Through A-15, A-17, D-5, G-1 Through G-3, G-5 Through G-9, G-11 Through G-16, G-18, G-20, G-23, G-27, G-28, G-32, G-34, G-36, G-37 and G-39

June 15, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 28, 1999, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (SR-MSRB-99-4). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Board has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act which renders the proposal effective upon receipt of this filing by the Commission.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On May 21, 1999, pursuant to Rule 19b-4(f)(6), the Board provided the required five day advance notice to the Commission of its intent to file this proposed rule change. In this notice, the Board has represented that this proposed rule change: (1) Will not significantly affect the protection of investors; (2) will not impose any significant burden on competition; and (3) will not become operative for thirty days after the date of this filing. See letter from Ernesto A. Lanza, Associate General Counsel, MSRB, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 21, 1999.

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

The Board has filed with the Commission a proposed rule change consisting of technical amendments to rules A-3, A-5, A-7, A-11 through A-15, A-17, D-5, G-1 through G-3, G-5 through G-9, G-11 through G-16, G-18, G-20, G-23, G-27, G-28, G-32, G-34, G-36, G-37 and G-39. The proposed rule change will become operative on July 1, 1999.⁴

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

The Board has adopted a series of technical amendments to Rules A-3, A-5, A-7, A-11, through A-15, A-17, D-5, G-1 through G-3, G-5 through G-9, G-11 through G-16, G-18, G-20, G-23, G-27, G-28, G-32, G-34, G-36, G-37 and G-39 for the purpose of making certain non-substantive changes. These changes are designed to:

- Ensure uniform usage of the term "brokers, dealers and municipal securities dealers" throughout all Board rules;
- Eliminate the usage of the term "municipal securities business" in rules other than rules G-37 and G-38;
- Make certain grammatical corrections;
- Make all rule language gender neutral;
- Correct certain cross-references to other Board rules, SEC rules or federal statutes, including updating the cross-reference in rule G-8(a)(xi) to Section 203 of the Investment Advisers Act of 1940 to take into account the reallocation of regulatory oversight of investment advisers between the Commission and the states effected by the National Securities Markets Improvement Act of 1996 and the rules promulgated thereunder;
- Ensure uniform references to sections and paragraphs within Board rules; and
- Eliminate duplicative, superfluous or obsolete rule language, including elimination of the cross-reference and related language in rule G-12(e)(xvi) regarding subparagraph

⁴ *Id.*

⁶ 15 U.S.C. 78q-1(b)(3)(C).