

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55306; File No. SR-DTC-2006-21)

February 15, 2007

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Fee in Connection with Its Offering of a Mechanism by which It Collects and Passes-Through Fees Owed by Participants to American Depository Receipt Agents for Certain Issues

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on December 29, 2006, 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. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act² and Rule 19b-4(f)(2)³ thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

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

The purpose of the rule change is to modify DTC’s fee for offering the mechanism by which it collects and passes-through fees owed by participants to American Depository Receipt (“ADR”) agents for certain issues.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(ii).

³ 17 CFR 240.19b-4(f)(2).

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.⁴

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

Typically, an ADR agent is authorized under its agreement with the issuer to impose a custody fee on holders of the issue. A common practice for collection of this fee is for the ADR agent to subtract the amount of the fee from the gross dividend payable to the ADR holders. This practice is effectuated by DTC announcing to participants both the gross dividend rate and the net dividend rate after deduction of the ADR custody fee, and the ADR agent paying DTC the net dividend and DTC allocating the net dividend to participants. However, a number of ADR issues do not pay periodic dividends, which prevents the associated fees from being collected through the above-described mechanism.

Pursuant to discussions with industry representatives and in order to facilitate a more efficient ADR fee collection process, DTC recently introduced a mechanism by which it collects from participants and passes through to ADR agents custody fees for issues that do not pay periodic dividends as such fees are reported to DTC by the ADR agents.⁵ DTC discussed that proposal with three divisions of the Securities Industry Association ("SIA"), the Corporate

⁴ The Commission has modified the text of the summaries prepared by DTC.

⁵ Securities Exchange Act Release No. 34-53970 (June 12, 2006), 71 FR 34974 (June 16, 2006) [File No. SR-DTC-2006-08].

Actions Division, Dividends Division, and Securities Operations Divisions (“SOD”). The SOD Regulatory and Clearance Committee prepared and sent to DTC a memorandum on DTC’s proposal. The memorandum concluded that DTC should collect such fees through its normal monthly billing process.⁶

In order to cover costs incurred in collecting fees associated with ADR issues that do not pay periodic dividends, DTC currently retains a collection charge equal to three percent (3%) of the ADR agent fee amount collected from each participant up to a maximum of \$4,000 per CUSIP per participant position. DTC does not retain a fee if the computed collection charge is less than \$50.

Due to recently implemented processing improvements, DTC has determined that the costs incurred in providing the collection function have decreased. DTC is modifying the fee it retains for this service by changing the frequency of the charge from one levied per CUSIP per participant position to one levied per CUSIP only. DTC is also changing the maximum amount collected from \$4,000 per CUSIP per participant position to \$10,000 per CUSIP. DTC projects that these changes will result in an overall reduction in the charges DTC retains for this service in an amount consistent with the overall reduction in the cost of offering the service. The modified fee became effective January 2, 2007.

DTC believes the proposed rule change is consistent with Section 17A of the Act,⁷ as amended, because it updates its fee schedule. As such, it provides for the equitable allocation of

⁶ Memorandum from Albert Howell, Chairman, Regulatory & Clearance Committee, Securities Operations Division, Securities Industry Association, to William Hodash, Managing Director, The Depository Trust and Clearing Company (March 7, 2006).

⁷ 15 U.S.C. 78q-1.

fees among its participants and aligns fees for services with the associated cost to deliver the service.

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

DTC does not believe that the proposed rule change will have any impact 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

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act⁸ and Rule 19b-4(f)(2)⁹ thereunder because the rule establishes a due, fee, or other charge. At any time within sixty days of the filing of the proposed 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 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. Comments may be submitted by any of the following methods:

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

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-2006-21 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-DTC-2006-21. 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. Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site 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-2006-21 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.¹⁰

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).