

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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-2009-016 and should be submitted on or before May 13, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59774; File No. SR-DTC-2009-08]

### Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Settlement Service Guide and Settlement Progress Payments

April 15, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 3, 2009, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as 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)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4) thereunder<sup>3</sup> so that the proposal was effective upon filing with the Commission. 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 will (i) amend DTC's Settlement Service Guide's instructions regarding withdrawals of intraday principal and income payments for non-money market instrument issues and (ii) update certain aspects of DTC's Settlement Progress Payments ("SPP") procedures.

#### 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 such statements.

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

DTC is amending the procedures governing a participant's withdraw of principal and income ("P&I") payments for non-money market instrument issues that DTC has received from paying agents and allocated to a participant's settlement account. The changes include the address and fax number to which a participant must send the wire instruction form to and the information that must be included in that form as well as a clarification that the funds must be wired to the participant's DTC settlement bank.<sup>4</sup>

DTC is also amending its SPP procedures. As background, an SPP is a payment sent from a DTC participant to DTC through Fedwire when a DTC participant has insufficient collateral<sup>5</sup> or is at its net debit cap.<sup>6</sup> The SPP creates a credit to the participant's settlement account thereby reducing

their net debit and allowing the participant to continue to receive deliveries into their participant account.

Under this rule change, DTC will implement a new automated SPP return functionality that will permit participants to request that DTC return all or a portion of an SPP and to have these payments wired to the participant's settlement bank account<sup>7</sup> intraday and before the settlement period. DTC states that these changes should simplify the SPP return process and should allow participants to maximize the early return of available liquidity.<sup>8</sup>

Prior to this rule change, DTC would return only the full amount of a SPP provided that returning the SPP would not result in a negative collateral monitor<sup>9</sup> or cause the participant's net settlement debit to exceed its net debit cap.<sup>10</sup> DTC would debit the full amount of the SPP from the participant's settlement account and return the funds through Fedwire to the participant's original sending bank. If a participant only had sufficient collateral or debit cap to return a portion of the SPP, DTC would not process the request until the full amount of the SPP could be returned. Furthermore, return requests required manual approval from DTC's Settlement Operations.

The changes to DTC's SPP function also include new wire instructions and parameters for using the new automated SPP Return function.<sup>11</sup>

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>12</sup> and the rules and regulations thereunder applicable to DTC. The proposed rule change will not affect the

<sup>7</sup> Under DTC's rules, a settling bank is a participant that is a bank or trust company subject to supervision or regulation pursuant to Federal or State banking laws and a party to an effective "Settling Bank Agreement."

<sup>8</sup> The upcoming reduction in debit caps for "families" will likely cause increased volume in SPPs. See Securities Exchange Act Release No. 59148 (Dec. 23, 2008), 73 FR 80481 (Dec. 31, 2008).

<sup>9</sup> DTC tracks collateral in a participant's account through the Collateral Monitor ("CM"). The CM reflects the amount that the collateral in the account exceeds the net debit in the account. When processing a transaction, DTC verifies that the participant's CM would not become negative when the transaction completes. If the transaction would cause the participant to have a negative CM, the transaction will recycle until the participant has sufficient collateral to complete.

<sup>10</sup> Withdrawals that are blocked as a result of insufficient collateral or net debit cap will recycle until enough collateral or settlement credits are generated to satisfy the collateral or net debit cap deficiency or until the end of the recycle period when transactions that have not successfully completed are dropped by the system.

<sup>11</sup> The updated wire instructions are attached as Exhibit 5 to DTC's rule filing.

<sup>12</sup> 15 U.S.C. 78q-1.

<sup>25</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>3</sup> 17 CFR 240.19b-4(f)(4).

<sup>4</sup> The rule change does not change the option for a participant to submit P&I withdrawal requests electronically.

<sup>5</sup> "Collateral" is defined in DTC's rules as the sum of (i) the participant's Actual Fund Deposit, (ii) the participant's Actual Preferred Stock Investment, (iii) the participant's Net Additions, and (iv) any SPPs wired by the participant to DTC's account at the Federal Reserve Bank of New York.

<sup>6</sup> A net debit cap helps ensure that DTC can complete settlement, even if a participant fails to settle.

safeguarding of funds or securities in DTC's custody and control or for which it is responsible because it allows for a more efficient processing of P&I withdrawals and SPP returns.

#### *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*

DTC has not solicited or received written comments relating to the proposed rule change. 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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and Rule 19b-4(f)(4)<sup>14</sup> thereunder because it effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 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:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comment@sec.gov](mailto:rule-comment@sec.gov). Please include File No. SR-DTC-2009-08 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File No. SR-DTC-2009-08. 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 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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. to 3 p.m. Copies of such filing also will be available for inspection and copying at DTC's principal office and on DTC's Web site at <http://www.dtc.org/impNtc/mor/index.html>. 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 No. SR-DTC-2009-08 and should be submitted on or before May 13, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-59777; File No. SR-ISE-2009-20]

### **Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes**

April 16, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 14, 2009, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on 3 Premium Products.<sup>3</sup> The text of the proposed rule change is available on the Exchange's Web site (<http://www.ise.com>), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### **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 self-regulatory organization 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. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Premium Products is defined in the Schedule of Fees as the products enumerated therein.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>14</sup> 17 CFR 240.19b-4(f)(2).

<sup>15</sup> 17 CFR 200.30-3(a)(12).