

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 the filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-2002-60 and should be submitted by August 7, 2002.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁰ In its original approval of the pilot program,¹¹ the Commission detailed its reasons for finding its substantive features consistent with the Act, and, in particular, the requirements of Sections 6(b)(5) and 6(b)(8) of the Act.¹² The Commission has previously approved rules on other exchanges that establish substantially similar programs on a permanent basis,¹³ and the extension of the pilot program on the Amex—pending review of its related proposal to revise the program and make it permanent—raises no new regulatory issues for consideration by the Commission.

The Commission finds good cause, consistent with Sections 6(b) and 19(b)(2) of the Act, for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The proposal will extend the pilot program without significant interruption while revisions are considered, and does not raise any new regulatory issues.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-Amex-2002-60) be, and hereby is, approved on an accelerated basis as a pilot program through October 4, 2002.

¹⁰ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ See *supra*, note 3.

¹² 15 U.S.C. 78f(b)(5) and (b)(8).

¹³ See, e.g., Securities Exchange Act Release Nos. 42835 (May 26, 2000), 65 FR 35683 (June 5, 2000), and 42848 (May 26, 2000), 65 FR 36206 (June 7, 2000).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46178; File No. SR-DTC-2001-19]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to the Automated Corporation Action Program Applicable to the Exercise of Warrants, Conversions, and Put Option Privileges

July 10, 2002.

On December 18, 2001, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-DTC-2001-19) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposed rule change was published in the **Federal Register** on May 8, 2002.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The Commission has proposed for comment amendments to Rule 17Ad-14 under the Act³ that will expand the scope of the rule to include reorganization events in addition to tender offers and exchange offers.⁴ Under the proposed changes to Rule 17Ad-14, a "reorganization agent"⁵ acting on behalf of an issuer in connection with a "reorganization event"⁶ which involves securities eligible at a "qualified registered

securities depository"⁷ would be required to establish an account at DTC to receive the subject securities from DTC participants by book-entry deliveries. In addition, the reorganization agent would not be permitted to require DTC to deliver any physical securities prior to the third business day following the record date, payment date, or expiration date, as applicable, of the reorganization event. These proposed changes to Rule 17Ad-14 would subject transfer agents acting as reorganization agents to requirements under Rule 17Ad-14 similar to those that currently apply to transfer agents acting as depositories in tender offers and as exchange agents in exchange offers.

In order to be ready for processing changes that will occur if the Commission adopts the proposed amendments to Rule 17Ad-14, DTC is establishing its Automated Corporation Action Program ("ACAP"). The ACAP procedures and ACAP agreement will govern participants' exercises of warrants, conversions, and put options privileges that DTC has made eligible for ACAP ("ACAP reorganization event"). Tender offers and exchange offers will continue to be processed through DTC's Automated Tender Offer Program. Prior to making one of the above-listed reorganization events eligible for ACAP, DTC and the agent will have entered into an ACAP agreement that provides that DTC's ACAP procedures are applicable to the event.⁸

Under the ACAP procedures, participants wishing to exercise warrant, conversion, or put option privileges in an ACAP reorganization event will transmit the acceptance to DTC. DTC will transmit an instruction to the agent in the form of a DTC "agent's message" and will affect a book-entry delivery of the subject securities to the account of the reorganization agent maintained at DTC.

⁷ "Qualified registered securities depository" is defined in Rule 17Ad-14 as a registered clearing agency having rules and procedures approved by the Commission pursuant to section 19 of the Act to enable book-entry delivery of the securities of the subject company to, and return of those securities from, the transfer agent through the facilities of that securities depository.

⁸ DTC and the reorganization agent will enter into an ACAP agreement, the terms of which will apply to all reorganization events for that reorganization agent thereafter made eligible for ACAP. When ACAP is fully automated, it is contemplated that DTC's Participant Terminal System or other electronic means will be used to confirm the agreement between DTC and the reorganization agent with respect to each reorganization event and to confirm any special procedures applicable to an event. Prior to completion of ACAP system automation, event information may be exchanged by telephone, fax, or e-mail.

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 45867 (May 2, 2002), 67 FR 30986 (May 8, 2002).

³ 17 CFR 240.17Ad-14.

⁴ Securities Exchange Act Release No. 40386 (August 31, 1998), 63 FR 47209 [File No. S7-25-98].

⁵ *Id.* As proposed, a "reorganization agent" would be the transfer agent receiving shares from tendering depository participants and performing payment or exchange functions in connection with a reorganization event.

⁶ *Id.* As proposed, a "reorganization event" would mean and include conversions, maturities, full and partial redemptions, calls, put option exercises, and warrant and rights exercises involving corporate and municipal securities of an issuer.

for this purpose no later than the prescribed deadline for the event. The book-entry delivery into the account will constitute the delivery of the securities required by the terms of the reorganization event. DTC will deliver the certificates evidencing the subject securities no later than three business days after the applicable deadline.

Under the ACAP procedures, DTC's delivery of the agent's message or electronic instruction letter, as the case may be, to the reorganization agent will satisfy the terms of the reorganization event, in the form required by the reorganization event, as to the execution and delivery of either (1) the warrant/conversion/put option form by a DTC participant or (2) an instruction letter by a DTC participant to cover a protect (*i.e.*, surrender securities) if the reorganization agent has accepted a notice of guaranteed delivery from a DTC participant outside of DTC.⁹

If DTC presents a certificate to the reorganization agent which the reorganization agent determines to be nontransferable, DTC will within three business days after notice from the reorganization agent either (i) put the certificate into transferable form or replace it with a transferable certificate for the same quantity of that issue of securities or (ii) return to the reorganization agent all funds and all securities of other issues paid to and issued to DTC in exchange for the nontransferable certificate. If a cash dividend or interest payment is payable on the nontransferable certificate during such three business day period, the reorganization agent may deduct the amount of the payment from the total payment due to DTC with respect to that issue of securities. As is generally the case with securities certificates deposited with DTC, DTC will resolve any problems relating to a nontransferable certificate with the participant that deposited the securities.

II. Discussion

Section 17A(b)(3)(F)¹⁰ of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership, and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The rule change allows DTC to adopt procedures consistent with the proposed

requirements of Rule 17Ad-14. These procedures should make the processing of DTC's participants' participation in ACAP reorganization events more efficient and thereby should promote the prompt and accurate clearance and settlement of these transactions. ACAP should also lead to better coordination and cooperation between DTC and transfer agents acting as reorganization agents for ACAP reorganization events. Therefore, the Commission finds that the rule change is consistent with these obligations under section 17A of the Act.

III. 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.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-DTC-2001-19) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46181; File No. SR-ISE-2002-18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange, Inc. Relating to the Execution of Complex Orders Involving Options and Single Stock Futures

July 11, 2002.

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 June 27, 2002, the International Securities Exchange, Inc. ("ISE" or "Exchange") 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 by the Exchange. 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 Exchange is proposing to adopt rules and procedures governing the execution of complex orders involving options and single stock futures.

The text of the proposed rule change appears below. New text is in italics.

Rule 722. Complex Orders

(a) *Complex Orders Defined.* A complex order is any order for the same account as defined below:

* * * * *

(5) *Combination orders with non-equity options legs.* One or more legs of a complex order may be to purchase or sell a stated number of units of another security.

(i) *Stock-Option Order.* A stock-option order is an order to buy or sell a stated number of units of an underlying stock or a security convertible into the underlying stock ("convertible security") coupled with either [(i)] (A) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of the underlying stock or convertible security or the number of units of the underlying stock necessary to create a delta neutral position; or [(ii)] (B) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date, and each representing the same number of units of stock, as and on the opposite side of the market from, the stock or convertible security portion of the order.

(ii) *SSF-Option Order.* A SSF-option order is an order to buy or sell a stated number of units of a single stock future or a security convertible into a single stock future ("convertible SSF") coupled with either (A) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of stock underlying the single stock future or convertible SSF, or the number of units of stock underlying the single stock future or convertible SSF necessary to create a delta neutral position; or (B) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price, expiration date, and each representing the same number of units of underlying stock, as and on the opposite side of the market from, the stock underlying the single stock future or convertible SSF portion of the order.

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⁹ Upon completion of ACAP automation, DTC participants will be able to submit through ACAP notices of guaranteed delivery to reorganization agents.

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.