

protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such short time as designated by the Commission. At any time within 60 days of the filing of such 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.

The Amex has requested that the Commission waive the five-day pre-filing notice and the 30-day operative delay. The Commission believes that waiving the five-day pre-filing notice and the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission notes that fee suspensions for the exchange-trade funds that are the subject of this filing have been previously filed with the Commission.<sup>10</sup> Further, extension of the fee suspension for specialist, Registered Trader, and broker-dealer orders will permit the fee suspensions to continue uninterrupted. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>11</sup>

#### 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. 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 at 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 No. SR-Amex-2003-04 and should be submitted by March 14, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-4094 Filed 2-20-03; 8:45 am]

BILLING CODE 8010-01-P

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47365; File No. SR-DTC-2003-02]

#### Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of Proposed Rule Change Concerning Requests for Withdrawal of Certificates by Issuers

February 13, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 3, 2003, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") and on February 11, 2003, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the DTC. The Commission is publishing this notice to solicit comments on the proposed 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 proposed rule change is to clarify that DTC will only honor requests for withdrawal of certificates submitted by its participants and not by the issuer of the securities.

#### 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. The DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

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

Recently a number of issuers of securities have requested that DTC exit from the depository all securities of their issues ("Issuer Withdrawal Request" or "Issuer Withdrawal Requests"). The issuers have also advised DTC that they will refuse to reregister any securities into the name of DTC or its nominee, Cede & Co. These issuers have no legal or beneficial interest in the securities they are requesting to be exited from DTC. The securities at issue generally became eligible for DTC services at the request, or for the convenience, of DTC's participants who wish to utilize DTC's book-entry transfer system. The subject securities are held by DTC for the benefit of its participants.

DTC's current rules and procedures permit participants to submit withdrawal requests if they wish to withdraw their securities from DTC. However, DTC's current rules and procedures do not provide for DTC to comply with an Issuer Withdrawal Request without participants' instructions. Through the proposed rule filing, DTC is seeking to clarify the procedures that it will follow upon receiving an Issuer Withdrawal Request. Upon receipt of an Issuer Withdrawal Request, DTC will, among other things:

- Issue an "Important Notice" notifying participants of the receipt of the Issuer Withdrawal Request and reminding participants that they can utilize DTC withdrawal procedures if they wish to withdraw their securities from DTC.

- Notify the transfer agent for the issuer that failure to reregister certificates pursuant to DTC's instructions is a violation of the transfer agent's obligations under, among other things, DTC's rule and procedures, such as DTC's Operational Arrangements.

- Process in the ordinary course of business withdrawal requests submitted by participants and refuse to effectuate withdrawals based upon the Issuer Withdrawal Request.

Since this is a clarification of DTC's rules and procedures, DTC will

<sup>10</sup> See *supra* notes 3, 4, and 5.

<sup>11</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

<sup>13</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The Commission has modified the text of the summaries prepared by the DTC.

continue to not honor Issuer Withdrawal Requests regardless of any purported approval of the Issuer Withdrawal Request by the shareholders or board of directors of the issuer.<sup>3</sup>

DTC believes that the proposed rule filing is consistent with Section 17A of the Act and the rules and regulations thereunder because it will promote the prompt and accurate clearance and settlement of securities transactions

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

DTC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

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

DTC has discussed the substance of this proposed rule change with various DTC participants and industry groups and has received favorable reaction.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-DTC-2003-03. This file number should be included on the subject line if e-mail is used. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the DTC. All submissions should refer to File No. SR-DTC-2003-03 and should be submitted by March 14, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-4200 Filed 2-20-03; 8:45 am]

**BILLING CODE 8010-01-P**

**STATE JUSTICE INSTITUTE**

**Notice of Public Meeting; Board of Directors Meeting**

**DATES:** Friday, February 28, 2003, 9 a.m.-5 p.m.

**PLACE:** State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA.

**MATTERS TO BE CONSIDERED:**

Consideration of proposals submitted for Institute funding and internal Institute business.

**PORTIONS OPEN TO THE PUBLIC:** All portions other than personnel matters and Board committee meetings.

**PORTIONS CLOSED TO THE PUBLIC:** Discussion of internal personnel matters and Board committee meetings.

**FOR FURTHER INFORMATION CONTACT:**

David Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314, (703) 684-6100 x214.

**David I. Tevelin,**

*Executive Director.*

[FR Doc. 03-4298 Filed 2-19-03; 12:52 pm]

**BILLING CODE 6820-SC-M**

**DEPARTMENT OF THE TREASURY**

**Submission for OMB Review; Comment Request**

February 13, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before March 24, 2003, to be assured of consideration.

**Financial Management Service (FMS)**

*OMB Number:* 1510-0067.

*Form Number:* FMS 5902 and 5903.

*Type of Review:* Extension.

*Title:* Resolution Authorizing Execution of Depositary, Financial Agency, and Collateral Agreement (FMS 5902); and, Depositary, Financial Agency, and Collateral Agreement (FMS 5903).

*Description:* Financial institutions are required to complete an agreement and resolution to become a depositary of the government. The approved applications designate the depositary as an authorized recipient of deposits of public money and to perform other services.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 15.

*Estimated Burden Hours Per Respondent:* 30 minutes.

*Frequency of Response:* Other (one-time application).

*Estimated Total Reporting Burden:* 7 hours.

*Clearance Officer:* Juanita Holder, Financial Management Service, 3700 East West Highway, Room 135, PGP II, Hyattsville, MD 20782.

*OMB Reviewer:* Joseph F. Lackey, Jr., (202) 395-7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Mary A. Able,**

*Departmental Reports, Management Officer.*

[FR Doc. 03-4196 Filed 2-20-03; 8:45 am]

**BILLING CODE 4810-35-P**

<sup>3</sup> The proposed rule filing is not applicable to securities that may not legally be held at DTC (e.g., securities restricted pursuant to Rule 144 or Rule 145 under the Securities Act of 1933).

<sup>4</sup> 17 CFR 200.30-3(a)(12).