

subject of a full comment period pursuant to Section 19(b) of the Act.<sup>28</sup> The Commission does not believe that the proposal raises novel regulatory issues that were not addressed in the previous filings. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,<sup>29</sup> to approve the proposed rule change and Amendment No. 1 on an accelerated basis.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>30</sup> that the proposed rule change (SR-CSE-00-05) and Amendment No. 1 thereto are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>31</sup>

Margaret H. McFarland,  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43624; File No. SR-DTC-00-13]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Related to the Processing of Low Volume Tender Offers

November 27, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 29, 2000, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

#### 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 the policy of DTC regarding low volume tender offers. A low volume tender offer is an offer in which the offeror is seeking to purchase for cash up to 5% of the outstanding

shares of an equity issue or any amount of a debt issue. Low volume tender offers do not include an exchange offer or an offer by the issuer of the target security. The proposed rule change clarifies that it is DTC's policy (i) not to make an offeror's information about a low volume tender offer available to participants through DTC's Reorganization Inquiry for Participants System ("RIPS") unless the offeror uses DTC's Automated Tender Offer Program ("ATOP") to process the offer and (ii) not to make securities available to the offeror at the conclusion of a low volume tender offer processed through ATOP until DTC has received payment for the securities from the offeror.

#### 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.<sup>2</sup>

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

As DTC has gained experience in processing low volume tender offers during recent years, DTC has sought to improve the manner in which it handles such offers. In a small number of cases, the offeror making a low volume tender offer sent DTC information to be entered into RIPS and paid DTC's low volume tender offer fee<sup>3</sup> but did not use ATOP to process acceptances of the offer. In such cases the offeror included in the offering documents an instruction that participants who wished to accept the offer should do so by a free book-entry delivery at DTC to the account of a participant represented to be acting on behalf of the offeror. Participants accepting such an offer did not have all the benefits of ATOP. Those benefits include more detailed information in the RIPS announcement, such as

information about the existence of any withdrawal rights in the offer and information about the offeror's payment arrangements, and an indication on their daily participant statements while the offer is open that a tendered position is outstanding. In order to assure that its participants receive the benefits of ATOP, as a matter of policy DTC does not announce a low volume tender offer in RIPS unless the offer is processed through ATOP.

When a low volume tender offer is not processed through ATOP, payment for any securities purchased in the offer usually, if not always, are made to participants outside of DTC's facilities. It can be difficult for participants to assure themselves that securities delivered to the offeror by a free book-entry delivery at DTC are promptly paid for at the end of the offer. To give its participants the efficiency and safeguards of payment through DTC's facilities, DTC requires the offeror in a low volume tender offer processed through ATOP to send payment to DTC for any securities purchased in the offer before DTC makes the securities available to the offeror.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to DTC since the proposed rule change will facilitate the processing of low volume tender offers at DTC. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible since low volume tender offers will be processed with the safeguards of the ATOP procedures.

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

DTC perceives no adverse impact on competition by reason of the proposed rule change.

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

Written comments from DTC participants or others have not been solicited or received on the proposed rule change. 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 Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of

<sup>28</sup> 15 U.S.C. 78s(b). See *supra* note 17.

<sup>29</sup> 15 U.S.C. 78f(b)(5).

<sup>30</sup> 15 U.S.C. 78s(b)(2).

<sup>31</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> DTC charges a fee of \$2,700 in connection with low volume tender offers processed through its facilities. Securities Exchange Act Release No. 41032, (February 9, 1999) 64 FR 7931 (February 17, 1999) [File No. SR-DTC-99-01]. DTC will continue to charge that fee, which is not affected by the proposed rule change.

Section 17A(b)(3)(F).<sup>4</sup> Section 17A(b)(3)(A)(F) requires that the rules of a clearing agency be designed, among other things, to protect investors and the public interest. DTC's policy of requiring low volume tender offers to be processed through ATOP and of not making securities available to an offeror until payment for the shares tendered is received should help to ensure that those tendering shares will be paid for their tendered shares. This should help DTC and its participants to protect investors and is in the public interest.

DTC has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow DTC to immediately apply the safeguards discussed above to the processing of low volume tender offers.

#### 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 in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR-DTC-00-13 and should be submitted by December 26, 2000.

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> that the proposed rule change (File No. SR-DTC-00-13) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43626; File No. SR-GSCC-00-05]

#### Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Enhancements to the Government Collateral Finance Repo Service and Clarifying Certain Risk Management Practices of the Service

November 27, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 5, 2000, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") and on July 13, 2000, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. 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 proposed rule change will allow GCF Repo securities lenders to satisfy their collateral allocation requirements with "comparable securities," benchmark U.S. Treasury securities, or cash. Similarly, the proposed rule change will allow GCF Repo securities borrowers, under certain conditions, to return "comparable securities," benchmark U.S. Treasury securities, or cash. The proposed rule change also would allow GSCC to alter its risk management procedures associated with the GCF Repo service to conform to the mortgage-backed securities ("MBS") market practice.

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

In its filing with the Commission, GSCC 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. GSCC 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

GSCC introduced its GCF Repo Service in November 1998.<sup>3</sup> The GCF Repo Service allows GSCC's non-inter-dealer broker netting members ("dealers") to trade general collateral repos involving U.S. Government securities throughout the day without requiring trade for trade settlement on a delivery versus payment basis.

GSCC has been activating the generic CUSIP numbers representing the securities that are eligible for GCF Repo processing in stages. U.S. Treasury securities with a maturity of ten years or less and U.S. Treasury securities with a maturity of thirty years or less were the first products to be made eligible for GCF Repo processing. At the beginning of this year, GSCC also began accepting non-mortgage-backed agency securities for GCF Repo processing and more recently began accepting mortgage-backed securities ("MBS") for GCF Repo processing.<sup>4</sup>

Having gained the experience of operating the GCF Repo Service for more than one year, GSCC is now seeking to enhance the service in certain ways in order to make it more responsive to its members' needs and to clarify certain risk management practices, each in a manner consistent with market practice.

#### (i) Authority To Deliver Comparable or U.S. Treasury Securities

The first change proposed by GSCC applies to the collateral allocation

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

<sup>3</sup> In 1998, the Commission approved a rule change that allowed GSCC to implement the GCF Repo Service on an intrabank basis. Securities Exchange Act Release No. 40623 (October 30, 1998), 63 FR 59831, (November 5, 1998) [File No. SR-GSCC-98-02]. In 1999, the Commission approved a rule change that allowed GSCC to implement the second, interbank phase of the GCF Repo Service. That enhancement has enabled participating dealers to engage in GCF Repo trading with participating dealers that use a different clearing bank. Securities Exchange Act Release No. 41303 (April 16, 1999), 64 FR 20346 (April 26, 1999) [File No. SR-GSCC-99-01].

<sup>4</sup> On March 20, 2000, GSCC activated the generic CUSIP number representing Federal Home Loan Mortgage Corporation and Federal National Mortgage Association fixed-rate MBS.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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