

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57768; File No. SR-DTC-2007-10)

May 2, 2008

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Accelerated Approval of an Amended Proposed Rule Change to Implement the New Issue Information Dissemination Service for Municipal Securities

I. Introduction

On August 16, 2007, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) and on September 12, 2007,¹ March 3, 2008,² and April 9, 2008³ amended proposed rule change SR-DTC-2007-10 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).⁴ Notice of the proposal was published in the Federal Register on October 3, 2007,⁵ March 24, 2008,⁶ and April 16, 2008.⁷ The Commission received no comment letters. For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

II. Description

The New Issue Identification Dissemination Service (“NIIDS”) is designed to improve the process by which municipal securities new issue information is provided by underwriters to

¹ The amendment changed a misplaced word in a footnote.

² The amendment changed the implementation date of the service and made other technical changes.

³ The amendment changed the implementation date of the service.

⁴ 15 U.S.C. 78s(b)(1).

⁵ Securities Exchange Act Release No. 56552 (September 27, 2007), 72 FR 56407.

⁶ Securities Exchange Act Release No. 57513 (March 17, 2008), 73 FR 15548.

⁷ Securities Exchange Act Release No. 57647 (April 10, 2008), 73 FR 20727.

information vendors. NIIDS will provide for the collection of information about new issues from underwriters or their representatives in an electronic format and for making that data available immediately to information vendors. NIIDS is designed to enable the dissemination of new issue information as quickly and efficiently as possible after the information is made available by underwriters.

Municipal Securities Rulemaking Board (“MSRB”) Rule G-14 generally requires municipal securities dealers to report municipal securities transactions to the MSRB within 15 minutes of the time of the trade.⁸ Inter-dealer trades eligible for comparison by a clearing agency are required to be submitted to the MSRB through the National Securities Clearing Corporation’s (“NSCC”) Real Time Trade Matching System (“RTTM”) within the 15 minute time frame in Rule G-14. NSCC requires certain securities information in order to process and to report transactions involving those securities. Therefore, it is necessary that dealers trading newly issued municipal securities have the securities information needed for trade submission by the time the trade is required to be reported.

Pursuant to current practice in the municipal securities market, each information vendor works separately to obtain information from offering documents and from underwriters. Each information vendor’s success in obtaining information about newly issued municipal securities depends in large part upon the voluntary cooperation of the underwriters. It is not unusual for information vendors to have inconsistent information or for some information vendors to receive information before others. Consequently, critical new issue information may be missing, inaccurate, or both in the automated trade processing systems used by dealers to report trades in new issues. This can result in the late submission of trade reports or in trade reports that must be canceled and resubmitted or amended because they contain inaccurate data.

⁸ MSRB Rule G-14, RTRS Procedures (a)(ii).

To address concerns that dealers often lack timely access to electronically formatted accurate securities information necessary to process and report municipal securities transactions in real-time, MSRB Rule G-14 provides for reporting of trades within three-hours of the time of trade for a dealer trading in “when, as, and if issued” municipal securities if the dealer is not a syndicate manager or syndicate member for the issue, has not traded the issue in the previous year, and does not have the CUSIP information or indicative data for that issue in their securities master file (“Reporting Exemption”).⁹ The Reporting Exemption will expire in 2008. In order to prepare for the Reporting Exemption’s expiration, the Securities Industry and Financial Markets Association asked DTC to include a centralized automated mechanism for the real-time collection and dissemination of the required information as part of the planned reengineering of DTC’s underwriting system. In response to this request, DTC built NIIDS to help make the collection and dissemination of municipal securities new issue information more efficient for the industry.

NIIDS Process

To commence the process, the Dissemination Agent for a new issue municipal security must input the key data elements required for the reporting, comparison, confirmation, and settlement of trades in municipal securities (“NIIDS Data Elements”) into NIIDS. The inputting will constitute a request that DTC make the information available to the industry through NIIDS. DTC will not confirm the accuracy of the NIIDS Data Elements and will act only as a conduit to pass along such information to data vendors.¹⁰ DTC anticipates the data vendors will then disseminate the information to the industry thereby enabling dealers to make timely and accurate reporting of their municipal trades. DTC will record the name of the Dissemination Agent that inputs the NIIDS Data

⁹ MSRB Rule G-14, RTRS Procedures (a)(ii)(C).

¹⁰ Data vendors or others that wish to receive NIIDS Data Elements must register in advance with DTC.

Elements and the time such information is submitted. DTC will begin disseminating the data when it has received authorization from the Dissemination Agent through NIIDS. In addition, NIIDS will contain the contact information for the Dissemination Agent that populated the NIIDS Data Elements for each issue to enable users of the data to contact them with questions or comments.

DTC is providing NIIDS to the industry in order to facilitate the collection and dissemination of municipal securities new issue information. As DTC is only a conduit of the information and does not confirm the validity of any of the NIIDS Data Elements, use of NIIDS by any party will constitute an agreement that DTC shall not be liable for any loss or damages in relation to its collection and dissemination of NIIDS Data Elements. Each NIIDS user will agree to indemnify and hold harmless DTC and its affiliates from and against any and all losses, damages, liabilities, costs, judgments, charges, and expenses arising out of or relating to the use of NIIDS.

Optional Use of NIIDS

The MSRB would like dealers to be able to use NIIDS before requiring them to so by rule.¹¹ The MSRB has filed with the Commission a proposed rule change that ultimately would require underwriters to use NIIDS in 2008.¹² DTC intends to provide the municipal securities industry the opportunity to start using NIIDS on May 5, 2008. Mandated use of NIIDS for municipal securities is expected to commence September 2, 2008. DTC believes that the municipal securities industry will use NIIDS during the period NIIDS is optional (“Optional Period”) in order to become accustomed to it. This may result in Dissemination Agents inputting incomplete or inaccurate

¹¹ The MSRB received comment on its proposed rules that would require underwriters of municipal securities to participate in NIIDS. See Comments on MSRB Notice 2007-10 (March 5, 2007) at <http://www.msrb.org/msrb1/rules/RFC/2007/2007-10/2007-10CommentLetters.asp>.

¹² Securities Exchange Act Release No. 57131 (January 11, 2008), 73 FR 3295 (January 17, 2008) [SR-MSRB-2007-08].

NIIDS Data Elements while getting acquainted with NIIDS. Therefore, no one should rely on the accuracy of the NIIDS Data Elements during the Optional Period but rather should continue to also use existing authorized sources of such information.

DTC will not charge a service fee to underwriters that input or receive information through NIIDS. Additionally, DTC will not charge a service fee to information vendors that receive information through NIIDS for further dissemination. DTC will charge a connectivity fee to underwriters, service providers, and information vendors that use NIIDS.

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.¹³ Section 17A(b)(3)(F) 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.¹⁴ The Commission finds that DTC's rule change implementing NIIDS is consistent with this requirement because by automating, standardizing and centralizing the collection and dissemination of new issue information for municipal securities NIIDS should make the reporting and clearance and settlement of trades in municipal securities more timely and accurate. As a result, DTC's proposed rule change should promote the prompt and accurate clearance and settlement of securities transactions.¹⁵

¹³ 15 U.S.C. 78s(b).

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

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

The Commission believes there is good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because by so approving the proposed rule change DTC will be able to provide a longer Optional Period for users to use and become accustomed to NIIDS before its use is mandated and will allow DTC to implement NIIDS according to its system implementation schedule.

IV. 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,¹⁶ that the proposed rule change (File No. SR-DTC-2007-10) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

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Deputy Secretary

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).