

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-58292; File No. SR-DTC-2008-07)

August 1, 2008

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Implement Processing Enhancements to the Profile Modification System Used in the Direct Registration System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on July 7, 2008, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change No. SR-DTC-2008-07. The Commission is publishing this notice to solicit comments from interested parties on the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the DTC.<sup>2</sup>

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

DTC is proposing to enhance its Profile Modification System in order to allow a “move all” instruction and to allow a second taxpayer identification number or social security number to be used to verify instructions, DTC is also proposing to impose new participant fees to reimburse transfer agents for the cost of implementing and maintaining the proposed Profile enhancements.

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 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.

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

<sup>2</sup> The exact text of the DTC’s proposed rule change can be found at [http://www.dtcc.com/legal/rule\\_filings/dtc/2008](http://www.dtcc.com/legal/rule_filings/dtc/2008).

DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>3</sup>

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

1. Purpose

The Direct Registration System (“DRS”) allows investors to hold their securities positions on the records of the issuer in book-entry form rather than in certificated form. In May 2000, DTC established the Profile Modification System (“Profile”) which allows its participants (i.e., broker-dealers and banks) and DRS Limited Participants (i.e., transfer agents) to electronically change an investor’s securities positions from street-name ownership to direct registration book-entry position and vice versa.<sup>4</sup> Specifically, Profile allows participants to electronically submit an investor’s instruction that its share positions be moved from the investor’s DRS account to the investor’s broker-dealer’s participant account at DTC. Profile also

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<sup>3</sup> The Commission has modified portions of the text of the summaries prepared by the DTC.

<sup>4</sup> Transfer agents acting as DRS Limited Participants must meet certain criteria established by DTC, which includes, among other things, that the transfer agent also be eligible to participate in DTC’s Fast Automated Securities Transfer Program (“FAST”). For securities that are part of FAST, the DRS Limited Participants hold the securities registered in the name of DTC’s nominee, Cede & Co., in the form of balance certificates. As additional securities are deposited or withdrawn (“deposit-by-transfer” and “withdrawal-by-transfer”, respectively) from DTC, the DRS Limited Participant adjusts the denomination of the balance certificate as appropriate, and electronically confirms these changes with DTC. As such, the program reduces the movement of physical certificates between DTC and DRS Limited Participants, reducing costs and risks to DTC, its participants, issuers and transfer agents associated with the creation, movement, and storing of certificates. For a description of DTC’s current rules relating to FAST, see Securities Exchange Act Release Nos. 13342 (March 8, 1977) (File No. SR-DTC-76-3); 14997 (July 26, 1978) (File No. Sr-DTC-78-11); 21401 (October 16, 1984) (File No. SR Dtc-84-8); 31941 (March 3, 1993) (SR-DTC-92-15); and 46956 (December 2, 2002) (File No. SR-DTC 2002-15).

In addition, DTC has filed a proposed rule change with the Commission a proposed rule change relating to updating its FAST and DRS program requirements. See Securities Exchange Act Release No. 57362 (February 20, 2008) [File No. SR-DTC-2006-16].

allows DRS Limited Participants to submit an investor's instruction for the movement of its share positions from the investor's broker-dealer's participant account at DTC to an account maintained by the DRS Limited Participant. Currently, DTC receives on average approximately 50,000 Profile instructions per month and that volume is expected to rise.

As the use of DRS continues to grow, attention has centered on reducing the number of rejected instructions submitted through Profile. In order to effectively transfer an investor's securities position using Profile, the participant must enter into Profile an instruction containing certain identifying criteria of the investor, such as share quantity and a taxpayer identification number ("TIN") or Social Security number. If the submitted information does not match the information the DRS Limited Participant has on its file, the Profile instruction is rejected, which may result in a rejection fee assessed by the DRS Limited Participant. More importantly, the rejection can also result in delays in transferring the position, possibly causing financial harm to an investor.

Today, nearly 25% of all Profile instructions are rejected by the transfer agents. The two most common reasons for rejections are the Profile instruction not matching the share quantity and the Profile instruction not matching the investor's TIN or Social Security number on the transfer agent's records. The DRS Ad Hoc Committee, an industry committee established to address operational issues related to DRS, believes that by implementing certain system and processing improvements, the industry can potentially eliminate about 7,000 Profile rejections per month.

a. Proposed Changes to Profile

In an effort to decrease the number of rejections in Profile, members of the DRS Ad Hoc Committee have agreed that DTC should enhance the Profile functionality and that these changes

should be required of all Profile users. Accordingly, DTC is proposing to make the following enhancements to Profile functionality:

Move All Instruction. Currently, Profile requires a participant to enter a specific share quantity or dollar value (in the case of debt) in their Profile instruction. Under the proposed rule change, the participant submitting an instruction in Profile would be allowed to select one of the following options: (1) enter a specific share quantity or dollar value; (2) move all of the investor's whole shares<sup>5</sup> to the requesting participant's account at DTC; (3) move all of the investor's whole shares to the requesting participant's account at DTC, liquidate any fractional share positions remaining in the account at the transfer agent, and have the cash proceeds mailed directly to the investor; (4) move all of the investor's whole shares to the requesting participant's account at DTC, liquidate any fractional share positions remaining in the account at the transfer agent, have the cash proceeds mailed directly to the investor, and close the investor's DRS and Dividend Reinvestment Plan ("DRIP") account.<sup>6</sup> By using the "move-all" functionality, participants can forgo referencing a specific share quantity in the Profile instruction, which DTC believes should eliminate a major cause of Profile rejections.<sup>7</sup>

Dual TIN or Social Security Numbers. Currently, participants are permitted to enter only one TIN or Social Security number in its Profile instruction. Under the proposed rule change, participants may elect to submit a Profile instruction with two TINs or Social Security numbers

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<sup>5</sup> DTC's systems only process only whole shares, not fractional shares and only allow whole shares to be held in participants' accounts at DTC.

<sup>6</sup> Some transfer agents maintain separate investor accounts for DRIP shares and DRS positions. The participant's instruction via Profile to close the account would require a DRS Limited Participant to close both the DRIP and the DRS account.

<sup>7</sup> Although DRS Limited Participants are able to enter Profile instructions to move DRS positions from a participant account at DTC to the investor's account on the books of the issuer, the proposed rule change will not permit the "move all" function in Profile to be available to the DRS Limited Participant at this time.

instead of one. The option to submit a Profile instruction with two TIN or Social Security numbers may be necessary, for example, where the investor's account is a joint account. For those Profile instructions with two TIN or Social Security Numbers, the DRS Limited Participant will only need to match on one of the TIN or Social numbers on the Profile instruction to the DRS Limited Participant's records for the investor account.

The proposed rule change will require participants and DRS Limited Participants that process their DRS transactions through a direct electronic computer-to-computer link with DTC to make internal system enhancements to accommodate DTC's changes to Profile.<sup>8</sup> Specifically, internal systems will need to be enhanced so that they are able to accept DRS Profile instructions to "move all" shares from the investor's DRS Limited Participant account to the investor's participant's account at DTC. They will also need to be enhanced so that they are able to allow participants to submit Profile transactions with a second TIN/Social security number.

b. Proposed Remuneration

Members of the DRS Ad Hoc Committee have also agreed that participants will pay DRS Limited Participants two types of remuneration: 1) reimbursement to compensate for the initial system development of the enhancements contemplated under the move-all proposal and 2) a transaction fee to pay for the on-going administration of the proposed new functions.

Accordingly, DTC is proposing to require participants to pay for seventy-five percent of all system costs with a maximum payment of \$200,000 per DRS Limited Participant for project plans submitted by DRS Limited Participants to DTC by September 1, 2008,. For project plans that will be managed by a third party vendor, participants would be required to pay a

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<sup>8</sup> It is anticipated that for those users that communicate Profile instructions through DTC via a dedicated terminal (PTS or PBS); they will only need to update their internal procedures and workflow.

remuneration based on the vendor's total project cost. DTC would act as a conduit to collect and distribute the remuneration from the participants to DRS Limited Participants.

Under the proposed rule change, DRS Limited Participants will be required to submit a project plan to DTC by September 1, 2008, and be ready to implement the “move all” Profile functionality by November 1, 2008, in order to be eligible to receive the system cost remuneration. DTC will make a one time payment to eligible DRS Limited Participants no later than 90 calendar days after the completion of the move all and dual TIN or Social security functionality going live. DTC proposes to collect a surcharge of \$1.00 from participants, for no more than twenty-four calendar months, for each Profile transaction submitted by a participant in order to offset the up-front remuneration made by DTC to DRS Limited Participants. DTC will eliminate the surcharge at the end of twenty-four calendar months or sooner if the total amount of up-front remuneration paid by DTC is collected before the twenty-four month period has expired.

DTC also proposed to charge participants \$.75 per Profile transaction to offset the on-going cost to DRS Limited Participants of supporting the “move all” function. The transaction fee will be adjusted annually to reflect DRS Profile transactional volume changes. The proposed rule change will require DRS Limited Participants that wish to receive a transaction fee to submit their project plan by September 1, 2008. The DRS Limited Participants represented on the DRS Ad Hoc Committee have agreed that the monthly transactional fee will be no more than \$25,000 per year per DRS Limited Participant. DTC will pay each eligible DRS Limited Participant with 2,000 or more Profile transactions monthly a set monthly amount of \$2,080, or \$24,960 annually. DTC will pay each eligible DRS Limited Participant with at least 200 transactions monthly but

less than 2,000 transactions monthly a set monthly amount of \$800, or \$9,600 annually. DTC will not pay DRS Limited Participants with less than 200 transactions a month.

c. Proposed DRS Limited Participant Eligibility Requirements

DTC proposes to amend its DRS Limited Participant rules to require transfer agents to be able to process Profile instructions requesting the “move all” options and instructions including dual TIN or Social Security numbers. To maintain eligibility as a DRS Limited Participant, all current DRS Limited Participants must provide “move all” and dual TIN or Social Security number processing capability by no later than December 31, 2008.

2. Statutory Basis

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act, as amended,<sup>9</sup> and the rules and regulations thereunder because it improves efficiency and reduces risks associated with processing DRS transaction through Profile and improves the standards relating to the eligibility of transfer agents effecting DRS transactions.

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

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

DTC has neither solicited nor received written comments on the proposed rule change.

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

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<sup>9</sup> 15 U.S.C. 78q-1.

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. 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-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2008-07 in the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-DTC-2008-07. 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 Section, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:30 p.m. Copies of such filings also will be available for inspection and copying at the principal office of the DTC and on the DTC's Web site, [www.dtcc.com](http://www.dtcc.com). 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-DTC-2008-07 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

Florence E. Harmon  
Acting Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).