

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-60304; File No. SR-DTC-2009-11)

July 14, 2009

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Eliminate One of the Indemnity Surety Programs in the Profile Modification System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> notice is hereby given that on June 11, 2009, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by 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 proposed rule change seeks to eliminate one of the Indemnity Surety Programs (“PSP II”) of DTC’s Profile Modification System (“Profile”).<sup>3</sup>

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.

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> DTC has created a Profile Indemnity Insurance Program (“PIP II”) to replace the PSP II. Securities Exchange Act Release No. 60036 (Jun. 3, 2009), 74 FR 28085 (Jun. 12, 2009) [File No. SR-DTC-2009-09].

DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>4</sup>

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

Current MMI Maturity Payment Procedure

On April 19, 2000, the Commission approved a DTC rule filing to establish Profile,<sup>5</sup> an electronic communication medium between transfer agents that are DRS Limited Participants ("Limited Participants") and brokers that are DRS Participants ("Participants"). In May 2000, DTC implemented Profile. Profile allows Participants to submit electronically an investor's instruction to move a share position from the investor's Limited Participant account to the investor's Participant account at DTC ("Electronic Participant Instruction"). Profile also allows Limited Participants to submit an investor's instruction for the movement of its share positions from the investor's Participant account at DTC to an account maintained by the Limited Participant ("Electronic Limited Participant Instruction" and, together with Electronic Participant Instruction, "Electronic Instruction"). A user submitting an Electronic Instruction through Profile is required to agree to a Participant Terminal System ("PTS") screen indemnity ("Screen Indemnity").

On November 17, 2000, the Commission approved a DTC rule filing to establish the Profile Indemnity Surety Program ("PSP").<sup>6</sup> Under PSP, all users of Profile who agree to the Screen Indemnity as part of their use of Profile must procure a surety bond ("Surety Bond") to

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<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>5</sup> Securities Exchange Act Release No. 42704 (Apr. 19, 2000), 65 FR 24242 (Apr. 25, 2000) [File No. SR-DTC-2000-04].

<sup>6</sup> Securities Exchange Act Release No. 43586 (Nov. 17, 2000), 65 FR 70745 (Nov. 27, 2000) [File No. SR-DTC-2000-09].

back the representations under the Screen Indemnity. Participation in PSP requires the payment of an annual premium of \$3,150 to a surety provider and an administration fee of \$250 to DTC. The PSP surety provider provides for a coverage limit of \$3 million per transaction with an annual aggregate limit of \$6 million.

On September 14, 2005, the Commission approved a DTC rule filing to establish the Profile Indemnity Insurance Program (“PIP”),<sup>7</sup> which serves as an alternative to PSP. PIP allows users of Profile who agree to the Screen Indemnity have the option to procure insurance relating to a particular securities transaction according to the value of the securities transaction. PIP provides a coverage limit of \$25 million per transaction with an annual aggregate limit of \$100 million. In addition to any pass-through fee from the insurer, DTC charges users participating in PIP an annual administration fee of \$250 and a per transaction fee of \$27.50.

On June 26, 2008, the Commission approved a DTC rule filing to establish PSP II,<sup>8</sup> which provides for a coverage limit of \$7.5 million per transaction with an annual aggregate limit of \$15 million. Users of PSP II are required to pay an annual premium of \$6,000 to a surety provider and a DTC administration fee of \$250.

On June 3, 2009, the Commission approved a DTC rule filing to establish a new Profile Indemnity Insurance Program (“PIP II”).<sup>9</sup> The intent of PIP II is to account for the additional, larger value Profile transactions that DRS currently handles and to serve as a replacement for PSP II. PIP II provides the same coverage limits as PSP II, a coverage limit of \$7.5 million per

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<sup>7</sup> Securities Exchange Act Release No. 52422 (Sep. 14, 2005), 70 FR 55196 (Sep. 20, 2005) [File No. SR-DTC-2005-11].

<sup>8</sup> Securities Exchange Act Release No. 58042 (Jun. 26, 2008), 73 FR 39067 (July 8, 2008) [File No. SR-DTC-2008-04].

<sup>9</sup> Securities Exchange Act Release No. 60036 (Jun. 3, 2009) 74 FR 28085 (Jun. 12, 2009) [File No. DTC-2009-09]

transaction with an annual aggregate limit of \$15 million, and requires payment of the same fees, an annual premium of \$6,000 to an insurance provider and a DTC administration fee of \$250.

PIP II does not require users of Profile to procure a surety bond.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>10</sup> and the rules and regulations thereunder because the proposed change will modify an existing DTC service in order to provide a more suitable choice of insurance and surety policies. As such, it is a change to an existing service that does not adversely affect the safeguarding of securities and funds in DTC's custody or control.

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

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

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

Written comments relating to the proposed rule change have not yet been solicited or received. 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

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

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<sup>10</sup> 15 U.S.C. 78q-1.

(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-2009-11 on the subject line.

##### Paper comments:

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

All submissions should refer to File Number SR-DTC-2009-11. 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 am and

3:00 pm. Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at

[http://dtcc.com/downloads/legal/rule\\_filings/2009/dtc/2009-11.pdf](http://dtcc.com/downloads/legal/rule_filings/2009/dtc/2009-11.pdf). 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-2009-11 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>11</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).