

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of February 7, 2000.

A closed meeting will be held on Wednesday, February 9, 2000 at 11:00 a.m.

Commissioner Unger, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(A) and (10), permit consideration for the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the item listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, February 9, 2000 is: **amicus participation.**

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The office of the Secretary at (202) 942-7070.

Dated: February 2, 2000.

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42366; File No. SR-DTC-00-01]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to an Interpretation of an Existing Rule Pertaining to the Direct Registration System

January 28, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 20, 2000, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as 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 interest parties.

#### I. Self-Regulatory Organization's Statement of the Terms of substance of the Proposed Rule Change

The proposed rule change provides an interpretation of DTC's rule relating to the Profile Modification System feature of the Direct Registration System facility.

#### 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 these statements.<sup>2</sup>

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

The purpose of the proposed rule change is to provide an interpretation with respect to the meaning of DTC's current rule relating to the administration of the Direct Registration System ("DRS") facility and the Profile

Modification System ("Profile"), a specific feature of the DRS facility.<sup>3</sup> Under DTC's rule, only those DRS limited participants<sup>4</sup> who "implement Profile" are allowed to make additional securities eligible for inclusion in DRS.<sup>5</sup> With this filing, DTC is interpreting the phrase "implements Profile" to be satisfied when a DRS limited participant enters into a written agreement with DTC stating that the DRS limited participant will continue to use DRS, including Profile, when Profile becomes operational. DTC will make Profile operational using either an electronic medallion program<sup>6</sup> or a screen-based indemnity.<sup>7</sup>

In the case of a screen-based indemnity, before an instruction relating to a customer's DRS position is permitted to be sent via DRS to the DRS limited participant, a DTC participant would have to agree to a screen-based indemnity in substantially the following form:

(1) Participant represents that it has customer authority for the request appearing on the following screen and that all information shown is accurate and complete, except that, with respect to the taxpayer identification number included in such information, to the best knowledge of participant, such information is accurate and complete; and

(2) Participant indemnifies the issuer and its transfer agent against any breach of such representations in connection with the transaction that is the subject of such request.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>8</sup>

<sup>3</sup> For a description of the DRS facility administered by DTC, see Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996) [File No. SR-DTC-96-15] (order relating to the establishment of DRS); Securities Exchange Act Release No. 41862 (September 10, 1999), 64 FR 51162 (September 21, 1999) [file No. SR-DTC-99-16] (order relating to implementation of the Profile Modification System).

<sup>4</sup> A DRS Limited Participant is a transfer agent who is permitted under DTC rules to facilitate DRS transactions. Securities Exchange Act Release No. 37931 (November 7, 1996), 61 FR 58600 (November 15, 1996) [File No. SR-DTC-96-15].

<sup>5</sup> *Id.*

<sup>6</sup> Representatives of the New York Stock Exchange, which operates the Medallion Stamp Program (a signature guarantee program), the Securities Transfer Association, the Securities Industry Association, and issuers have been negotiating in order to implement an electronic medallion program. Such an electronic medallion program would operate under a mutually agreed-upon indemnification agreement that would address the risks undertaken by the respective parties participating in transferring customer positions in DRS.

<sup>7</sup> DTC will be submitting to the Commission in the near future a proposed rule change to implement Profile.

<sup>8</sup> 15 U.S.C. 78q-1.

<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.

and the rules and regulations thereunder applicable to DTC because it clarifies DTC's interpretation of its rule, thereby eliminating confusion in the industry relating to the implementation of the Profile feature and providing for more expeditious implementation of Profile. 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.

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

DTC perceives no 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*

The proposed rule change has been developed through discussions with several DTC participants and DRS limited participants. Written comments relating to the proposed rule change have not yet 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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i)<sup>9</sup> of the Act and Rule 19b-4(f)(1)<sup>10</sup> promulgated thereunder because the proposal interprets the meaning of an existing rule. At any time within sixty 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.

**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, N.W., Washington, D.C. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-00-01 and should be submitted by February 25, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-42363; File No. SR-NASD-00-01]**

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to a Notice to Members on Extended Hours Trading**

January 28, 2000.

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 January 11, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated this proposal as one constituting a stated policy and interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act<sup>3</sup> and Rule 19b-4(f)(1)<sup>4</sup> thereunder, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to

solicit comments on the proposed rule change from interested persons.

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

NASD Regulation is issuing a Notice of Members reminding members of their obligation under just and equitable principles of trade and the advertising rules to disclose to customers the material risks of extended hours trading. The text of the Notice to Members is provided below.

\* \* \* \* \*

*NASD Notice to Members*

Disclosure To Customers Engaging In Extended Hours Trading Suggested Routing Legal & Compliance; Senior Management Executive Summary

NASD Regulation, Inc. (NASD Regulation) reminds members of their obligation under just and equitable principles of trade and the advertising rule to disclose to customers the material risks of extended hours trading.

A model disclosure statement is included with this *Notice* in Attachment A.

Questions concerning this *Notice* may be directed to Gary L. Goldsholle, Assistant General Counsel, Office of General Counsel, NASD Regulation, at (202) 728-8104.

**Background and Discussion**

A number of member firms recently have started offering their retail customers various opportunities to trade stocks after regular market hours in what is known as "extended hours trading." An even greater number of member firms have announced plans to offer extended hours trading in coming months.

The growth of extended hours trading provides retail customers with greater opportunities to trade securities and manage their portfolios, and in so doing, provides access to markets that were previously limited to institutional customers. Participation in extended hours trading may offer certain benefits to retail customers, but entails several material risks. Depending on the particular extended hours trading environment, these risks may include:

- lower liquidity
- high volatility
- changing prices
- unlinked markets
- an exaggerated effect from news announcements; and
- wider spreads.

In light of these risks, members have an obligation to their retail customers to

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

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>10</sup> 17 CFR 240.19b-4(f)(1).