

prepared primarily by DTC. 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**

The proposed rule change would modify DTC's Rule 4A, Section 1, and would make a technical correction to the definition of the term pledge in DTC's Rule 1.

### **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**

Each DTC participant pays or receives the net debit or net credit balance in its DTC money settlement account at the end of each day. DTC's principal risk is the possible failure of one or more participants to settle their net debit obligations. To assure that it is able to complete its settlement obligations each day, DTC maintains liquidity resources, including a committed line of credit in the maximum amount of \$1.75 billion with a consortium of banks that is part of a combined syndicated facility with National Securities Clearing Corporation ("End of Day Facility").

The End of Day Facility matures annually. As part of the negotiations to extend the facility for the year beginning May 27, 2003, DTC's lenders have requested that Section 1 of DTC's Rule 4A, "Pledge of Property to the Corporation and its Lenders," be clarified. This provision currently provides that for the purpose of securing loans to DTC, DTC may pledge and repledge and grant its lenders a security interest in (i) cash deposits in the participants fund and all securities, repurchase agreements, or deposits in which such cash is invested, (ii) net additions, including any security entitlements of participants in net

additions, and (iii) preferred stock. This section provides that any such loan to DTC may be on such terms as DTC, in its discretion, may deem necessary or advisable and may be in amounts greater and extend for time periods longer than the obligations of any participant in DTC. It further provides that no lender shall be obligated to return any pledged collateral prior to the full repayment of any loan secured thereby.

DTC is proposing to add language to Section 1 of Rule 4A to make clear what is implicit in the current rule that while there remain any outstanding obligations under any such loan, no participant may assert a claim against the lender for the return of any collateral pledged by DTC as security therefore.<sup>3</sup> Subject to the foregoing and the terms of any such loan, the obligation of DTC to return any items of pledged collateral to its participants or to permit substitutions and withdrawals thereof remains unaffected.

In addition, the proposed rule change would make a technical correction to the definition of the term "pledge" in Rule 1 necessitated by the recent revisions to Article 9 of the New York Uniform Commercial Code ("NYUCC"). Currently, the definition of "pledge" refers to section 9-115 of the NYUCC. As proposed, the references to that specific section would be deleted so the definition would refer to the NYUCC in general.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to DTC because it will assist DTC in maintaining a committed end-of-day line of credit to facilitate completion of daily money settlement and as such will assist DTC to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

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

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

<sup>3</sup> The proposed language would state, "No Participant shall have any right, claim or action against any secured Lender (or any collateral agent of such secured Lender) for the return, or otherwise in respect, of any such collateral Pledged by the Corporation to such secured Lender (or its collateral agent), so long as any loans made by such Lender to the Corporation or other obligations, secured by such collateral, are unpaid and outstanding."

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

Comments from DTC participants or others have not been solicited or received 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 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 the 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-DTC-2003-08. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 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-2003-08 and should be submitted by June 11, 2003.

<sup>2</sup> The Commission has modified parts of these statements.