

not designed to permit unfair discrimination between customers, brokers, or dealers, or to regulate by virtue of any authority matters not related to the administration of the Exchange.

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

The Exchange 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*

Written comments were neither solicited nor received with respect to the proposed rule change.

### **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) of the Act<sup>7</sup> and Rule 19b-4(f)(6)<sup>8</sup> thereunder because the proposal: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the Exchange has given the Commission notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change or the Commission waives such prior notice. At any time within 60 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.<sup>9</sup>

The BSE has requested that the Commission waive the five-day pre-filing notice and the 30-day operative delay. The Commission believes waiving the five-day pre-filing notice and the 30-day operative delay is consistent with the protection of investors and the public interest. Waiving the pre-filing notice and accelerating the operative date will

permit the BSE to reinstate its previously approved Nasdaq trading program by making certain deletions and minor additions to its Nasdaq trading rules. Moreover, the Commission believes that waiving both the five-day pre-filing notice and the 30-day operative delay will facilitate the BSE's expeditious reinstatement of a Nasdaq trading program that includes electronic access and is substantially similar to the programs of other national securities exchanges that currently trade Nasdaq securities. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>10</sup>

### **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. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-BSE-2003-06 and should be submitted by June 23, 2003.

<sup>10</sup> For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f). In addition, the Commission notes that BSE has represented to the Commission that BSE members will be able to access BSE specialists' quotations in person on the floor of the Exchange, by telephone, or by electronic access via industry standard Financial Information Exchange ("FIX") protocol interfaces. BSE has also represented that non-BSE members (*i.e.*, Nasdaq market makers) will be able to access the quotations of BSE specialists either by telephone or electronically through a major securities industry connectivity provider. Moreover, BSE's current rules regarding the priority of customer orders will remain in effect and will not be impacted by this rule filing. Finally, BSE has made assurances to the Commission that the BSE rule covering automatic execution of Nasdaq securities (BSE Nasdaq Rule Set, Section 4, Trading) will remain in effect. Meeting between Division of Market Regulation staff and BSE staff (May 9, 2003).

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

**Jill M. Peterson,**

*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47927; File No. SR-DTC-2003-05]

### **Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to an Enhancement to the Reorg Deposits Service**

May 23, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 14, 2003, 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 interested parties.

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

The proposed rule change enhances (DTC's Reorg Deposits service to allow participants to submit affidavits of loss relating to certificates for securities currently eligible for DTC's Reorg Deposits service.<sup>2</sup>

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposal 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>3</sup>

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

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

<sup>2</sup> For additional information concerning DTC's Reorg Deposits service, see Securities Exchange Act Release No. 34189 (June 9, 1994), 59 FR 30818 (June 15, 1994) [File No. SR-DTC-94-06].

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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).