

of the Notes issuance<sup>24</sup> in relation to the net worth of Merrill Lynch.

Finally, the Commission notes that the value of the Biotech Index will be disseminated at least once every fifteen seconds throughout the trading day. The Commission believes that providing access to the value of the Biotech Index at least once every fifteen seconds throughout the trading day is extremely important and will provide benefits to investors in the product.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Exchange has requested accelerated approval because this product is similar to several other instruments currently listed and traded on the Amex.<sup>25</sup>

The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. Additionally, the Notes will be listed pursuant to Amex's existing hybrid security listing standards as described above. Based on the above, the Commission believes there is good cause, consistent with section 6(b)(5) and 19(b)(2) of the Act,<sup>26</sup> to approve the proposal, as amended, on an accelerated basis.

## V. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>27</sup> that the proposed rule change (SR-Amex-2003-63), as amended, is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>28</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 03-18067 Filed 7-16-03; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48145; File No. SR-DTC-2003-03]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Modifications to Settlement Progress Payments Procedures

July 9, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 13, 2003, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-2003-03) 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 persons.

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

The proposed rule change will modify DTC's settlement progress payment ("SPP") procedures to allow DTC participants, including issuing/paying agents ("IPAs"), to direct that the proceeds from a specific SPP be used to fund a particular transaction, including the maturity presentments of maturing securities from a particular money market instrument ("MMI") program.

#### 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

Recently, DTC and the Bond Market Association ("BMA") sought industry comment on a series of possible

revisions to DTC's MMI settlement system that were designed to enhance efficiency and reduce the liquidity risk that IPAs incur when making daily payments of billions of dollars on maturing MMIs.<sup>3</sup> Among the several problems that were identified, one is that the intraday funds paid by one commercial paper issuer may be used to pay off the maturity presentments of another issuer because IPAs cannot control how their issuers' obligations are processed against their accounts and because IPAs cannot align specific issuer intraday credits from the issuance of new commercial paper to a specific debt due to that same issuer's maturing commercial paper. Although this typically does not cause any problems because all obligations are settled, events such as those of September 11, 2001, can severely disrupt the process.

Under DTC's current procedures for processing of maturity presentments, DTC delivers the maturing commercial paper from the accounts of participants having positions in the maturing instrument to the IPA's MMI participant account early on the maturity date (generally around 2:00 a.m.). Since maturity presentments are processed as the equivalent of book-entry deliveries versus payment, a maturity presentment may recycle (*i.e.* may pend in DTC's system) just as any delivery would if the net debit cap or collateralization controls applicable to the IPA's account prevent the delivery from taking place. In such a situation, the maturity presentment would be processed only when additional funds are credited to the IPA's account. Recycling maturity presentments are processed in the order they are in DTC's recycling queue. This order is without regard to any offsetting payment or reissuance transaction because, as mentioned above, there is no provision in DTC's current procedures that enables an IPA to allocate settlement credits derived from an intraday SPP to a specific issuer's maturity presentment.

DTC's new procedures will enable the IPA to direct settlement credits from an intraday SPP to a specific issuer's maturity presentments. To do so, when an IPA wires funds to DTC's account at the Federal Reserve Bank of New York, the IPA will designate the CUSIP number of the issuer's MMI. DTC will use this information to process recycling transactions containing the designated CUSIP. (Previously, upon receipt of an intraday SPP, DTC would process the

<sup>24</sup> The Commission notes that the issuance is \$10 million. See Merrill Lynch & Co., Inc., Accelerated Return Notes Linked to the Amex Biotechnology Index SM, Preliminary Prospectus Supplement dated June 16, 2003.

<sup>25</sup> See *supra* note 17.

<sup>26</sup> 15 U.S.C. 78f(b)(5) and 78s(b)(2).

<sup>27</sup> 15 U.S.C. 78s(b)(2).

<sup>28</sup> 17 CFR 200.30-3(A)(12).

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>3</sup> While DTC's filing focuses on commercial paper, the issues and revised procedures are for all instruments settled through the MMI settlement system.