purposes of NSMIA and the Congressional intent. Thus, as with the application of a Credit, the application of a Promotional Credit to contributions made under the Contracts should not raise any questions as to ASLAC's compliance with the provisions of Section 27(i). Nevertheless, to avoid any uncertainties, Applicants request an exemption from Sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Promotional Credit under the circumstances described herein with respect to Contracts and any Future Contracts, without the loss of the relief from Section 27 provided by Section 27(i).

10. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company to accomplish the same purposes as contemplated by Section 22(a). Rule 22c–l thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

11. ASLAC's recapture of the Promotional Credit arguably might be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Sub-accounts. The recapture of the Promotional Credit is not violative of Rule 22c–1. The recapture of the Promotional Credit does not involve either of the evils that Rule 22c–1 was intended to eliminate or reduce as far as reasonably practicable, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices. These evils were the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset value per share determined as of the close of the market on the previous day. Backward pricing allowed investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, thereby diluting the values of outstanding mutual fund shares.

12. Applicants state that the proposed recapture of the Promotional Credit poses no such threat of dilution. To effect a recapture of a Promotional Credit, ASLAC will redeem interests in a Contract owner's account at a price determined on the basis of the current net asset value of the respective Sub-Accounts. The amount recaptured will equal the amount of the Credit and the Promotional Credit that ASLAC paid out of its own general account assets. Although Contract owners will be entitled to retain any investment gain attributable to the Promotional Credit, the amount of such gain will be determined on the basis of the current net asset value of the respective Sub-accounts. Thus, no dilution will occur upon the recapture of the Promotional Credit. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely, speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Promotional Credit.

Because neither of the harms that Rule 22c–1 was meant to address is found in the recapture of the Promotional Credit, Rule 22c–1 should have no application to any Promotional Credit. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Rule 22c–1 to the extent deemed necessary to permit them to recapture the Promotional Credit under the Contracts and Future Contacts.

In addition, Applicants state that the Commission has previously granted exemptive relief to permit the recapture of credits under variable annuity contracts with total credits exceeding the combination of the Credits described in the Prior Order and any Promotional Credits described in the Application.

Conclusion

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in section 6(c) of the Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–14135 Filed 6–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Federal Register Citation of Previous Announcement: [67 FR 38529, June 4, 2002]

Status: Closed Meeting.

Place: 450 Fifth Street, NW., Washington, DC.

Date and Time of Previously Announced Meeting: Wednesday, June 5, 2002, at 2 p.m.

Change in the Meeting: Deletion of Item.

The following item will not be considered at the closed meeting scheduled for Wednesday, June 5, 2002: Litigation matter.

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: June 5, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–14526 Filed 6–5–02; 2:40 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45994; File No. SR–DTC–2002–02]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Modifications to the Existing Operational Arrangements

May 29, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 26, 2002, 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

[1] 15 U.S.C. 78s(b)(1).

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 consists of modifications to the existing Operational Arrangements necessary for a securities issue to become eligible for the services of DTC. These updated operational arrangements are set forth in a document entitled ''Operational Arrangements (Necessary for an Issue to Become and Remain Eligible for DTC Services)'' dated February 2002.

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.[2]

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

DTC's Operational Arrangements memorandum was first published in June 1987. It was then updated in June 1988, in February 1992, in December 1994, and most recently in January 1998.[3] The purpose of this proposed rule change is to update DTC's issue eligibility requirements. In particular, the arrangements now expand use of blanket letters of representation (''BLORs'').

DTC's Operational Arrangements are designed to maximize the number of issues that can be made eligible while ensuring orderly processing and timely payments to participants. DTC's experience demonstrates that when issuers, underwriters, and their counsel are aware of DTC's requirements, those requirements can be met almost without exception.[4]

The most significant difference between the new Operational Arrangements and the Operational Arrangements currently in effect is DTC's expansion of the use of BLORs to cover corporate book-entry-only (''BEO'') issues.

In the interest of providing some background, DTC made eligible 181,599 CUSIPs last year, approximately 90% of which were BEOs. All BEO issues were covered by either a letter of representation (''LOR'') or in the case of some municipal issues a BLOR. LORs often cover multiple CUSIPs.

In 1998, DTC first introduced the use of an issuer BLOR on an optional basis for all municipal issues.[5] An issuer needs to submit a BLOR only once to DTC for all issues. This eliminates the need to submit individual LORs each time the issuer wishes to distribute securities of a type for which DTC requires an LOR.[6] These modified arrangements now extend the use of BLORs to corporate issues.

DTC's experience with BLORs in municipal issues has been quite encouraging. In 2001, 85% of all municipal BEO issues that were made DTC-eligible were covered by BLORs. This past year, 2,330 new BLORs were filed for municipals and an additional 12,138 issues were covered by existing BLORs[7] while 2,550 issues were covered by individual LORs.

DTC estimates somewhat conservatively that the cost to the industry in legal fees and delivery costs related to each individual LOR approximates $250 per LOR. Even on the basis of such a conservative estimate, the savings to the industry last year alone resulting from DTC making the blanket letter process available to the 14,468 municipal issues for which it was used exceeded $3.6 million.

In contrast 4,533 individual corporate LORs were submitted last year to cover corporate issues. DTC now wishes to extend BLOR savings and efficiencies to corporate BEO issues that are DTC-eligible.

The proposed rule change is consistent with the requirements of Section 17A of the Act and the regulations thereunder because it promotes efficiencies in the clearance and settlement of securities transactions. It will expedite the process of making securities eligible for DTC's services and will reduce risks and associated costs to DTC participants.

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

DTC 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, in the public interest, and for the protection of investors.

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

Written comments from DTC's participants have not been solicited nor received on 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)(iii) of the Act[8] and Rule 19b-4(f)(4)[9] promulgated thereunder because the proposal effects a change in an existing service of DTC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of the 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.

[2] The Commission has modified parts of these statements.

[3] Securities Exchange Act Release Nos. 24818 (August 19, 1987), 52 FR 31833 [File No. DTC–87–10]; 25948 (July 27, 1988), 53 FR 29294 [File No. DTC–88–13]; 30625 (April 23, 1992), 57 FR 18534 [File No. DTC–92–06]; 35649 (April 26, 1995), 60 FR 21576 [File No. DTC–94–19]; and 39894 (April 21, 1998), 63 FR 23310 [File No. DTC–97–23].

[4] In 2001 a total of 181,599 new issues (CUSIPs) were made eligible for DTC's services, representing over 99% of all new issues submitted to DTC's Underwriting Department for eligibility determinations during the year. These figures include equity, corporate debt, municipal debt, and U.S. Government and Agency securities. In the unusual circumstance in which the processing characteristics of a new issue that is being structured would not meet DTC's Operational Arrangements, if contacted early enough in the planning process DTC staff is often able to assist in suggesting restructuring alternatives that would permit the issue to be made eligible at the depository.

[5] Securities Exchange Act Release No. 39894 (April 21, 1998), 63 FR 23310 [File No. DTC–97–23].

[6] DTC undertakes to make available to issuers that execute BLORs any future modifications in the Operational Arrangements through publication on DTC's website at www.DTC.org. Upon review, issuers will have the opportunity to withdraw their BLORs.

[7] As of end-of-year 2001, 22,603 municipal issuers had filed BLORs with DTC since 1998 to cover their issues.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b-4(f)(4).

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 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 the DTC. All submissions should refer to the File No. SR–DTC–2002–02 and should be submitted by June 28, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–14301 Filed 6–6–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46018; File No. SR–DTC–2002–03]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Enhancements to the New York Window Service Allowing Participants to Custody Sealed Envelopes at DTC

June 3, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 8, 2002, 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 persons.

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

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

The proposed rule change provides an enhancement to the New York Window service[2] of DTC, which is part of DTC's Custody service.[3] The enhancement, ''the Sealed Envelope Service,'' allows DTC participants to custody sealed envelopes at DTC.

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.[4]

(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 enhance DTC's New York Window service, which is part of DTC's Custody service. The proposed rule change expands upon a service currently offered by DTC's New York Window service, pursuant to which sealed envelopes are received from participants for immediate delivery to other participants but are not held in custody. As part of DTC's role in supporting the securities industry goal of immobilization, DTC's participants have requested that DTC expand the number of instruments it holds in custody. The instruments that could be deposited in the Sealed Envelope Service are paper documents that are not securities otherwise eligible for DTC's Custody service which include, but are not be limited to, wills, deeds, bills of sale, confirmations, mortgages, letters of credit, vouchers, option agreements, annuities, loan agreements, and other contracts. DTC will not accept any assets in the Sealed Envelope Service that are not documents, such as gold bars, jewelry, coins, *etc.*

[2] For additional information on DTC's New York Window service, see Securities Exchange Act Release No. 40179 (July 8, 1998), 63 FR 30543 [File No. SR–DTC–98–9].

[3] For additional information on DTC's Custody service, see Securities Exchange Act Release No. 37314 (June 14, 1996), 61 FR 29158 [File No. SR–DTC–96–8].

[4] The Commission has modified parts of these statements.

The instruments will be deposited in sealed envelopes, which will be held in one of DTC's vaults. The contents of the envelopes cannot be viewed when sealed. DTC retains the right to reject any deposited envelope that it considers not properly sealed. Each envelope will be assigned by DTC a user number for tracking and record keeping purposes. Depositing participants will be required to list the contents of the envelope on the outside of the envelope; however, DTC will not verify the contents of the envelope. Participants will balance their sealed envelopes daily with DTC in the same manner as they presently do with securities held in the Custody service.

DTC will not open any sealed envelopes. If the depositing participant wants to view the contents of a sealed envelope that has been deposited with DTC, the participant must withdraw the envelope, using the normal Custody service withdrawal procedures. For security purposes, DTC reserves the right to x-ray all sealed envelopes sent to DTC.

Due to the nature of these instruments and the fact that the contents of the sealed envelopes cannot be verified, DTC's liability with respect to the sealed envelopes will be strictly limited. The liability and indemnity standard applicable to the Sealed Envelope Service is based on the standard currently applicable to the New York Window service.[5]

DTC will apply its current Custody service fees to envelopes deposited in the Sealed Envelope Service. Those fees are a long position fee of $.56 per month per envelope, a deposit fee of $4.86 per envelope, and a withdrawal fee of $16.91 per envelope.

The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it supports the securities industry goal of immobilization. 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 since the operation of the New York Window service, which is part of the Custody service as modified by the proposed rule change, will be similar to the current operation of the New York Window and Custody services.

[5] The standard of liability is attached as Exhibit 2 to DTC's filing. Basically, as between DTC and a participant using the Sealed Envelope Service, the participant shall be solely responsible for and shall bear any loss, cost, damage, or expense which the participant may suffer or incur on account of or as a result of any use by the participant of the Sealed Envelope Service.