

market and a national market system and, in general, to protect investors and the public interest.

In the NYFIX Approval Order, the Commission determined that the proposed temporary affiliation between the Exchange and the two NYFIX broker-dealer subsidiaries, subject to the terms and conditions described above, was consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, was consistent with Section 6(b)(5) of the Act.<sup>10</sup> With respect to the Commission's expressed concerns regarding potential unfair competition and conflicts of interest when an exchange, or one of its affiliates, is the parent company of a broker-dealer that provides routing services that may be in competition with services provided by members of that exchange, the NYFIX Approval Order stated, "The Commission believes, however, that the temporary nature of the affiliation, together with the proposed terms and conditions, are reasonably designed to mitigate concern about potential unfair competition and conflicts of interest between the commercial interests of the Exchange or its affiliates, and the Exchange's regulatory responsibilities."<sup>11</sup> Because these same terms and conditions will continue to be applicable during the proposed extension period, and because that extension period, if it is utilized, will be limited to only one additional month, the Exchange believes that the current temporary affiliation between the Exchange and NYFIX Securities will continue to be consistent with the Act during the proposed extension period.

#### *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*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section

19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)<sup>14</sup> of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>15</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>16</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>17</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 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. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2010-33 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>16</sup> 17 CFR 240.19b-4(f)(6).

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

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2010-33. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2010-33 and should be submitted on or before May 13, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010-9280 Filed 4-21-10; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61922; File No. SR-DTC-2010-07]

### **Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Enhance its Existing Processing Relating to End of Day Liquidity**

**DATE:** April 15, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

<sup>10</sup> See NYFIX Approval Order, 74 FR at 59295.

<sup>11</sup> *Id.* at 59296.

March 31, 2010, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4)<sup>3</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the 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 would amend DTC’s rules in order to enhance its existing processing as it relates to end of day liquidity. Upon implementation of the new function, DTC participants (“Participants”) would be able to set a profile in the Participant Browser System (“PBS”) so that they can request that excess funds be wired to their settling bank account at approximately 3:20 p.m. eastern time.

### **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>4</sup>

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

On December 23, 2009, DTC filed a rule change with the Commission to extend its Settlement Progress Payment (“SPP”) <sup>5</sup> and Principal & Income (“P&I”) <sup>6</sup> withdrawal cutoff times from 3 p.m. eastern time to 3:20 p.m. eastern

time.<sup>7</sup> This change was consistent with DTC’s objective to maximize the early return of available liquidity to Participants.

In an effort to further maximize the early return of available liquidity to Participants, DTC will implement a new optional profile (“profile”) in PBS. By setting its profile in PBS appropriately, a Participant can create a standing instruction to have excess funds wired to its DTC Settling Bank <sup>8</sup> at approximately 3:20 p.m. eastern time after the largest provisional net credit <sup>9</sup> (“LPNC”) is released to Participants at 3:05 p.m. eastern time. If a Participant chooses to use the profile, the Participant will be required to set the profile either to retain a minimum credit balance amount or at zero. A Participant’s funds will not be wired funds to its Settling Bank account if that would create a debit balance or cause the participant to have insufficient collateral.<sup>10</sup> If a Participant has more than one SPP or P&I wire instruction on file with DTC, the Participant will be required to set its profile to indicate to which account the funds should be wired at its Settling Bank. In the event of a systemic, operational, or other crisis event, DTC will have the ability to freeze the profile.

DTC is also modifying its procedures as they relate to the intraday return of SPPs and withdrawal of P&I allocations. Currently, Participants are able to

withdraw the sum of all P&I payments allocated to their account subject to DTC’s risk management controls. Participants are also able to request that DTC return all or a portion of an SPP submitted earlier in the day provided they have sufficient collateral and net debit cap <sup>11</sup> to do so. In order to streamline the processing of securities transactions, DTC is modifying its procedures so that a Participant may request the return of an SPP and withdraw a P&I allocation only if it will not create a debit balance for the Participant. DTC is also updating its P&I withdrawal process in order to make it more efficient. Withdrawals that are blocked as a result of insufficient collateral or net debit cap will no longer recycle until enough collateral or settlement credits are generated to satisfy the collateral or net debit cap deficiency. Instead a withdrawal request will be completed when the Participant makes the request or it will drop if there is insufficient collateral or net debit cap thereby requiring the Participant to submit a new withdrawal request.

Additionally, DTC is making technical updates to its Settlement Processing Schedule in order to properly reflect the input methods available to Participants.<sup>12</sup> These changes will necessitate revisions to the existing DTC Settlement Guide.

The proposed rule change is consistent with Section 17A of the Act,<sup>13</sup> as amended, and the rules and regulations thereunder applicable to DTC. The proposed rule change will maximize the early return of available liquidity to Participants and will be implemented consistently with the safeguarding of securities and funds in DTC’s custody or control or for which it is responsible because all of DTC’s risk management controls will continue to be in effect.

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

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

<sup>11</sup> A Participant’s “net debit cap” is the maximum amount by which a Participant’s Gross Debit Balance may exceed its Gross Credit Balance.

<sup>12</sup> In 2008, DTCC completed a multi-year initiative to transition all Participant Terminal System (“PTS”) functions to the Participant Browser System (“PBS”). Now, rather than toggle between the two tools, Participants can manage all their needs via the Web-based PBS, which is more flexible than PTS and offers greater functionality.

<sup>13</sup> 15 U.S.C. 78q-1.

<sup>7</sup> See Securities Exchange Act Release No. 61318 (January 8, 2010), 75 FR 10542 (March 8, 2010) (SR-DTC-2009-18).

<sup>8</sup> “Settling Bank” means a Participant that is a bank or trust company, subject to supervision or regulation pursuant to Federal or State banking laws, and is a party to an effective Settling Bank Agreement.

<sup>9</sup> The LPNC discourages some Participants from requesting funds until later in the day when activity has stabilized. LPNC procedures provisionally withhold from Participants the benefit of the largest net settlement credit they would have received in any Money Market Instrument (“MMI”) program during most of the processing day. This net credit is the Participant’s LPNC (referred to as provisional because of its reversible nature). The LPNC is neither made available to the Participant as collateral to support its net debit nor deemed a credit in the calculation of the Participant’s net debit. Because transactions in a failing MMI issue would be reversed only if DTC is informed of the default by 3 p.m., eastern time, LPNC procedures remain in effect only until approximately 3:05 p.m., eastern time, at which time, assuming no issuer default, the credit becomes final (*i.e.*, it is no longer “provisional”) and is applied to calculate the Participant’s collateral and net debit.

<sup>10</sup> The term “collateral” of a Participant on any Business Day means the sum of (i) the Participant’s Actual Participants Fund Deposit, (ii) the Participant’s Actual Preferred Stock Investment, (iii) all of the Participant’s Net Additions, and (iv) any SPPs wired by the Participant to DTC’s account at the Federal Reserve Bank of New York in the manner specified in DTC’s procedures. A Participant must always have sufficient collateral to support its debit balance.

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>3</sup> 17 CFR 240.19b-4(f)(4).

<sup>4</sup> The Commission has modified the text of the summaries prepared by DTC.

<sup>5</sup> A SPP is a payment sent intraday via Fedwire to DTC when a Participant has insufficient collateral or is at its net debit cap.

<sup>6</sup> P&I allocations are credited to a Participant’s settlement account throughout each processing day as payments are received.

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

Written comments relating to the proposed rule change were not and are not intended to be solicited or received. 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 proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>14</sup> and Rule 19b-4(f)(4)<sup>15</sup> thereunder because the proposed rule change effects a change in an existing service of DTC that: (i) Does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) 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. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2010-07 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Elizabeth M. Murphy, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-DTC-2010-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use

only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at [http://www.dtcc.com/downloads/legal/rule\\_filings/2010/dtc/2010-07.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2010/dtc/2010-07.pdf). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2010-07 and should be submitted on or before May 13, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61921; File No. SR-NYSEAmex-2010-38]

**Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 903 Commentary .06**

April 15, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on April 12, 2010, NYSE Amex LLC (the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items

have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 Exchange proposes to amend Rule 903 Commentary .06 to permit the concurrent listing of \$3.50 and \$4 strikes for classes that participate in both the \$0.50 Strike and \$1 Strike Programs. The text of the proposed rule change is attached as Exhibit 5 to the 19b-4 form. A copy of this filing is available on the Exchange's Web site at <http://www.nyse.com>, at the Exchange's principal office and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The purpose of this filing is to amend Rule 903 Commentary .06 to permit the concurrent listing of \$3.50 and \$4 strikes for classes that participate in both the \$0.50 Strike and \$1 Strike Programs.

The Exchange recently implemented a rule change that permits strike price intervals of \$0.50 for options on stocks trading at or below \$3.00 ("\$0.50 Strike Program").<sup>5</sup> As part of the filing to establish the \$0.50 Strike Program, the Exchange contemplated that a class may be selected to participate in both the

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

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

<sup>5</sup> See Exchange Act Release No. 60720 (September 25, 2009) 74 FR 51205 (October 5, 2009).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>15</sup> 17 CFR 240.19b-4(f)(4).

<sup>16</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.