

The Depository Trust Company

IMPORTANT

B#: 3851-08

DATE: August 25, 2008

TO: All Participants

CATEGORY: Compliance

FROM: General Counsel's Office

ATTENTION: Managing Partner/Officer Cashier

SUBJECT: Rule Change Approval - Modifications to DTC's Policy Statement on the Admission of Non-U.S. Entities as Direct Depository Participants (SR-DTC-2007-16)

On November 16, 2007, The Depository Trust Company ("DTC") filed and on August 12, 2008 the Securities and Exchange Commission ("SEC") approved¹, Rule Filing SR-DTC-2007-16 which proposed to amend DTC's Policy Statement on the Admission of Non-U.S. Entities as Direct Depository Participants (the "Policy Statement").

DTC proposed to eliminate the requirement that the foreign entity have and maintain minimum net capital of 1000% of the minimum net capital required by DTC for the admission of a US Entity; and that the foreign entity deposit with or pledge to DTC special collateral having a value (after the imposition of specified haircuts) equal to 50% of the entity's net debit cap (the "Special Financial Conditions"). In order to address the risk presented by the acceptance of financial statements prepared in non-U.S. GAAP, DTC proposed to re-define the existing minimum financial requirements by grouping the differing non-U.S. GAAP standards into categories that will each have a specific premium. DTC also proposed to add that the Non-US entity must provide sufficient information in order to evaluate AML risk.

The Policy Statement was adopted by DTC in 1996 in order to establish admissions criteria that would permit a well-qualified foreign entity to obtain direct access to DTC's services without requiring the foreign entity to obtain financial guarantees.² The Policy Statement contains a number of requirements that are

¹ *See* Federal Register: August 19, 2008; (Volume 73, Number 161); Release No. 34-58345.

² By Order dated May 9, 1997 (Release No. 34-38600), the Commission granted temporary approval of DTC's proposed rule change relating to the Policy Statement. The Commission has subsequently granted extensions of its temporary approval, most recently to May 31, 2002 (*see* Release No. 34-44470, dated June 22, 2001).

designed to address the unique risks posed by the admission of foreign entities. Under the rule change all of these requirements, except the Special Financial Conditions³, will be retained.

DTC's collateral monitor systematically prevents a participant from accruing a net debit that exceeds the value of the collateral in its account by blocking any transaction that would have that effect. For this purpose, collateral includes: (1) the participant's deposit to the Participants Fund, (2) the value of securities in the participant's account that it has designated as collateral, and (3) the value of securities that are the subject of deliveries from other participants. The collateral value attributed to securities is equal to their market value minus a "haircut" determined by DTC. DTC believes that the collateral monitor and its other risk management controls and procedures applicable to all participants, together with the other requirements of the Policy Statement, adequately limit DTC's exposure in the event of the failure to settle and insolvency of a foreign participant, without the need for the Special Financial Conditions.

Copies of the proposed rule filing are on DTC's public website, www.dtc.org.

Questions regarding the rule filing may be directed to Diane L. Brennan at (212) 855-3320.

³ The Special Financial Conditions provided that the foreign entity must have and maintain minimum net capital of 1000% of the minimum net capital required by DTC for the admission of a U.S. entity; and that except for U.S. Treasury securities, securities posted as special collateral would receive a haircut of 50% of their market value. Most importantly, the foreign entity would not receive credit for this special collateral in DTC's collateral monitor — any net debit would have to be supported by the value of other, non-special collateral (including securities received by the participant reflecting DTC's customary haircuts).