

Proposed Rule Change by The Depository Trust Company  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input type="checkbox"/>	Amendment <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Diane"/>	Last Name	<input type="text" value="Brennan"/>
Title	<input type="text" value="Director"/>		
E-mail	<input type="text" value="dbrennan@dtcc.com"/>		
Telephone	<input type="text" value="(212) 855-3320"/>	Fax	<input type="text" value="(212) 855-3215"/>

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,  
  
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By  (Name)  (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

~~[Bracketed, shaded strikeout boldface]~~ text indicates deletions from Amendment 1.  
~~[Bracketed, strikeout boldface]~~ text indicates deletions from Amendment 2.

1. Text of Proposed Rule Change.

(a) The proposed rule change is to increase the liquidity resources of The Depository Trust Company (“DTC”) to ensure it has sufficient liquidity to cover the failure of a financial family of affiliated DTC Participants (“Affiliated Family”)<sup>1</sup>. Affiliated Family means ~~[, collectively,]~~ each Participant that controls or is controlled by another Participant and each Participant that is under the common control of any Person. For purposes of this definition, “control” means the direct or indirect ownership of more than 50% of the voting securities or other voting interests of any Person<sup>2</sup>. In order to obtain this goal, DTC is proposing (i) an increase of \$700 million in the cash deposits to DTC’s all-cash Participants Fund, so that the aggregate amount of the required deposits to DTC’s Participant Fund and the required preferred stock investments of Participants will be increased to \$1.3 billion from \$600 million, and (ii) limiting the aggregate maximum net debit cap<sup>3</sup> for any Affiliated Family to \$3 billion.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization.

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<sup>1</sup> DTC currently has 332 Participants, most of which are broker/dealers or banks with one Participant account. Large integrated organizations, however, typically have several “legal entities” that have DTC participation; for example, a bank custodian entity and a separate securities firm entity.

<sup>2</sup> Under this definition, DTC currently has 47 Affiliated Families.

<sup>3</sup> DTC ensures that timely settlement can be completed in the event of an inability to settle by a Participant with the largest settlement obligation, by setting limits (called net debit caps) for each Participant. A Participant’s net debit is limited throughout the processing day to a net debit cap that is the lesser of four amounts: (1) a net debit cap based on the average of the three largest net debits that the Participant incurs over a rolling 70 business day period, (2) an amount, if any, determined by the Participant’s settling bank, (3) an amount, if any, determined by DTC or (4) \$1.8 billion.

(a) The Board of Directors approved the proposed rule change at the August 20, 2008 meeting.

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

(a) To ensure that DTC is able to complete its settlement obligations each day in the event of a Participant's inability to settle with DTC, DTC currently maintains liquidity resources of \$2.5 billion, including a \$600 million all-cash Participants Fund and a committed line of credit in the amount of \$1.9 billion, recently increased from \$1.4 billion, with a consortium of banks. Given that financial firms have become increasingly interdependent, DTC recognizes that there is a possibility of "contagion" among several related Participant accounts -- that is, that financial problems at one account may impact the stability of another, related account, potentially causing both to fail simultaneously. DTC's [bank] regulators have expressed concern about this potential and, in response DTC and its [bank] regulators have agreed that DTC should increase its liquidity resources available to withstand the failure of a financial family of affiliated DTC Participants. In order to address these concerns, DTC is proposing to increase its liquidity resources to \$3.2 billion, by increasing the required DTC Participants Fund to \$1.3 billion and limiting the aggregate net debit cap of an Affiliated Family to \$3 billion.<sup>4</sup>

The required deposits are presently \$475 million in cash with \$125 million in required preferred stock investments of Participants. The required cash deposits to the Participants Fund will be increased to \$1.175 billion, so that the aggregate amount of the

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<sup>4</sup> In accordance with our current practice, DTC would maintain a liquidity cushion of \$200 million to allow for the possible failure or unavailability of funds from the largest bank commitment under DTC's line.

required cash deposits and preferred stock investments of Participants will be \$1.3 billion. The following variables are currently used in the determination of each Participant's required Fund deposit:

- (1) The six largest intra-day net debit peaks for a Participant over a rolling 60-business day period.
- (2) Minimum Fund Deposit: \$10,000
- (3) Fund Size: \$600 Million

DTC will continue to employ these variables to calculate the first \$600 million of the required \$1.3 billion Fund. The remaining \$700 million will be allocated proportionately among the Affiliated Families whose aggregate net debit caps exceed \$2.3 billion<sup>5</sup>. This allocation will be based on the aggregate net debit cap of the Affiliated Family, up to a maximum of \$3 billion. DTC will adjust the net debit caps of the Participants who comprise the Affiliated Families so that the aggregate affiliated net debit cap does not exceed \$3 billion<sup>6</sup>. Once the Affiliated Family additional Fund Deposit has been established, DTC will allocate this sum among the Participants comprising the Affiliated Family, in proportion to each Participant's adjusted net debit cap. (Please refer to the proposed algorithm set forth in Exhibit 2.) This algorithm will be systematically used to calculate the allocation for the Affiliated Families, unless each of the Participants which comprise the Affiliated Family provide DTC with written instructions to allocate the aggregate net debit cap differently. While the Participants of an Affiliated Family may give instructions to re-apportion their net debit caps among themselves, they cannot

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<sup>5</sup> DTC's current liquidity of \$2.5 billion minus the \$200 liquidity cushion it maintains.

<sup>6</sup> Currently 18 Affiliate Families, consisting of 57 DTC Participant accounts, will be affected. 13 Affiliated Families will be required to reduce their overall Net debit cap.

reallocate to any one Participant a debit cap that is greater than the DTC system calculated net debit cap for that Participant.

(b) The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the “Act”), and the rules and regulations thereunder applicable to DTC. The proposed rule change will increase DTC’s liquidity resources to enable it to complete settlement in the event of a failure of a financial family of affiliated Participants. The proposed rule change will be implemented consistently with the safe guarding of securities and funds in DTC’s custody or control or for which it is responsible since all of DTC’s risk management controls will continue in effect.

4. Self-Regulatory Organization's Statement on Burden on Competition.

DTC believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The risk mitigation effects of the proposed changes do not impose any unreasonable or inappropriate burden on competition. The revised net debit cap limits and increased Participant Fund are allocated among those entities whose interdependencies have raised regulatory concern.

5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Members, or Others.

The proposed rule change has been discussed with several Participants. Written comments have been received and are addressed in this filing. DTC will notify the Commission of any written comments received by DTC.

6. Extension of Time Period for Commission Action.

DTC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2).

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission.

Not applicable.

9. Exhibits

Exhibit 1 – Amended Notice of proposed rule change for publication in the Federal Register.

Exhibit 2 – N/A unchanged from original filing.

Exhibit 3 – N/A

Exhibit 4 – N/A

Exhibit 5 – Proposed Rule Text, as amended

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

**(Release No. 34-\_\_\_\_\_ ; File No. SR-DTC-2008-12)**

**SELF-REGULATORY ORGANIZATIONS**

The proposed rule change is to increase the liquidity resources of The Depository Trust Company (“DTC”) to ensure it has sufficient liquidity to cover the failure of a financial family of affiliated DTC Participants (“Affiliated Family”)<sup>1</sup>. Affiliated Family means, each Participant that controls or is controlled by another Participant and each Participant that is under the common control of any Person. For purposes of this definition, “control” means the direct or indirect ownership of more than 50% of the voting securities or other voting interests of any Person<sup>2</sup>. In order to obtain this goal, DTC is proposing (i) an increase of \$700 million in the cash deposits to DTC’s all-cash Participants Fund, so that the aggregate amount of the required deposits to DTC’s Participant Fund and the required preferred stock investments of Participants will be increased to \$1.3 billion from \$600 million, and (ii) limiting the aggregate maximum net debit cap<sup>3</sup> for any Affiliated Family to \$3 billion.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), 15 U.S.C. 78s(b)(1), notice is hereby given that on \_\_\_\_\_, DTC filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as

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<sup>1</sup> DTC currently has 332 Participants, most of which are broker/dealers or banks with one Participant account. Large integrated organizations, however, typically have several “legal entities” that have DTC participation; for example, a bank custodian entity and a separate securities firm entity.

<sup>2</sup> Under this definition, DTC currently has 47 Affiliated Families.

<sup>3</sup> DTC ensures that timely settlement can be completed in the event of an inability to settle by a Participant with the largest settlement obligation, by setting limits (called net debit caps) for each Participant. A Participant’s net debit is limited throughout the processing day to a net debit cap that is the lesser of four amounts: (1) a net debit cap based on the average of the three largest net debits that the Participant incurs over a rolling 70 business day period, (2) an amount, if any, determined by the Participant’s settling bank, (3) an amount, if any, determined by DTC or (4) \$1.8 billion.

described in Items I, II, and III below, which Items have been prepared 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 text of the proposed rule change is attached hereto as Exhibit 5.

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.

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

(a) To ensure that DTC is able to complete its settlement obligations each day in the event of a Participant's inability to settle with DTC, DTC currently maintains liquidity resources of \$2.5 billion, including a \$600 million all-cash Participants Fund and a committed line of credit in the amount of \$1.9 billion, recently increased from \$1.4 billion, with a consortium of banks. Given that financial firms have become increasingly interdependent, DTC recognizes that there is a possibility of "contagion" among several related Participant accounts -- that is, that financial problems at one account may impact the stability of another, related account, potentially causing both to fail simultaneously. DTC's regulators have expressed concern about this potential and, in response DTC and its regulators have agreed that DTC should increase its liquidity resources available to withstand the failure of a financial family of affiliated DTC Participants. In order to

address these concerns, DTC is proposing to increase its liquidity resources to \$3.2 billion, by increasing the required DTC Participants Fund to \$1.3 billion and limiting the aggregate net debit cap of an Affiliated Family to \$3 billion.<sup>4</sup>

The required deposits are presently \$475 million in cash with \$125 million in required preferred stock investments of Participants. The required cash deposits to the Participants Fund will be increased to \$1.175 billion, so that the aggregate amount of the required cash deposits and preferred stock investments of Participants will be \$1.3 billion. The following variables are currently used in the determination of each Participant's required Fund deposit:

- (1) The six largest intra-day net debit peaks for a Participant over a rolling 60-business day period.
- (2) Minimum Fund Deposit: \$10,000
- (3) Fund Size: \$600 Million

DTC will continue to employ these variables to calculate the first \$600 million of the required \$1.3 billion Fund. The remaining \$700 million will be allocated proportionately among the Affiliated Families whose aggregate net debit caps exceed \$2.3 billion<sup>5</sup>. This allocation will be based on the aggregate net debit cap of the Affiliated Family, up to a maximum of \$3 billion. DTC will adjust the net debit caps of the Participants who comprise the Affiliated Families so that the aggregate affiliated net debit cap does not exceed \$3 billion<sup>6</sup>. Once the Affiliated Family additional Fund Deposit has been established, DTC will allocate this sum among the Participants comprising the Affiliated

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<sup>4</sup> In accordance with our current practice, DTC would maintain a liquidity cushion of \$200 million to allow for the possible failure or unavailability of funds from the largest bank commitment under DTC's line.

<sup>5</sup> DTC's current liquidity of \$2.5 billion minus the \$200 liquidity cushion it maintains.

<sup>6</sup> Currently 18 Affiliate Families, consisting of 57 DTC Participant accounts, will be affected. 13 Affiliated Families will be required to reduce their overall Net debit cap.

Family, in proportion to each Participant's adjusted net debit cap. (Please refer to the proposed algorithm set forth in Exhibit 2.) This algorithm will be systematically used to calculate the allocation for the Affiliated Families, unless each of the Participants which comprise the Affiliated Family provide DTC with written instructions to allocate the aggregate net debit cap differently. While the Participants of an Affiliated Family may give instructions to re-apportion their net debit caps among themselves, they cannot reallocate to any one Participant a debit cap that is greater than the DTC system calculated net debit cap for that Participant.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended (the "Act"), and the rules and regulations thereunder applicable to DTC. The proposed rule change will increase DTC's liquidity resources to enable it to complete settlement in the event of a failure of a financial family of affiliated Participants. The proposed rule change will be implemented consistently with the safe guarding of securities and funds in DTC's custody or control or for which it is responsible since all of DTC's risk management controls will continue in effect.

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

DTC believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The risk mitigation effects of the proposed changes do not impose any unreasonable or inappropriate burden on competition. The revised net debit cap limits and increased Participant Fund are allocated among those entities whose interdependencies have raised regulatory concern.

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

The proposed rule change has been discussed with several Participants. Written comments have been received and are addressed in this filing. 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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed change should be disapproved.

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 may be submitted by using the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or by sending an e-mail to [rule-comment@sec.gov](mailto:rule-comment@sec.gov). Please include File No. SR-DTC-2008-12 on the subject line.
- Paper comments should be sent in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington D.C. 20549-1090.

All submissions should refer to File Number SR-DTC-2008-12. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington D.C. 20549-9303. Copies of such filing also will be available for inspection and copying at DTC's principal office and on DTC's Web site at [www.dtc.org](http://www.dtc.org). 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 the file number above and should be submitted within \_\_\_\_\_ days after the date of publication.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Secretary

**EXHIBIT 2**

*This Exhibit 2 to SR-DTC-2008-12 remains unchanged by the Amendment 2.*

**EXHIBIT 5**

**Underlined, boldface** text indicates additions.

~~**Bracketed, strikeout boldface**~~ text indicates deletions.

~~**Bracketed, strikeout boldface**~~ text indicates deletions from Amendment 2.

**RULE 1**

**DEFINITIONS; GOVERNING LAW**

*Section 1.* Unless the context requires otherwise, the terms defined in this Rule shall, for all purposes of these Rules, have the meanings herein specified:

Account

The term “Account” means a Securities Account or a Settlement Account, as the context may require. Any reference in these Rules to the Account (or the Securities Account or Settlement Account) of a Participant or Pledgee shall be deemed to be a reference to the appropriate Account or Accounts of the Participant or Pledgee if the Participant or Pledgee has more than one such Account. Any reference in these Rules to the Account (or the Securities Account or Settlement Account) of the Corporation shall be deemed to be a reference to the appropriate Account or Accounts of the Corporation if the Corporation has more than one such Account.

Account Family

The term “Account Family” means an Account or group of Accounts, designated as such by a Participant in the manner specified in the Procedures, using a common set of risk management controls pursuant to Rule 9(B) and Rule 9(C).

Actual Participants Fund Deposit

The term “Actual Participants Fund Deposit” of a Participant means the actual amount the Participant has Deposited to the Participants Fund, including both its Required Participants Fund Deposit and any Voluntary Participants Fund Deposit.

Actual Preferred Stock Investment

The term "Actual Preferred Stock Investment" of a Participant means the actual amount of Preferred Stock the Participant owns, expressed in dollars by multiplying (i) the number of shares of Preferred Stock the Participant owns by (ii) the Preferred Stock Par Value.

**Affiliated Family**

**The term “Affiliated Family” means, collectively, each Participant that controls or is controlled by another Participant and each Participant that is under the common control of any Person. For purposes of this definition, “control” means the direct or indirect ownership of more than 50% of the voting securities or other voting interests of any Person.**

Aggregate Actual Deposit and Investment

The term "Aggregate Actual Deposit and Investment" of a Participant means the sum of its (i) Actual Participants Fund Deposit and (ii) Actual Preferred Stock Investment.

**Aggregate Affiliated Family Net Debit Cap**

**The term “Aggregate Affiliated Family Net Debit Cap” means the sum of the Net Debit Caps for the Participants that are part of an Affiliated Family in the manner specified in the Procedures; provided, however, that the maximum Aggregate Affiliated Family Net Debit Cap shall not exceed the total available liquidity resources of the Corporation.**

Aggregate Required Deposit and Investment

The term "Aggregate Required Deposit and Investment" of a Participant means the sum of its (i) Required Participants Fund Deposit and (ii) Required Preferred Stock Investment.

Back-Up Settling Bank

The term “Back-Up Settling Bank” means a Settling Bank selected by a Participant to perform settlement services for the Participant if the Settling Bank ordinarily used by such Participant is unable to perform such services.

\* \* \*

Net Debit Cap

The term “Net Debit Cap” of a Participant means an amount determined by the Corporation in the manner specified in the Procedures; provided, however, that the maximum Net Debit Cap of the Participant shall be the least of (i) a maximum amount applicable to all Participants based on the ~~total available~~ liquidity resources of the Corporation, (ii) the Settling Bank Net Debit Cap

applicable to such Participant or (iii) any other amount determined by the Corporation, in its sole discretion.

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