written response to the information provided under paragraph (b)(3)(A) and (B), above.

Paragaph (b)(3)(D) of the proposed rule requires Qualified Vendors to immediately notify the Association and the Commission in writing if they intend to cease providing services and supply supplemental information about their services upon the request of the Association or the Commission. This provision will provide the Association and the Commission notice of circumstances when vendors, in ceasing to provide services, may create disruptions to the clearance settlement system and to take such steps as may be necessary to minimize disruptions. In addition, this provision will permit the Association and the Commission to obtain information from vendors even though the vendors are not members of the Association or registered as clearing agencies. Such information is important to regulators in overseeing the clearance and settlement system.

Under paragraph (b)(3)(E) a vendor may cease to be qualified if the Commission staff deems the Auditor's report to be unacceptable either because it contains any findings of material weaknesses, or for other identified reasons, or notifies the vendor in writing that the Commission staff has determined that the vendor is no longer qualified. This provision will permit the Commission staff to evaluate whether a vendor is qualified at any time. The principal opportunities for the Commission staff to make such evaluations will be when the vendor submits its certifications and Auditor's report. In addition, the Commission will be afforded other opportunities to evaluate a vendor's qualifications through information obtained in connection with a vendor's notices under paragraph (b)(3)(D) or as a result of supplemental information supplied by a vendor under paragraph (b)(3)(E), or through information obtained from any other source available to the Commission. Finally, if a vendor ceases to be qualified, the member using the vendor must cease using the vendor promptly upon receiving notice that the vendor is no longer qualified. NASD Regulation is requesting that the proposed rule change be effective within 45 days of Commission approval.

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[6] in that the proposed rule change will permit Qualified Vendors to offer confirmation, affirmation and related services in connection with the clearance and settlement of institutional securities transactions thereby increasing the options available to participants in institutional securities transactions and enhancing the clearance and settlement system.

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

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

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

Within thirty-five 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 ninety 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 rule 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All submissions should refer to File No. SR–NASD–98–20 and should be submitted by May 4, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–M

[6] 15 U.S.C. 78o–3.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39830; File No. SR–NYSE–98–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Consisting of Amendments to Its Rule Regarding COD Orders

April 6, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 18, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items, I, II and III below, which items have been prepared by the self-regulatory organization. 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 consists of amendments to Exchange Rule 387 to permit electronic confirmation/affirmation of depository eligible COD Orders by ''Qualified Vendors.''[2]

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. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

[2] The text of the amendments is attached as Exhibit A to this notice.

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

(1) Purpose

Exchange Rule 387 currently requires that the facilities of a Commission registered securities depository/clearing agency be utilized by Exchange member organizations for the confirmation, affirmation and book entry settlement of COD transactions in depository eligible securities. Certain private vendors have requested that they be allowed to provide member organizations with electronic confirmation/affirmation services on COD institutional trades even though such vendors are not Commission registered clearing agencies.

The Exchange, working in conjunction with other SROs and a committee of representatives from the Securities Industry Association, developed the proposed amendments in order to allow the above request made by certain private vendors. To provide such services, an entity would have to become a ''qualified vendor'' by complying with the new provisions as set forth in the amended rule. These provisions require such vendors to do the following:

- For each transaction, deliver a trade record to the Clearing Agency, obtain a control number, cross reference the control number to the confirmation/affirmation and include such control number when delivering affirmations to the clearing agency.
- Certify to the Commission [3] the integrity and capacity of the electronic confirmation/affirmation system and that the vendor will maintain monitoring and contingency procedures.
- Submit an Auditor's Report to the Commission on an annual basis, which is not deemed unacceptable by the Commission.[4]
- Notify the Commission in writing of any significant electronic confirmation/affirmation system changes.
- Notify the Commission in writing if the qualified vendor intends to cease providing confirmation/affirmation services.
- Submit to the Exchange copies of any of the above filings with the Commission within ten business days.
- Supply supplemental information regarding the vendor's electronic trade confirmation/affirmation services as requested by the Exchange or the Commission.

The proposed Rule 387 amendments are responsive to the SEC's request (contained in a letter, dated November 25, 1997 from Mr. Richard R. Lindsey, Director, Division of Market Regulation) that self-regulatory organizations adopt uniform rule amendments which allow ''qualified vendors'' to provide confirmation/affirmation services, provided the conditions set forth in the amended rule are met.[5]

(2) Statutory Basis

The proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act [6] in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Under the proposal, additional electronic confirmation and affirmation services will be available to COD customers because such electronic services will now be permitted to be performed by ''qualified vendors'' that meet specific standards.

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

The Exchange believes that the proposed rule change will not 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 either solicited or received.

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

Within 35 days of the 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 reason 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 rule 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 4, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Exhibit A— Proposed Amendments to Rule 387

Additions italicized

Deletions [bracketed]

COD Orders

Rule 387. (a) No member organization shall accept an order from a customer pursuant to an arrangement whereby payment for securities purchased or delivery of securities sold is to be made to or by an agent of the customer unless all of the following procedures are followed:

(1) through (4) No change.

[(5) The customer or its agent shall utilize the facilities of a securities depository for the confirmation, acknowledgement and book entry settlement of all depository eligible transactions.]

(5) The facilities of a Clearing Agency shall be utilized for the book-entry settlement of all depository eligible

[3] With respect to the determination of whether a vendor is a ''qualified vendor,'' the Commission interprets the Exchange's use of the word ''Commission'' in the proposed rule change to mean Commission staff.

[4] At this time, the Commission staff intends to indicate that a vendor's initial Auditor's Report is not unacceptable and that the vendor therefore is a qualified vendor for purposes of Rule 387 by issuing a letter to the vendor stating that it will not recommend enforcement action against any of the Exchange's member organizations that elect to use the confirmation/affirmation services of the vendor.

[5] The Commission notes that the proposed rule change addresses the concerns raised by the Petition for Rulemaking filed by Thomson Financial Services (''Thomson'') with the Commission in December 1996. Thus, the Commission will respond to Thomson's petition after the final disposition of the proposed rule change.

[6] 15 U.S.C. 78f(b)(5).

transactions. The facilities of either a Clearing Agency or a Qualified Vendor shall be utilized for the electronic confirmation and affirmation of all depository eligible transactions.

Supplementary Material:

.10 No change.

.30 For the purpose of this rule, a [''securities depository''] ''*Clearing Agency*'' shall mean a Clearing Agency as defined in Section 3(a)(23) of the Securities Exchange Act of 1934, that is registered with the Securities and Exchange Commission *(''Commission'')* pursuant to Section 17A(b)(2) of the Act *or has obtained from the Commission an exemption from registration granted specifically to allow the Clearing Agency to provide confirmation and affirmation services.*

.40 For the purposes of this rule, ''depository eligible transactions'' shall mean transactions in those securities for which confirmation, [acknowledgment] *affirmation,* and book entry settlement can be performed through the facilities of a [securities depository] *Clearing Agency* as defined in Rule 387.30.

.50 ''Qualified Vendor'' shall mean a vendor of electronic confirmation and affirmation services that:

(A) Shall, for each transaction subject to this rule: (i) deliver a trade record to a Clearing Agency in the Clearing Agency's format; (ii) obtain a control number for the trade record from the Clearing Agency; (iii) cross-reference the control number to the confirmation and subsequent affirmation of the trade; and (iv) include the control number when delivering the affirmation of the trade to the Clearing Agency;

(B) Has submitted a certification to the Commission which is not deemed unacceptable by the Commission: (i) With respect to its electronic trade confirmation/affirmation system, that it has a capacity requirements, evaluation, and monitoring process that allows the vendor to formulate current and anticipated estimated capacity requirements; (ii) that its electronic trade confirmation/affirmation system has sufficient capacity to process the specified volume of data that it reasonably anticipates to be entered into its electronic trade confirmation/ affirmation service during the upcoming year; (iii) that its electronic trade confirmation/affirmation system has formal contingency procedures, that the entity has followed a formal process of reviewing the likelihood of contingency occurrences, and that the contingency protocols are reviewed and updated on a regular basis; (iv) that its electronic trade confirmation/affirmation system has a process for preventing, detecting, and controlling any potential or actual systems integrity failures, and its procedures designed to protect against security breaches are followed; and (v) that it has cash reserves of not less than five hundred thousand dollars;

(C) Has submitted and shall continue to submit on an annual basis, an Auditor's Report to the Commission which is not deemed unacceptable by the Commission. An Auditor's Report will be deemed unacceptable if it contains any findings of material weakness;

(D) Notifies the Commission in writing of any changes to its systems that significantly affect or have the potential to significantly affect its electronic trade confirmation/affirmation system including, without limitation, changes that: (i) Affect or potentially affect the capacity or security of its electronic trade confirmation/affirmation system; (ii) rely on new or substantially different technology; or (iii) provide a new service to the Qualified Vendor's electronic trade confirmation/affirmation system;

(E) Immediately notifies the Commission in writing if it intends to cease providing services;

(F) Provides the Exchange with copies of any submissions to the Commission made pursuant to .50 (B), (C), (D) and (E) of this rule within ten business days; and

(G) Supplies supplemental information regarding their electronic trade confirmation/affirmation services as requested by the Exchange or the Commission.

.60 ''Auditor's Report'' shall mean a written report which is prepared by competent, independent, external audit personnel in accordance with the standards of the American Institute of Certified Public Accountants and the Information Systems Audit and Control Association and which (i) Verifies the certifications contained in .50(B) above; (ii) contains a risk analysis of all aspects of the entity's information technology systems including, without limitation, computer operations, telecommunications, data security, systems development, capacity planning and testing, and contingency planning and testing; and (iii) contains the written response of the entity's management to the information provided pursuant to (i) and (ii) above.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39832; File No. SR–DTC–95–23]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Implementing the Matching Feature in the Institutional Delivery System

April 6, 1998.

On November 8, 1995, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–95–23) under Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] to implement a matching feature in DTC's Institutional Delivery (''ID'') system. Notice of the proposal was published in the **Federal Register** on January 19, 1996.[2] The Commission received 39 comment letters. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

In a previous filing with the Commission, DTC described several additional features that it planned to add to the ID system, one of which was a matching feature.[3] The purpose of DTC's present rule filing is to obtain approval of implementation of the matching feature.

The matching feature is an enhancement to the current procedures for confirmation and affirmation processing in the ID system. Currently, when a broker-dealer executes a trade on behalf of an institution, it can use the ID system to notify the institution of the execution of the trade (''notification of order execution''). After receiving a notification of order execution, the institution then can use the ID system to furnish the broker-dealer with instructions for the proper allocation of the trade among the institution's different accounts (''allocation instructions'').[4] Using the allocation instructions, the broker-dealer furnishes the ID system with the information necessary (''trade data'') for the ID system to produce a confirmation, which then is delivered through the ID system to the institution. If the

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

[2] Securities Exchange Act Release No. 36685 (January 5, 1996), 61 FR 1417.

[3] Securities Exchange Act Release No. 33466 (January 12, 1994), 59 FR 3139 [File No. SR–DTC–93–07] (order approving proposed rule change relating to the ID system).

[4] Use of the ID system by DTC participants for notice of order execution and allocation instructions is optional.