

published: 3.26.97

March 26, 1997

Mr. Jonathan G. Katz  
Secretary  
Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, D.C. 20549

**Re: The Depository Trust Company: Return of Funds Procedures, File No. SR-DTC-96-22**

Dear Mr. Katz:

PSA The Bond Market Trade Association ("PSA")<sup>1</sup> appreciates the opportunity to comment to the Securities and Exchange Commission (the "Commission") on the proposed regulations submitted by The Depository Trust Company ("DTC") with respect to paying agents' return of funds policy (the "Policy"). In Release No. 34-38340 (the "Release"), DTC proposes to amend the Policy by reducing from ten business days to one business day the time in which a paying agent may obtain the return of funds that have been allocated to DTC participants (the "Proposed Amendment").

***Background Regarding the Policy***

As stated in the Release, the Policy has been in effect since 1986. According to DTC, since the Policy has been in effect, it has been used only once. The Policy, together with other DTC initiatives, has been extremely effective in encouraging paying agents to make more timely payments of principal and interest to DTC on behalf of issuers of securities.

***PSA's Role in the Proposed Amendment***

As stated in the Release, PSA has expressed its concerns about the risks placed by the Policy on PSA members which are DTC participants. The concern arises from the fact that under the Policy, a paying agent may wait up to ten days after the payment date to seek recovery of a payment of principal or interest which it has advanced on behalf of an issuer, but failed to receive from the issuer. Under the Policy, DTC will automatically charge back the relevant amount to participants' accounts. These chargebacks will occur regardless of whether the participant has delivered the funds to its customers, and whether or not the funds are available in such customers' accounts to be recovered by the participant. To the extent that the participant is unable to recover the amount from its customer, it will suffer a loss.

PSA members believe that the Policy is inconsistent with market perceptions respecting finality of DTC payments and contrary to widely accepted payments principles favoring finality of payment. These views are supported by the following observations:

- A paying agent's proper role is to remit funds as an agent. If it chooses to make a payment without first receiving funds, it should accept the associated credit risk.
- Dealers and investors accept credit risk that is assumed to end on a DTC payment date. Dealers and other market participants have unwittingly taken on risks associated with payment provisionality that should reside with paying agents or DTC if they wish to accommodate issuers who may otherwise not make timely remittances.
- The presence of DTC or any other depository should not adversely affect payment finality compared to settlement outside the depository.
- There is a lack of symmetry between the payment obligations of paying agents when making principal and interest payments on behalf of issuers and the obligations of other DTC participants who have to make all payments to DTC as final payments.

PSA's concerns were raised with DTC officials in letters and meetings during the summer and fall of 1996. As a result of PSA's actions, DTC convened a working group of representatives of several sectors of the industry (including dealers, corporate trustees and fiduciaries, and the New York Clearing House) to consider a series of proposals relating to the Policy. PSA has been an active participant in all meetings of the working group and its subcommittees and looks forward to achieving additional securities industry goals designed to enhance the processing of principal and interest payments.

### ***The Proposed Amendment***

DTC now proposes, based on a recommendation of the working group, to amend the Policy to reduce from ten business days to one business day the time a paying agent may wait to seek return of a principal or interest payment.

*PSA strongly supports this change.* PSA believes that the Proposed Amendment, if adopted as proposed, would make significant progress toward achieving the finality of payment that we believe the market expects.

PSA appreciates this opportunity to provide its views to the Commission. If it would be helpful to the staff and the Commission, we would be most willing to make PSA staff and member firm personnel available to meet and discuss any of the points raised in this letter. Please address any questions or requests for additional information to either Joseph W. Sack, Senior Vice President, or Sarah M. Starkweather, Vice President and Associate General Counsel, of PSA, at 212-440-9400.

Very truly yours,

Thomas S. Dillon  
Chairman, PSA Corporate Bond Operations Committee

cc: William F. Jaenike, Chairman of the Board and Chief Executive Officer,  
The Depository Trust Company  
Members of PSA's DTC Payments Task Force  
Members of DTC's P&I Task Force

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1 PSA is the bond market trade association, representing approximately 220 securities firms and banks that underwrite, trade and sell debt securities, both domestically and internationally. Among PSA's members are many of the underwriters that participate in the initial distribution of corporate debt securities, including investment grade and non-investment grade corporate debt securities as well as mortgage and other asset-backed securities. More information about PSA is available on PSA's Internet home page at <http://www.psa.com>. This letter was prepared in consultation with the DTC Payments Task Force, under the aegis of the Board of Directors of PSA.