

to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35205; File No. SR-PTC-04-08]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Declaring a Dividend

January 9, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 28, 1994, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-PTC-94-08) as described in Items I, II, and III below, which Items have been prepared primarily 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 declares a dividend payable on January 20, 1995, to PTC's stockholders of record as of December 31, 1994.

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

In its filing with the Commission, PTC 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. PTC 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

As a condition to approving PTC's application for stock in the Federal Reserve Bank of New York, the Board of Governors of the Federal Reserve System ("Board of Governors") prohibited PTC from paying dividends to its stockholders.² The Board of Governors subsequently relieved PTC of the restriction on payment of dividends on the understanding that dividends, if declared, would be declared periodically by PTC's Board of Directors and paid at a rate not to exceed the 90-day United States Treasury bill rate in effect at the time the dividend is declared.³

The Commission approved PTC's practice of paying dividends out of net profits subject to the limitations imposed by the Board of Governors and subject to the further requirements that (i) prior to using excess income from invested principal and interest ("P&I") to pay a dividend, PTC's Board of Directors be advised of any amount related to the investment of P&I which has not been rebated and is part of the net profits used to declare the dividend and affirmatively approve the application of such excess P&I income for the dividend and (ii) PTC file a proposed rule change pursuant to Section 19(b)(3)(A) of the Act each time it declares a dividend.⁴

PTC has paid dividends on January 18, 1993 in the amount of \$.52 per share to stockholders of record as of the close of business on December 31, 1992⁵ and on January 20, 1994 in the amount of \$.525 per share to stockholders of record as of the close of business on December

² Letter from William W. Wiles, Secretary of the Board, Board of Governors, to Thomas A. Williams, Milbank, Tweed, Hadley & McCloy (March 27, 1989) (approving PTC's application for stock in the Federal Reserve Bank of New York).

³ Letter from Jennifer J. Johnson, Associate Secretary to the Board, Board of Governors, to Leopold S. Rassnick, Vice President and General Counsel, PTC (June 9, 1992). The State of New York Banking Department subsequently removed its restriction on the payment of dividends. Letter from Carmine M. Tenga, Deputy Superintendent of Banks, State of New York Banking Department, to Leopold S. Rassnick, Vice President and General Counsel, PTC (December 21, 1992).

⁴ Securities Exchange Act Release No. 31746 (January 15, 1993), 58 FR 6319 [File No. SR-PTC-92-15] (notice of filing and order granting accelerated approval of proposed rule change).

⁵ *Id.*

31, 1993.⁶ At its meeting of December 21, 1994, PTC's Board of Directors declared a dividend in the amount of \$1.00 per share, payable on January 20, 1995, to stockholders of record as of the close of business on December 31, 1994. This dividend rate does not exceed the 90-day United States Treasury bill rate in effect on December 21, 1994.⁷ The dividend does not include any excess income attributable to investments of P&I as all such P&I related income with respect to fiscal year ended December 31, 1994, will be rebated to participants on a *pro rata* basis based on the amount of P&I disbursements to each participant.

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act⁸ and the rules and regulations thereunder in that it provides for the equitable allocation of reasonable fees and other charges among participants.

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

PTC does not believe that the proposed rule change will impose any burden on competition 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

PTC has not solicited comments with respect to the proposed rule change, and none have been received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act⁹ and subparagraph (e)(1) of Rule 19b-4¹⁰ thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. At any time within sixty days of the filing of such 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

⁶ Securities Exchange Act Release No. 33487 (January 18, 1994), 59 FR 3900 [File No. SR-PTC-93-07] (notice of filing and immediate effectiveness of proposed rule change).

⁷ The 90-day United States Treasury bill rate, as published in *The Wall Street Journal* on December 21, 1994, was 5.61%.

⁸ 15 U.S.C. § 78q-1(b)(3)(D) (1988).

⁹ 15 U.S.C. § 78s(b)(3)(A)(i) (1988).

¹⁰ 17 CFR 240.19b-4(e)(1) (1994).

¹ 15 U.S.C. § 78s(b)(1) (1988).