the date of DTC's lottery or because of a rejected deposit may initiate the recall process within ten business days of the creation of the short position by sending a broadcast message directly to the receiver of the book-entry delivery. Participants will be able to transmit this message through DTC's Participant Terminal System network. The receiving participant will have five business days to comply with the recall request if it has a position in that security at DTC. If the receiving participant no longer has such a position at DTC, it must comply with the recall request within fifteen business days. If the short position is less than the amount of the delivery, the receiver has the option to return the entire delivery or just a portion equal to the delivering participant's short position. If the receiving participant does not comply with the recall request within the applicable time, the recalling participant may request DTC's intervention.[9] Recalls will reverse only the book-entry delivery while the original transaction still must be settled by the delivering and receiving participants (*i.e.*, the delivering participant must deliver securities to the receiving participant).

DTC believes that the reclamation procedures have been effective in reducing short positions caused by call lotteries. Through March 31, 1995, a total of 265 short positions valued at $48.3 million have been eliminated pursuant to the rule. As of March 31, 1995, DTC's 256 participants carried a total of 968 short positions valued at approximately $37.4 million.[10] The proposed rule change is part of a program that is being implemented at the request of participants and securities industry groups to eliminate short positions.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because the rule proposal seeks to make permanent procedures that should help reduce the number of short positions created either by call lotteries or by rejected deposits and thus should assure the safeguarding of securities and funds which are in the custody and control of DTC or for which DTC is responsible.

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

DTC does not believe that the proposed rule change will impact or impose a burden on competition.

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

No written comments have been solicited or received. 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

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[11] The Commission believes that DTC's short position reclamation procedures are consistent with DTC's obligations under Section 17A(b)(3)(F) because the proposed procedures should help DTC assure the safeguarding of securities and funds by reducing the number of outstanding short positions at DTC created either by call lotteries or by rejected deposits.

Under DTC's procedures, participants are obligated to cover their short positions immediately. As an incentive to cover the short position as soon as possible and as a cushion to protect DTC in the event of a sharp rise in the market price of the security, DTC participants are assessed a daily charge of 130% of the market value of each security for which the participant has a short position at DTC.[12] By assessing a 130% daily charge to short positions in a participant's account, DTC limits its risk of loss to instances when there is a rise in the market price of the security above 130%. With this rule change, DTC should further reduce its risk of loss by allowing DTC participants to recall certain deliveries which have resulted in short positions which should further reduce the total number of outstanding short positions. Thus, the proposal is consistent with Section 17A(b)(3)(F)[13] of the Act in that it should help DTC to reduce its risk of loss and thereby should enhance DTC's ability to safeguard securities and funds under its control.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will allow DTC participants to continue to utilize without any disruption the reclamation procedures for short positions created by call lotteries or by rejected deposits.

However, the Commission realizes that the proposed reclamation procedures could cause broker-dealers inadvertently to create possession or control deficits.[14] Therefore, the Commission believes that the proposed rule change should be carefully monitored before the procedures become permanent. For this reason, the Commission is temporarily approving the proposed rule change through December 31, 1995.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the file number SR–DTC–95–07

[9] The intervention request must be submitted to DTC no later than twenty-five days after the original reclamation request was made.

[10] For the purposes of this filing, DTC defines the term "short position" to mean a separate entry (line item) representing a participant's obligation to deliver to DTC one or more securities in a specific issue. Letter from Piku K. Thakkar, Assistant Counsel, DTC, to Chris Concannon, Commission (May 26, 1995).

[11] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[12] Securities Exchange Act Release No. 26896 (June 5, 1989), 54 FR 25185 [Filed No. SR–DTC–89–07] (order approving a proposed rule change concerning invitations to tender to cover short positions).

[13] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[14] The Commission is concerned with the proposal's impact on broker-dealer's compliance with Rule 15c3–3 under the Act [17 CFR 240.15c3–3]. This rule requires broker-dealers to obtain and thereafter to maintain physical possession or control of fully-paid securities and excess margin securities carried by a broker-dealer for the account of a customer [17 CFR 240.15c3–3(b)(1)]. If as a result of a recall procedure, DTC reverses the delivery of a security that is a fully-paid or excess margin security at the receiving broker-deficit in the number of securities that should be under its physical possession or control.