



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-72224; File No. SR-DTC-2014-04)

May 22, 2014

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change to Effect Changes to the DTC Settlement Service Guide Relating to the Automated Customer Account Transfer Service of National Securities Clearing Corporation

I. Introduction

On March 27, 2014, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² proposed rule change SR-DTC-2014-04 (“Proposed Rule Change”)³ to implement changes to the DTC Settlement Service Guide (“Guide”) that conform with proposed changes to the Automated Customer Account Transfer Service (“ACATS”) of National Securities Clearing Corporation (“NSCC”),⁴ a DTC affiliate. The Proposed Rule Change was published for comment in the Federal Register on April 11,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ DTC will announce the implementation of this Proposed Rule Change via an Important Notice to DTC participants (“Participants”).

⁴ NSCC filed a corresponding proposed rule change with the Commission. See Release No. 34-71887 (Mar. 27, 2014), 79 FR 20290 (Apr. 11, 2014) (SR-NSCC-2014-04) (“NSCC Proposal”).

2014.⁵ The Commission did not receive comments to the Proposed Rule Change. This order approves the Proposed Rule Change.⁶

II. Description

A. Current ACATS Process

ACATS is an NSCC service that interfaces with DTC for the delivery of customer⁷ securities from the account of one Participant (that is also an NSCC member (“Member”)) to another Participant (that is also a Member). Under the NSCC Proposal, customer account transfers with respect to two types of DTC-eligible securities will be processed through a new NSCC accounting operation (“ACATS Settlement Accounting Operation”) on an ACATS settlement date. Because of the NSCC Proposal, conforming changes are required to the Guide.

The key provision of the NSCC Proposal impacting DTC is that ACATS transactions will no longer have an associated incentive charge applied to them by NSCC as the transactions are processed.⁸ As such, an ACATS transfer will no longer present a funds settlement risk to NSCC or DTC; thus, ACATS transfers will be processed by DTC free of payment. Accordingly, DTC proposes to change the applicable procedures in the Guide, as described below. Additionally, the Proposed Rule Change includes clarifications in the Guide with respect to the protection of customer securities processed through ACATS.

⁵ Release No. 34-71886 (Mar. 27, 2014), 79 FR 20260 (Apr. 11, 2014) (SR-DTC-2014-04).

⁶ Terms not defined herein have the meaning set forth in DTC’s Rules, By-Laws, and Organization Certificate (“Rules”), available at http://dtcc.com/~media/Files/Downloads/legal/rules/dtc_rules.ashx.

⁷ For purposes of the Proposed Rule Change, “customer” refers to an accountholder of a Participant whose account is transferred to another Participant by an ACATS transaction.

⁸ See NSCC Proposal, 79 FR 20290.

B. Proposed DTC Rule Changes

Elimination of Short Cover Charge

An “ACATS short cover charge” is a dollar amount guaranteed by NSCC to DTC for the value of securities delivered from a Participant’s DTC account to NSCC for processing by NSCC through its Continuous Net Settlement system (“CNS”). Because ACATS transfers will be entirely free of payment under the NSCC proposal as described above, a provision in the Guide relating to the processing of “ACATS short cover charges” will be deleted, with related adjustments to references to the DTC Collateral Monitor.⁹

Elimination of Long Allocation Reversals

At NSCC, under current rules, long allocations of securities made via CNS may be reversed if the NSCC Member receiving the securities fails to meet its NSCC money settlement obligation. Because ACATS transactions will not generate any funds settlement obligations, this reversal is eliminated. The provision in the Guide describing the NSCC reversal will be deleted.

Memo Seg Optionality

Memo Seg is a systemic mechanism that allows Participants to prevent inventory that is not subject to a lien or claim of DTC (“Minimum Amount” or “MA”) from falling below a certain number of units.¹⁰ In order to extend the Memo Seg option to securities received via

⁹ These adjustments reduce a Participant’s Collateral Monitor with respect to its net ACATS short positions at the start of ACATS settlement date. The Participant then receives credit in its Collateral Monitor for ACATS deliveries as they occur throughout the day.

¹⁰ Memo Seg is offered by DTC to its Participants to support their control of fully-paid customer securities, although its effectiveness for that purpose depends entirely on the Participant’s management of its accounts.

ACATS transfers, the Guide will be revised to provide that a Participant may increase its number of units designated for protection under Memo Seg to reflect ACATS receipts.

Clarification with Respect to MA Securities

ACATS transfers are not subject to any lien or claims by DTC because they are transferred free of payment. Upon receipt into a Participant account, the securities constitute MA securities pursuant to the Rules.¹¹ The Guide currently uses the term “Deemed MA” to reflect this condition. This terminology is no longer necessary because, under the NSCC Proposal, a funds obligation no longer attaches to ACATS transactions. Accordingly, the term “Deemed MA” will be deleted from the Guide, and a new section of the Guide will confirm that ACATS securities received by a Participant will, by virtue of the ACATS transfer, be credited to the Participant’s receiving account as MA.¹²

Other Clarifications

The Guide will be revised to clarify the descriptions of CNS Short Covers and Long Allocations and their effect on Participant collateral and the Collateral Monitor.

III. Discussion and Commission Finding

¹¹ Securities received through the ACATS Settlement Accounting Operation are not counted as part of the Participant’s Collateral Monitor, unless and until the receiving Participant, in accordance with the Rules, designates those securities as Net Additions (“NA”).

¹² In this regard, a Participant accepting an ACATS free delivery automatically designates the subject securities as MA securities. Therefore, such securities are not counted in the Collateral Monitor of the Participant. It should be noted that the Participant may re-designate the securities as NA or deliver them versus payment in which case these securities will be counted in the Participant’s Collateral Monitor.

Section 19(b)(2)(C) of the Act¹³ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to, among other things, “promote the prompt and accurate clearance and settlement of securities transactions and ... 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.”¹⁴ Further, Commission Rule 17Ad-22(d)(12) requires that registered clearing agencies “establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable ... [e]nsure that final settlement occurs no later than the end of the settlement day; and require that intraday or real-time finality be provided where necessary to reduce risks.”¹⁵

The Commission finds that the Proposed Rule Change is consistent with those requirements because the changes, which will conform to the changes proposed by NSCC in establishing a new ACATS processing system,¹⁶ will enable DTC to complete ACATS transfers free of payment, thus streamlining DTC’s related processes, as described above. Therefore, the Proposed Rule Change will promote the prompt and accurate clearance and settlement of ACATS transfers, while supporting finality of such transfers at DTC on settlement day.

¹³ 15 U.S.C. 78s(b)(2)(C).

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

¹⁵ 17 CFR 240.17Ad-22(d)(12).

¹⁶ See NSCC Proposal, 79 FR 20290.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act¹⁷ and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR-DTC-2014-04 be, and it hereby is, APPROVED.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Kevin M. O'Neill,
Deputy Secretary.

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Publication Date: 05/29/2014]

¹⁷ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁸ 17 CFR 200.30-3(a)(12).