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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-74830; File No. SR-DTC-2015-003)

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Regarding the Acknowledgment of End-of-Day Net-Net Settlement Balances by Settling Banks

April 29, 2015

Pursuant to section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”) and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on April 15, 2015, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of proposed revisions to the DTC Settlement Service Guide (“Guide”) to provide that any Settling Bank that does not timely acknowledge its end-of-day net-net settlement balance<sup>3</sup> or notify DTC of its refusal to settle for one or more Participants for which it is the designated Settling Bank, would be

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The end-of-day net-net settlement balance for each Settling Bank reflects: (i) a net credit amount due to the Settling Bank from DTC, (ii) a net debit amount due from the Settling Bank to DTC, or (iii) a zero balance so that no payment is due to or from the Settling Bank. In accordance with the timeframes set forth in the Guide, DTC’s end-of-day funds settlement process begins with the posting by DTC of “final settlement figures” at approximately 3:45 pm [sic] each Business Day unless extended.

deemed to have acknowledged its end-of-day net-net settlement balance.<sup>4</sup> DTC would also make other changes to the Guide as set forth below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule filing is to propose a rule change to mitigate a risk to DTC in settlement relating to a Settling Bank's failure to take the action required to: (i) acknowledge its end-of-day net-net settlement balance, or (ii) notify DTC of a refusal to settle for any Participant for which it is the designated Settling Bank, by the Acknowledgment Cutoff Time (as defined below).

Background

The DTC end-of-day net settlement structure depends upon the use of Settling Banks.<sup>5</sup> Each Participant must designate a Settling Bank to settle on its behalf. Any

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<sup>4</sup> Terms not otherwise defined herein have the meaning set forth in the DTC Rules (the "Rules"), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

<sup>5</sup> Please see the Guide at pp. 17-18, available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Settlement.pdf> for an overview of the end-of-day net settlement process.

Participant that is a bank may settle for itself.<sup>6</sup> A Settling Bank that settles for other Participants must acknowledge its end-of-day net-net settlement balance for the group of Participants for which it settles, or notify DTC if it refuses to settle for any Participant for which it is the designated Settling Bank, by the later of 4:15 pm [sic] and the time that is 30 minutes after Settling Bank end-of-day net-net settlement balances are first made available by DTC (“Acknowledgment Cutoff Time”).<sup>7</sup> Therefore, DTC expects by the Acknowledgment Cutoff Time that each Settling Bank that settles for other Participants will affirmatively acknowledge its end-of-day net-net settlement balance, or notify DTC if it refuses to settle on behalf of one or more Participants for which it is the designated Settling Bank. If the Settling Bank notifies DTC that it refuses to settle for a Participant, DTC will recalculate the Settling Bank’s net-net settlement balance by excluding the net settlement balance of the Participant for which the Settling Bank refused to settle and DTC will advise the Settling Bank accordingly.<sup>8</sup> The Settling Bank must then immediately respond to DTC to acknowledge its revised net-net settlement balance (“Adjusted Balance”) and may not refuse to settle for any other Participant on that day. After the Acknowledgment Cutoff Time and any adjustments, DTC will prepare a file to be submitted to the Federal Reserve’s National Settlement Service (“NSS”) reflecting the net debits or credits from and to all Settling Banks. DTC then utilizes NSS to transmit to

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<sup>6</sup> See Rule 9(B).

<sup>7</sup> A Settling Bank that settles only for itself is not required to provide an acknowledgement. No Settling Bank, whether it settles for only itself or for others, may refuse to settle its own net settlement balance.

<sup>8</sup> No Participant has the right to refuse to settle its net settlement balance. Any Participant for which its designated Settling Bank has refused to settle on its behalf remains obligated to DTC for the payment of any net debit balance and must make another arrangement to timely pay that amount by Fedwire.

the Federal Reserve Bank of New York the file to debit or credit the Settling Banks' Fed accounts.

DTC needs certainty to complete settlement. If the Settling Bank does not respond to DTC with either an acknowledgment of its end-of-day net-net settlement balance or notification of a refusal to settle for a Participant for which it is the designated Settling Bank, this introduces uncertainty with respect to timely completion of settlement.

#### Proposal

To promote settlement certainty, DTC is proposing to treat a Settling Bank that fails to timely provide its acknowledgement of its end-of-day net-net settlement balance or notify DTC of its refusal to settle for one or more Participants for which it is the designated Settling Bank, as having acknowledged its end-of-day net-net settlement balance for the purpose of settlement processing. DTC proposes to modify the Guide to provide that a Settling Bank that: (i) fails to affirmatively acknowledge its end-of-day net-net settlement balance, or (ii) does not notify DTC of its refusal to settle on behalf of a Participant or Participants for which it is the designated Settling Bank, by the Acknowledgement Cutoff Time would be deemed to have acknowledged its end-of-day net-net settlement balance. The Settling Bank's balance would then in the ordinary course of settlement processing, be debited from or credited to its designated Fed Account through the NSS process. Likewise, DTC proposes that the Guide provide that a Settling Bank that fails to immediately upon receipt acknowledge its Adjusted Balance, if any, would be deemed to have acknowledged its Adjusted Balance and the Adjusted Balance would then in the ordinary course of settlement processing, be debited from or credited to its designated Fed Account through the NSS process.

DTC maintains flexibility to allow for a Settling Bank to request extra time if the Settling Bank has a problem relating to its connectivity with DTC or another good faith reason that it cannot affirmatively acknowledge or refuse, so long as the Settling Bank notifies DTC accordingly at or before the Acknowledgement Cutoff Time, or, in the case of an Adjusted Balance, it notifies DTC immediately where it is unable to affirmatively acknowledge. In this regard, the Guide would be updated to clarify that the Settling Bank is required to notify DTC of its request via a dedicated DTC Settlement phone “hotline” prior to the Acknowledgment Cutoff Time. As it does today, DTC would attempt to contact the Settling Bank if it does not receive a response in the form of: (i) an acknowledgment or refusal prior to the Acknowledgment Cutoff Time, or (ii) as applicable, an immediate acknowledgment of an Adjusted Balance.<sup>9</sup> In addition, the Guide would be updated to clarify that each Settling Bank must ensure that it maintains accurate contact details with DTC so that DTC may contact the Settling Bank regarding settlement issues. Settling Banks must update any contact details by contacting their DTC Relationship Manager.

Additionally, DTC would revise the Guide to: (i) clarify that a Settling Bank that settles only for itself is not required to acknowledge its net settlement balance; (ii) state that the existing flat fee charged for a Settling Bank’s failure to timely settle its balance would additionally apply to a Settling Bank’s failure to: (A) affirmatively acknowledge its net-net settlement balance, or (B) notify DTC of its refusal to settle for one or more Participants for which it is the designated Settling Bank, by the Acknowledgment Cutoff

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<sup>9</sup> DTC uses the most recent contact information provided by the Settling Bank to its DTC Relationship Manager for this purpose.

Time; (iii) clarify the fees chargeable to a Participant for a failure to settle; (iv) delete references to a Settling Bank's failure to timely settle its settlement balance from being referred to as a "failure to settle" and remove references to related procedures as being "failure-to-settle" procedures, as this use of the terminology could be confused with an individual Participant's failure to meet its settlement obligation; (v) clarify Settling Bank and settlement processing timeframes as set forth in the Guide; (vi) consolidate text, as applicable, for consistency and to eliminate duplication; (vii) apply initial capitalization as appropriate for the terms "Participant" and "Settling Bank" where they are used as defined terms; and (viii) remove references to Participant Terminal System (PTS) functions, which are no longer used for this service.

#### Implementation

The effective date of the proposed rule change would be announced via a DTC Important Notice.

#### 2. Statutory Basis

The proposed rule change would reduce delays in the settlement process by allowing DTC to collect net debits and release net credits within scheduled timeframes despite the failure of a Settling Bank to affirmatively acknowledge its end-of-day net-net settlement balance or notify DTC of its refusal to settle for a Participant for which it is the designated Settling Bank on a timely basis. Therefore, the proposed rule change is consistent with the provisions of section 17A(b)(3)(F)<sup>10</sup> of the Act, which requires that the rules of the clearing agency be designed, *inter alia*, to promote the prompt and accurate clearance and settlement of securities transactions.

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<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(F).

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments relating to the proposed rule change have not yet 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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove 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. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2015-003 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-DTC-2015-003. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available

publicly. All submissions should refer to File Number SR-DTC-2015-003 and should be submitted on or before **[INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Brent J. Fields,  
Secretary.

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<sup>11</sup> 17 CFR 200.30-3(a)(12).