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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-80762; File No. SR-DTC-2017-007)

May 24, 2017

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Modify the DTC Settlement Service Guide to Make Technical Revisions to Clarify and Provide Enhanced Transparency With Respect to the Calculation and Adjustment of Required Participants Fund Deposits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 16, 2017, 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 the clearing agency.³ DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)⁴ of the Act and Rule 19b-4(f)(1)⁵ thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Capitalized terms not otherwise defined herein have the respective meanings set forth in the Rules, By-laws and Organization Certificate (“Rules”) of The Depository Trust Company (“DTC”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(1).

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

The proposed rule change would amend the text of the DTC Settlement Service Guide ("Settlement Guide")⁶ to make technical revisions to clarify, and provide enhanced transparency with respect to, the (i) calculation of the Required Participants Fund Deposit of a Participant⁷ and (ii) factors that DTC may take into account in evaluating an adjustment to the Required Participants Fund Deposit of a Participant.⁸ The proposed rule change would also amend the text of the Settlement Guide to (i) change and add defined terms, (ii) make (a) changes for enhanced clarity and readability and (b) grammatical corrections and (iii) add new section headings, as discussed below.

⁶ Available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Settlement.pdf>.

⁷ Rule 1, Section 1, supra note 3. The Required Participants Fund Deposit of a Participant is the amount the Participant is required to Deposit to the Participants Fund pursuant to Section 1 of Rule 4. Rule 4, Section 1, supra note 3. Deposit, in this context, pursuant to Section 1 of Rule 1, means causing the appropriate amount in cash to be paid to DTC for credit to the Participants Fund pursuant to Section 1 of Rule 4. Rule 1, Section 1, supra note 3. The Participants Fund, described more fully below, is provided for in Rule 4. Rule 4, supra note 3. The Settlement Guide, which is proposed to be amended hereby, sets forth Procedures for the calculation and payment of such Deposits. See Settlement Guide, supra note 6 at 47-50. Procedures, in this context, pursuant to Section 1 of Rule 1, means "the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time." Rule 1, Section 1, supra note 3. The Settlement Guide constitutes Procedures of DTC, as defined in the Rules. See Settlement Guide, supra note 6 at 3.

⁸ Rule 9(A), Section 2, supra note 3. Pursuant to Rule 9(A), at the request of DTC, a Participant or Pledgee shall immediately furnish DTC with such assurances as DTC shall require of the financial ability of the Participant or Pledgee to fulfill its commitments and shall conform to any conditions which DTC deems necessary for the protection of DTC, other Participants or Pledgees, including deposits to the Participants Fund.

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

In its filing with the Commission, the clearing agency 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. The clearing agency 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 proposed rule change would amend the text of the Settlement Guide⁹ to make technical revisions to clarify, and provide enhanced transparency with respect to, the (i) calculation of the Required Participants Fund Deposit of a Participant and (ii) factors that DTC may take into account in evaluating an adjustment to the Required Participants Fund Deposit of a Participant. The proposed rule change would also amend the text of the Settlement Guide to (i) change and add defined terms, (ii) make (a) changes for enhanced clarity and readability and (b) grammatical corrections and (iii) add new section headings, as discussed below.

Participants Fund Components and Calculations

DTC maintains a cash Participants Fund in an aggregate amount based on maintaining liquidity resources sufficient to complete net settlement among non-defaulting Participants if a Participant, or Affiliated Family of Participants, with the

⁹ Supra note 6.

largest net settlement obligation failed to settle.¹⁰ If a Participant fails to settle, its entire Actual Participants Fund Deposit (the Required Participants Fund Deposit plus any Voluntary Participants Fund Deposit) may be applied to satisfy any liability or loss due to its default.

The amount of the Required Participants Fund Deposit for any Participant is set by DTC in accordance with its Rules and the Settlement Guide.¹¹ Each Participant must make at least a minimum Deposit of \$7,500 to the Participants Fund.¹² Those Participants with higher liquidity demands are required to Deposit additional amounts. Two additional amounts are determined by (i) the Participants' own activity and (ii) whether they belong to an Affiliated Family of Participants that has a Net Debit Cap that exceeds \$2.15 BN.¹³ With respect to the former additional amount, the activity of each Participant is calculated based on a rolling average over 60 Business Days of the

¹⁰ The DTC net settlement system and the Rules are structured so that the net settlement obligation of a Participant (its Net Debit Balance) is limited by its Net Debit Cap. The maximum Net Debit Cap of any Participant is \$1.8 BN and the maximum Net Debit Cap for an Affiliated Family of Participants is \$2.85 BN. See Settlement Guide, supra note 6 at 64-65. These limits are determined based on liquidity resources available to DTC in the cash Participants Fund or under a committed line of credit from a syndicate of commercial lenders for \$1.9 BN ("Line of Credit"). Id. Cash in the Participants Fund equals the aggregate amount of Deposits to the Participants Fund by all Participants and the total amount of the Participants Fund is required to be at least \$1.15 BN. See Settlement Guide, supra note 6 at 48. This proposed rule change sets forth the basis on which the Required Participants Fund Deposit of any Participant shall be calculated and certain factors that may be considered by DTC if further assurances are required with respect to a Participant.

¹¹ See Rule 4, supra note 3 and Settlement Guide, supra note 6 at 47-49.

¹² Settlement Guide, supra note 2 at 47.

¹³ Settlement Guide, supra note 6 at 48-49.

Participant's six highest intraday net debit peaks¹⁴ (for a Participant, at any time, its "PF Average").¹⁵ The latter additional amount is based on a formula that takes into account the amount by which the Affiliated Family's Net Debit Cap exceeds \$2.15 BN.¹⁶

In aggregate, the Participants Fund includes four component amounts, as clarified in this proposed rule change: the "Core Fund," the "Base Fund," the "Incremental Fund" and the "Liquidity Fund," as defined below.¹⁷ The "Core Fund" is set by DTC at an aggregate amount of \$450 million and is comprised of the Base Fund and the Incremental Fund.¹⁸ The "Base Fund" is the sum of minimum deposits by all Participants, i.e., the amount that is \$7,500 times the number of Participants, at any time.¹⁹ The "Incremental Fund" is the balance of the Core Fund up to \$450 million;²⁰ this is the amount that must be ratably allocated based on Participants' activity, as reflected by their intraday net debit

¹⁴ DTC monitors the levels of each Participant's net settlement debits during each Business Day and records the highest net debit. This measure of liquidity is referred to as the Participant's intraday net debit peak. See Settlement Guide, supra note 6 at 48.

¹⁵ Id.

¹⁶ Settlement Guide, supra note 6 at 48-49.

¹⁷ The composition of each of these components is described in the Settlement Guide, however (i) the Base Fund and the Core Fund are not assigned specific defined terms and (ii) the Incremental Fund and the Liquidity Fund are defined as the "PF Differential" and the "Additional Amount," respectively, as discussed below. See Settlement Guide, supra note 6 at 47-49. For enhanced clarity in this regard, the four components would be renamed and/or defined in the Settlement Guide, as discussed below. See discussion infra "Changes to Defined Terms and Grammatical Revisions."

¹⁸ See supra text accompanying note 17.

¹⁹ Id.

²⁰ Id.

peaks, among Participants that are required to pay more than a minimum deposit.²¹ The proposed rule change sets forth the basis for that ratable allocation. Additionally, the “Liquidity Fund” component (set at \$700 million) applies to Participants whose Affiliated Families have Net Debit Caps that exceed \$2.15 BN, as currently set forth in the Settlement Guide.²²

The proposed rule change clarifies the description in the Settlement Guide of the calculation of the amount of the Deposit by each Participant to the Incremental Fund and sets forth the methodology used to calculate that amount, as further described below under “Settlement Guide Changes.”

Additional Required Participants Fund Deposits

If DTC becomes concerned with a Participant’s operational or financial soundness, DTC may require adequate assurances of financial or operational capacity

²¹ Those Participants whose PF Averages exceed the total amount of the Base Fund are required to make a Deposit to the Incremental Fund. This is because a Participant whose PF Average exceeds the total amount of the Base Fund, on an average basis, exceeds the liquidity resources provided by the Base Fund during the 60-day rolling period used to determine a PF Average.

²² See Settlement Guide, supra note 6 at 48-49. The amount of the Deposit to the Liquidity Fund that is allocated among an Affiliated Family of Participants is determined based on a ratio determined by dividing the amount by which the Participant’s Affiliated Family Net Debit Cap exceeds \$2.15 BN by the sum of the amounts by which each Affiliated Families’ Net Debit Cap exceeds \$2.15 BN. Once an Affiliated Family’s Liquidity Fund allocation has been established in this regard, DTC will allocate this sum among the Participants comprising the Affiliated Family in proportion to each Participant’s individual Net Debit Cap. Id. In this regard, the Liquidity Fund represents an additional amount allocated proportionally among the Affiliated Families that present the greatest liquidity risk to DTC. See also Securities Exchange Act Release No. 59148 (December 23, 2008), 73 FR 251 (December 31, 2008)(SR-DTC-2008-12).

from the Participant, as a risk mitigant,²³ including an additional Deposit to the Participants Fund.²⁴ Any additional requirements are designed to provide appropriate incentives to affected Participant(s) to address the underlying condition or activity. In determining whether it is appropriate to require an additional Deposit to the Participants Fund for a Participant, DTC takes into account credit, market, operational or other concerns regarding the Participant. Typically, the following factors may be considered, including: (i) the Participant's liquidity arrangements; (ii) the Participant's overall financial condition; (iii) published news or reports and/or regulatory observations relating to the Participant; and (iv) the Participant's internal credit rating, if any. As guidance to Participants regarding these types of considerations, DTC proposes to add text to the Settlement Guide illustrating these concerns, as further described below under "Settlement Guide Changes."

Settlement Guide Changes

Calculation of Incremental Fund

First, the proposed rule change would amend the text of the Settlement Guide to provide the methodology by which DTC takes into account the activity of each Participant to allocate the portion of a Participant's Required Participants Fund Deposit to the Incremental Fund, as set forth below.

In order to determine the amount a Participant must Deposit to the Incremental Fund, DTC makes the following calculations.

²³ Rule 9(A), Section 2, supra note 8.

²⁴ Any such additional amount shall be part of the Required Participants Fund Deposit of the Participant. See Rule 4, Section 1(a), supra note 3.

First, DTC determines the PF Average of each Participant as the rolling average, over 60 Business Days, of the Participant's six highest intraday net debit peaks (as noted above).

Second, DTC arrays these PF Averages from highest to lowest and "ranks" them accordingly. As a result, each Participant will have a "PF Average Rank," an absolute number that is the Participant's numerical ranking in this array.

Each Participant's PF Average is compared to the next lowest ranked PF Average and DTC calculates the difference between the higher PF Average and the next lower ranked PF Average to determine, for the Participant in question, its "Ranked Amount Difference."

Separately, a "Factor" is calculated by dividing the amount of the Incremental Fund by the PF Average of the Participant with the highest PF Average Rank minus the amount of the Base Fund.

Finally, the amount that a Participant shall Deposit to the Incremental Fund ("Required Incremental Fund Deposit") is calculated as the sum of each Participant's Ranked Amount Difference, divided by the Participant's PF Average Rank, and multiplied by the Factor, for all Participants with a PF Average Rank that is less than or equal to the PF Average Rank of the Participant.

The purpose of this calculation is to provide for an equitable distribution of the Incremental Fund among Participants, based on the amount by which each Participant's PF Average exceeds the amount of the Base Fund.

Adjustments to a Required Participants Fund Deposit

The proposed rule change would further amend the text of the Settlement Guide to state that DTC may increase the Required Participants Fund Deposit of a Participant as provided in Rule 9(A), including due to a credit, market, operational, or other concern regarding the Participant. For illustrative purposes, typically, the following factors may be taken into consideration for such an increase:

- (a) the Participant's liquidity arrangement, if any;
- (b) the Participant's overall financial condition at the time and its apparent stability or volatility;
- (c) published news or reports and/or regulatory observations relating to the Participant; and
- (d) the Participant's internal credit rating, if any.

Changes to Defined Terms and Grammatical Revisions

The Settlement Guide currently defines the portion of the Participants Fund represented by the Liquidity Fund as the "Remaining Amount" and the portion represented by the Incremental Fund as the "PF Differential." The proposed rule change would replace the current term "Remaining Amount" with "Liquidity Fund" and "PF Differential" with "Incremental Fund." The proposed rule change would also add to the Settlement Guide defined terms for Core Fund, Base Fund, Factor, PF Average Rank, Ranked Amount Difference and Required Incremental Fund Deposit to be defined as these terms are defined above.

Finally, the proposed rule change would make (i) changes to the text of the Settlement Guide for readability, (ii) grammatical corrections to punctuation and spacing

and (iii) add the headings “Core Fund” and “Liquidity Fund” above the sections that would discuss calculations of the Core Fund and the Liquidity Fund, respectively.

Effective Date of Proposed Rule Change

The proposed rule change would become effective immediately upon filing with the Commission.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act²⁵ requires, inter alia, that the Rules promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the proposed rule change is consistent with this provision because it (i) clarifies the existing methodology utilized by DTC to calculate Required Participants Fund Deposits, (ii) clarifies the factors that DTC may take into account in evaluating an adjustment to the Required Participants Fund Deposit of a Participant and (iii) makes other clarifying changes for readability and grammatical changes to the text of the Settlement Guide in this regard. As discussed above, funds Deposited to the Participants Fund provide DTC with liquidity resources necessary to complete end-of-day settlement notwithstanding the failure to settle of the Participant or Affiliated Family of Participants with the largest settlement obligation, as limited by the maximum Net Debit Cap for a Participant, or the maximum Affiliated Family Net Debit Cap, as applicable. Collectively, the proposed changes would enhance the transparency and clarity of the applicable provisions of the Settlement Guide, which would enable stakeholders to readily understand DTC’s methodology for computation of Required Participants Fund Deposits. Therefore, by providing stakeholders with enhanced transparency and clarity with regard to the

²⁵ 15 U.S.C. 78q-1(b)(3)(F).

description of the computation of Required Participants Fund Deposits, which provide DTC with the liquidity to complete end-of-day settlement notwithstanding the failure to settle of the Participant or Affiliated Family of Participants with the largest settlement obligation, as limited by the maximum Net Debit Cap for a Participant, or the maximum Affiliated Net Debit Cap, as applicable, DTC believes that the proposed rule change, would promote the prompt and accurate clearance and settlement of securities transactions consistent with Section 17A(b)(3)(F) of the Act.

The proposed rule change is also designed to be consistent with Rule 17Ad-22(e)(7) of the Act.²⁶ Rule 17Ad-22(e)(7) requires DTC, inter alia, to establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency,²⁷ including measuring, monitoring, and managing its use of intraday liquidity by, at a minimum maintaining sufficient liquid resources to effect same-day settlement with a high degree of confidence under a wide range of stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions. As discussed above, the proposed rule change would (i) clarify and, provide greater transparency in the Settlement Guide with respect to, the (a) methodology used by DTC to calculate Required Participants Fund Deposits, which, in conjunction with the Line of Credit,

²⁶ 17 CFR 240.17Ad-22(e)(7).

²⁷ DTC is a “covered clearing agency” as defined by new Rule 17Ad-22(a)(5) and must comply with subsection (e) of Rule 17Ad-22. See Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7-03-14).

provides DTC with an amount of liquidity sufficient to complete end-of-day settlement notwithstanding the failure to settle of the Participant or Affiliated Family of Participants with the largest settlement obligation as limited by the maximum Net Debit Cap for a Participant, or the maximum Affiliated Family Net Debit Cap, as applicable and (b) factors that DTC may take into account in evaluating an adjustment to a Participant's Required Participants Fund Deposit to address an underlying condition or activity of a Participant that exposes DTC to heightened risk due to a credit, market, operational, or other concern regarding the Participant, as discussed above and (ii) make other clarifying changes for readability and grammatical changes to the text of the Settlement Guide in this regard. Therefore, because the proposed changes to the Settlement Guide collectively clarify and provide greater transparency with regard to the Procedures used by DTC to measure, monitor, and manage each Participant's Required Participants Fund Deposit with respect to (i) the amount of liquidity exposure presented by the Participant to DTC through the Participant's DTC activity so that DTC maintains sufficient liquid resources which it may use to complete end-of-day settlement notwithstanding the failure to settle of the Participant or Affiliated Family of Participants with the largest settlement obligation, (ii) factors considered with respect to additional risk exposure presented by the Participant and (iii) readability and grammatical changes to the text of the Settlement Guide in this regard, DTC believes that the proposed rule change is consistent with Rule 17Ad-22(e)(7) promulgated under the Act.

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

DTC does not believe that the proposed rule change would have any impact on competition because the proposed rule change consists of clarifying changes to the Settlement Guide that do not alter the methodology by which Required Participants Fund Deposits are calculated.

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

DTC has not solicited and does not intend to solicit comments regarding the proposed rule change. DTC has not received any unsolicited written comments from interested parties. To the extent DTC receives written comments on the proposed rule change, DTC will forward such comments to the Commission.

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)²⁸ of the Act and paragraph (f) of Rule 19b-4²⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

²⁸ 15 U.S.C. 78s(b)(3)(A).

²⁹ 17 CFR 240.19b-4(f).

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. Please include File Number SR-DTC-2017-007 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-DTC-2017-007. 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-2017-007 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.³⁰

Eduardo A. Aleman
Assistant Secretary

³⁰ 17 CFR 200.30-3(a)(12).

