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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-84751; File No. SR-DTC-2018-010]**

**Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change to Amend the Settlement Guide Procedures to Provide Status Information for Institutional Transactions to a Matching Utility**

December 7, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 29, 2018, 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. 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 would amend the Procedures, set forth in the DTC Settlement Guide,<sup>3,4</sup> to allow DTC to provide status information (“Status Information”)

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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> Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of The Depository Trust Company (“Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx> and the DTC Settlement Service Guide (“Settlement Guide”), available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Settlement.pdf>.

<sup>4</sup> The Settlement Guide, which is proposed to be amended hereby, sets forth Procedures for the DTC’s Settlement Service. See Settlement Guide, supra note 3. 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

for institutional transactions in Eligible Securities (“Institutional Transactions”)<sup>5</sup> to an entity providing a matching service<sup>6</sup> (“Matching Utility”), as described below.

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 Settlement Guide to allow DTC to provide Status Information for Institutional Transactions to a Matching Utility, as described below.

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Guide constitutes Procedures of DTC, as defined in the Rules. See Settlement Guide, supra note 3 at 1.

<sup>5</sup> An Institutional Transaction is a securities transaction between a broker-dealer and its institutional customer (e.g., sell-side firms, buy-side institutions, and custodians).

<sup>6</sup> A “matching service” is an electronic service to match trade information, centrally, between a broker-dealer and its institutional customer. The matching service intermediary matches (i.e., reconciles) trade information from the counterparties to an Institutional Transaction, to generate an affirmed transaction (“Affirmed Transaction”) which is then used to provide settlement instructions for the Affirmed Transactions to the central securities depository, such as DTC, at which the Affirmed Transaction settles. See Securities Exchange Act Release No. 39829 (April 6, 1998), 63 FR 17943 (April 13, 1998) at 17946 (providing interpretive guidance on types of entities that may provide a matching service).

## Background

DTC may accept Institutional Transactions from a Matching Utility that is (i) a clearing agency registered pursuant to Section 17A of the Act<sup>7</sup> (ii) an entity that has obtained an exemption from such registration from the Commission, or (iii) a “qualified vendor” for trade confirmation/affirmation services as defined by the rules of a self-regulatory organization.<sup>8</sup>

In accordance with the Settlement Guide, for a Matching Utility to establish and maintain a connection with DTC, the Matching Utility must be able to balance with DTC in an automated way<sup>9</sup> and communicate transactions to and from DTC with information required though mandated fields in order to provide DTC with data necessary for it to be able to process a transaction.<sup>10</sup>

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<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> See Settlement Guide, supra note 3 at 35.

<sup>9</sup> For each Matching Utility interfacing with DTC, DTC requires the Matching Utility to deliver a daily message on each business day shortly after noon from the Matching Utility with their accepted item counts of institutional delivery and ID Net transaction totals for Settlement Date minus one transactions. DTC’s system will compare the totals from the Matching Utility to its accepted item counts. If the totals match, an “acknowledged balance” balance file will be sent to the Matching Utility. If the totals do not match, DTC will respond with the list of Settlement Date minus one control numbers received from the Matching Utility, along with their respective transaction types for the originating Matching Utility to compare. Id.

<sup>10</sup> The mandated fields for this purpose are the transaction control number (“Control Number”), DTC receiver and deliverer account numbers, CUSIP, message type, share quantity, market type, buy-sell indicator, broker ID, ID agent internal account number, broker internal account number, agent bank ID, settlement amount, origination entity, recipient of message, institution, and settlement date. Id. Institutional Transactions that are not Affirmed Transactions, but which include a Control Number, may be submitted directly by Participants.

The submission of an Affirmed Transaction by the Matching Utility to DTC, on behalf of a Participant, constitutes the duly authorized instruction of the Participant to DTC to process the Affirmed Transaction in accordance with the Rules and Procedures.<sup>11</sup>

As more fully described below, a transaction submitted to DTC for processing may be subject to a processing exception (“Exception”), causing it to pend in the DTC system or not be processed because the transaction does not satisfy certain requirements and/or controls set forth in the Rules and Service Guide. A Matching Utility that has submitted an Institutional Transaction to DTC, or is otherwise involved with the matching of a transaction, does not receive Status Information regarding the transaction and is therefore unable to provide services to facilitate resolution of processing Exceptions occurring at DTC. Therefore, in order to resolve an Exception, the Participants to an Institutional Transaction must (i) access Status Information directly through the DTC Settlement User Interface and (ii), as necessary, supply the information to their customers that are counterparties to the transaction on their books, in order to facilitate the coordination of the resolution of the Exception among the counterparties. Pursuant to the proposed rule change, DTC would amend the Settlement Guide to allow DTC to provide Status Information for an Institutional Transaction to a Matching Utility. The proposal would allow the Matching Utility to further provide the Status Information to the counterparties to the Institutional Transaction to facilitate coordination of the resolution of Exceptions among counterparties.<sup>12</sup>

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<sup>11</sup> Id.

<sup>12</sup> The proposed rule change would not change or have any effect on Participants’ ability to continue to access Status Information directly through the DTC Settlement User Interface.

## DTC Transaction Processing Exceptions

Exceptions may arise at various points during the processing of an Institutional Transaction submitted to DTC.

After an Affirmed Transaction, or other transaction that has been submitted directly by a Participant, has been accepted by DTC, the transaction must be approved by the Receiver through the Receiver Authorized Delivery function (“RAD”), before it will be staged for DTC settlement processing in accordance with the Rules and the Settlement Guide.<sup>13</sup> In this regard, a Receiving Participant may reject a transaction for any reason using RAD. If a transaction is not processed because of a rejection, then the transaction will drop from the DTC system, resulting in an Exception that could only be resolved through resubmission of the transaction and approval by the Receiving Participant.<sup>14</sup>

When processing a transaction for settlement, DTC checks risk controls, including the Net Debit Cap and Collateral Monitor, and inventory controls of the Participants to the transaction.<sup>15</sup> If a transaction satisfies DTC risk and inventory controls, as described below, the transaction will be processed by DTC and will become complete if the Receiving Participant satisfies its end-of-day funds settlement obligation.<sup>16</sup> If a transaction is not processed, i.e., because DTC risk controls are not met, or if the Deliverer has insufficient inventory in the applicable Securities, this would result in an

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<sup>13</sup> RAD allows Participants to review and either approve or reject incoming Deliveries before they are processed. See Settlement Guide, supra note 3 at 53. RAD limits a Participant’s exposure from misdirected or erroneously entered transactions. See Settlement Guide, supra note 3 at 5.

<sup>14</sup> See Settlement Guide, supra note 3 at 54-55.

<sup>15</sup> See Settlement Guide, supra note 3 at 64-68.

<sup>16</sup> See Rules 9(A) and 9(B), supra note 3.

Exception such that the transaction will pend in DTC's system and recycle until the condition causing the pend is satisfied.<sup>17</sup>

An incomplete transaction recycles in DTC's system until the end of the day, and if it remains incomplete at the end of the day it will be dropped.<sup>18</sup>

#### Addressing Exceptions

An Exception creates inefficiencies for parties to the applicable Institutional Transaction. If an Institutional Transaction results in an Exception, information regarding the status of the Institutional Transaction may need to be exchanged by Participants and others involved in the trade life cycle, including buy-side firms, broker/dealers, custodians, prime brokers, clearing brokers and other settlement agents, to resolve the issue underlying the Exception and successfully process the transaction. Communications among Participants that have direct access to Status Information through DTC and other counterparties regarding Exceptions are often processed in a decentralized manner via e-mail, creating a time consuming process that is subject to error.

Any potential delays and/or errors in communicating the existence of an Exception and related Status Information among counterparties may impede the prompt and accurate clearance and settlement of affected Institutional Transactions. A Participant's timely receipt of information relating to an Exception would facilitate its ability to take an action to facilitate the processing of the related transaction. Examples of some of the actions the Participant may take include, as applicable, (i) making a

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<sup>17</sup> See Settlement Guide, supra note 3 at 55.

<sup>18</sup> See Settlement Guide, supra note 3 at 55.

settlement progress payment (“Settlement Progress Payment”)<sup>19</sup> to lower its net settlement debit and increase its Collateral Monitor in order to meet the DTC Net Debit Cap and Collateral Monitor risk controls, (ii) managing the Securities in its Account to increase its available Collateral, and/or (iii) communication with counterparties to the transaction with respect to a rejection so that the Deliverer and Receiver may agree on the details for any related transaction to be submitted and approved via RAD.

#### Proposed Rule Change

DTC has received a request from its Matching Utility affiliate, ITP Matching (US) LLC (“ITP”), to receive Status Information so that ITP may transmit the Status Information to counterparties in a centralized format. DTC believes that distribution of Status Information to relevant counterparties in a centralized format would facilitate Participants’ ability to monitor Exceptions and coordinate with their institutional customers in order to resolve Exceptions.

Pursuant to the proposed rule change, in order to facilitate more seamless transmission of the Status Information for (i) Affirmed Transactions and (ii) other Institutional Transactions that may have been confirmed at a Matching Utility and received a Control Number, and are submitted directly to DTC by a Participant in an instruction containing the Control Number, (collectively, “Eligible Transactions”) to Participants and facilitate their ability to manage Exceptions, DTC proposes to amend the Settlement Guide to provide that DTC may provide Status Information on Eligible

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<sup>19</sup> A Settlement Progress Payment is a payment wired intraday by a Participant to DTC’s account at the Federal Reserve Bank of New York. The amount of a Settlement Progress Payment is (i) credited to the Participant’s intraday net settlement balance and (ii) is Collateral that supports the Participant’s Collateral Monitor. See also Rule 1, supra note 3 (definition of Collateral) and Settlement Guide, supra note 3 at 62-63.

Transactions to the applicable Matching Utility that submitted the transaction to DTC, or with respect to which its Control Number is included in transaction details provided by a Participant,<sup>20</sup> if so requested by the Matching Utility. In this regard, DTC would send to a Matching Utility Status Information for Eligible Transactions that DTC has received from the Matching Utility or have been entered by the Participant, that have a Control Number associated with that Matching Utility. The Status Information provided to the Matching Utility would include the status of the transaction (e.g., the Delivery of Securities has been made within DTC, the transaction is pending Delivery within DTC, or the transaction was reclaimed (i.e., sent back to the Deliverer)) and a reason for any pending status (e.g., the Deliverer has insufficient inventory in the applicable Securities, the Deliverer has insufficient Collateral, the Receiver to the transaction has insufficient Net Debit Cap, etc.). The Status Information would also include information (“Identifying Information”) to facilitate the Matching Utility’s ability to identify the applicable Eligible Transaction and reconcile the Status Information to the Eligible Transaction in its records. Identifying Information would include, but not be limited to, (i) the applicable Control Number (ii) identification numbers of the Participants to the transaction, (iii) quantity of Securities, (iv) dollar amount of the transaction, and (v) an indicator of whether the transaction was submitted to DTC by the Matching Utility or directly by a Participant.

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<sup>20</sup> It is DTC’s understanding that a transaction that has been confirmed within a Matching Utility’s system, but has not been affirmed, may be assigned a Control Number by the Matching Utility. Any transaction not affirmed by a Matching Utility would not be submitted by it to DTC as an Affirmed Transaction. In that case, the Participant may submit the transaction directly through DTC as a Deliver Order, and include the applicable Control Number as assigned by the Matching Utility on its submission to DTC.

DTC believes that sharing Status Information with a Matching Utility, on behalf of a Participant, would foster coordination among persons engaged in the clearance and settlement of Institutional Transactions by facilitating enhanced access to information for relevant parties that may promote their ability to manage Exceptions.

#### Proposed Changes to the Settlement Guide

Pursuant to the proposed rule change, DTC proposes to revise the Settlement Guide to allow DTC to provide Status Information of (i) Affirmed Transactions and (ii) other institutional transactions to a Matching Utility that requests such information, but only for those transactions that are associated with a Control Number relating to the Matching Utility. The proposed text to the Settlement Guide would also (x) describe the types of Status Information and related Identifying Information that would be shared with a Matching Utility in this regard, as described above and (y) provide that DTC may charge a fee (“Status Information Fee”) to a Matching Utility that receives Status Information as set forth in the DTC Fee Guide.<sup>21</sup> The proposed rule change would also add a defined term for “Control Number” to the Settlement Guide in existing text where the term is referred to but not defined.

The proposed rule change would require that prior to providing Status Information to a Matching Utility, DTC would obtain the written agreement, in such form as determined by DTC from time to time (“Status Information Agreement”), from the Matching Utility that includes (i) a request from the Matching Utility to receive Status Information from DTC, (ii) an agreement by the Matching Utility that the Matching

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<sup>21</sup> Available at <http://www.dtcc.com/~media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf>. Any such fee would be the subject of a subsequent proposed rule change that DTC would file with the Commission.

Utility will not distribute Status Information to any third party other than (a) the Participants indicated on the Status Information and (b) the institutional customers that are counterparties to the transaction for which the Participants indicated on the Status Information are acting with respect to the transaction, (iii) the agreement of the Matching Utility that the Matching Utility will indemnify, hold harmless and agree, on demand, to reimburse DTC, its stockholders, officers, directors and employees from and against and for any and all claims, liabilities, obligations, damages, actions, penalties, losses, costs, expenses and disbursements, including, without limitation, attorneys' fees and disbursements ("Claims"), which they may sustain by reason of DTC's providing Status Information to the Matching Utility, except for any Claims which result from the gross negligence or willful misconduct of the person asserting a right to indemnification, (iv) the agreement of the Matching Utility to pay the Status Information Fee, (v) the agreement of the Matching Utility to notify DTC immediately if the Matching Utility becomes aware of Status Information provided to it by DTC being distributed to a third party other than as authorized pursuant to (ii) above, and (vi) the acknowledgement of the Matching Utility that DTC may terminate the Status Information Agreement in the event that (a) DTC becomes aware that the Matching Utility has used or distributed the Status Information in a manner that violates the terms of the Status Information Agreement, (b) the Matching Utility does not pay the Status Information Fee in accordance with the terms of the Fee Schedule, or (c) DTC submits a rule filing to the SEC, which is approved by the SEC or otherwise becomes effective pursuant to the Act to discontinue DTC's distribution of Status Information to Matching Utilities.

## Implementation Timeframe

The proposed rule change would be effective upon approval of the proposed rule change by the Commission.

### 2. Statutory Basis

Section 17A(b)(3)(F) of the Act<sup>22</sup> requires, inter alia, that the Rules promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the proposed rule changes are consistent with this provision because by allowing DTC to provide Status Information to Matching Utilities in accordance with the proposal as described above, the proposed rule change would facilitate the distribution of information on Exceptions to the parties of Eligible Transactions. This distribution of Status Information would allow for enhanced communication among the parties to an Eligible Transaction to address an Exception so that the Eligible Transaction may meet DTC controls and be processed for end-of-day settlement. Therefore, by facilitating the distribution of Status Information to a Matching Utility, and thereby facilitating the ability of a Matching Utility to provide this information to the applicable parties to an Eligible Transaction that may address related Exceptions and resolve related issues so that a transaction may be processed for settlement, 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.<sup>23</sup>

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<sup>22</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>23</sup> Id.

Rule 17Ad-22(e)(20)<sup>24</sup> promulgated under the Act requires DTC to establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, identify, monitor, and manage risks related to any link the covered clearing agency establishes with one or more other clearing agencies, financial market utilities, or trading markets. DTC believes that the proposed rule change is consistent with this Rule because the proposed Status Information Agreement, which would include the terms as set forth above, that would be required to be provided by a Matching Utility prior to DTC distributing Status Information to it, would limit DTC's exposure to legal risks and expenses that may otherwise arise in connection with such distribution by including an indemnity from the Matching Utility with respect to its receipt of Status Information and manage privacy risk by requiring Matching Utilities to not distribute Status Information to unauthorized third parties, as described above.

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

DTC believes the proposed rule change could impact competition.<sup>25</sup> DTC does not believe that the proposed rule change to allow DTC to provide Status Information to a Matching Utility that is a party to a transaction (i.e., the party originating the confirm or processing the affirm) would impose a burden on competition for Matching Utilities and Participants, because by adding text to the Settlement Guide to allow DTC to provide Status Information to a Matching Utility, as applicable, the proposal is merely facilitating the transmission of Status Information that would enable the counterparties to an Eligible Transaction to address Exceptions in order to facilitate processing of the transaction by

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<sup>24</sup> 17 CFR 240.17Ad-22(e)(20).

<sup>25</sup> 15 U.S.C. 78q-1(b)(3)(I).

DTC. In addition, Status Information would be available to any Matching Utility that requests it and satisfies the applicable requirements that would be set forth in the Settlement Guide. DTC does not believe the proposed rule change that would add text referencing that DTC may charge a fee to a Matching Utility that receives Status Information would impose a burden on competition, because any such fee would not take effect until after such a fee is filed as part of a subsequent rule filing that would be submitted by DTC to the Commission. DTC believes that the provision of Status Information to a Matching Utility could promote competition, to the extent Status Information is further transmitted by the Matching Utility to the counterparties to an applicable Eligible Transaction, by facilitating Participants' ability to address an Exception that may affect the processing of the Eligible Transaction at DTC.

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

Written comments relating to this proposed rule change have not 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-2018-010 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-2018-010. 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2018-010 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

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<sup>26</sup> 17 CFR 200.30-3(a)(12).

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