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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-86692; File No. SR-DTC-2019-006]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Distributions Service Guide

August 16, 2019.

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 August 13, 2019, 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. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4) thereunder.⁴ 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 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(4).

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

The proposed rule change⁵ of DTC consists of amendments to the Distributions Guide to (i) update its U.S. tax withholding service ("UTW Service") to transition functions related to the service from DTC's Participant Terminal System ("PTS") and its Participant Brower Service ("PBS")⁶ to the Corporate Actions Web system ("CA Web") and (ii) make ministerial and clarifying changes to text, as discussed 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.

⁵ Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of DTC (the "Rules"), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>, and the Distributions Service Guide (the "Distributions Guide"), available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Service%20Guide%20Distributions.pdf>.

⁶ PTS and PBS are user interfaces for DTC's settlement and asset services functions. PTS is mainframe-based, and PBS is web-based with a mainframe back-end. Participants may use either PTS or PBS, as they are functionally equivalent. References to a particular PTS function in this rule filing include the corresponding PBS function.

(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 Distributions Guide to (i) update the UTW Service to transition functions related to the service from PTS and PBS to CA Web and (ii) make ministerial and clarifying changes to text, as discussed below.

Transition of PTS/PBS Reorganizations Functions to CA Web

Beginning in 2012, DTC has filed a series of rule changes to update DTC's corporate action services by migrating the corporate action services for Distributions (as defined below) from PTS/PBS to CA Web, a then new browser user interface.⁷ After a Participant testing phase, DTC retired PTS/PBS functions for Distributions in 2015, and the use of CA Web for processing Distributions became mandatory for all Participants.⁸

In 2016, DTC submitted a rule filing to transition PTS/PBS functions for redemptions to CA Web, and to update the Redemptions Service Guide⁹ to add the appropriate references.¹⁰ After a Participant testing phase, DTC retired PTS/PBS functions for redemptions in 2017, and the use of CA Web for processing redemptions became mandatory for all Participants.

⁷ See Securities Exchange Act Release No. 68114 (October 26, 2012); 77 FR 66497 (November 5, 2012) (SR-DTC-2012-08).

⁸ See Securities Exchange Act Release No. 73864 (December 17, 2014); 79 FR 77063 (December 23, 2014) (SR-DTC-2014-012) ("2014 Rule Filing").

⁹ Available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Redemptions.pdf>.

¹⁰ See Securities Exchange Act Release No. 79746 (January 5, 2017), 82 FR 3372 (January 11, 2017) (SR-DTC-2016-014).

Most recently, DTC submitted proposed changes to amend the Reorganizations Service Guide¹¹ for the further transition of corporate action functions to CA Web.¹²

Pursuant to the proposed rule change, DTC would transition PTS/PBS functions for the UTW Service to CA Web.

UTW Service Background

DTC offers services for processing corporate action events, including, but not limited to, the distributions service for the announcement and processing of cash and stock dividends, principal and interest, and capital gain distributions (collectively, “Distributions”).

The U.S. Internal Revenue Code (“Code”) generally requires U.S. payors such as DTC to deduct and withhold 30 percent from U.S.-source income paid to a foreign payee, unless lower U.S. withholding tax rates or exemptions apply under provisions of the Code, regulations, or applicable tax treaties.¹³

In its role as a U.S. tax withholding agent, through the UTW Service, DTC (i) accepts from a foreign Participant instructions relevant to determining the withholding tax rates, (ii) pays dividends, interest and other securities distributions to the Participant net of appropriate taxes, if any, based on the applicable withholding rates, and (iii) reports and remits the taxes to the IRS. The UTW Service utilizes the PTS/PBS

¹¹ Available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Reorganizations.pdf>.

¹² See Securities Exchange Act Release No. 85986 (May 31, 2019); 84 FR 26466 (June 6, 2019) (SR-DTC-2019-003).

¹³ See Sections 1441, 1442 and 1443 of the Code and the regulations promulgated thereunder.

Elective Dividend Service (“EDS”) function to solicit and receive the instructions from foreign Participants.

Proposed Rule Change

While most EDS functions were moved to CA Web pursuant to the 2014 ruling, the EDS UTW Service functionality has continued to be offered through PTS and PBS. To enhance the end-to-end processing of corporate actions for Participants, DTC is proposing to move the EDS UTW Service functionality from PTS/PBS to CA Web and amend the section of the Distributions Guide titled “U.S. Tax Withholding” (“UTW Section”) to remove a reference that states that users of the UTW Service can access the menu item to use the service through the EDS function on PTS/PBS, and to instead state that Participants can access the UTW Service menu item on CA Web. The proposed rule change would simplify Participants’ use of DTC’s corporate actions by allowing foreign Participants to submit instructions relating to tax withholding within the same systemic platform as they use for other corporate action-related activity, CA Web.

Pursuant to the proposed rule change, DTC would also make the following ministerial and clarifying changes to the text of the UTW Section:

- (1) DTC would delete the word “non-withholding” from text that states: “To the extent allowable under U.S. federal income tax laws, UTW allows non-withholding qualified intermediaries¹⁴ to submit withholding instructions to DTC on U.S. source income payments.” This change would make the sentence consistent with existing U.S. tax practice

¹⁴ A qualified intermediary (“QI”) is any non-U.S. intermediary (or non-U.S. branch of a U.S. intermediary) that has entered into a qualified intermediary withholding agreement with the IRS. See Distributions Guide, supra note 5.

where in certain circumstances a full-withholding qualified intermediary does not perform withholding and would instead instruct DTC to perform withholding on its behalf. Therefore, the distinction between a full-withholding and non-withholding qualified intermediary is no longer necessary.

(2) For the same reason cited in 1 immediately above, DTC would delete the word “non-withholding” from text that states: “As a U.S. tax withholding agent, DTC: . . . Informs non-withholding QI users of the “instruction window” during which they must send withholding rate instructions to the depository;”

DTC would also update the copyright date that is set forth in the “Important Legal Information” section of the Distributions Guide to change text that shows the copyright date as “Copyright © 1999-2014” to “Copyright © 1999-2019.”

Implementation Timeframe

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

2. Statutory Basis

DTC believes that this proposal is consistent with the requirements of the Act¹⁵ as described below.

Section 17A(b)(3)(F) of the Act requires, inter alia, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.¹⁶

¹⁵ 15 U.S.C. 78q-1.

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

DTC believes that the proposed rule change with respect to the migration of the processing functions described above from PTS/PBS to CA Web is consistent with this provision of the Act because it would migrate UTW Service processing to a more flexible interface that utilizes market standard language and incorporates the entire lifecycle of an event into one platform. By providing Participants with more efficient access to UTW Services, DTC believes that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions relating to Distributions, consistent with Section 17A(b)(3)(F) of the Act.¹⁷

DTC believes that the proposed rule change with respect to the clarification of the Distributions Guide is consistent with Section 17A(b)(3)(F) of the Act.¹⁸ DTC believes that the proposed rule change would enhance the clarity and transparency of the Distributions Guide, which would allow a Participant to more efficiently conduct its business in connection with UTW Service processing. Therefore, DTC believes that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions related to Distributions, consistent with Section 17A(b)(3)(F) of the Act.¹⁹

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

DTC believes that the proposed rule changes with respect to the migration of UTW Service processing functions from PTS/PBS to CA Web may have an impact on competition, because it would facilitate a more efficient process for communicating and

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

processing UTW Service information. Having a more efficient process could promote competition by potentially reducing Participants' operating costs. In addition, CA Web is an existing DTC platform that all Participants are required to use to access other types of services, including other Distributions functions, reorganizations and redemptions processing, and so would not affect the rights and obligations of any Participant. Therefore, DTC believes that the proposed rule changes with respect to the migration of functions from PTS/PBS to CA Web may promote competition but would not create a burden on competition.²⁰

DTC believes that the proposed rule changes with respect to clarifying the Distributions Guide would not have an impact on competition. The proposed rule changes would enhance the clarity and transparency of the Distributions Guide to better reflect DTC's UTW Services and practices. Improving the clarity and transparency of the Distributions Guide would help Participants to better understand their rights and obligations regarding DTC services, and so would not affect the rights and obligations of any Participant or other interested party.

(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.

²⁰ 15 U.S.C. 78q-1(b)(3)(I).

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) of the Act²¹ and paragraph (f) of Rule 19b-4 thereunder.²² 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.

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-2019-006 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-2019-006. This file number should be included on the subject line if e-mail is used. To help the Commission process

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f).

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-2019-006 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.²³

Jill M. Peterson,

Assistant Secretary.

²³ 17 CFR 200.30-3(a)(12).

