

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-99234; File No. SR-DTC-2023-013)

December 22, 2023

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Modify the DTC Settlement Service Guide

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 December 20, 2023, 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 primarily 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 change³ consists of amendments to the DTC Settlement Service Guide (“Settlement Guide”)⁴ to increase the amount of the maximum Net Debit Cap for

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Each capitalized term not otherwise defined herein has its respective meaning as set forth the Rules, By-Laws and Organization Certificate of DTC (the “Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

⁴ Available at <https://www.dtcc.com/-/media/Files/Downloads/legal/service-guides/Settlement.pdf>. The Settlement Guide is a Procedure of DTC. Pursuant to the Rules, the term “Procedures” means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. See Rule 1, Section 1, supra note 3. Procedures are binding on DTC and each Participant in the same manner that they are bound by the Rules. See Rule 27, supra note 3.

individual Participants,⁵ 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 modify the Settlement Guide to increase the amount of the maximum Net Debit Cap for individual Participants, as described below.

Background

Through its settlement services, DTC provides book-entry transfer and pledge of interests in Eligible Securities and end-of-day net funds settlement. DTC maintains a liquidity structure designed to facilitate its maintenance of sufficient financial resources to complete settlement each business day notwithstanding the failure to settle of a

⁵ Pursuant to Rule 1, supra note 3, the term "Net Debit Cap" of a Participant means an amount determined by the Corporation in the manner specified in the Procedures; provided, however, that the maximum Net Debit Cap of the Participant shall be the least of (i) a maximum amount applicable to all Participants based on the liquidity resources of the Corporation, (ii) the Settling Bank Net Debit Cap applicable to such Participant, or (iii) any other amount determined by the Corporation, in its sole discretion.

defaulting Participant, or Affiliated Family of Participants,⁶ with the largest settlement obligation. In this regard, the Collateral Monitor⁷ and Net Debit Cap risk controls are employed by DTC to provide that each Delivery Versus Payment⁸ is contingent on the Participant that is the Receiver⁹ satisfying its end-of-day net settlement obligation, if any.

The Collateral Monitor prevents the completion of transactions that would cause a Participant's Net Debit Balance to exceed the value of Collateral in its account.¹⁰ In this

⁶ Pursuant to Rule 1, supra note 3, the term "Affiliated Family" means each Participant that controls or is controlled by another Participant and each Participant that is under the common control of any Person. For purposes of this definition, "control" means the direct or indirect ownership of more than 50% of the voting securities or other voting interests of any Person.

⁷ Pursuant to Rule 1, supra note 3, the term "Collateral Monitor" of a Participant, as used with respect to its obligations to the Corporation, means, on any Business Day, the record maintained by the Corporation for the Participant which records, in the manner specified in Procedures, the algebraic sum of (i) the Net Credit or Debit Balance of the Participant and (ii) the aggregate Collateral Value of the Collateral of the Participant.

⁸ Pursuant to Rule 1, supra note 3, the term "Delivery Versus Payment" means a Delivery against a settlement debit to the Account of the Receiver, as provided in Rule 9(A) and Rule 9(B) and as specified in the Procedures.

⁹ Pursuant to Rule 1, supra note 3, the term "Receiver", as used with respect to a Delivery of a Security, means the Person which receives the Security.

¹⁰ Pursuant to Rule 1, supra note 3, the term "Collateral" of a Participant, as used with respect to its obligations to the Corporation, means, on any Business Day, the sum of (i) the Actual Participants Fund Deposit of the Participant, (ii) the Actual Preferred Stock Investment of a Participant, (iii) all Net Additions of the Participant and (iv) any settlement progress payments ("SPP") wired by the Participant to the account of the Corporation at the Federal Reserve Bank of New York in the manner specified in the Procedures. A SPP is Collateral that increases a Participant's Collateral Monitor, but also reduces a Participant's Net Debit Balance. See Settlement Guide, supra note 4, at 73. Instructions for submission of a SPP are provided in the Settlement Guide. See Settlement Guide, supra note 4, at 69. Pursuant to Rule 1, supra note 3, the term "Net Debit Balance" of a Participant means the amount by which the Gross Debit Balance of the Participant exceeds its Gross Credit Balance. Id. The term "Gross Credit Balance" of a Participant on any Business Day means the aggregate amount of money the

regard, the settlement obligation of each Participant must be fully collateralized, based on the Collateral Monitor, which is DTC's process for measuring the sufficiency of the Collateral in a Participant's account to cover the Participant's net settlement obligation.¹¹ This is designed so if a Participant fails to pay for its settlement obligation, DTC will have sufficient Collateral to obtain funding for settlement.

The Net Debit Cap limits the Net Debit Balance that each Participant can incur to an amount, based upon activity level, which would be covered by DTC's liquidity resources. The Net Debit Cap is structured so that DTC will have sufficient liquidity to complete settlement should any single Participant or Participant family fail to settle. The Net Debit Cap limits the Net Debit Balance of an individual Participant at any point during DTC's processing day.¹² The Aggregate Affiliated Family Net Debit Cap¹³ limits the sum of Net Debit Balances an Affiliated Family of Participants at any point during the processing day [sic]. The Net Debit Cap of each Participant and the Aggregate

Corporation credits to all the Accounts in all the Account Families of the Participant without accounting for any amount of money the Corporation debits or charges thereto. Id. The term "Gross Debit Balance" of a Participant on any Business Day means the aggregate amount of money the Corporation debits or charges to all the Accounts in all the Account Families of the Participant without accounting for any amount of money the Corporation credits thereto. Id.

¹¹ See Settlement Guide, supra note 4, at 5 and 72.

¹² See Settlement Guide, supra note 4, at 6.

¹³ Pursuant to Rule 1, supra note 3, the term "Aggregate Affiliated Family Net Debit Cap" means the sum of the Net Debit Caps for the Participants that are part of an Affiliated Family in the manner specified in the Procedures; provided, however, that the maximum Aggregate Affiliated Family Net Debit Cap shall not exceed the total available liquidity resources of the DTC.

Affiliated Family Net Debit Cap of each Affiliated Family of Participants are each set to an amount at or below DTC's liquidity resources.¹⁴

DTC maintains two key liquidity resources that are considered "qualifying liquid resources," as defined by Rule 17Ad-22(a)(14) promulgated under the Act:¹⁵ specifically, (i) Required Participants Fund Deposits across all Participants of \$1.15 BN and (ii) a committed line of credit facility ("LOC") of \$1.9 BN, to which DTC may pledge Securities that are Collateral of the defaulting Participant in order to complete settlement.

Taken together, the Participants Fund and line of credit provide DTC with \$3.05 BN in total liquidity resources.

Current Net Debit Cap Amounts

As noted above, the Net Debit Cap for an individual Participant is \$1.80 BN. DTC has established the maximum Aggregate Affiliated Family Net Debit Cap at \$2.85 BN, which is below DTC's total available liquidity resources maintained by DTC to account for the possibility that a defaulting Participant that is part of an Affiliated Family may be a lender to the line of credit.

¹⁴ To determine a Participant's Net Debit Cap, DTC records the Participant's three highest intraday net debit peaks over a rolling 70-Business Day period. The Participant's average of these net debit peaks is calculated and multiplied by a factor to determine the Participant's Net Debit Cap, but not to exceed \$1.80 BN. See Settlement Guide, *supra* note 4, at 73. The maximum Net Debit Cap for a Participant was increased to \$1.80 BN from \$1.5 BN in 2001, to reduce processing blockages relating to increased trading volumes and settlement values. This increase was facilitated by a coinciding increase to DTC's liquidity resources. See Securities Exchange Act Release No. 44509 (July 3, 2001), 66 FR 36350 (July 11, 2001) (File No. SR-DTC-2001-09).

¹⁵ 17 CFR 240.17Ad-22(e)(14).

Together, the Net Debit Cap and Aggregate Affiliated Family Net Debit Cap control the total settlement obligation that any Participant or Affiliated Family, respectively, may incur. Any transaction that would cause a Participant or an Affiliated Family to exceed its Net Debit Cap or Aggregate Affiliated Family Net Debit Cap, as applicable, will not be processed.¹⁶ Instead, the transaction will remain in a pending status until the Net Debit Balance is reduced sufficiently to allow processing.¹⁷ The Net Debit Balance may be reduced during the processing day by, among other things, receipt of a Delivery Versus Payment, which generates credits to the Participant's settlement account, or by a SPP, which are funds that may be wired to DTC during the processing day, in order to avoid a Participant having its receipts of Securities blocked by its Net Debit Cap. To reduce transaction blockage and the need to make SPPs, Participants have requested that DTC raise the maximum Net Debit Cap.

Proposed Increase of the Net Debit Cap

DTC proposes to increase the maximum Net Debit Cap for an individual Participant from \$1.80 BN to \$2.15 BN. (DTC is not proposing to change the maximum Aggregate Affiliated Family Net Debit Cap of \$2.85 BN.) The proposed increase of \$350 MM is supported by available liquidity resources from the \$450 MM Core Fund,¹⁸ to

¹⁶ See Settlement Guide, supra note 4, at 73-74.

¹⁷ Id. at 62 and 73. Prior to processing, the transaction must also satisfy the Collateral Monitor risk management control and be approved by the Receiver via the Receiver Authorized Delivery function. Id. at 70-72 and 59-60.

¹⁸ The aggregate Participants Fund includes four component amounts, as set forth below: the "Core Fund," the "Base Fund," the "Incremental Fund" and the "Liquidity Fund." The Core Fund is set by DTC at an aggregate amount of \$450 MM and is comprised of the Base Fund and the Incremental Fund. 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. The Incremental Fund is the

which all Participants contribute, and the \$1.90 BN LOC, which is collectively \$2.35 BN.¹⁹ Proposing to raise the maximum Net Debit Cap for an individual Participant to \$2.15 BN and not \$2.35 BN allows for a \$200 MM buffer to account for the possibility that a defaulted Participant may also be a lender to the LOC.²⁰

The proposed maximum Net Debit Cap increase better aligns the maximum Net Debit Cap for an individual Participant with DTC's available liquidity resources, as described above.

DTC expects that increasing the maximum Net Debit Cap would benefit Participants generally. An impact study ("Impact Study") conducted by DTC for the period January 3, 2022, through December 30, 2022, showed that a number of Participants that are currently capped at a \$1.80 BN Net Debit Cap would realize an immediate benefit from the proposed Net Debit Cap increase. The liquidity needs across legal entities were determined by looking at Participants reaching 90% of the current \$1.80 BN maximum Net Debit Cap, identifying the transactions pending under Net Debit Cap limits, and any incoming SPPs. By increasing the maximum Net Debit Cap, the proposed rule change would help improve transaction processing by enabling more

balance of the Core Fund up to \$450 MM; this is the amount that must be ratably allocated among Participants that are required to pay more than a minimum deposit, as described in the Settlement Guide. The Liquidity Fund component (set at \$700 MM) applies to Participants whose Affiliated Families have Net Debit Caps that exceed \$2.15 BN. See Settlement Guide, supra note 4, at 53-56.

¹⁹ The Liquidity Fund (set at \$700 MM) is not included because that amount only applies to Participants whose Affiliated Families have Net Debit Caps that exceed \$2.15 BN.

²⁰ The \$200 MM buffer is an amount greater than the contribution of any lender to the DTC LOC.

transactions to process without the need for a Receiving Participant to wait for Delivery Versus Payment credits or submit SPPs to reduce its intraday Net Debit Balance. Moreover, any Participant that is a Deliverer of a Delivery Versus Payment may see less of its Deliveries pend because the Receiver may maintain a higher Net Debit Cap. Meanwhile, as described above, the proposed Net Debit Cap increase would continue to be supported by adequate DTC liquidity resources available to complete system-wide settlement in the event of a failure to settle by the largest Participant or Affiliated Family.

Proposed Rule Change

Pursuant to the proposed rule change, the Settlement Guide will be revised to reflect the proposed increase to the Net Debit Cap. Specifically, two references to the existing \$1.80 BN Net Debit Cap will be revised to reflect the proposed \$2.15 BN Net Debit Cap.

Effective Date

DTC would implement the proposed changes no later than 60 Business Days after the approval of the proposed rule change by the Commission.

2. Statutory Basis

Section 17A(b)(3)(F)²¹ of the Act requires that the rules of the clearing agency be designed, inter alia, to promote the prompt and accurate clearance and settlement of securities transactions. DTC believes the proposed rule change is consistent with the Section 17A(b)(3)(F) of the Act.

The Impact Study results indicate that by increasing the maximum Net Debit Cap, as described above, the proposed rule change would help improve transaction processing

²¹ 15 U.S.C. 78q-1(b)(3)(F).

by enabling more transactions to process without the need for a Receiving Participant to wait for Delivery Versus Payment-related credits or submit SPPs to reduce its intraday Net Debit Balance. Moreover, any Participant that is a Deliverer of a Delivery Versus Payment may see less of its deliveries pend because the Receiver may maintain a higher Net Debit Cap. Meanwhile, the proposed Net Debit Cap increase would continue to be supported by adequate DTC liquidity resources available to complete system-wide settlement in the event of a failure to settle by the largest Participant or Affiliated Family. Therefore, DTC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act, cited above, by helping to promote the prompt and accurate clearance and settlement of securities transactions.

Rule 17Ad-22(e)(7)(i)²² promulgated under the Act requires, *inter alia*, that DTC, a covered clearing agency, establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum maintaining sufficient liquid resources to effect same-day settlement of payment obligations with a high degree of confidence under a wide range of foreseeable 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 (i.e., the “Cover One standard”).

²² 17 CFR 240.17Ad-22(e)(7)(i).

DTC's liquidity needs for settlement are driven by protecting DTC against the possibility that a Participant may fail to pay its settlement obligations on a Business Day. The tools available to DTC under its Rules, including the Net Debit Cap, allow it to regularly test the sufficiency of liquid resources on an intraday and end-of-day basis and adjust to stressed circumstances during a settlement day to protect itself and Participants against liquidity exposure under normal and stressed market conditions. DTC calculates its liquidity needs per Participant (at a legal entity level) and further aggregates these amounts at a family level (that is, including all affiliated Participants, based on the assumption that all such affiliates may fail simultaneously). In this regard, DTC monitors settlement flows and net-debit obligations daily, and its current available liquidity resources are sufficient to satisfy the Cover One standard.

As described above, the proposed rule change would only increase the maximum Net Debit Cap for individual Participants from \$1.80 BN to \$2.15 BN, which is below DTC's available liquidity when considering the Core Fund and LOC collectively, and it would not otherwise alter the way DTC monitors settlement flows and net-debit obligations. Therefore, DTC believes the proposal is consistent with Rule 17Ad-22(e)(7)(i), cited above, because the proposed increase would remain aligned with DTC's continued maintenance of sufficient liquid resources to satisfy its Cover One standard and not change DTC's monitoring of settlement flows and net-debit obligations.

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

DTC does not believe that the proposed rule change would impose a burden on competition.²³ The proposed rule change would increase the maximum Net Debit Cap

²³ 15 U.S.C. 78q-1(b)(3)(I).

from \$1.80 BN to \$2.15 BN, and would apply to each Participant equally to the extent a Participant's Net Debit Balance, barring the effect of the Net Debit Cap control, could exceed the existing \$1.80 BN.

DTC believes the proposed rule change may promote competition because it alleviates the need for some Participants to wait for Delivery Versus Payment credits or submit SPPs for their transactions to process.

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

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they would be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submitcomments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

DTC reserves the right to not respond to any comments received.

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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-DTC-2023-013 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-2023-013. This file number should be included on the subject line if email 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 (<https://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 a.m. and 3 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 (dtcc.com/legal/sec-rule-filings). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-DTC-2023-013 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.²⁴

Christina Z. Milnor,

Assistant Secretary.

²⁴ 17 CFR 200.30-3(a)(12).