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March 3, 2014

Ms. Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Response to Comments by Sichenzia, et al.: Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Specify Procedures Available to Issuers of Securities Deposited at DTC for Book Entry Services When DTC Imposes or Intends To Impose Restrictions on the Further Deposit and/or Book Entry Transfer of Those Securities; Release No. 34-71132; File No. SR-DTC-2013-11

Dear Ms. Murphy:

On February 10, 2013, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (the “Commission”) its response (the “DTC Response”) to various comment letters submitted in connection with the above-referenced proposed rule change submitted pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”),¹ and Rule 19b-4 thereunder (the “Filing”). By letter dated February 24, 2014, the law firm Sichenzia Ross Friedman Ference LLP (“Sichenzia”) submitted a second response to the Filing, focusing on the DTC Response. DTC appreciates this opportunity to respond briefly to the Sichenzia’s February 24 letter.

First, Sichenzia argues that by virtue of the Filing, “DTC seeks to displace the well-established enforcement responsibility of the SEC for securities law compliance. . . .” DTC is accused of seeking to establish the right to “punish” certain issuers and to overstate its lawful authority. The Filing clearly demonstrates that DTC is acting in accordance with Federal law to monitor the deposit of securities at DTC and that DTC is obligated by its own Commission-approved Rules to determine that securities deposited for book entry services meet DTC’s eligibility requirements.² Sichenzia’s effort to characterize these mandated functions as “displacing” the role of the Commission or other regulatory agencies is rhetorical and erroneous.

Second, Sichenzia merely restates its prior argument that “fair procedures” require DTC to provide the same type of adjudicatory hearings provided by regulatory/enforcement agencies such as FINRA or NASDAQ. Sichenzia fails to rebut

¹ 15 U.S.C. § 78s (b)(1), as amended.

² See DTC Response at 8-10 (citing Filing).

DTC's discussion of governing law to the effect that neither Section 17A of the Exchange Act nor general principles of constitutional due process (even if applicable) mandate that DTC provide adjudicatory/testimonial hearings to issuers subject to restrictions.³ Nor does Sichenzia address DTC's discussion to the effect that FINRA and NASDAQ procedures are not applicable models for DTC in providing fair procedures to issuers.⁴ Furthermore, Sichenzia's citation to footnote 36 of the *IPWG* decision is inaccurate. There, the Commission stated that "DTC may design such processes in accordance with its own internal needs and circumstances." It cited FINRA Rule 9558 with respect to notice and expedited fair process where action is necessary to avoid imminent harm, not to the effect that any particular type of hearing is required.

Sichenzia's citation to *ATIG* for the proposition that DTC is required to provide a Rule 22 hearing simply begs the question. As in its decision in *IPWG*, the Commission's reference in *ATIG* to fair procedures and the opportunity to be heard did not define the nature of those procedures. DTC has amply demonstrated that the proposed procedures provide issuers with the opportunity "to be heard," even if that opportunity does not include a court room-type proceeding. Indeed, while Sichenzia criticizes the effectiveness of the proposed procedures, DTC has made determinations not to impose, or to release, restrictions with respect to securities issued by numerous issuers under these procedures as they have been developed. Notably, Sichenzia itself has represented several issuers through this new process with the effect that restrictions have been avoided or lifted.

Finally, it is perplexing that Sichenzia "urges DTC to seek guidance" from market participants regarding what constitutes fair procedures. Prior to the Filing, DTC published a White Paper⁵ that provided an overview of the proposed new rules and invited comments. Similarly, DTC engaged in direct outreach with a number of industry groups. DTC received and considered the feedback it received from the industry. Sichenzia did not submit any comments to DTC.

In conclusion, DTC believes that the proposed new rules comport with the requirements of Section 17A and the Commission's rulings, and respectfully urges that the Filing be approved.

Sincerely,



³ See DTC Response at 4-7.

⁴ *Id.*

⁵ The Depository Trust & Clearing Corp., DTC Service Restrictions on Certain Book-Entry Securities - Procedures for Affected Issuers (September 2013), available at <http://www.dtcc.com/news/2013/september/06/wp-dtc-service-restrictions-on-certain-book-entry-securities.aspx>.