

Re: 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

File No. SR-DTC-2013-11

Dear Ms. Murphy:

This is a response to the DTCC response filed as the "DTC Response" dated February 10th, 2014. Specifically item #6, in which the DTC continues to place the obligation of service restriction disclosure on the Issuer and that shareholders should continue to rely on the Issuer to disclose such service restrictions. Ironic, considering the very fact that Issuers are awarded such service restrictions are in fact due to the lack of disclosure. I am looking for the logic behind this concept that shareholders are somehow going to achieve transparency when the DTCC is applying service restriction due to the lack of transparency surrounding the issuer.

As per the DTCC own white paper that is currently purposed:

if DTC has reason to believe that securities which are not freely transferable have been deposited, DTC may restrict services to these securities pending the issuer establishing that the securities are freely transferrable. These restrictions typically are:

(i) not accepting additional deposits of these securities (a "Deposit Chill"), or (ii) it may cease to provide any book-entry services with respect to these securities (a "Global Lock").

The DTC cites that lack of disclosure to support freely transferable securities is reason to apply a service restriction. I agree, it stands to reason to protect the market, but that same market they are protecting has no clue as to what has such service restriction currently placed on such securities. At a minimum the DTCC needs to provide a list of securities with the type of service restriction accessible to the public. The DTCC concedes they provide such Notices for their Global Lock (Suspension of all Services w/wo Custody Service), but currently do not provide a public notice for standard Chills and may consider such Notices in the future.

A page on the newly designed DTCC website that lists all securities currently under such service restrictions should be mandatory, after all the DTCC is the entity issuing such service restrictions. No other source should be considered, as noted, the Issuer often is not truthful in their disclosure to shareholders much like they are often not truthful as to their disclosure to the Commission, FINRA, DTCC, Broker Dealers and Transfer Agent. There is absolutely no valid or logical reason to not provide publicly, a current list of securities under all types of service restrictions.

Impact on those purchasing shares on the open market can be very costly if such disclosure is not provided. In some cases “Pass Through” fees are assessed and or broker services are also restricted on such securities with DTC service restrictions. Brokers often place the burden of Due Diligence on the customer to seek out such service restrictions, they also place liability of such transactions squarely on the customer despite the “Brokers own list” concerning such DTC Service Restrictions. If the broker incorrectly states that the security is under no service restriction and yet the DTC shows it is in fact under service restrictions the customer is on their own. There is absolutely no logical reason to not provide a complete list for the public to use for their due diligence.

6. Issuers, Not DTC, Are Obligated to Make Disclosures to Investors

The Commenters express concern that investors might not be able to obtain accurate information from issuers or brokers, and propose that DTC provide public disclosure about issuers which are subject to service restrictions, or even possible service restrictions. The Commenters propose a variety of mechanisms, such as a public database identifying currently restricted issuers, advance notice of DTC's contemplated restrictions before DTC makes a determination, and the disclosure of all DTC and issuer correspondence related to a determination relating to a restriction. 54 Although the Commenters recognize that such a burden should be fairly placed on the issuers, they represent that investors suffer when the issuers are, at best, non-accessible or confused, or at worst, untruthful. 55

While DTC understands the concern of the Commenters that issuers fail to communicate information to shareholders, this obligation cannot be shifted to DTC. When imposing a Deposit Chill or Global Lock, DTC notifies the issuer and its transfer agent. 56 In addition, when imposing a Global Lock, DTC distributes an Important Notice to its Participants through electronic means. Thus, DTC notifies the involved parties and it would be inappropriate to excuse issuers and others from their obligations to otherwise notify concerned parties.

We note that Important Notices, including those relating to Global Locks, are publically available on DTC's Web site. DTC is in the process of evaluating the potential impact of similar disclosure regarding Deposit Chills, and will determine whether that disclosure is appropriate.