

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-93885; File No. SR-DTC-2021-018)

December 30, 2021

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Reorganizations Guide and the Fee 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 29, 2021, 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 Rules 19b-4(f)(2) and (f)(4) thereunder.⁴ 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 change⁵ consists of amendments to the Reorganizations Guide and the Fee Guide to (i) postpone the retirement of DTC’s legacy computer to computer

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)(2) and (f)(4).

⁵ Each term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of DTC (the “Rules”), the Guide to the DTC Fee Schedule (“Fee Guide”), and the Reorganizations Service Guide (“Reorganizations Guide”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

facility (“CCF”) files for corporate actions entitlements and allocations (“CCF Entitlements and Allocations Files”)⁶ to January 1, 2023, and (ii) amend the Fee Guide to apply the CCF File Fee to Participants that consume CCF Entitlements and Allocations Files⁷ between January 1, 2022 and December 31, 2022, as more fully 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.

⁶ Each of the CCF Entitlements and Allocations Files falls into one of two categories (each, a “File Category”): (i) pre-allocation (“Pre-Allocation CCF Files”), which includes files containing a Participant’s allocation projections and entitlements, or (ii) allocation/post-allocation (“Allocation/Post-Allocation CCF Files”), which includes files containing information on a Participant’s allocations and pending allocations. See Important Notice 13851-20 (August 27, 2020), available at <https://www.dtcc.com/legal/important-notices>.

⁷ There are three types of CCF files representing the corporate actions lifecycle: corporate actions announcements (“CCF Announcements Files”); the CCF Entitlements and Allocations Files; and corporate actions instructions from Participants through CCF files (“CCF Corporate Actions Instructions Files”). All CCF Announcement Files were retired as of December 31, 2018. See Securities Exchange Act Release No. 79746 (January 5, 2017), 82 FR 3372 (January 11, 2017) (SR-DTC-2016-014). CCF Corporate Actions Instructions Files have not yet been retired and are not subject to this proposed rule change.

(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 Reorganizations Guide and the Fee Guide to (i) postpone the retirement of CCF Entitlements and Allocations Files to January 1, 2023, and (ii) amend the Fee Guide to apply the CCF File Fee to Participants that consume CCF Entitlements and Allocations Files between January 1, 2022 and December 31, 2022, as more fully described below.

(i) Retirement of CCF Entitlements and Allocations Files and CCF File Fee

A. *Background*

On November 19, 2020, DTC filed a rule change (the “CCF Retirement Filing”)⁸ that amended the Reorganizations Guide and the Fee Guide to (i) set a retirement date for CCF Entitlements and Allocations Files of January 1, 2022, and (ii) apply a \$50,000,000 CCF File Fee, per File Category (Pre-Allocation or Allocation/Post-Allocation) of CCF Entitlements and Allocations Files, to Participants that continued to consume CCF Entitlements and Allocations Files between January 1, 2021 and December 31, 2021 (“Original Fee Period”).

As discussed in the CCF Retirement Filing, DTC has been informing Participants that corporate actions CCF files⁹ will be retired and will be replaced by ISO 20022

⁸ See Securities Exchange Act Release No. 90490 (November 23, 2020), 85 FR 76645 (November 30, 2020) (SR-DTC-2020-016).

⁹ There are three event groups for CCF files for corporate actions. Participants subscribe to the CCF files for each event group separately. The event groups are (i) distributions (“Distributions”), such as cash and stock dividends, principal and interest, and capital gain distributions; (ii) redemptions (“Redemptions”), such as full and partial calls, final paydowns, and maturities; and (iii) reorganizations

messaging since 2011.¹⁰ ISO 20022 messaging offers enhanced efficiency and transparency in the corporate action lifecycle because, in contrast to the proprietary function and activity codes of CCF Files, ISO 20022 is a business-model-based standard for the development of messages for the international financial services industry.

DTC has been working with Participants to specifically support their orderly transition from CCF Entitlements and Allocations Files to ISO 20022 messaging since 2013. DTC began providing Participants with parallel entitlements and allocations ISO 20022 messaging in 2013 (Distributions), 2015 (Redemptions) and 2017 (Reorganizations). In addition, since 2016, DTC had been communicating with Participants about the deadline for retirement of the CCF Entitlements and Allocation Files and postponed the projected retirement date multiple times.¹¹ Finally, in 2020, DTC filed the CCF Retirement Filing and continued to work with Participants to support their orderly migration away from the CCF Entitlements and Allocations Files to ISO 20022 messaging before the January 1, 2022.

(“Reorganizations”), which include both mandatory and voluntary reorganizations such as exchange offers, conversions, Dutch auctions, mergers, puts, reverse stock splits, tender offers, and warrant exercises.

¹⁰ See Securities Exchange Act Release No. 63886 (February 10, 2011), 76 FR 9070 (February 16, 2011) (SR-DTC-2011-02) (indicating that DTC will continue to support its legacy proprietary CCF files until 2015.)

¹¹ See Important Notice 2538-16 (January 21, 2016), supra note 6; Important Notice 4381-16 (November 4, 2016), supra note 6; Important Notice 5099-17 (February 2017), supra note 6; Important Notice 7488-18 (February 28, 2018), supra note 6; Important Notice 9861-18 (October 9, 2018), supra note 6.

B. *Proposed Rule Change*

Most Participants have successfully migrated from CCF Entitlements and Allocations Files to ISO 20022 messaging. However, DTC understands that a few Participants are still testing the ISO 20022 messages and that not all will be ready to transition away from the CCF Entitlements and Allocations Files before January 1, 2022.

Therefore, pursuant to this proposed rule change, DTC would postpone the retirement date of the CCF Entitlements and Allocation Files to January 1, 2023, and would charge Participants the \$50,000 CCF File Fee for each File Category of CCF Entitlements and Allocations Files that they consume between January 1, 2022 and December 31, 2022 (the “New Fee Period”). The CCF File Fee would be charged to the Account of the Participant, upon the Participant’s first receipt of CCF Entitlements and Allocations Files in a particular File Category during the New Fee Period. The CCF File Fee would cover all CCF Entitlements and Allocations Files within that File Category during the New Fee Period.

Pursuant to the proposed rule change, DTC would amend the description of the CCF File Fee in the Fee Guide to conform with the proposed rule change. DTC would also amend the Reorganizations Guide to reflect the January 1, 2023 retirement date for CCF Entitlements and Allocations Files. Specifically, in the “Preparing to Use the Services” subsection of the “How Reorganizations Work” section of the Reorganizations Guide, DTC is proposing to replace “*CCF files associated with entitlements and allocations will be retired as of January 1, 2022” with “*CCF files associated with entitlements and allocations will be retired as of January 1, 2023.”

Implementation Date

DTC will implement the proposed changes on January 1, 2022. DTC will announce the implementation date of the proposed rule change in an Important Notice posted on its website.

As proposed, a legend would be added to the Reorganizations Guide and the Fee Guide stating there are changes that became effective upon filing with the Commission but have not yet been implemented. The proposed legend also would include that the implementation date will be January 1, 2022. In addition, the proposed legend would state that the legend would automatically be removed upon the implementation of the proposed changes.

2. Statutory Basis

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.¹²

As described above, the proposed rule change would (i) postpone the retirement of CCF Entitlements and Allocations Files to January 1, 2023, and (ii) apply the CCF File Fee to Participants that continue to consume CCF Entitlements and Allocations Files during the New Fee Period. By postponing the retirement of CCF Entitlements and Allocations Files to January 1, 2023, the proposed rule change would allow Participants to minimize potential business interruptions by undertaking an orderly and organized migration from CCF files to the more efficient ISO 20022 standard. Similarly, by charging a CCF File Fee to those Participants that continue to receive CCF Entitlements

¹² 15 U.S.C. 78q-1(b)(3)(F).

and Allocations Files after December 31, 2021, the proposed rule change would encourage Participants to accelerate system development and the adoption of the ISO 20022 standard. In this manner, the proposed rule change would encourage and facilitate the transition to the ISO 20022 standard, which provides efficiencies and enhanced transparency in processing corporate actions and the settlement activities related thereto. Accordingly, DTC believes that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of Section 17A(b)(3)(F) of the Act, cited above.

Section 17A(b)(3)(D) of the Act requires that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Participants.¹³ DTC believes that the proposed rule change to apply the CCF File Fee to Participants that continue to consume CCF Entitlements and Allocations Files during the New Fee Period would provide for the equitable allocation of reasonable fees.

DTC believes that the proposed application of the CCF File Fee would be equitably allocated because the CCF File Fee (i) would only be charged to those Participants that have delayed their migration from CCF Entitlements and Allocations Files beyond December 31, 2021¹⁴ and (ii) would be applied in accordance with the Participant's use of a particular File Category.

¹³ 15 U.S.C. 78q-1(b)(3)(D).

¹⁴ As discussed above, DTC has been communicating with Participants about the migration from CCF files to the ISO 20022 standard for corporate actions events since 2011. Since 2013, DTC has been communicating with Participants about targeted retirement dates for CCF Entitlements and Allocations Files and has, at the request of Participants, postponed the projected dates numerous times. Before October 2018, DTC had always told Participants that there would not be any charges for the continued consumption of CCF Entitlements and Allocations Files. After the CCF Retirement Filing most Participants did complete

Further, DTC believes that the application of the \$50,000 CCF File Fee would be reasonable. As discussed above, Participants that did not complete their migration to ISO 20022 by January 1, 2021 were charged the \$50,000 CCF File Fee for each File Category of CCF Entitlements and Allocations Files that they consumed during the Original Fee Period. Most Participants completed their migration during the Original Fee Period, which DTC believes is due, in part, to the application of the CCF Fee. Based on this prior experience with the CCF File Fee, DTC believes that the CCF File Fee in the amount of \$50,000 provides the necessary encouragement for Participants to accelerate their system development for their adoption of the ISO 20022 standard for entitlements and allocations information.¹⁵ Further, during the application of the CCF File Fee to CCF Entitlements and Allocations Files during the Original Fee Period, DTC had not received any negative feedback from Participants suggesting that the \$50,000 fee was overly burdensome.¹⁶

development and fully adopted the ISO 20022 standard for entitlements and allocations information, illustrating the effectiveness of the CCF File Fee.

¹⁵ The CCF File Fee is not designed to cover costs incurred by DTC as a result of continuing to service CCF files.

¹⁶ DTC also had charged a similar \$50,000 CCF File Fee to Participants that continued to receive the CCF Announcements Files between 2016-2018, in order to encourage Participants to migrate from CCF Announcements Files to ISO 20022 messaging. DTC believes that the CCF File Fee provided a strong incentive for Participants to accelerate their migration from the CCF format to the ISO 2002 standard, thereby allowing DTC to retire all of the CCF Announcements Files by December 31, 2018. See Securities Exchange Act No. 76811 (December 31, 2015), 81 FR 826 (January 7, 2016) (SR-DTC-2015-013) (postponing retirement of CCF Announcements Files and implementation of a \$50,000 CCF File Fee to encourage prompt transition to the ISO 20022 standard); and see also Securities Exchange Act Release No. 79746 (January 5, 2017), 82 FR 3372 (January 11, 2017) (SR-DTC-2016-014) (establishing the retirement date for CCF Announcement Files).

Therefore, DTC believes that the proposed rule change regarding the CCF File Fee provides for the equitable allocation of reasonable dues, fees, and other charges among its Participants, consistent with Section 17A(b)(3)(D) of the Act, cited above.

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

DTC believes that the proposed rule change with respect to postponing the retirement of CCF Entitlements and Allocations Files to January 1, 2023 would not have any impact on competition. The proposed rule change would provide any Participant that has not completed its migration from CCF Entitlements and Allocation Files with additional time to complete its testing and development of its systems, and finalize the transition to ISO 20022 messaging. Therefore, DTC believes that the proposed rule change with respect to postponing the retirement of CCF Entitlements and Allocations Files to January 1, 2023 would not have a burden on competition.¹⁷

DTC believes that the proposed rule change with respect to amending the Fee Guide to apply the CCF File Fee to Participants that continue to consume CCF Entitlements and Allocations Files during the New Fee Period could have an impact on competition because it could create a burden on competition.¹⁸ Although the proposed application of the CCF File Fee is designed to incentivize Participants to accelerate their adoption of the ISO 20022 standard, DTC recognizes and appreciates that charging the fee could negatively affect such Participants' operating costs. However, DTC believes that any burden on competition would not be significant and would be necessary and

¹⁷ 15 U.S.C. 78q-1(b)(3)(I).

¹⁸ Id.

appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.¹⁹

DTC believes any burden on competition would not be significant because (i) the fee would only be charged once per File Category, upon the Participant's first receipt of CCF Entitlements and Allocations Files for a File Category during the New Fee Period, and (ii) the application of the CCF File Fee for a File Category would cover the consumption of all CCF Entitlements and Allocations Files within that File Category during the New Fee Period. In addition, based on DTC's prior use of the CCF File Fee for CCF Announcements Files²⁰ and CCF Entitlements and Application Files, DTC has no indication that the amount of the fee creates a significant burden on any Participant.

DTC believes that any burden on competition that may be created by the proposed change to amend the Fee Guide to apply the CCF File Fee to Participants that continue to consume CCF Entitlements and Allocations Files during the New Fee Period would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.²¹ DTC believes that this proposed change would be necessary because some Participants have yet to adopt the ISO 20022 standard, despite at least seven years of communication and prompting on the issue.²² As noted above, the ISO 20022 standard provides efficiencies and enhanced transparency in processing corporate actions and the settlement activities related thereto. Thus, DTC believes that

¹⁹ Id.

²⁰ See supra note 16.

²¹ Id.

²² See supra notes 10 and 11.

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.²³

DTC believes that the proposed rule change to apply the CCF File Fee to Participants that continue to consume CCF Entitlements and Allocations Files during the New Fee Period would be appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.²⁴ DTC's prior experience with the \$50,000 CCF File Fee and the successful retirement of CCF Announcements Files illustrates that a \$50,000 CCF File Fee provides the necessary encouragement for Participants to accelerate their system development for the full adoption of the ISO 20022 standard. Further, during the application of the CCF File Fee to CCF Announcements Files, DTC had not received any negative feedback from Participants that suggested that the \$50,000 fee was overly burdensome; nor did DTC receive any objections during the application of the CCF File Fee to CCF Entitlements and Allocations Files during the Original Fee Period that suggested that the \$50,000 fee was overly burdensome. Accordingly, DTC believes that application of the \$50,000 CCF File Fee would be appropriate here in order to incentivize Participants to accelerate their migration to the ISO 20022 standard. In addition, as discussed above, DTC believes that the proposed application of the CCF File Fee would be equitably allocated because the CCF File Fee (i) would only be charged to those Participants that have delayed their migration from CCF Entitlements and Allocations beyond December 31, 2021 and (ii) would be applied in accordance with the Participant's use of a particular File Category.

²³ 15 U.S.C. 78q-1(b)(3)(F).

²⁴ 15 U.S.C. 78q-1(b)(3)(I).

Therefore, for these reasons, DTC believes that a perceived competitive burden of the proposed rule change to apply the CCF File Fee to Participants that continue to consume CCF Entitlements and Allocations Files during the Fee Period would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.²⁵

(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, DTC will amend this filing to publicly file such comments as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting written 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-submit-comments>. General questions regarding the rule filing process or logistical questions

²⁵ 15 U.S.C. 78q-1(b)(3)(I).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)²⁶ of the Act and paragraph (f)²⁷ of Rule 19b-4 thereunder. 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-2021-018 on the subject line.

²⁶ 15 U.S.C 78s(b)(3)(A).

²⁷ 17 CFR 240.19b-4(f).

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-2021-018. 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-2021-018 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.²⁸

Eduardo A. Aleman
Deputy Secretary

²⁸ 17 CFR 200.30-3(a)(12).