

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69276; File No. SR-DTC-2013-01)

April 2, 2013

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Modify Its Practice Regarding the Collection of Participants' Required Participants Fund Deposits

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 20, 2013, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by DTC. 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 change is to modify DTC's Settlement Services Guide, as described below.

II. Clearing Agency's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> The Commission has modified the text of the summaries prepared by DTC.

(A) Self-Regulatory Organization’s Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

Participants Fund

Pursuant to Rule 4 of its Rules, By-laws, Organization Certificate (“DTC Rules”), DTC maintains a fund funded by its Participants, which in addition to being a liquidity resource, is available to satisfy any uninsured loss incurred by DTC, including a loss resulting from a Participant’s failure to settle its transactions (“Participants Fund”).<sup>4</sup> Each Participant’s required deposit to the Participant’s Fund (“Required Participants Fund Deposit”) is calculated daily pursuant to an established formula.<sup>5</sup> While the minimum deposit is \$10,000, each Participant is required to make a deposit to the Participants Fund based upon a formula that takes into account the Participant’s six largest intraday net debit peaks over a rolling sixty business-day period.<sup>6</sup> If the Participant’s newly calculated Required Participants Fund Deposit is greater than its prior day’s Required Participants Fund Deposit, and the difference thereof (i) equals or exceeds \$500,000, and (ii) represents 25 percent or more of the newly calculated required fund deposit (“Threshold Amount and Percentage”), the Participant must deposit the difference in the

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<sup>4</sup> See DTC Rules ([http://dtcc.com/legal/rules\\_proc/dtc\\_rules.pdf](http://dtcc.com/legal/rules_proc/dtc_rules.pdf)).

<sup>5</sup> Id., Rule 4(a).

<sup>6</sup> See DTC Settlement Service Guide (<http://dtcc.com/downloads/products/learning/Settlement.pdf>). DTC may also require an additional deposit to the Participants Fund in the event that DTC becomes concerned with a Participant’s financial soundness. See DTC Rules, supra note 4, Rule 9(A). Separately, a Participant may make a voluntary deposit to the Participants Fund (“Voluntary Participants Fund Deposit”) in excess of the amount required. See id., Rule 4(c). These provisions are not impacted by the proposed rule change.

Participants Fund within two business days,<sup>7</sup> to the extent any excess amount of the Participant's Actual Participants Fund Deposit does not already satisfy the new requirement.<sup>8</sup>

Under current procedures, as set forth in DTC's Settlement Services Guide, Participants must deposit any increased requirement to the Required Participants Fund Deposit that meets the Threshold Amount and Percentage within two business days.<sup>9</sup> Increases in amounts less than the Threshold Amount and Percentage are collected once per month for all Participants.<sup>10</sup>

In order to enhance its liquidity and risk coverage, DTC is proposing to accelerate the collection of Participants' Required Participants Fund Deposits from two business days to the same day the Participant is notified of the requirement. Under the proposal, for both the daily and monthly calculations that trigger collections, as described above, increased deposit requirements will be collected by DTC on a same-day basis, instead of within two business days.

*Proposed Changes to Rule Text*

If approved, DTC will revise the text of its Settlement Services Guide to provide that where a Participant's calculated Required Participants Fund Deposit meets the Threshold Amount and Percentage, the increased amount must (to the extent any excess amount of the

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<sup>7</sup> See DTC Settlement Service Guide, supra note 6.

<sup>8</sup> See DTC Rules, supra note 4, Rule 4(b). "Actual Participants Fund Deposit" means the actual amount the Participant has deposited to the Participants Fund, including both its Required Participants Fund Deposit and any Voluntary Participants Fund Deposit. Id., Rule 1.

<sup>9</sup> See DTC Settlement Service Guide, supra note 6.

<sup>10</sup> See id. (After settlement on the last business day of each month, DTC calculates each Participant's requirement. Each participant is notified of their new requirement on the first business day of the month. If a Participant's requirement has increased beyond the value they currently have on deposit at DTC, this deficit must be deposited with DTC within two business days.).

Participant's Actual Participants Fund Deposit does not already satisfy the new requirement) be deposited with DTC on the same business day as (i) the calculation of the increase, and (ii) a report or other notification of the change is made available to the Participant.

As mentioned above, in order to harmonize the Participants Fund collection processes, monthly increases will also be collected on a same-day basis and language will be added to the Settlement Service Guide in this regard. In addition, language will be added to the Settlement Service Guide to clarify that the relevant Guide provisions shall apply only to the calculation and collection of DTC Participants Fund deposits, as described in the Guide, and do not supersede or limit any provisions of the DTC Rules or any rights of DTC in accordance with applicable law and DTC's Rules and Procedures, including but not limited to transactions in securities and money payments.

Finally, DTC will make certain clarifying and technical changes to the language as set forth in the "Participants Fund" section of its Settlement Service Guide. Changes include, but are not limited to: (i) updating the description of the purpose of the Participants Fund, (ii) updating the use of defined terms, such as "Participant," and (iii) updating and adding subject headings.

#### Statutory Basis

DTC believes the proposed rule change, as described above, is consistent with the requirements of the Act, specifically Section 17A(b)(3)(F),<sup>11</sup> and the rules and regulations thereunder applicable to DTC, because the change supports DTC's ability to collect increases to Participants' Required Participants Fund Deposits that meet the Threshold Amount and Percentage on a same-day basis, instead of within two business days, and therefore facilitates

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<sup>11</sup> 15 U.S.C. 78q-1(b)(3)(F).

DTC's ability to safeguard securities and funds in its custody or control or for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

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 (<http://www.sec.gov/rules/sro.shtml>); or

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2013-01 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-DTC-2013-01. 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 such filings also will be available for inspection and copying at the principal office of DTC and on DTC's website at [http://dtcc.com/downloads/legal/rule\\_filings/2013/dtc/SR-DTC-2013-01.pdf](http://dtcc.com/downloads/legal/rule_filings/2013/dtc/SR-DTC-2013-01.pdf). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-DTC-2013-01 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.<sup>12</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>12</sup> 17 CFR 200.30-3(a)(12).