

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79122; File No. SR-DTC-2016-010)

October 19, 2016

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Allow DTC to Automate the Process for Participants to Submit Eligibility Requests for Older Issues

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4,² notice is hereby given that on October 14, 2016, 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 DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4) thereunder.⁴ The proposed rule change was effective upon filing with the Commission. 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 would amend the DTC Operational Arrangements for Securities to Become and Remain Eligible for DTC Services (“OA”)⁵ and the DTC

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)(4).

⁵ Available at <http://www.dtcc.com/~media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf>.

Underwriting Service Guide (“Guide”)⁶ to allow DTC to automate the process by which Participants submit requests and related documents for Securities that are already issued and outstanding (“Older Issues”) to become eligible for Deposit and book-entry transfer services at DTC (“Older Issue Eligibility Requests”).⁷ Upon its implementation, the proposed rule change would enhance efficiencies for Participants and DTC by providing a secure, centralized environment for the submission of Older Issue Eligibility Requests.

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 change the method of submission of Older Issue Eligibility Requests by Participants from the current email method to instead utilize

⁶ Available at <http://www.dtcc.com/~media/Files/Downloads/Settlement-Asset-Services/Underwriting/Underwriting-Service-Guide.pdf>.

⁷ Capitalized terms not otherwise defined herein have the respective meanings set forth in the DTC Rules, By-laws and Organization Certificate (“Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

DTC's Securities Origination, Underwriting and Reliable Corporate Action Environment ("UW SOURCE") for this purpose.⁸

In order for an Older Issue to be made eligible for Deposit and book-entry transfer services at DTC, a Participant must submit an Older Issue Eligibility Request to DTC⁹ that evidences that the Older Issue meets DTC's requirements for Securities to become and remain eligible for DTC services¹⁰ as set forth in the OA ("Eligibility Requirements").¹¹ The Older Issue Eligibility Request must at a minimum include a questionnaire ("Older Eligibility Questionnaire"),¹² a copy of the Security certificate for

⁸ UW SOURCE is an existing Internet-based system currently used by Participants to submit eligibility requests for newly-issued Securities ("New Issues"). See OA, supra note 5, at 1. The process for submitting eligibility requests for New Issues through UW SOURCE would not change as a result of the proposed rule change. See generally DTC UW Reengineering webpage, available at <http://dtcc.com/matching-settlement-and-asset-services/underwriting/uw-source-info> (providing background and links to additional information on UW SOURCE).

⁹ Only Participants can request that DTC make a Security eligible. See OA, supra note 5, at 1-2.

¹⁰ It is the responsibility of the Participant requesting eligibility for the Securities to provide evidence that the Securities satisfy the criteria set forth in DTC's OA. See id.

¹¹ See OA, supra note 5, at 2-13 (for DTC's eligibility criteria).

¹² The Older Issue Eligibility Questionnaire is a form that a Participant must complete with respect to the Older Issue to provide DTC with the issuer's name, issue description, CUSIP number, information relating to compliance with Eligibility Requirements, contact information, and other information required in order for DTC to process the issue. In addition, by signing the Older Eligibility Questionnaire, the Participant (i) represents and warrants (a) that the issuer complies with all applicable securities laws, rules and regulations, and banking regulations, (b) the registration or exemption status of the Older Issue under the Securities Act of 1933, and (c) that the information provided on the form is true, accurate and complete, (ii) agrees to indemnify DTC and its affiliates for any loss, damage, cost or expense, arising out of the eligibility request and the Deposit of

the Older Issue, an attestation form signed by the “Agent”¹³ for the issue (“Agent Attestation Form”)¹⁴ and the original offering documents prepared by the issuer of the Older Issue (collectively, “Eligibility Request Documents”).¹⁵ Today, Participants submit Older Issue Eligibility Requests, including the Eligibility Request Documents, to DTC using e-mail.

Pursuant to the proposed rule change, in an effort to improve processing efficiencies and provide a centralized, secure method for the submission of Older Issue Eligibility Requests, Participants would be required to submit their Older Issue Eligibility Requests, including required Eligibility Request Documents, through UW SOURCE with the designation as an “Eligibility Only” request.¹⁶ In other words, pursuant to the proposed rule change, rather than attaching the Eligibility Request Documents to an

the referenced Security, and (iii) certifies that it complies with the Rules regarding compliance with sanctions administered and enforced by the Office of Foreign Assets Control (OFAC) and that the Participant has implemented a risk-based OFAC compliance program. (See Rule 2, Section 8, supra note 7.).

¹³ “Agent” in the OA means an issuer’s auction agent, custodian, depository, dividend reinvestment plan administrator, exchange agent, issuing and/or paying agent, redemption agent, remarketing agent, registrar, tender agent, transfer agent, trustee, trust company, and/or any other person or entity acting in an agency capacity on behalf of the issuer. See OA, supra note 5, at 1.

¹⁴ By signing the Agent Attestation Form, the Agent for the issue represents that the Agent will comply with the requirements stated in the OA with respect to the issue upon acceptance of the issue as eligible for deposit at DTC.

¹⁵ Further documents and information (e.g., legal opinions, indemnifications and other documentation) may be required as part of the eligibility review. See OA, supra note 5, at 2-13.

¹⁶ Designating the submission as “Eligibility Only” in UW SOURCE signifies that the issue is not a New Issue and allows the Participant to deposit the Securities for the issue as soon as it has been made eligible by DTC.

email message to be sent to a DTC email box as in the current method, Participants would instead transmit the Eligibility Request Documents to DTC via online transmission by uploading the documents into UW SOURCE.¹⁷

Implementation of the proposed rule change would provide several advantages to Participants and DTC in relation to the current email-based method used for Participants to transmit Older Issue Eligibility Requests to DTC. First, UW SOURCE would enhance security in transmission of Older Issue Eligibility Requests by using a secure online system instead of the current email method.¹⁸ Second, use of UW SOURCE for this purpose would enhance transparency for Participants with respect to the status of their Older Issue Eligibility Requests.¹⁹ Third, the migration of this function to UW SOURCE would enhance efficiencies associated with DTC's processing of Older Issue Eligibility Requests by providing an automated and centralized means of receiving and managing Eligibility Request Documents rather than having to manually retrieve them from multiple emails as it does today.

Proposed Changes to the OA and Guide Text

Pursuant to the proposed rule change, DTC would amend the text of the OA to:

- i. state that Eligibility Request Documents must be submitted through UW SOURCE;

¹⁷ The forms of the Eligibility Request Documents as described above would not change.

¹⁸ UW SOURCE is a secure, centralized online system managed by DTC, whereas Participant security protocols for the transmission of e-mails may vary.

¹⁹ UW SOURCE provides Participants with the ability to view the status of their eligibility request online and directly obtain the contact information for the DTC staff person that is handling the request.

- ii. update an Internet link to an informational page on DTCC's website relating to UW SOURCE; and
- iii. update the copyright date of the OA.

In addition, DTC would amend the Guide to:

- i. delete text indicating that Older Issue Eligibility Requests are submitted either by providing DTC with copies of security certificates or a file on a diskette, and replacing it with text that would reflect the proposed UW SOURCE-based submission process;
- ii. conform relevant text relating to the Older Issue Eligibility Request process to the text of the OA, as amended by this proposed rule change;
- iii. provide the Internet address for the OA in order for Participants to reference additional information on the Eligibility Requirements and related documentation; and
- iv. delete an incorrect statement indicating that when a certificate is received in connection with an Older Issue Eligibility Request that does not have a CUSIP number assigned to it, DTC would facilitate the assignment of a CUSIP number.²⁰

²⁰ DTC performs this function in regards to its Custody Service. See the DTC Custody Service Guide, at 4, available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Custody.pdf>.

Implementation Date

DTC would announce the implementation date for the proposed rule change via a DTC Important Notice.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act²¹ 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 that the proposed rule change is consistent with this provision of the Act because it would (i) improve processing efficiencies and provide for a more secure transmission method for Older Issue Eligibility Requests by replacing an email-based method of submission with a secure online submission method, and (ii) provide greater transparency to Participants by providing them with a direct online view into the status of their Older Issue Eligibility Requests. As a result, the proposed rule change would facilitate processing of Participant requests to make Older Issues eligible for Deposit and book-entry transfer services at DTC, and therefore promote the prompt and accurate clearance and settlement of securities transactions through DTC, consistent with the Act, in particular Section 17A(b)(3)(F) cited above.

Rule 17Ad-22(d)(6) promulgated under the Act²² requires that each registered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, be cost-effective in meeting the requirements of participants while maintaining safe and secure operations. DTC believes that the proposed rule change is consistent with Rule 17Ad-22(d)(6) because (i) by

²¹ 15 U.S.C. 78q-1(b)(3)(F).

²² 17 CFR 240.17Ad-22(d)(6).

enhancing the efficiency of the processing of Older Issue Eligibility Requests without increasing costs to Participants to access the service,²³ the proposed rule change would be cost-effective in meeting requirements of Participants, and (ii) by processing Older Issue Eligibility Requests through UW SOURCE, a centralized and secure online application, DTC would maintain safe and secure operations with respect to transmission and processing of such requests.

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

DTC does not believe that the proposed rule change would have any adverse impact, or impose any burden, on competition because DTC does not charge a fee for access to UW SOURCE and therefore the proposal would not impose additional costs on Participants in this regard. In addition, the process for Participant's to register for UW SOURCE is transparent and available on DTCC's website²⁴ and identical to that used by Participants to register for DTC web-based services generally. Moreover, because the proposed rule change improves the efficiency of the Older Issue Eligibility Request process, the proposed rule change may have a positive effect on competition among DTC Participants.

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

DTC has not solicited and does not intend to solicit, comments regarding the proposed rule change. DTC has not received any unsolicited written comments from

²³ DTC does not charge Participants a fee for access to UW SOURCE.

²⁴ See DTC's UW SOURCE Registration Information, available at <http://www.dtcc.com/matching-settlement-and-asset-services/underwriting/uw-source-registration-information>.

interested parties. To the extent DTC receives written comments on the proposed rule change, DTC will forward such comments to the Commission. DTC has issued an Important Notice to provide notice and related information with regard to the implementation of the proposal.²⁵

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) of Rule 19b-4²⁷ 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-2016-010 on the subject line.

²⁵ Available at <http://www.dtcc.com/~media/Files/pdf/2016/8/10/3896-16.pdf>.

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-2016-010. 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; 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-2016-010 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

Brent J. Fields
Secretary

²⁸ 17 CFR 200.30-3(a)(12).