

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * <input type="text" value="65"/>	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - <input type="text" value="2018"/> - * <input type="text" value="001"/>	Amendment No. (req. for Amendments *) <input type="text"/>
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Filing by The Depository Trust Company  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
			Rule		
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	<input type="checkbox"/> 19b-4(f)(6)
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
Section 3C(b)(2) * <input type="checkbox"/>	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**

Provide a brief description of the action (limit 250 characters, required when Initial is checked \*).

Amend the By-Laws

**Contact Information**

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * <input type="text" value="John"/>	Last Name * <input type="text" value="Petrofsky"/>
Title * <input type="text" value="Assistant General Counsel"/>	
E-mail * <input type="text" value="jpetrofsky@dtcc.com"/>	
Telephone * <input type="text" value="(813) 470-2115"/>	Fax <input type="text"/>

**Signature**

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title \*)

Date <input type="text" value="02/01/2018"/>	<input type="text" value="Managing Director and Deputy General Counsel"/>
By <input type="text" value="Lois J. Radisch"/>	<input type="text" value="lradisch@dtcc.com"/>

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

## **1. Text of the Proposed Rule Change**

(a) The proposed rule change is attached as Exhibit 5 and would amend The Depository Trust Company (“DTC”) By-Laws (“By-Laws”)<sup>1</sup> to (i) make changes to DTC’s governance procedures, (ii) revise certain DTC Board of Directors (“Board”) and designated officer titles or offices and update the related powers and duties, (iii) revise the section describing the compensation of officers, and (iv) make certain other technical changes and corrections.

(b) Not applicable.

(c) Not applicable.

## **2. Procedures of the Self-Regulatory Organization**

The proposed changes were approved by the Board at a meeting duly called and held on December 20, 2017.

## **3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

### **(a) Purpose**

In DTC’s review of the By-Laws, DTC has identified and is proposing the following changes to the By-Laws: (i) changing its internal governance procedures, (ii) revising certain Board and designated officer titles or offices and updating the related powers and duties, (iii) revising the section describing the compensation of officers, and (iv) making certain technical changes and corrections. Specifically, regarding the proposed changes to the Board and designated officer titles or offices and updating the related powers and duties, DTC is proposing to: (1) change the title of Chairman of the Board to Non-Executive Chairman of the Board and update the related powers and duties associated with that role due to personnel changes in DTC’s management, (2) add the office of the Chief Executive Officer (“CEO”), combine the office of the President and the office of the Chief Executive Officer into one office (President and Chief Executive Officer) and update the related powers and duties to reflect that the two positions are now combined and are held by one individual, (3) add the office of the Chief Financial Officer (“CFO”) and delete the office of the Comptroller, (4) delete the office of the Chief Operating Officer (“COO”), (5) change the title of Vice President to Executive Director and update the related powers and duties, and (6) make other changes related to certain powers and duties of the Board and various officers, including Managing Directors, the Vice Chairman of the Corporation, the Treasurer and the Assistant Treasurer, as described in greater detail below. DTC is proposing to make these changes to the By-Laws so that the By-Laws remain consistent and accurate and DTC’s governance documents accurately reflect its management and organizational structure and the responsibilities within the purview of certain roles. DTC believes these changes would facilitate the efficient governance and operation of DTC.

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<sup>1</sup> The By-Laws are included in the Rules, By-Laws and Organization Certificate of DTC (“Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures>.

**Proposed Changes to the By-Laws<sup>2</sup>**

**A. *Changes to DTC's Governance Procedures***

DTC would revise the By-Laws to (1) change the frequency with which each of the Board and the Executive Committee is required to meet, (2) permit the Board to act by unanimous written consent, and (3) make a technical change by removing the word “monthly” from the phrase “regular monthly meetings” when describing Board meetings. DTC proposes to make the changes to the By-Laws that are described below.

1. **Changes to the Frequency of Board Meetings and Executive Committee Meetings; Technical Change to the Description of Regular Meetings of the Board**

Currently, the By-Laws require (1) the Board to meet for ten meetings per year with at least two meetings during any three-month period and (2) the Executive Committee to meet at least once in each 30-day period during which the Board does not meet. DTC is proposing to reduce the required frequency of its Board meetings and Executive Committee meetings to better align the frequency of DTC's Board meetings with those of Fixed Income Clearing Corporation and National Securities Clearing Corporation. DTC believes that reducing the frequency of DTC's Board meetings to better align the occurrence of these meetings would facilitate the efficient use of corporate resources. Specifically, DTC proposes to make the following changes to current Section 2.6 (Meetings) of the By-Laws to (1) reduce the required number of Board meetings and (2) eliminate the requirement that the Executive Committee meet at least once in each thirty-day period during which the Board does not meet:

- a. The minimum required number of meetings of the Board in current Section 2.6 (Meetings) would be reduced from ten meetings per year with at least two meetings during any three-month period to six meetings per year with at least one meeting during any three-month period.
- b. The provision in current Section 2.6 (Meetings) requiring the Executive Committee to meet during each 30-day period in which the Board does not meet would be deleted.

In addition, DTC proposes to make a technical change in current Section 2.6 (Meetings) by removing the word “monthly” from the phrase “regular monthly meetings” when describing that the Board may fix times and places for such meetings of the Board. The current provision refers to regular monthly meetings but also states that such meetings shall be held at least ten times a year. As such, DTC believes that the proposed language, which would state that the Board may fix times and places for regular meetings

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<sup>2</sup> DTC last submitted a rule filing regarding changes to the By-Laws in 2006. See Securities Exchange Act Release No. 54173 (July 19, 2006), 71 FR 42890 (July 28, 2006) (SR-DTC-2006-10, SR-FICC-2006-09, and SR-NSCC-2006-08).

of the Board and no notice of such meetings need to be given, would improve clarity and consistency.

2. Unanimous Written Consent

DTC proposes to add proposed Section 2.9 (Action by Unanimous Written Consent), permitting the Board to act by unanimous written consent in lieu of a meeting. The Board would be permitted to take all actions that are required to or may be taken at a meeting by unanimous written consent. The provision would require that the written consent set forth the action to be taken, be signed by all of the directors, and be filed with the minutes of the proceedings of the Board. DTC has determined that the unanimous written consent provision would facilitate the efficient operation of DTC by permitting the Board to make necessary decisions in a timely and efficient manner.

***B. Changes to Certain DTC Board and Designated Officer Titles or Offices and Updates to the Related Powers and Duties***

DTC proposes to revise the titles or offices and update the related powers and duties of various designated officers and the Board, as further described below, and for the reasons described below.

1. Change the Title of Chairman of the Board to Non-Executive Chairman of the Board; Update the Powers and Duties of the Non-Executive Chairman of the Board

DTC proposes to replace the title of Chairman of the Board with the title Non-Executive Chairman of the Board (“Non-Executive Chairman of the Board”). This change in title reflects that this position is now held by an individual who is not part of DTC’s management (i.e., a non-executive). In 2016, DTC made personnel changes. As part of these personnel changes, the individual who was serving as Chairman of the Board and who was part of DTC’s management at that time became a non-executive. DTC believed that it would be beneficial and desirable to continue to have this individual serve as chairman of the Board even though he is no longer part of DTC’s management. Therefore, DTC proposes to change the title of this position in the By-Laws to Non-Executive Chairman of the Board to reflect that this position is held by a non-executive. DTC believes this proposed change would accurately reflect this organizational change. Furthermore, DTC proposes to revise the By-Laws to enumerate the powers and duties of the Non-Executive Chairman of the Board. To implement this proposed change, DTC would revise the By-Laws as described below.

Certain references to either Chairman or Chairman of the Board would be revised to Non-Executive Chairman of the Board in the sections of the By-Laws that would continue to apply to the Non-Executive Chairman of the Board. Specifically, the following changes would be made:

- a. In current Section 1.2 (Special Meetings), current Section 1.8 (Presiding Officer and Secretary), current Section 2.6 (Meetings), and current Section

6.1 (Certificates for Shares), the word “Non-Executive” would be added before each reference to the Chairman of the Board.

Certain references to Chairman of the Board in the By-Laws would be deleted because such references are in the sections of the By-Laws that only apply to members of DTC management. Because the Non-Executive Chairman of the Board would not be a management position, such sections of the By-Laws would no longer be applicable. Specifically, the following changes would be made:

- a. In current Section 3.1 (General Provisions), Chairman of the Board would be removed from the list of designated officers of DTC.
- b. In current Section 3.12 (Compensation of Officers), the references to the Chairman of the Board would also be deleted because the Non-Executive Chairman of the Board does not receive compensation and because, as further described below, this section would be revised to only address the setting of compensation for the President and CEO.

Current Section 3.2 (Powers and Duties of the Chairman of the Board) would be deleted and replaced by proposed Section 2.8 (Non-Executive Chairman of the Board). Specifically, the following changes would be made:

- a. Certain powers and duties prescribed to the Chairman of the Board in current Section 3.2 (Powers and Duties of the Chairman of the Board) would remain with the Non-Executive Chairman of the Board. Such powers and duties include: (i) presiding over the meetings of the stockholders and of the Board at which he is present and (ii) such other powers and duties as the Board may designate. This would be set forth in proposed Section 2.8 (Non-Executive Chairman of the Board). Furthermore, as is similarly stated in current Section 3.2 (Powers and Duties of the Chairman of the Board), proposed Section 2.8 (Non-Executive Chairman of the Board) would state that the “performance of any such duty by the Non-Executive Chairman of the Board shall be conclusive evidence of his power to act.”
- b. DTC would also expressly include in proposed Section 2.8 (Non-Executive Chairman of the Board) that the Non-Executive Chairman of the Board has general supervision over the Board and its activities and would provide overall leadership to the Board. Consistent with his authority to supervise and lead the Board, DTC proposes to assign the responsibility for carrying out the policies of the Board of Directors to the Non-Executive Chairman of the Board rather than the President (as is provided in current Section 3.3 (Powers and Duties of the President)). Furthermore, in current Section 3.6 (Powers and Duties of the Secretary), the power to assign additional powers and duties to the Secretary would be revised to replace the reference to President with Non-Executive Chairman of the Board. DTC believes this is an appropriate responsibility

for the Non-Executive Chairman of the Board to have as part of his general supervision of the Board.

- c. In addition, proposed Section 2.8 (Non-Executive Chairman of the Board) would state that, in the absence of the Non-Executive Chairman of the Board, the presiding director, as elected by the Board, shall preside at all meetings of the stockholders and of the Board at which he or she is present. Current Section 3.3 (Powers and Duties of the President) provides that, in the absence or in ability of the Chairman of the Board, the President shall preside at all meetings of shareholders and all meetings of the Board of Directors at which he is present. Pursuant to the Board of Directors of The Depository Trust & Clearing Corporation (“DTCC”), DTC, Fixed Income Clearing Corporation (“FICC”) and National Securities Clearing Corporation (“NSCC”) Mission Statement and Charter (“Board Mission Statement and Charter”), DTC annually elects a presiding director to preside at meetings when the Non-Executive Chairman of the Board is absent. As such, DTC believes the proposed language described above would enhance accuracy by correcting the inconsistency between the By-Laws and the Board Mission Statement and Charter.
  - d. As further described below, in proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer), the Non-Executive Chairman of the Board would have the authority to designate powers and duties to the President and CEO. DTC believes this authority to designate powers and duties to the President and CEO is within the scope of the supervisory role of the Non-Executive Chairman of the Board and therefore proposes to revise the By-Laws to expressly state that the Non-Executive Chairman has this authority.
  - e. In current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors), DTC would add the Non-Executive Chairman of the Board to the list of individuals who have the power to assign powers and duties to Managing Directors as well as make conforming changes. DTC believes this is an appropriate responsibility for the Non-Executive Chairman of the Board to have because he has general supervision over the Board.
2. Add the Office of the CEO and Combine the Office of the President and the Office of the CEO into the Office of the President and CEO; Update the Related Powers and Duties

DTC proposes to add the office of the CEO and combine the office of the President and the office of the CEO into one office (President and CEO) because one individual is the President and CEO. DTC proposes to revise the By-Laws to reflect that one individual holds the office of the President and CEO, including revising the list of designated officers in current Section 3.1 (General Provisions) to include the President

and CEO. While current Section 3.3 (Powers and Duties of the President) provides that the President shall be the chief executive officer, current Section 3.1 (General Provisions) does not include CEO in the list of designated officer positions (President is currently included in this list). As such, DTC would revise certain references in the By-Laws from President to President and Chief Executive Officer. Specifically, DTC proposes to make the changes to the By-Laws that are described below.

- a. In current Section 1.2 (Special Meetings), current Section 1.8 (Presiding Officer and Secretary), current Section 2.6 (Meetings), current Section 3.1 (General Provisions), current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors), current Section 3.7 (Powers and Duties of the Treasurer), and current Section 3.12 (Compensation of Officers), the words “and Chief Executive Officer” would be added after each reference to President.
- b. In current Section 6.1 (Certificates for Shares), the words “the President” would be deleted and replaced by the words “President and Chief Executive Officer.”

Furthermore, except as otherwise described below, the responsibilities, duties and powers granted to the President that are currently described in the By-Laws would continue to remain with the President and CEO. DTC proposes to make the following changes to the By-Laws to reflect the updated responsibilities and powers and duties that are granted to the President and CEO:

- a. A portion of current Section 3.3 (Powers and Duties of the President) would be deleted and replaced with proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer). The remaining portion of current Section 3.3 (Powers and Duties of the President) would be included in proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer).
- b. Current Section 3.3 (Powers and Duties of the President) states that the President will have general supervision over the business and affairs of DTC subject to the direction of the Board. Additionally, current Section 3.3 (Powers and Duties of the President) states that the President may employ and discharge employees and agents of DTC, except such as shall be elected or appointed by the Board, and he may delegate these powers. Similarly, proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer) would state that the President and Chief Executive Officer would have general supervision over the overall business strategy, business operations, systems, customer outreach, and risk management, control and staff functions, subject to the direction of the Board and the Non-Executive Chairman of the Board. DTC believes the additional detail provided in proposed Section 3.2 (Powers and Duties of the President and CEO) would add clarity to the powers and duties associated with the role of President and Chief Executive Officer and



would be consistent with the combined role. In addition, because the office of the COO would be eliminated (as described further below), the responsibility of general supervision over the operations of DTC, which is designated to the COO role in current Section 3.4 (Powers and Duties of the Chief Operating Officer), would be assigned to the President and CEO.

- c. Proposed Section 3.2 (Powers and Duties of the President and CEO) would state that the President and CEO would have such other powers and perform such other duties as the Board or the Non-Executive Chairman of the Board may designate. DTC believes this generally aligns with current Section 3.3 (Powers and Duties of the President). DTC believes that providing the Non-Executive Chairman of the Board with this additional authority to designate powers and duties to the President and CEO is within the scope of the supervisory role of the Non-Executive Chairman of the Board.
- d. As noted above, certain powers and duties listed in current Section 3.3 (Powers and Duties of the President) would be removed or assigned to another position. Specifically, as noted above, the responsibility for carrying out the policies of the Board would be assigned to the Non-Executive Chairman of the Board rather than to the President and CEO. Additionally, the statement that “performance of any such duty by the President shall be conclusive evidence of his power to act” that appears in current Section 3.3 (Powers and Duties of the President) would be removed as DTC believes it would be best practice to document specific designation of powers and/or duties made by the Board or Non-Executive Chairman of the Board to the President and CEO. Furthermore, as noted above, the language stating that, in the absence of the Non-Executive Chairman, the President and CEO shall preside at all meetings of shareholders and all meetings of the Board of Directors at which he is present would be deleted because, pursuant to the Board Mission Statement and Charter, that power resides with the presiding director who is elected annually by the DTC Board. DTC believes deleting this language would enhance accuracy by correcting the inconsistency between the By-Laws and the Board Mission Statement and Charter.
- e. As described above, in current Section 3.6 (Powers and Duties of the Secretary), the power to assign additional powers and duties to the Secretary would be removed from the President and granted to the Non-Executive Chairman of the Board. DTC believes this is an appropriate responsibility for the Non-Executive Chairman of the Board to have as part of his general supervision of the Board.
- f. As described below, the President and Board currently have the authority to assign powers and duties to the Comptroller in current Section 3.8 (Powers and Duties of the Comptroller). Similarly, proposed Section 3.5 (Powers and Duties of the Chief Financial Officer) would provide that the

CFO would perform such other duties as he may agree with the President and CEO and the Board.

3. Add the Office of the CFO; Delete of the Office of the Comptroller

DTC would add the office of the CFO and assign to the CFO all of the powers and duties of the office of the chief financial officer. The CFO would, in general, have overall supervision of the financial operations of DTC. Furthermore, references to the office of the Comptroller would be deleted. DTC does not currently have a Comptroller nor does DTC plan to appoint one. Therefore, DTC believes it would be more accurate to remove all references to such position in the By-Laws. Specifically, DTC would revise the By-Laws as described below.

- a. In current Section 3.1 (General Provisions), CFO would be added to and Comptroller would be removed from the list of designated officers of DTC.
- b. DTC would add proposed Section 3.5 (Powers and Duties of the Chief Financial Officer). This proposed section would enumerate the powers and duties of the CFO. It would state that the CFO would have overall supervision of the financial operations of DTC and upon request, would counsel and advise other officers of DTC and perform other duties as agreed with the President and CEO or as determined by the Board. DTC believes these powers and duties are appropriate for the newly created role of CFO. Proposed Section 3.5 (Powers and Duties of the Chief Financial Officer) would also state that the CFO would report directly to the President and CEO. DTC believes it is appropriate for the CFO to report to the President and CEO and to specify this clear line of responsibility in the By-Laws.
- c. Furthermore, proposed Section 3.6 (Powers and Duties of the Treasurer) would also be revised to state that the Treasurer shall have all such powers and duties as generally are incident to the position of Treasurer or as the CFO (in addition to the President and CEO and the Board) may assign to him. Because the Treasurer directly reports to the CFO, DTC believes it is appropriate for the CFO to assign powers and duties to the Treasurer.
- d. DTC would delete current Section 3.8 (Powers and Duties of the Comptroller), which, with the elimination of the office of the Comptroller, would no longer be necessary.

4. Delete the Office of the COO

DTC would also delete references to the designated office of the COO in the By-Laws. DTC believes this change is necessary because DTC no longer has a COO nor does DTC plan to appoint one. Specifically, DTC would make the changes to the By-Laws described below.

- a. In current Section 3.1 (General Provisions), the COO would be removed from the list of designated officers of DTC.
  - b. Current Section 3.4 (Powers and Duties of the Chief Operating Officer) would be deleted, which, with the elimination of the office of the COO, would no longer be necessary. The power and duty prescribed to this position (general supervision over the operations of DTC) would be assigned to the President and CEO in proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer), as described above.
5. Change the Title of Vice President to Executive Director; Update the Related Powers and Duties

DTC proposes to change the title of Vice President to Executive Director and update the related powers and duties. DTC believes these changes are necessary because DTC has decided that the title of Executive Director is more widely used in the financial services industry for roles similar to those designated as Vice Presidents. In DTC's organizational structure, Executive Directors report to Managing Directors. As such, it was decided that Executive Directors do not have sufficient seniority to call special meetings of shareholders, to preside over shareholder meetings unless specifically designated to do so by the Board, or to sign share certificates. DTC proposes to make the following changes to the By-Laws to reflect the change in the title from Vice President to Executive Director and to update the related powers and duties.

- a. In current Section 1.2 (Special Meetings), the proposed rule change would remove Vice Presidents from the list of officers authorized to call special meetings of shareholders. DTC believes that Vice Presidents do not have sufficient seniority to call special meetings of shareholders.
- b. In current Section 1.8 (Presiding Officer and Secretary), Vice President would be removed. DTC believes that a Vice President should not preside over a shareholder meeting unless specifically designated to do so by the Board.
- c. In current Section 3.1 (General Provisions), Vice Presidents would be removed from the list of designated officers of DTC. As described below, a parenthetical phrase would be added explaining that the Board's power to appoint other officers includes the power to appoint one or more Executive Directors.
- d. In current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors), all references to Vice President would be deleted. Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors) currently states that Vice Presidents and Managing Directors have such powers and perform such duties as the Board or the President

may assign to them.<sup>3</sup> Because individuals with the title of Executive Director report to Managing Directors, DTC believes the reference to Vice President in this section would not be necessary.

6. Other Changes to the Powers and Duties of the Board and Certain Other Designated Officers

*Managing Directors*

- a. In Section 1.2 (Special Meetings), the reference to the Managing Director would be added to the list of officers authorized to call special meetings of the stockholders to provide DTC's management with more flexibility by enabling additional persons within senior management to call special meetings of the Board.
- b. In current Section 2.6 (Meetings), the proposal would add Managing Directors to the list of officers authorized to call special meetings of the Board. DTC believes this proposed change would provide DTC's management with additional flexibility by enabling additional persons within senior management to call special meetings of the Board.
- c. In current Section 6.1 (Certificates for Shares), Managing Directors would be removed from the list of officers authorized to sign certificates for shares. By removing Managing Directors, DTC would be able to limit the authorized signatories of certificates for shares of DTC to a smaller number of individuals within senior management.

*Vice Chairman of the Corporation*

As described below, a parenthetical phrase would be added in current Section 3.1 (General Provisions) explaining that the Board's power to appoint other offices includes, but is not limited to, the power to appoint a Vice Chairman of the Corporation.

*Board*

- a. In current Section 3.1 (General Provisions), DTC proposes to add a parenthetical phrase explaining that the Board's power to appoint other offices includes, but is not limited to, the power to appoint a Vice Chairman of the Corporation and one or more Executive Directors to enhance clarity.

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<sup>3</sup> With this proposal, this reference to President would be revised to President and CEO, and the Non-Executive Chairman of the Board would be added so the Non-Executive Chairman of the Board would also be able to assign powers and duties to the Managing Directors.

- b. Additionally, in current Section 3.1 (General Provisions), regarding the ability of any one person to hold more than one office, DTC proposes to enhance and clarify the exception by specifying that neither the Secretary nor any Assistant Secretary can hold the following offices: (1) Vice Chairman of the Corporation or (2) President and CEO. DTC believes this proposed change is necessary to ensure that the Secretary and any Assistant Secretary would not hold those positions.

*Treasurer*

In current Section 6.1 (Certificates of Shares), DTC proposes to delete the reference to Treasurer from the list of authorized signatories because DTC expects the Secretary or an Assistant Secretary (who are each currently listed as authorized signatories) to sign any share certificates.

*Assistant Treasurer*

In current Section 6.1 (Certificates of Shares), DTC proposes to delete the reference to Assistant Treasurer from the list of authorized signatories because DTC expects the Secretary or the Assistant Secretary (who are each currently listed as authorized signatories) to sign any share certificates.

7. Revise Compensation of Officers to Compensation of the President and Chief Executive Officer

Current Section 3.12 (Compensation of Officers) would be revised to accurately reflect DTC's compensation setting practices. Current Section 3.12 states that: (i) the compensation, if any, of the Chairman of the Board, and the President shall be fixed by a majority (which shall not include the Chairman of the Board or the President) of the entire Board of Directors and (ii) salaries of all other officers shall be fixed by the President with the approval of the Board and no officer shall be precluded from receiving a salary because he is also a director. Current Section 3.12 would be revised to state that the Compensation Committee of the Corporation will recommend the compensation for the President and Chief Executive Officer to the Board of Directors for approval because, pursuant to the DTCC/DTC/FICC/NSCC Compensation and Human Resources Committee Charter ("Compensation Committee Charter), this is the process that is followed. In addition, DTC also proposes to delete the language stating that salaries of all other officers shall be fixed by the President with approval of the Board and no officer shall be precluded from receiving a salary because he is also a director. DTC believes the proposed changes are appropriate because they no longer reflect DTC's compensation setting procedures. In addition, as noted above, references to Chairman of the Board would be deleted because the Non-Executive Chairman of the Board does not receive compensation. Furthermore, the title of this section would be revised from Compensation of Officers to Compensation of the President and Chief Executive Officer because this section would no longer speak to the compensation of officers other than the President and CEO.

### ***C. Technical Changes and Corrections***

DTC has identified the following technical changes and/or corrections that it proposes to make to the By-Laws to enhance the clarity and readability of the By-Laws.

#### **1. Delete Direct Reference to Statutes and Statutory Requirements**

DTC would delete direct statutory references from the By-Laws as set forth below so that the By-Laws remain consistent and accurate despite any changes to a specifically cited statute. DTC believes this proposed change would also provide DTC with a broad base to act in accordance with relevant law without violating the By-Laws and thereby also provide DTC with more flexibility. Specifically, DTC proposes to make the following changes to the By-Laws:

- a. In current Section 1.2 (Special Meetings), regarding stockholders' ability to compel the Secretary to call a special meeting of the stockholders for the election of directors, the reference to the provisions of Section 6003 of the New York Banking Law would be deleted.
- b. In current Section 1.4 (Notice of Meetings), regarding the composition of notices for stockholder meetings, the reference to the specific provisions and requirements of Section 6022 of the New York Banking Law would be deleted.
- c. In current Section 2.2 (Election and Term of Directors), regarding the directors' oath of office, the specific citation to Section 7015 would be removed. DTC also would clarify that the Banking Law is in fact referring to the New York Banking Law.

#### **2. Technical Changes to Section Describing Audit Committee**

DTC proposes to revise proposed Section 2.11 (Audit Committee) to conform the description of the composition of the Audit Committee to the description of the Audit Committee in the by-laws of FICC because the composition of such committee is the same for DTC, FICC and NSCC and therefore, DTC believes the description of such committee should be consistent. Specifically, DTC proposes to revise proposed Section 2.11 (Audit Committee) to state that the Board of Directors may appoint an Audit Committee consisting of three or more directors other than officers of DTC or DTCC. Furthermore, language stating that the Audit Committee will review the progress of all internal audits conducted by the Auditor (if there be one) and all periodic reports of such audits submitted to it by the Auditor pursuant to Section 3.9 and shall supervise, and cooperate and coordinate with, the Auditor in the performance of his duties would be deleted as a conforming change and for consistency with the by-Laws of FICC.

#### **3. Other Technical Changes and Corrections**

In addition to the technical changes proposed above, DTC proposes to make the additional technical and grammatical changes described below.

- a. In the heading for current Article I, DTC proposes to delete “STOCKHOLDERS” and replace it with “Stockholders” and in the heading for current Article II, delete “BOARD OF DIRECTORS” and replace it with “Board of Directors” to be consistent with the headings of the other Articles in the By-Laws.
- b. In current Section 1.2 (Special Meetings), current Section 1.3 (Record Date for Meetings and Other Purposes), current Section 1.8 (Presiding Officer and Secretary), current Section 2.6 (Meetings), current Section 3.1 (General Provisions), current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors), current Section 3.6 (Powers and Duties of the Treasurer), current Section 3.12 (Compensation of Officers), and current Section 6.1 (Certificates for Shares), conforming grammatical corrections would be made.
- c. In current Section 1.10 (Inspectors of Election), each use of the word “corporation” would be capitalized so that it would read “Corporation” and the word “such” would be replaced with the word “the” before the word “Corporation” in the last sentence to correct typographical errors and enhance consistency and readability.
- d. In current Section 2.3 (Newly Created Directorships and Vacancies), the extra space before and after the word “of” in the first sentence would be deleted.
- e. In addition, additional spaces between the section number and the section title would be added in current Section 1.1 (Annual Meeting) through Section 1.12 (Written Consent of Stockholders Without a Meeting), in current Section 2.1 (Number of Directors) through current Section 2.7 (Quorum and Voting), proposed Section 2.8 (Non-Executive Chairman of the Board), proposed Section 2.10 (Executive Committee) through proposed Section 2.13 (Compensation of Directors), current Section 3.1 (General Provisions), proposed Section 3.3 (Powers and Duties of Managing Directors), proposed Section 3.4 (Powers and Duties of the Secretary), proposed Section 3.6 (Powers and Duties of the Treasurer), proposed Section 3.7 (Powers and Duties of the Auditor) through proposed Section 3.10 (Compensation of Officers), and current Section 6.1 (Certificates for Shares) through current Section 6.4 (Lost, Stolen or Destroyed Certificates).
- f. In current Section 2.6 (Meetings), each use of the word “board” in the second paragraph would be capitalized to correct typographical errors and enhance consistency.
- g. Current Section 2.8 (Executive Committee) through current Section 2.11 (Compensation of Directors) would be renumbered to reflect the addition

of proposed Section 2.8 (Non-Executive Chairman of the Board) and proposed Section 2.9 (Action by Unanimous Written Consent).

- h. Current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors) through current Section 3.12 (Compensation of Officers) would be renumbered to reflect the addition of proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer) and proposed Section 3.5 (Powers and Duties of the Chief Financial Officer) and the deletion of current Section 3.2 (Powers and Duties of the Chairman of the Board), current Section 3.3 (Powers and Duties of the President), current Section 3.4 (Powers and Duties of the Chief Operating Officer) and current Section 3.8 (Powers and Duties of the Comptroller).
- i. Proposed Article X (Gender References) would be added to clarify that the By-Laws are intended to be gender neutral with any reference to one gender deemed to include the other.

(b) Statutory Basis

Section 17A(b)(3)(A) of the Securities Exchange Act of 1934, as amended (the “Act”), requires, among other things, that a clearing agency is so organized to be able to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.<sup>4</sup> DTC believes the proposed changes to the By-Laws described above are consistent with this provision. Specifically, DTC believes that the (1) change of title from Chairman of the Board to Non-Executive Chairman of the Board and changes to the related powers and duties, (2) addition of the office of the CEO, the combination of the offices of the President and CEO and changes to the related powers and duties, (3) addition of the office of the CFO and deletion of the office of the Comptroller, (4) change of title from Vice President to Executive Director and changes to the related powers and duties, (5) deletion of the office of the COO, (6) changes to the powers and duties of the Board, (7) changes to the powers and duties of Managing Directors, (8) changes to the powers and duties of Vice Chairman of the Corporation, (9) changes to the powers and duties of the Treasurer, and (10) changes to the powers and duties of the Assistant Treasurer are designed to facilitate the effective and efficient governance and operation of DTC and accurately reflect DTC’s current Board and management structure. DTC also believes the changes to the powers and duties of the Board and designated officer positions are appropriate and aligned with each role. Furthermore, these proposed changes are intended to promote additional clarity as to the responsibilities of the Board and certain designated officers. DTC believes the proposed changes to the section describing the compensation of officers are designed to accurately reflect: (1) the process that is followed for setting compensation pursuant to the Compensation Committee Charter and (2) that the Non-Executive Chairman of the Board does not receive compensation and would promote additional clarity as to the setting of compensation of the President and CEO and Non-Executive Chairman of the Board. DTC also believes the technical changes and corrections to the By-Laws would enhance clarity and transparency in DTC’s organizational documents. DTC also believes that the proposed changes

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<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(A).



that would: (1) reduce the minimum number of required Board meetings, (2) eliminate the requirement that the Executive Committee meet during each 30-day period in which the Board does not meet, and (3) authorize the Board to act by unanimous written consent in lieu of a meeting would facilitate the efficient operation of DTC by permitting the Board to make necessary decisions in a timely and efficient manner. DTC also believes that removing the word “monthly” when describing that the Board may fix times and places of regular meetings of the Board would enhance clarity and consistency regarding the requirements associated with such meetings. Therefore, DTC believes these proposed changes are consistent with the requirement that DTC is so organized to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.

Rule 17Ad-22(e)(1) under the Act requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, transparent and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.<sup>5</sup> DTC believes the (1) proposed changes to the titles or offices and the related powers and duties of the Board and certain officers and (2) proposed technical changes and corrections to the By-Laws are designed to ensure that DTC’s organizational documents accurately describe DTC’s organizational structure and that such organizational documents remain clear, transparent, and consistent. Therefore, DTC believes these proposed changes are consistent with Rule 17Ad-22(e)(1) because they are designed to ensure that DTC’s organizational documents remain well-founded, transparent and enforceable in all relevant jurisdictions.<sup>6</sup>

Rule 17Ad-22(e)(2) under the Act requires that DTC establish, implement, maintain and enforce written policies and procedures to provide for governance arrangements that, among other things, (1) are clear and transparent, (2) support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q-1) applicable to clearing agencies, and the objectives of owners and participants; and (3) specify clear and direct lines of responsibility.<sup>7</sup> DTC believes the proposed changes to the By-Laws described above are designed to be consistent with Rule 17Ad-22(e)(2).<sup>8</sup> Specifically, DTC believes the proposed changes to the By-Laws regarding the titles or offices and the related powers and duties of various officers and the Board would enhance clarity and transparency because they would clearly and accurately set forth the organizational structure of DTC, including the roles and lines of responsibility of various officers and the Board. DTC also believes that the proposed changes that would: (1) reduce the minimum number of required Board meetings, (2) eliminate the requirement that the Executive Committee meet during each 30-day period in which the Board does not meet, and (3) authorize the Board to act by unanimous written consent in lieu of a meeting would facilitate the efficient operation of DTC by permitting the Board to make necessary decisions in a timely and efficient

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<sup>5</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>6</sup> Id.

<sup>7</sup> 17 CFR 240.17Ad-22(e)(2).

<sup>8</sup> Id.

manner. DTC also believes that removing the word “monthly” when describing that the Board may fix times and places of regular meetings would enhance clarity and consistency regarding the requirements associated with such meetings. DTC also believes the proposed changes relating to the compensation of officers would enhance clarity and transparency regarding its compensation setting procedures by (1) accurately reflecting the process that is followed pursuant to the Compensation Committee Charter and (2) clarifying that the Non-Executive Chairman of the Board does not receive compensation. In addition, the proposed technical changes and corrections to the By-Laws are also designed to enhance the clarity, transparency, and readability of the By-Laws. DTC believes that, taken together, these proposed changes would facilitate the effective and efficient governance and operation of DTC, and therefore would enable DTC to better serve its Participants. As such, DTC believes these proposed changes would also support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q-1) applicable to clearing agencies, and the objectives of its owners and participants. Therefore, DTC believes these proposed rule changes are consistent with Rule 17Ad-22(e)(2) because they are designed to enhance clarity and transparency in DTC’s governance arrangements, support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q-1) applicable to clearing agencies, and the objectives of owners and participants, and specify clear and direct lines of responsibility for various officer positions and the Board within DTC’s organizational structure.<sup>9</sup>

#### **4. Self-Regulatory Organization’s Statement on Burden on Competition**

DTC does not believe that the proposed rule change would have any impact on competition. The proposed rule change would amend the By-Laws to: (1) accurately reflect DTC’s organizational structure and reflect changes to titles or offices and the related powers and duties of the Board and various designated officers, (2) accurately reflect (a) the process that is followed for setting compensation pursuant to the Compensation Committee Charter and (b) that the Non-Executive Chairman of the Board does not receive compensation, (3) permit the Board to continue to make necessary decisions in a timely and efficient manner by reducing the minimum number of required Board meetings, authorizing the Board to act by unanimous written consent in lieu of meetings, and make other related changes, and (4) enhance the clarity, transparency, and readability of the By-Laws by making technical changes and corrections. DTC does not believe that this proposal would affect any of its current practices regarding the rights or obligations of its Participants. Therefore, DTC believes that the proposal would not have any effect on its Participants and thus, would not have any impact or burden on competition.

#### **5. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

DTC has not received any written comments relating to this proposal. DTC will notify the Commission of any written comments received by it.

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<sup>9</sup> Id.

**6. Extension of Time Period for Commission Action**

DTC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act<sup>10</sup> for Commission action.

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

(a) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) Not applicable.

**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act**

Not applicable.

**11. Exhibits**

Exhibit 1 – Not applicable.

Exhibit 1A – Notice of proposed rule change for publication in the Federal Register.

Exhibit 2 – Not applicable.

Exhibit 3 – Not applicable.

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed changes to the By-Laws.

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<sup>10</sup> 15 U.S.C. 78s(b)(2).

**EXHIBIT 1A**

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-[\_\_\_\_\_]; File No. SR-DTC-2018-001)

[DATE]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change to Amend the By-Laws

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 February \_\_, 2018, 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. 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 By-Laws (“By-Laws”)<sup>3</sup> to (i) make changes to DTC’s governance procedures, (ii) revise certain DTC Board of Directors (“Board”) and designated officer titles or offices and update the related powers and duties, (iii) revise the section describing the compensation of officers, and (iv) make certain other technical changes and corrections.

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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 By-Laws are included in the Rules, By-Laws and Organization Certificate of DTC (“Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures>.

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

In DTC's review of the By-Laws, DTC has identified and is proposing the following changes to the By-Laws: (i) changing its internal governance procedures, (ii) revising certain Board and designated officer titles or offices and updating the related powers and duties, (iii) revising the section describing the compensation of officers, and (iv) making certain technical changes and corrections. Specifically, regarding the proposed changes to the Board and designated officer titles or offices and updating the related powers and duties, DTC is proposing to: (1) change the title of Chairman of the Board to Non-Executive Chairman of the Board and update the related powers and duties associated with that role due to personnel changes in DTC's management, (2) add the office of the Chief Executive Officer ("CEO"), combine the office of the President and the office of the Chief Executive Officer into one office (President and Chief Executive Officer) and update the related powers and duties to reflect that the two positions are now combined and are held by one individual, (3) add the office of the Chief Financial Officer ("CFO") and delete the office of the Comptroller, (4) delete the office of the Chief

Operating Officer (“COO”), (5) change the title of Vice President to Executive Director and update the related powers and duties, and (6) make other changes related to certain powers and duties of the Board and various officers, including Managing Directors, the Vice Chairman of the Corporation, the Treasurer and the Assistant Treasurer, as described in greater detail below. DTC is proposing to make these changes to the By-Laws so that the By-Laws remain consistent and accurate and DTC’s governance documents accurately reflect its management and organizational structure and the responsibilities within the purview of certain roles. DTC believes these changes would facilitate the efficient governance and operation of DTC.

**Proposed Changes to the By-Laws**<sup>4</sup>

**A. *Changes to DTC’s Governance Procedures***

DTC would revise the By-Laws to (1) change the frequency with which each of the Board and the Executive Committee is required to meet, (2) permit the Board to act by unanimous written consent, and (3) make a technical change by removing the word “monthly” from the phrase “regular monthly meetings” when describing Board meetings. DTC proposes to make the changes to the By-Laws that are described below.

1. **Changes to the Frequency of Board Meetings and Executive Committee Meetings; Technical Change to the Description of Regular Meetings of the Board**

Currently, the By-Laws require (1) the Board to meet for ten meetings per year with at least two meetings during any three-month period and (2) the Executive Committee to meet at least once in each 30-day period during which

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<sup>4</sup> DTC last submitted a rule filing regarding changes to the By-Laws in 2006. See Securities Exchange Act Release No. 54173 (July 19, 2006), 71 FR 42890 (July 28, 2006) (SR-DTC-2006-10, SR-FICC-2006-09, and SR-NSCC-2006-08).

the Board does not meet. DTC is proposing to reduce the required frequency of its Board meetings and Executive Committee meetings to better align the frequency of DTC's Board meetings with those of Fixed Income Clearing Corporation and National Securities Clearing Corporation. DTC believes that reducing the frequency of DTC's Board meetings to better align the occurrence of these meetings would facilitate the efficient use of corporate resources.

Specifically, DTC proposes to make the following changes to current Section 2.6 (Meetings) of the By-Laws to (1) reduce the required number of Board meetings and (2) eliminate the requirement that the Executive Committee meet at least once in each thirty-day period during which the Board does not meet:

- a. The minimum required number of meetings of the Board in current Section 2.6 (Meetings) would be reduced from ten meetings per year with at least two meetings during any three-month period to six meetings per year with at least one meeting during any three-month period.
- b. The provision in current Section 2.6 (Meetings) requiring the Executive Committee to meet during each 30-day period in which the Board does not meet would be deleted.

In addition, DTC proposes to make a technical change in current Section 2.6 (Meetings) by removing the word "monthly" from the phrase "regular monthly meetings" when describing that the Board may fix times and places for such meetings of the Board. The current provision refers to regular monthly meetings but also states that such meetings shall be held at least ten times a year.

As such, DTC believes that the proposed language, which would state that the Board may fix times and places for regular meetings of the Board and no notice of such meetings need to be given, would improve clarity and consistency.

2. Unanimous Written Consent

DTC proposes to add proposed Section 2.9 (Action by Unanimous Written Consent), permitting the Board to act by unanimous written consent in lieu of a meeting. The Board would be permitted to take all actions that are required to or may be taken at a meeting by unanimous written consent. The provision would require that the written consent set forth the action to be taken, be signed by all of the directors, and be filed with the minutes of the proceedings of the Board. DTC has determined that the unanimous written consent provision would facilitate the efficient operation of DTC by permitting the Board to make necessary decisions in a timely and efficient manner.

***B. Changes to Certain DTC Board and Designated Officer Titles or Offices and Updates to the Related Powers and Duties***

DTC proposes to revise the titles or offices and update the related powers and duties of various designated officers and the Board, as further described below, and for the reasons described below.

1. Change the Title of Chairman of the Board to Non-Executive Chairman of the Board; Update the Powers and Duties of the Non-Executive Chairman of the Board

DTC proposes to replace the title of Chairman of the Board with the title Non-Executive Chairman of the Board (“Non-Executive Chairman of the Board”). This change in title reflects that this position is now held by an individual who is not part of DTC’s management (i.e., a non-executive). In 2016,



DTC made personnel changes. As part of these personnel changes, the individual who was serving as Chairman of the Board and who was part of DTC's management at that time became a non-executive. DTC believed that it would be beneficial and desirable to continue to have this individual serve as chairman of the Board even though he is no longer part of DTC's management. Therefore, DTC proposes to change the title of this position in the By-Laws to Non-Executive Chairman of the Board to reflect that this position is held by a non-executive. DTC believes this proposed change would accurately reflect this organizational change. Furthermore, DTC proposes to revise the By-Laws to enumerate the powers and duties of the Non-Executive Chairman of the Board. To implement this proposed change, DTC would revise the By-Laws as described below.

Certain references to either Chairman or Chairman of the Board would be revised to Non-Executive Chairman of the Board in the sections of the By-Laws that would continue to apply to the Non-Executive Chairman of the Board. Specifically, the following changes would be made:

- a. In current Section 1.2 (Special Meetings), current Section 1.8 (Presiding Officer and Secretary), current Section 2.6 (Meetings), and current Section 6.1 (Certificates for Shares), the word "Non-Executive" would be added before each reference to the Chairman of the Board.

Certain references to Chairman of the Board in the By-Laws would be deleted because such references are in the sections of the By-Laws that only apply

to members of DTC management. Because the Non-Executive Chairman of the Board would not be a management position, such sections of the By-Laws would no longer be applicable. Specifically, the following changes would be made:

- a. In current Section 3.1 (General Provisions), Chairman of the Board would be removed from the list of designated officers of DTC.
- b. In current Section 3.12 (Compensation of Officers), the references to the Chairman of the Board would also be deleted because the Non-Executive Chairman of the Board does not receive compensation and because, as further described below, this section would be revised to only address the setting of compensation for the President and CEO.

Current Section 3.2 (Powers and Duties of the Chairman of the Board) would be deleted and replaced by proposed Section 2.8 (Non-Executive Chairman of the Board). Specifically, the following changes would be made:

- a. Certain powers and duties prescribed to the Chairman of the Board in current Section 3.2 (Powers and Duties of the Chairman of the Board) would remain with the Non-Executive Chairman of the Board. Such powers and duties include: (i) presiding over the meetings of the stockholders and of the Board at which he is present and (ii) such other powers and duties as the Board may designate. This would be set forth in proposed Section 2.8 (Non-Executive Chairman of the Board). Furthermore, as is similarly stated in current Section 3.2 (Powers and Duties of the Chairman

of the Board), proposed Section 2.8 (Non-Executive Chairman of the Board) would state that the “performance of any such duty by the Non-Executive Chairman of the Board shall be conclusive evidence of his power to act.”

- b. DTC would also expressly include in proposed Section 2.8 (Non-Executive Chairman of the Board) that the Non-Executive Chairman of the Board has general supervision over the Board and its activities and would provide overall leadership to the Board. Consistent with his authority to supervise and lead the Board, DTC proposes to assign the responsibility for carrying out the policies of the Board of Directors to the Non-Executive Chairman of the Board rather than the President (as is provided in current Section 3.3 (Powers and Duties of the President)). Furthermore, in current Section 3.6 (Powers and Duties of the Secretary), the power to assign additional powers and duties to the Secretary would be revised to replace the reference to President with Non-Executive Chairman of the Board. DTC believes this is an appropriate responsibility for the Non-Executive Chairman of the Board to have as part of his general supervision of the Board.
- c. In addition, proposed Section 2.8 (Non-Executive Chairman of the Board) would state that, in the absence of the Non-Executive Chairman of the Board, the presiding director, as elected by the Board, shall preside at all meetings of the stockholders and of the

Board at which he or she is present. Current Section 3.3 (Powers and Duties of the President) provides that, in the absence or inability of the Chairman of the Board, the President shall preside at all meetings of shareholders and all meetings of the Board of Directors at which he is present. Pursuant to the Board of Directors of The Depository Trust & Clearing Corporation (“DTCC”), DTC, Fixed Income Clearing Corporation (“FICC”) and National Securities Clearing Corporation (“NSCC”) Mission Statement and Charter (“Board Mission Statement and Charter”), DTC annually elects a presiding director to preside at meetings when the Non-Executive Chairman of the Board is absent. As such, DTC believes the proposed language described above would enhance accuracy by correcting the inconsistency between the By-Laws and the Board Mission Statement and Charter.

- d. As further described below, in proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer), the Non-Executive Chairman of the Board would have the authority to designate powers and duties to the President and CEO. DTC believes this authority to designate powers and duties to the President and CEO is within the scope of the supervisory role of the Non-Executive Chairman of the Board and therefore proposes to revise the By-Laws to expressly state that the Non-Executive Chairman has this authority.

e. In current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors), DTC would add the Non-Executive Chairman of the Board to the list of individuals who have the power to assign powers and duties to Managing Directors as well as make conforming changes. DTC believes this is an appropriate responsibility for the Non-Executive Chairman of the Board to have because he has general supervision over the Board.

2. Add the Office of the CEO and Combine the Office of the President and the Office of the CEO into the Office of the President and CEO; Update the Related Powers and Duties

DTC proposes to add the office of the CEO and combine the office of the President and the office of the CEO into one office (President and CEO) because one individual is the President and CEO. DTC proposes to revise the By-Laws to reflect that one individual holds the office of the President and CEO, including revising the list of designated officers in current Section 3.1 (General Provisions) to include the President and CEO. While current Section 3.3 (Powers and Duties of the President) provides that the President shall be the chief executive officer, current Section 3.1 (General Provisions) does not include CEO in the list of designated officer positions (President is currently included in this list). As such, DTC would revise certain references in the By-Laws from President to President and Chief Executive Officer. Specifically, DTC proposes to make the changes to the By-Laws that are described below.

a. In current Section 1.2 (Special Meetings), current Section 1.8 (Presiding Officer and Secretary), current Section 2.6 (Meetings), current Section 3.1 (General Provisions), current Section 3.5

(Powers and Duties of Vice Presidents and Managing Directors), current Section 3.7 (Powers and Duties of the Treasurer), and current Section 3.12 (Compensation of Officers), the words “and Chief Executive Officer” would be added after each reference to President.

- b. In current Section 6.1 (Certificates for Shares), the words “the President” would be deleted and replaced by the words “President and Chief Executive Officer.”

Furthermore, except as otherwise described below, the responsibilities, duties and powers granted to the President that are currently described in the By-Laws would continue to remain with the President and CEO. DTC proposes to make the following changes to the By-Laws to reflect the updated responsibilities and powers and duties that are granted to the President and CEO:

- a. A portion of current Section 3.3 (Powers and Duties of the President) would be deleted and replaced with proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer). The remaining portion of current Section 3.3 (Powers and Duties of the President) would be included in proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer).
- b. Current Section 3.3 (Powers and Duties of the President) states that the President will have general supervision over the business and affairs of DTC subject to the direction of the Board. Additionally,

current Section 3.3 (Powers and Duties of the President) states that the President may employ and discharge employees and agents of DTC, except such as shall be elected or appointed by the Board, and he may delegate these powers. Similarly, proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer) would state that the President and Chief Executive Officer would have general supervision over the overall business strategy, business operations, systems, customer outreach, and risk management, control and staff functions, subject to the direction of the Board and the Non-Executive Chairman of the Board. DTC believes the additional detail provided in proposed Section 3.2 (Powers and Duties of the President and CEO) would add clarity to the powers and duties associated with the role of President and Chief Executive Officer and would be consistent with the combined role. In addition, because the office of the COO would be eliminated (as described further below), the responsibility of general supervision over the operations of DTC, which is designated to the COO role in current Section 3.4 (Powers and Duties of the Chief Operating Officer), would be assigned to the President and CEO.

- c. Proposed Section 3.2 (Powers and Duties of the President and CEO) would state that the President and CEO would have such other powers and perform such other duties as the Board or the

Non-Executive Chairman of the Board may designate. DTC believes this generally aligns with current Section 3.3 (Powers and Duties of the President). DTC believes that providing the Non-Executive Chairman of the Board with this additional authority to designate powers and duties to the President and CEO is within the scope of the supervisory role of the Non-Executive Chairman of the Board.

- d. As noted above, certain powers and duties listed in current Section 3.3 (Powers and Duties of the President) would be removed or assigned to another position. Specifically, as noted above, the responsibility for carrying out the policies of the Board would be assigned to the Non-Executive Chairman of the Board rather than to the President and CEO. Additionally, the statement that “performance of any such duty by the President shall be conclusive evidence of his power to act” that appears in current Section 3.3 (Powers and Duties of the President) would be removed as DTC believes it would be best practice to document specific designation of powers and/or duties made by the Board or Non-Executive Chairman of the Board to the President and CEO. Furthermore, as noted above, the language stating that, in the absence of the Non-Executive Chairman, the President and CEO shall preside at all meetings of shareholders and all meetings of the Board of Directors at which he is present would be deleted because,



pursuant to the Board Mission Statement and Charter, that power resides with the presiding director who is elected annually by the DTC Board. DTC believes deleting this language would enhance accuracy by correcting the inconsistency between the By-Laws and the Board Mission Statement and Charter.

- e. As described above, in current Section 3.6 (Powers and Duties of the Secretary), the power to assign additional powers and duties to the Secretary would be removed from the President and granted to the Non-Executive Chairman of the Board. DTC believes this is an appropriate responsibility for the Non-Executive Chairman of the Board to have as part of his general supervision of the Board.
- f. As described below, the President and Board currently have the authority to assign powers and duties to the Comptroller in current Section 3.8 (Powers and Duties of the Comptroller). Similarly, proposed Section 3.5 (Powers and Duties of the Chief Financial Officer) would provide that the CFO would perform such other duties as he may agree with the President and CEO and the Board.

3. Add the Office of the CFO; Delete of the Office of the Comptroller

DTC would add the office of the CFO and assign to the CFO all of the powers and duties of the office of the chief financial officer. The CFO would, in general, have overall supervision of the financial operations of DTC.

Furthermore, references to the office of the Comptroller would be deleted. DTC does not currently have a Comptroller nor does DTC plan to appoint one.

Therefore, DTC believes it would be more accurate to remove all references to such position in the By-Laws. Specifically, DTC would revise the By-Laws as described below.

- a. In current Section 3.1 (General Provisions), CFO would be added to and Comptroller would be removed from the list of designated officers of DTC.
- b. DTC would add proposed Section 3.5 (Powers and Duties of the Chief Financial Officer). This proposed section would enumerate the powers and duties of the CFO. It would state that the CFO would have overall supervision of the financial operations of DTC and upon request, would counsel and advise other officers of DTC and perform other duties as agreed with the President and CEO or as determined by the Board. DTC believes these powers and duties are appropriate for the newly created role of CFO. Proposed Section 3.5 (Powers and Duties of the Chief Financial Officer) would also state that the CFO would report directly to the President and CEO. DTC believes it is appropriate for the CFO to report to the President and CEO and to specify this clear line of responsibility in the By-Laws.
- c. Furthermore, proposed Section 3.6 (Powers and Duties of the Treasurer) would also be revised to state that the Treasurer shall have all such powers and duties as generally are incident to the position of Treasurer or as the CFO (in addition to the President

and CEO and the Board) may assign to him. Because the Treasurer directly reports to the CFO, DTC believes it is appropriate for the CFO to assign powers and duties to the Treasurer.

- d. DTC would delete current Section 3.8 (Powers and Duties of the Comptroller), which, with the elimination of the office of the Comptroller, would no longer be necessary.

#### 4. Delete the Office of the COO

DTC would also delete references to the designated office of the COO in the By-Laws. DTC believes this change is necessary because DTC no longer has a COO nor does DTC plan to appoint one. Specifically, DTC would make the changes to the By-Laws described below.

- a. In current Section 3.1 (General Provisions), the COO would be removed from the list of designated officers of DTC.
- b. Current Section 3.4 (Powers and Duties of the Chief Operating Officer) would be deleted, which, with the elimination of the office of the COO, would no longer be necessary. The power and duty prescribed to this position (general supervision over the operations of DTC) would be assigned to the President and CEO in proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer), as described above.

5. Change the Title of Vice President to Executive Director;  
Update the Related Powers and Duties

DTC proposes to change the title of Vice President to Executive Director and update the related powers and duties. DTC believes these changes are necessary because DTC has decided that the title of Executive Director is more widely used in the financial services industry for roles similar to those designated as Vice Presidents. In DTC's organizational structure, Executive Directors report to Managing Directors. As such, it was decided that Executive Directors do not have sufficient seniority to call special meetings of shareholders, to preside over shareholder meetings unless specifically designated to do so by the Board, or to sign share certificates. DTC proposes to make the following changes to the By-Laws to reflect the change in the title from Vice President to Executive Director and to update the related powers and duties.

- a. In current Section 1.2 (Special Meetings), the proposed rule change would remove Vice Presidents from the list of officers authorized to call special meetings of shareholders. DTC believes that Vice Presidents do not have sufficient seniority to call special meetings of shareholders.
- b. In current Section 1.8 (Presiding Officer and Secretary), Vice President would be removed. DTC believes that a Vice President should not preside over a shareholder meeting unless specifically designated to do so by the Board.
- c. In current Section 3.1 (General Provisions), Vice Presidents would be removed from the list of designated officers of DTC. As

described below, a parenthetical phrase would be added explaining that the Board's power to appoint other officers includes the power to appoint one or more Executive Directors.

- d. In current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors), all references to Vice President would be deleted. Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors) currently states that Vice Presidents and Managing Directors have such powers and perform such duties as the Board or the President may assign to them.<sup>5</sup> Because individuals with the title of Executive Director report to Managing Directors, DTC believes the reference to Vice President in this section would not be necessary.

6. Other Changes to the Powers and Duties of the Board and Certain Other Designated Officers

*Managing Directors*

- a. In Section 1.2 (Special Meetings), the reference to the Managing Director would be added to the list of officers authorized to call special meetings of the stockholders to provide DTC's management with more flexibility by enabling additional persons within senior management to call special meetings of the Board.

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<sup>5</sup> With this proposal, this reference to President would be revised to President and CEO, and the Non-Executive Chairman of the Board would be added so the Non-Executive Chairman of the Board would also be able to assign powers and duties to the Managing Directors.

- b. In current Section 2.6 (Meetings), the proposal would add Managing Directors to the list of officers authorized to call special meetings of the Board. DTC believes this proposed change would provide DTC's management with additional flexibility by enabling additional persons within senior management to call special meetings of the Board.
- c. In current Section 6.1 (Certificates for Shares), Managing Directors would be removed from the list of officers authorized to sign certificates for shares. By removing Managing Directors, DTC would be able to limit the authorized signatories of certificates for shares of DTC to a smaller number of individuals within senior management.

*Vice Chairman of the Corporation*

As described below, a parenthetical phrase would be added in current Section 3.1 (General Provisions) explaining that the Board's power to appoint other offices includes, but is not limited to, the power to appoint a Vice Chairman of the Corporation.

*Board*

- a. In current Section 3.1 (General Provisions), DTC proposes to add a parenthetical phrase explaining that the Board's power to appoint other offices includes, but is not limited to, the power to appoint a Vice Chairman of the Corporation and one or more Executive Directors to enhance clarity.

- b. Additionally, in current Section 3.1 (General Provisions), regarding the ability of any one person to hold more than one office, DTC proposes to enhance and clarify the exception by specifying that neither the Secretary nor any Assistant Secretary can hold the following offices: (1) Vice Chairman of the Corporation or (2) President and CEO. DTC believes this proposed change is necessary to ensure that the Secretary and any Assistant Secretary would not hold those positions.

*Treasurer*

In current Section 6.1 (Certificates of Shares), DTC proposes to delete the reference to Treasurer from the list of authorized signatories because DTC expects the Secretary or an Assistant Secretary (who are each currently listed as authorized signatories) to sign any share certificates.

*Assistant Treasurer*

In current Section 6.1 (Certificates of Shares), DTC proposes to delete the reference to Assistant Treasurer from the list of authorized signatories because DTC expects the Secretary or the Assistant Secretary (who are each currently listed as authorized signatories) to sign any share certificates.

7. Revise Compensation of Officers to Compensation of the President and Chief Executive Officer

Current Section 3.12 (Compensation of Officers) would be revised to accurately reflect DTC's compensation setting practices. Current Section 3.12

states that: (i) the compensation, if any, of the Chairman of the Board, and the President shall be fixed by a majority (which shall not include the Chairman of the Board or the President) of the entire Board of Directors and (ii) salaries of all other officers shall be fixed by the President with the approval of the Board and no officer shall be precluded from receiving a salary because he is also a director. Current Section 3.12 would be revised to state that the Compensation Committee of the Corporation will recommend the compensation for the President and Chief Executive Officer to the Board of Directors for approval because, pursuant to the DTCC/DTC/FICC/NSCC Compensation and Human Resources Committee Charter (“Compensation Committee Charter), this is the process that is followed. In addition, DTC also proposes to delete the language stating that salaries of all other officers shall be fixed by the President with approval of the Board and no officer shall be precluded from receiving a salary because he is also a director. DTC believes the proposed changes are appropriate because they no longer reflect DTC’s compensation setting procedures. In addition, as noted above, references to Chairman of the Board would be deleted because the Non-Executive Chairman of the Board does not receive compensation. Furthermore, the title of this section would be revised from Compensation of Officers to Compensation of the President and Chief Executive Officer because this section would no longer speak to the compensation of officers other than the President and CEO.

***C. Technical Changes and Corrections***

DTC has identified the following technical changes and/or corrections that it proposes to make to the By-Laws to enhance the clarity and readability of the By-Laws.



1. Delete Direct Reference to Statutes and Statutory Requirements

DTC would delete direct statutory references from the By-Laws as set forth below so that the By-Laws remain consistent and accurate despite any changes to a specifically cited statute. DTC believes this proposed change would also provide DTC with a broad base to act in accordance with relevant law without violating the By-Laws and thereby also provide DTC with more flexibility. Specifically, DTC proposes to make the following changes to the By-Laws:

- a. In current Section 1.2 (Special Meetings), regarding stockholders' ability to compel the Secretary to call a special meeting of the stockholders for the election of directors, the reference to the provisions of Section 6003 of the New York Banking Law would be deleted.
- b. In current Section 1.4 (Notice of Meetings), regarding the composition of notices for stockholder meetings, the reference to the specific provisions and requirements of Section 6022 of the New York Banking Law would be deleted.
- c. In current Section 2.2 (Election and Term of Directors), regarding the directors' oath of office, the specific citation to Section 7015 would be removed. DTC also would clarify that the Banking Law is in fact referring to the New York Banking Law.

2. Technical Changes to Section Describing Audit Committee

DTC proposes to revise proposed Section 2.11 (Audit Committee) to conform the description of the composition of the Audit Committee to the description of the Audit Committee in the by-laws of FICC because the composition of such committee is the same for DTC, FICC and NSCC and therefore, DTC believes the description of such committee should be consistent. Specifically, DTC proposes to revise proposed Section 2.11 (Audit Committee) to state that the Board of Directors may appoint an Audit Committee consisting of three or more directors other than officers of DTC or DTCC. Furthermore, language stating that the Audit Committee will review the progress of all internal audits conducted by the Auditor (if there be one) and all periodic reports of such audits submitted to it by the Auditor pursuant to Section 3.9 and shall supervise, and cooperate and coordinate with, the Auditor in the performance of his duties would be deleted as a conforming change and for consistency with the by-Laws of FICC.

3. Other Technical Changes and Corrections

In addition to the technical changes proposed above, DTC proposes to make the additional technical and grammatical changes described below.

- a. In the heading for current Article I, DTC proposes to delete “STOCKHOLDERS” and replace it with “Stockholders” and in the heading for current Article II, delete “BOARD OF DIRECTORS” and replace it with “Board of Directors” to be consistent with the headings of the other Articles in the By-Laws.

- b. In current Section 1.2 (Special Meetings), current Section 1.3 (Record Date for Meetings and Other Purposes), current Section 1.8 (Presiding Officer and Secretary), current Section 2.6 (Meetings), current Section 3.1 (General Provisions), current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors), current Section 3.6 (Powers and Duties of the Treasurer), current Section 3.12 (Compensation of Officers), and current Section 6.1 (Certificates for Shares), conforming grammatical corrections would be made.
- c. In current Section 1.10 (Inspectors of Election), each use of the word “corporation” would be capitalized so that it would read “Corporation” and the word “such” would be replaced with the word “the” before the word “Corporation” in the last sentence to correct typographical errors and enhance consistency and readability.
- d. In current Section 2.3 (Newly Created Directorships and Vacancies), the extra space before and after the word “of” in the first sentence would be deleted.
- e. In addition, additional spaces between the section number and the section title would be added in current Section 1.1 (Annual Meeting) through Section 1.12 (Written Consent of Stockholders Without a Meeting), in current Section 2.1 (Number of Directors) through current Section 2.7 (Quorum and Voting), proposed

Section 2.8 (Non-Executive Chairman of the Board), proposed Section 2.10 (Executive Committee) through proposed Section 2.13 (Compensation of Directors), current Section 3.1 (General Provisions), proposed Section 3.3 (Powers and Duties of Managing Directors), proposed Section 3.4 (Powers and Duties of the Secretary), proposed Section 3.6 (Powers and Duties of the Treasurer), proposed Section 3.7 (Powers and Duties of the Auditor) through proposed Section 3.10 (Compensation of Officers), and current Section 6.1 (Certificates for Shares) through current Section 6.4 (Lost, Stolen or Destroyed Certificates).

- f. In current Section 2.6 (Meetings), each use of the word “board” in the second paragraph would be capitalized to correct typographical errors and enhance consistency.
- g. Current Section 2.8 (Executive Committee) through current Section 2.11 (Compensation of Directors) would be renumbered to reflect the addition of proposed Section 2.8 (Non-Executive Chairman of the Board) and proposed Section 2.9 (Action by Unanimous Written Consent).
- h. Current Section 3.5 (Powers and Duties of Vice Presidents and Managing Directors) through current Section 3.12 (Compensation of Officers) would be renumbered to reflect the addition of proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer) and proposed Section 3.5 (Powers and

Duties of the Chief Financial Officer) and the deletion of current Section 3.2 (Powers and Duties of the Chairman of the Board), current Section 3.3 (Powers and Duties of the President), current Section 3.4 (Powers and Duties of the Chief Operating Officer) and current Section 3.8 (Powers and Duties of the Comptroller).

- i. Proposed Article X (Gender References) would be added to clarify that the By-Laws are intended to be gender neutral with any reference to one gender deemed to include the other.

2. Statutory Basis

Section 17A(b)(3)(A) of the Act requires, among other things, that a clearing agency is so organized to be able to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.<sup>6</sup> DTC believes the proposed changes to the By-Laws described above are consistent with this provision. Specifically, DTC believes that the (1) change of title from Chairman of the Board to Non-Executive Chairman of the Board and changes to the related powers and duties, (2) addition of the office of the CEO, the combination of the offices of the President and CEO and changes to the related powers and duties, (3) addition of the office of the CFO and deletion of the office of the Comptroller, (4) change of title from Vice President to Executive Director and changes to the related powers and duties, (5) deletion of the office of the COO, (6) changes to the powers and duties of the Board, (7) changes to the powers and duties of Managing Directors, (8) changes to the powers and duties of Vice Chairman of the Corporation, (9) changes to the powers and duties of the Treasurer, and (10)

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<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(A).

changes to the powers and duties of the Assistant Treasurer are designed to facilitate the effective and efficient governance and operation of DTC and accurately reflect DTC's current Board and management structure. DTC also believes the changes to the powers and duties of the Board and designated officer positions are appropriate and aligned with each role. Furthermore, these proposed changes are intended to promote additional clarity as to the responsibilities of the Board and certain designated officers. DTC believes the proposed changes to the section describing the compensation of officers are designed to accurately reflect: (1) the process that is followed for setting compensation pursuant to the Compensation Committee Charter and (2) that the Non-Executive Chairman of the Board does not receive compensation and would promote additional clarity as to the setting of compensation of the President and CEO and Non-Executive Chairman of the Board. DTC also believes the technical changes and corrections to the By-Laws would enhance clarity and transparency in DTC's organizational documents. DTC also believes that the proposed changes that would: (1) reduce the minimum number of required Board meetings, (2) eliminate the requirement that the Executive Committee meet during each 30-day period in which the Board does not meet, and (3) authorize the Board to act by unanimous written consent in lieu of a meeting would facilitate the efficient operation of DTC by permitting the Board to make necessary decisions in a timely and efficient manner. DTC also believes that removing the word "monthly" when describing that the Board may fix times and places of regular meetings of the Board would enhance clarity and consistency regarding the requirements associated with such meetings. Therefore, DTC believes these proposed changes are

consistent with the requirement that DTC is so organized to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible.

Rule 17Ad-22(e)(1) under the Act requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, transparent and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.<sup>7</sup> DTC believes the (1) proposed changes to the titles or offices and the related powers and duties of the Board and certain officers and (2) proposed technical changes and corrections to the By-Laws are designed to ensure that DTC's organizational documents accurately describe DTC's organizational structure and that such organizational documents remain clear, transparent, and consistent. Therefore, DTC believes these proposed changes are consistent with Rule 17Ad-22(e)(1) because they are designed to ensure that DTC's organizational documents remain well-founded, transparent and enforceable in all relevant jurisdictions.<sup>8</sup>

Rule 17Ad-22(e)(2) under the Act requires that DTC establish, implement, maintain and enforce written policies and procedures to provide for governance arrangements that, among other things, (1) are clear and transparent, (2) support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q-1) applicable to clearing agencies, and the objectives of owners and participants; and (3) specify clear and direct lines of responsibility.<sup>9</sup> DTC believes the proposed changes to the By-Laws

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<sup>7</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>8</sup> Id.

<sup>9</sup> 17 CFR 240.17Ad-22(e)(2).

described above are designed to be consistent with Rule 17Ad-22(e)(2).<sup>10</sup> Specifically, DTC believes the proposed changes to the By-Laws regarding the titles or offices and the related powers and duties of various officers and the Board would enhance clarity and transparency because they would clearly and accurately set forth the organizational structure of DTC, including the roles and lines of responsibility of various officers and the Board. DTC also believes that the proposed changes that would: (1) reduce the minimum number of required Board meetings, (2) eliminate the requirement that the Executive Committee meet during each 30-day period in which the Board does not meet, and (3) authorize the Board to act by unanimous written consent in lieu of a meeting would facilitate the efficient operation of DTC by permitting the Board to make necessary decisions in a timely and efficient manner. DTC also believes that removing the word “monthly” when describing that the Board may fix times and places of regular meetings would enhance clarity and consistency regarding the requirements associated with such meetings. DTC also believes the proposed changes relating to the compensation of officers would enhance clarity and transparency regarding its compensation setting procedures by (1) accurately reflecting the process that is followed pursuant to the Compensation Committee Charter and (2) clarifying that the Non-Executive Chairman of the Board does not receive compensation. In addition, the proposed technical changes and corrections to the By-Laws are also designed to enhance the clarity, transparency, and readability of the By-Laws. DTC believes that, taken together, these proposed changes would facilitate the effective and efficient governance and operation of DTC, and therefore would enable DTC to better serve its Participants.

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<sup>10</sup> Id.



As such, DTC believes these proposed changes would also support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q-1) applicable to clearing agencies, and the objectives of its owners and participants. Therefore, DTC believes these proposed rule changes are consistent with Rule 17Ad-22(e)(2) because they are designed to enhance clarity and transparency in DTC's governance arrangements, support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q-1) applicable to clearing agencies, and the objectives of owners and participants, and specify clear and direct lines of responsibility for various officer positions and the Board within DTC's organizational structure.<sup>11</sup>

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

DTC does not believe that the proposed rule change would have any impact on competition. The proposed rule change would amend the By-Laws to: (1) accurately reflect DTC's organizational structure and reflect changes to titles or offices and the related powers and duties of the Board and various designated officers, (2) accurately reflect (a) the process that is followed for setting compensation pursuant to the Compensation Committee Charter and (b) that the Non-Executive Chairman of the Board does not receive compensation, (3) permit the Board to continue to make necessary decisions in a timely and efficient manner by reducing the minimum number of required Board meetings, authorizing the Board to act by unanimous written consent in lieu of meetings, and make other related changes, and (4) enhance the clarity, transparency, and readability of the By-Laws by making technical changes and corrections. DTC does not believe that this proposal would affect any of its current practices regarding the rights or

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<sup>11</sup> Id.

obligations of its Participants. Therefore, DTC believes that the proposal would not have any effect on its Participants and thus, would not have any impact or burden on competition.

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

DTC has not received any written comments relating to this proposal. DTC will notify the Commission of any written comments received by it.

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-2018-001 on the subject line.

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-2018-001. 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-2018-001 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>

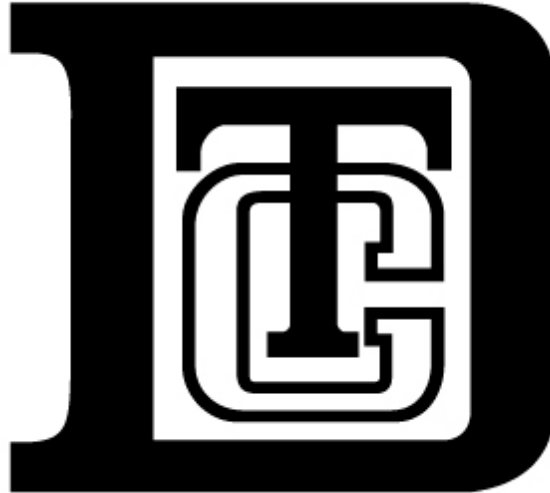
Secretary

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

**Bold and underlined text** indicates proposed added language

**~~Bold and strikethrough text~~** indicates proposed deleted language



RULES

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BY-LAWS

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ORGANIZATION CERTIFICATE

THE DEPOSITORY TRUST COMPANY

**BY-LAWS**  
**OF**  
**THE DEPOSITORY TRUST COMPANY**

**ARTICLE I**

**STOCKHOLDERS Stockholders**

*Section 1.1. Annual Meeting.* The annual meeting of the stockholders of the Corporation for the election of directors and the transaction of such other business as may properly come before the meeting shall be held within the first four months of each calendar year at such hour and place within or without the State of New York as the Board of Directors shall determine, or, if not so determined, at 10:00 A.M. on the last day in April at the principal office of the Corporation in the City of New York, New York or, if that day shall be a Saturday, Sunday or a legal holiday in the place where the meeting is to be held, on the immediately preceding day not a Saturday, Sunday or a legal holiday. Notice of such meeting, which shall state the place, date and hour thereof, shall be given to each stockholder in the manner provided in Section 1.4.

*Section 1.2. Special Meetings.* Special meetings of the stockholders may be called by the Board of Directors, and shall be called by the **Non-Executive** Chairman of the Board, the President **and Chief Executive Officer**, or a **Managing Director** ~~Vice President~~ or the Secretary at the written demand of a majority of the Board of Directors, or at the written demand of the holders of at least twenty-five percent (25%) of all outstanding shares entitled to vote on the action proposed to be taken at such meeting, ~~or, with respect to special meetings for the election of directors pursuant to section 6003 of the Banking Law, at the written demand of the holders of ten percent (10%) of all outstanding shares entitled to vote in an election of directors,~~ or as required by law. Any such call or demand shall state the purpose or purposes of the proposed meeting. On failure of any officer above specified to call such special meeting when duly demanded, any signer of such demand may call such special meeting and give the notice thereof. Special meetings shall be held at such place within or without the State of New York as may be specified in the notice thereof. At any special meeting only such business may be transacted which is related to the purpose or purposes set forth in the notice thereof, but any special meeting may be called and held in conjunction with an annual meeting of the stockholders.

*Section 1.3. Record Date for Meetings and Other Purposes.* For the purpose of determining the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, or to express consent to or dissent from any proposal without a meeting, or for the purpose of determining stockholders entitled to receive payment of any dividend or the allotment of any rights, or for the purpose of any other action, the Board of Directors may fix, in advance, a date as the record date for any such determination of stockholders. Such date shall not be more than fifty nor less than ten days before the date of such meeting, nor more than fifty days prior to any other action.

If no record date is so fixed by the Board of Directors, (a) the record date for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if no notice is given, the day on which the meeting is held, and (b) the record date for determining stockholders for any other purpose shall be at the close of business on the day on which the resolution of Board of Directors relating thereto is adopted.

When a determination of stockholders of record entitled to notice of or to vote at any meeting of stockholders has been made as provided in this Section, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date under this Section for the adjourned meeting.

*Section 1.4. \_\_\_Notice of Meetings.* Whenever stockholders are required or permitted to take any action at a meeting, written notice shall be given stating the place, date and hour of the meeting and, unless it is the annual meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting. Notice of a special meeting (including any such meeting to be held in conjunction with an annual meeting) shall also state the purpose or purposes for which the meeting is called. ~~If, at any meeting, action is proposed to be taken which would, if taken, entitle stockholders fulfilling the requirements of section 6022 of the New York Banking Law to receive payment for their shares, the notice of such meeting shall include a statement of that purpose and to that effect.~~—A copy of the notice of any meeting shall be given, personally or by mail, not less than ten nor more than fifty days before the date of the meeting, to each stockholder entitled to vote at such meeting. If mailed, such notice shall be given when deposited in the United States mail, with postage thereon prepaid, directed to the stockholder at his address as it appears on the record of stockholders, or, if he shall have filed with the Secretary of the Corporation a written request that notices to him be mailed to some other address, then directed to him at such other address.

When a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting, if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and at the adjourned meeting any business may be transacted that might have been transacted on the original date of the meeting. However, if after the adjournment, the Board of Directors fixes a new record date for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record on the new record date entitled to notice under this Section.

*Section 1.5. \_\_\_Waivers of Notice.* Notice of any meeting of stockholders need not be given to any stockholder who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any stockholder at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him.

*Section 1.6. \_\_\_List of Stockholders at Meetings.* A list of stockholders as of the record date, certified by the Secretary or by a transfer agent, shall be produced at any meeting of stockholders upon the request thereat or prior thereto of any stockholder.

*Section 1.7. Quorum at Meetings.* Except as otherwise provided by law, the holders of a majority of the shares entitled to vote thereat shall constitute a quorum at any meeting of stockholders for the transaction of any business, but the stockholders present may adjourn any meeting to another time or place despite the absence of a quorum. When a quorum is once present to organize a meeting, it shall not be broken by the subsequent withdrawal of any stockholders.

*Section 1.8. Presiding Officer and Secretary.* At any meeting of the stockholders, if ~~neither none of~~ the Non-Executive Chairman of the Board ~~nor,~~ the President ~~nor a Vice President nor and Chief Executive Officer or other~~ person designated by the Board of Directors to preside at the meeting ~~shall be~~ present, the stockholders shall appoint a presiding officer to the meeting. If neither the Secretary nor an Assistant Secretary ~~be~~ present, the appointee of the person presiding at the meeting shall act as secretary of the meeting.

*Section 1.9. Proxies.* Every stockholder entitled to vote at a meeting of stockholders or to express consent or dissent without a meeting may authorize another person or persons to act for him by proxy. Every proxy must be signed by the stockholders or his attorney-in-fact. No proxy shall be valid after the expiration of eleven months from the date thereof unless otherwise provided in the proxy. Every proxy shall be revocable at the pleasure of the stockholder executing it, except as otherwise provided by law. Proxies shall be delivered to the Secretary of the Corporation or, if inspectors are appointed to act at a meeting, to the inspectors.

*Section 1.10. Inspectors of Election.* The Board of Directors, in advance of any meeting of stockholders, may appoint one or more inspectors to act at the meeting or any adjournment thereof. If inspectors are not so appointed, the person presiding at the meeting may, and on the request of any stockholder entitled to vote thereat shall, appoint one or more inspectors. In case any person appointed fails to appear or act, the vacancy may be filled by appointment made by the Board in advance of the meeting or at the meeting by the person presiding thereat. Each inspector, before entering upon the discharge of his duties, shall take and sign an oath faithfully to execute the duties of inspector at such meeting with strict impartiality and according to the best of his ability. No director or officer of the ~~corporation~~Corporation shall be eligible to act as an inspector of an election of directors of ~~such corporation~~the Corporation.

The inspectors shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots or consents, determine the result, and do such acts as are proper to conduct the election or vote with fairness to all stockholders. On request of the person presiding at the meeting or any stockholder entitled to vote thereat, the inspectors shall make a report in writing of any challenge, question or matter determined by them and execute a certificate of any fact found by them.

*Section 1.11. Voting.* Whenever directors are to be elected by the stockholders, they shall be elected by a plurality of the votes cast at a meeting of stockholders by the holders of shares entitled to vote in the election. Whenever any corporate action, other than the election of directors, is to be taken by vote of the stockholders, it shall, except as otherwise required by law



or the Organization Certificate or these By-Laws, be authorized by a majority of the votes cast at a meeting of stockholders by the holders of shares entitled to vote thereon.

Except as otherwise provided by law, every holder of record of shares of the Corporation entitled to vote on any matter at any meeting of stockholders shall be entitled to one vote for every such share standing in his name on the record of stockholders of the Corporation on the record date for the determination of the stockholders entitled to notice of or to vote at the meeting. Upon the demand of any stockholder, the vote at any election of directors, or the vote upon any question before a meeting, shall be by ballot; but otherwise the method of voting shall be discretionary with the person presiding at the meeting.

*Section 1.12. Written Consent of Stockholders Without a Meeting.* Whenever under any provision of law or of these By-Laws stockholders are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, signed by the holders of all outstanding shares entitled to vote thereon. The provisions of this Section shall not be construed to alter or modify any provision of law under which the written consent of the holders of less than all outstanding shares is sufficient for any corporate action.

## ARTICLE II

### ~~BOARD OF DIRECTORS~~ Board of Directors

*Section 2.1 Number of Directors.* The entire Board shall consist of twenty-five directors until changed as hereinafter provided. The number of directors may be changed to no less than seven nor more than twenty-five at any time and from time to time in accordance with Article IX. Unless and until changed in accordance with this Section the number of directors constituting the entire Board shall continue in effect and no further action shall be required to fix such number at any meeting of the stockholders for the election of directors.

*Section 2.2. Election and Term of Directors.* At each annual meeting of stockholders, directors shall be elected to hold office until the next annual meeting. Each director shall, unless sooner removed or disqualified, hold office from the time of his election and qualification until the annual meeting of stockholders next succeeding his election and until his successor has been elected and qualified, and has taken the oath prescribed by ~~Section 7015 of the~~ New York Banking Law.

*Section 2.3. Newly Created Directorships and Vacancies.* All vacancies in the office of director, including newly created directorships resulting from an increase in the number of directors shall be filled by election by the stockholders at any annual or special meeting -of- the stockholders, except as hereinafter provided. Vacancies not exceeding one-third of the entire Board may be filled by the affirmative vote of a majority of the directors then in office, and the directors so elected shall hold office for the balance of the unexpired term.

*Section 2.4. Resignations.* Any director may resign from his office at any time by delivering his resignation in writing to the Corporation, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

*Section 2.5. Removal of Directors.* Except as otherwise provided by law, any or all of the directors may be removed, for cause or without cause, by vote of the stockholders.

*Section 2.6. Meetings.* Meetings of the Board, regular or special, may be held at any place within or without the State of New York as the Board from time to time may fix or as shall be specified in the respective notice or waivers of notice thereof. An annual meeting of the Board for the election or appointment of officers shall be held within twenty-five days after the day on which the annual meeting of the stockholders shall have been held, at the same place and as soon after the holding of such meeting of stockholders as is practicable, and no notice thereof need be given. The Board may fix times and places for regular ~~monthly~~ meetings of the Board, ~~which shall be held at least ten times a year provided, however, that during any three consecutive calendar months the Board shall meet at least twice,~~ and no notice of such meetings need be given. Unless otherwise required by law, regular meetings of the Board shall be held not less than six times a year, provided that during any three consecutive calendar months the Board shall meet at least once. ~~The Executive Committee shall meet at least once in each thirty day period during which the Board does not meet.~~ Special meetings of the Board shall be held whenever called by the Non-Executive Chairman of the Board, the President and Chief Executive Officer, a Managing Director or by at least one-third of the directors for the time being in office. Notice of each such meeting shall be given by the Secretary or by a person calling the meeting to each director by mailing the same not later than two days before the meeting, or by telegraphing, cabling, telephoning, faxing, electronically transmitting or personally delivering the same not later than one day before the meeting. Notice of a meeting need not be given to any director who submits a signed waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him.

Any one or more members of the ~~board~~Board or any committee thereof may participate in a meeting of such ~~board~~Board or committee by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

*Section 2.7. Quorum and Voting.* Except as provided in the Organization Certificate, a majority of the entire Board shall constitute a quorum for the transaction of business or of any specified item of business; provided, however, that, when a majority of the entire Board is once present to organize a meeting, one-third of the entire Board shall thereafter constitute a quorum for the transaction of business or any specified item of business at such meeting. Except as otherwise provided by law, by these By-Laws or by the Organization Certificate, the vote of a majority of the directors present at the time of the vote, if a quorum is present at such time, shall be the act of the Board; provided that a majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. No notice of any such adjournment need be given.

*Section 2.8. Non-Executive Chairman of the Board.* The Non-Executive Chairman of the Board shall be responsible for carrying out the policies of the Board. He shall have general supervision over the Board and its activities, and shall provide overall leadership to the Board. He shall preside at all meetings of the stockholders and of the Board at which he is present. The Non-Executive Chairman of the Board shall have such

**other powers and perform such other duties as the Board may designate. The performance of any such duty by the Non-Executive Chairman of the Board shall be conclusive evidence of his power to act.**

**In the absence of the Non-Executive Chairman of the Board, the presiding director, as elected by the Board, shall preside at all meetings of the stockholders and of the Board at which he or she is present.**

**Section 2.9. Action by Unanimous Written Consent. Except as otherwise provided by law, actions which are required to be or may be taken at a meeting of the directors may be taken without a meeting if the consents are in writing, setting forth the actions to be taken, and are signed by all of the directors. The written consent may be executed in several identical counterparts by the directors with the effect as if the directors had executed a single document. The resolution or resolutions and written consents thereto shall be filed with the minutes of the proceedings of the Board.**

**Section 2.10. Executive Committee.** The Board, by resolution adopted by a majority of the entire Board, may designate from among its members an Executive Committee, consisting of five or more directors, which, to the extent provided in the resolution and to the extent permitted by law, shall have all the authority of the Board between meetings of the Board. The Board may designate one or more directors as alternate members of the Executive Committee, who may replace any absent member or members at any meeting of the Executive Committee. Members of the Executive Committee shall serve at the pleasure of the Board.

**Section 2.9.2.11. Audit Committee.** ~~These~~**The Board of Directors may appoint shall be an Audit Committee of the Board of Directors,** consisting of three or more directors other than officers of the Corporation ~~appointed by the Board of Directors~~**or of The Depository Trust & Clearing Corporation.** Members of the Audit Committee shall serve at the pleasure of the Board. The Audit Committee shall review ~~the progress of all internal audits conducted by the Auditor (if there be one) and all periodic reports of such audits submitted to it by the Auditor pursuant to Section 3.9 and shall supervise, and cooperate and coordinate with, the Auditor in the performance of his duties. The Audit Committee shall review~~ with the Corporation's independent certified public accountants the scope of their auditing procedures, the financial statements of the Corporation which the accountants propose to certify, the proposed certification thereof and such other matters relating to the auditing of the Corporation by its independent certified public accountants as such Committee shall deem appropriate, and shall have such other and further duties and powers as may be delegated to it by resolution of the Board of Directors from time to time. The Board may designate one or more directors as alternate members of the Audit Committee, who may replace any absent member or members at any meeting of the Audit Committee.

**Section 2.10.2.12. Other Committees.** The Board of Directors may also appoint or provide for such other committees consisting of such directors, officers or other persons and having such powers and functions in the management of the Corporation as the Board of Directors may see fit.

*Section ~~2.11.2.13.~~ \_\_\_ Compensation of Directors.* Directors may receive compensation for services to the Corporation in their capacities as directors or otherwise in such amount may be fixed from time to time by the Board.

## ARTICLE III

### Officers, Agents and Employees

*Section 3.1. \_\_\_ General Provisions.* The officers of the Corporation shall be a **Chairman of the Board and a President, each of whom and Chief Executive Officer, who** shall be elected by the Board of Directors from among its own number, **a Chief Operating Officer and one or more Vice Presidents and/or** Managing Directors, a Secretary, **a Chief Financial Officer,** a Treasurer, **a Comptroller** and an Auditor, and may include one or more Assistant Secretaries and one or more Assistant Treasurers. The officers shall be elected by the Board at the first meeting of the Board after the annual meeting of the shareholders in each year. The Board may elect or appoint other officers (**including, but not limited to, a Vice Chairman of the Corporation, and one or more Executive Directors**), ~~the Board may prescribe~~ agents and employees, who shall have such authority and perform such duties as **may be prescribed by the Board.** Each officer shall hold office for the term for which he is elected or appointed and until his successor has been elected or appointed and qualified. Any two or more offices may be held by the same person, except **that neither the offices Secretary nor any Assistant Secretary shall be the Vice Chairman of the Corporation, or the** President and **Chief Executive Officer Secretary.** Any officer, agent or employee of the Corporation may be removed, or his authority suspended, by the Board with or without cause. Such removal or suspension of authority without cause shall be without prejudice to such person's contract rights, if any, but the election or appointment of any person as an officer, agent or employee of the Corporation shall not be deemed of itself to create contract rights. The Board may require any officer, agent or employee to give security for the faithful performance of his duties.

*Section 3.2. Powers and Duties of the Chairman of the Board.* ~~The Chairman of the Board shall preside at all meetings of shareholders and all meetings of the Board of Directors at which he is present. The Chairman of the Board shall have such other powers and perform such other duties as the Board may assign to him. The performance of any such other duty by the Chairman of the Board shall be conclusive evidence of his power to act.~~

*Section 3.3. Powers and Duties of the President.* ~~The President shall be the chief executive officer of the Corporation and shall have the responsibility for carrying out the policies of the Board of Directors. Subject to the direction of the Board, the President shall have general supervision over the business and affairs of the Corporation. He may employ and discharge employees and agents of the Corporation, except such as shall be elected or appointed by the Board, and he may delegate these powers. In the absence or inability to act of the Chairman of the Board, the President shall preside at all meetings of shareholders and all meetings of the Board of Directors at which he is present.~~

**Section 3.2 Powers and Duties of the President and Chief Executive Officer.** **The President and Chief Executive Officer shall have general supervision over the overall business strategy, business operations, systems, customer outreach, and risk management, control and staff functions (including, but not limited to, compliance, internal audit, finance, legal and human resources) of the Corporation, subject to the direction of the Board and the Non-Executive Chairman of the Board.**

**He shall have such other powers and perform such other duties as the Board or the Non-Executive Chairman of the Board may designate.** The President **and Chief Executive Officer** may vote the shares or other securities of any other domestic or foreign corporation of any type or kind which may at any time be owned by the Corporation, may execute any shareholders' or other consents in respect thereof and may in his discretion delegate such powers by executing proxies, or otherwise, on behalf of the Corporation. The Board, by resolution from time to time, may confer like powers upon any other person or persons.

~~The President shall have such other powers and perform such other duties as the Board may assign to him. The performance of any such other duty by the President shall be conclusive evidence of his power to act.~~

~~**Section 3.4. Powers and Duties of the Chief Operating Officer.** **Subject to the direction of the Board of Directors and the President, the Chief Operating Officer shall have general supervision over the operations of the Corporation. In the absence or inability to act of the President, the Chief Operating Officer may perform all the duties and exercise all the powers of the President. The Chief Operating Officer shall have such other powers and perform such other duties as the Board may assign to him. The performance of any such other duty by the Chief Operating Officer shall be conclusive evidence of his power to act.**~~

~~**Section 3.5.3.3 Powers and Duties of Vice Presidents and Managing Directors.** Each ~~Vice President~~ or Managing Director shall have such powers and perform such duties as the Board of Directors **or the Non-Executive Chairman of the Board** or the President **and Chief Executive Officer** may assign to him.~~

~~**Section 3.6.3.4 Powers and Duties of the Secretary.** The Secretary shall have charge of the minutes of all proceedings of the shareholders and of the Board of Directors. He shall attend to the giving of all notices to shareholders and directors. He shall have charge of the seal of the Corporation and shall attest the same by his signature whenever required. He shall have charge of the record of shareholders of the Corporation, and of such other books and papers as the Board may direct. He shall have all such powers and duties as generally are incident to the position of Secretary or as the Board or the ~~President~~**Non-Executive Chairman of the Board** may assign to him.~~

**Section 3.5. Powers and Duties of the Chief Financial Officer.** **The Chief Financial Officer shall perform all the powers and duties of the office of the chief financial officer and in general have overall supervision of the financial operations of the Corporation. The Chief Financial Officer shall, when requested, counsel with and advise the other officers of the Corporation and shall perform such other duties as he may agree**

**with the President and Chief Executive Officer or as the Board may from time to time determine. The Chief Financial Officer shall report directly to the President and Chief Executive Officer.**

**Section 3.7.3.6. \_\_Powers and Duties of the Treasurer.** The Treasurer shall have charge of all funds and securities beneficially owned by the Corporation, shall endorse the same for deposit or collection when necessary and deposit the same to the credit of the Corporation in such banks or depositories as the Board of Directors may authorize. He may endorse all commercial documents requiring endorsements for or on behalf of the Corporation and may sign all receipts and vouchers for payments made to the Corporation. He shall have all such powers and duties as generally are incident to the position of Treasurer or as the Board, ~~or~~ **the President and Chief Executive Officer or the Chief Financial Officer** may assign to him.

~~**Section 3.8 Powers and Duties of the Comptroller. The Comptroller shall have charge of the accounting operations and procedures of the Corporation. He shall have all such powers and duties as generally are incident to the position of Comptroller or as the Board of Directors or the President may assign to him. He shall render annually to the Board a report relating to the general condition and internal operations of the Corporation.**~~

**Section 3.9.3.7. \_\_Powers and Duties of the Auditor.** The Auditor shall make such examination of the accounts, records and transactions of the Corporation as may be required by the Board of Directors and he shall perform such other duties as are prescribed in an audit program approved by the Board. He shall be free to examine any department or section of the Corporation routinely without previous officer consultation. He shall maintain a summary record of dates of completed audits, and shall make periodic reports to the Board or a committee thereof which shall include such suggestions and recommendations which he may consider advisable to make. He shall make periodic reports to the Board or a committee thereof on subjects specified by the Board or a committee thereof or on those chosen by the Auditor on the status of any audit in progress and shall cooperate and coordinate with the Board or a committee thereof in the performance of his duties.

**Section 3.10.3.8. \_\_Powers and Duties of Assistant Secretaries.** In the absence or inability to act of the Secretary, any Assistant Secretary may perform all the duties and exercise all the powers of the Secretary. The performance of any such duty shall be conclusive evidence of his power to act. An Assistant Secretary shall also perform such other duties as the Board of Directors or the Secretary may assign to him.

**Section 3.11.3.9. \_\_Powers and Duties of Assistant Treasurers.** In the absence or inability to act of the Treasurer, an Assistant Treasurer may perform all the duties and exercise all the powers of the Treasurer. The performance of any such duty shall be conclusive evidence of his power to act. An Assistant Treasurer shall also perform such other duties as the Board of Directors or the Treasurer may assign to him.

**Section 3.12.3.10. \_\_Compensation of the President and Chief Executive Officer Officers.** The **Compensation Committee of the Corporation shall recommend** compensation, ~~if any, of the Chairman of the Board, and for~~ **the President and Chief Executive Officer**

~~shall be fixed by a majority (which shall not include the Chairman of the Board or the President) of the entire to the Board of Directors for approval. Salaries of all other officers shall be fixed by the President with the approval of the Board and no officer shall be precluded from receiving a salary because he is also a director.~~

## ARTICLE IV

### Indemnification

The Corporation shall, to the fullest extent to which it is empowered to do so by the New York Business Corporation law or any other applicable laws, as may from time to time be in effect, indemnify any person who was or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of that fact that he or she, or his or her testator or intestate, is or was a director or officer of the Corporation, is or was a member of a committee established by the Board of Directors of the Corporation, or is or was serving any other corporation, domestic or foreign, partnership, joint venture, trust, employee benefit plan or other business enterprise or entity in any capacity at the request of the Corporation, against all expenses (including attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding. The Corporation may advance his or her related expenses and secure appropriate indemnification insurance, to the full extent permitted by law.

## ARTICLE V

### Rules

The Board of Directors may prescribe, and from time to time amend, rules relating to and regulating the business of the Corporation and the relationship of the Corporation with the persons for whom it provides services and among such persons (the "Rules"). The Rules of the Corporation, made in accordance with these By-Laws, shall have the same force and effect as though a part hereof.

The Board of Directors of the Corporation shall have power to interpret the Rules adopted pursuant to the provisions of this Article and any and all amendments or changes therein and additions thereto and any such interpretation so made shall be final and conclusive.

## ARTICLE VI

### Shares of the Corporation

*Section 6.1. Certificates for Shares.* The shares of the Corporation shall be represented by certificates in such form as shall be determined by the Board of Directors. Such certificates shall be signed by the President and Chief Executive Officer or the Non-Executive Chairman of the Board ~~or the President or a Managing Director~~ and by the

Secretary or an Assistant Secretary, ~~or the Treasurer or an Assistant Treasurer of the Corporation,~~ may be sealed with the seal of the Corporation or a facsimile thereof, and shall contain such information as is required by law to be stated thereon. All certificates for shares shall be consecutively numbered or otherwise identified. All certificates exchanged or surrendered to the Corporation for transfer shall be cancelled.

*Section 6.2. \_\_\_Record of Stockholders.* The Corporation shall keep at the office of the Corporation in the State of New York a record containing the names and addresses of all stockholders, the number and class of shares held by each and the dates when they respectively became the owners of record thereof. The Corporation shall be entitled to treat the persons in whose names shares stand on the record of stockholders as the owners thereof for all purposes.

*Section 6.3. \_\_\_Transfers of Shares.* Transfers of shares on the record of stockholders of the Corporation shall be made only upon surrender to the Corporation of the certificate or certificates for such shares, duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer.

*Section 6.4. \_\_\_Lost, Stolen or Destroyed Certificates.* The Corporation may issue a new certificate for shares in place of any certificates theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Board may require the owner of the lost, stolen or destroyed certificate, or his legal representative, to give the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of any such new certificate. The Board may require such owner to satisfy other reasonable requirements.

## **ARTICLE VII**

### **Seal**

The seal of the Corporation shall be circular in form and contain the name of the Corporation, the words "Corporate Seal" and "New York" and the year the Corporation was formed in the center. The Corporation may use the seal by causing it or a facsimile to be affixed or impressed or reproduced in any manner.

## **ARTICLE VIII**

### **Checks, Notes, Drafts, etc.**

Checks, notes, drafts, acceptances, bills of exchange and other orders or obligations for the payment of money shall be signed by such officer or officers or person or persons as the Board of Directors shall from time to time determine.



## **ARTICLE IX**

### **Amendments**

These By-Laws may be amended or repealed, and new By-Laws may be adopted, (1) by vote of the holders of the shares at the time entitled to vote in the election of any directors, at any annual meeting of the stockholders, or at any special meeting of the stockholders called for that purpose, or (2) by the Board of Directors. Any By-Laws adopted by the Board may be amended or repealed by the stockholders entitled to vote thereon as herein provided. A By-Law adopted by the stockholders may provide that such By-Law shall not be subject to amendment or repeal by the Board. If any By-Law regulating an impending election of directors is adopted, amended or repealed by the Board, there shall be set forth in the notice of the next meeting of stockholders for the election of directors the By-Law so adopted, amended or repealed, together with a concise statement of the changes made.

## **ARTICLE X**

### **Gender References**

**These By-Laws are intended to be gender neutral. Any reference in these By-Laws to one gender shall be deemed to include the other.**