

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 35	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2018 - * 002 Amendment No. (req. for Amendments *)
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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 type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input checked="" type="checkbox"/> 19b-4(f)(4)	<input type="checkbox"/> 19b-4(f)(5)
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(6)	
			<input type="checkbox"/> 19b-4(f)(3)		

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 *).

Proposed rule change to (1) amend the Policy Statements on the Admission of Participants and (2) implement fees relating to (a) the submission of membership and pledgee applications and (2) legal opinions relating to foreign applicants.

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 * John Last Name * Petrofsky
 Title * Director and Assistant General Counsel
 E-mail * jpetrofsky@dtcc.com
 Telephone * (813) 470-2115 Fax

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 06/21/2018
 By Lois J. Radisch
 (Name *)
 Managing Director and Deputy General Counsel
 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 *

Add Remove View

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

Add Remove View

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 of The Depository Trust Company (“DTC”)¹ is annexed hereto as Exhibit 5 and consists of proposed modifications to (i) the DTC Fee Schedule (“Fee Schedule”)² to add two new application fees that would be charged, respectively, to legal entities that formally submit an application (“Application”) to become either a Participant³ (each, a “Participant Applicant”) or a Pledgee⁴ (each, a “Pledgee Applicant”) of DTC (Participant Applicants and Pledgee Applicants, referred to collectively as “Applicants”), and (ii) DTC’s Policy Statements on the Admission of Participants (jointly referred to as the “Policy Statement”) with respect to the provision that requires a non-U.S. entity that applies to become a Participant (“Non-U.S. Participant Applicant”) to provide to DTC a legal opinion (“Foreign Legal Opinion”) of its counsel in its jurisdiction of organization (“Jurisdiction of Organization”).⁵ With respect to (i) above, the Fee Schedule would be amended to charge (A) each Participant Applicant a fee of \$5,000 in connection with its Application to become a Participant (“Participant Application Fee”), and (B) each Pledgee Applicant a fee of \$2,500 in connection with its Application to become a Pledgee (“Pledgee Application Fee”) (Participant Application Fee and Pledgee Application Fee, collectively referred to as “Application Fees”). With respect to (ii) above, the Policy Statement would be amended to (A) remove the provision that requires each Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion from its counsel and (B) provide that DTC would obtain a Foreign Legal Opinion from its outside counsel (“DTC Counsel”) in the Jurisdiction of Organization of a new Non-U.S. Participant Applicant, which opinion DTC would use in conjunction with its review of the Application of that and each subsequent new Non-U.S. Participant Applicant domiciled in that Jurisdiction of Organization, as described below. Each Non-U.S. Participant Applicant would be charged a fee (“Foreign Legal Opinion Fee”) with respect to the applicable Foreign Legal Opinion obtained by DTC, as described below. The proposed rule change would also amend the Policy Statement to impose a time limit (“Time Limit”) of six months for an Applicant to complete its Application with required documentation (“Required Documentation”),⁶ before its Application would expire,

¹ Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (the “Rules”), available at www.dtcc.com/~media/Files/Downloads/legal/rules/dtc_rules.pdf.

² Available at <http://www.dtcc.com/~media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf?la=en>.

³ See Rule 2, Section 1, supra note 1.

⁴ See Rule 2, Section 3, supra note 1.

⁵ See Policy Statement, supra note 1 at 133-134.

⁶ The Required Documentation relates to the DTC services the Applicant seeks to utilize and includes, but is not limited to, the applicable form of agreement with DTC providing, among other matters, that the Applicant will abide by the Rules and agreeing to New York governing law. There is a standard form Participant’s Agreement to be signed by a Participant Applicant, and a standard form Pledgee’s Agreement to be signed by a

as described below. The proposed rule change would also make other changes of a technical nature to the Rules text, as described below.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Clearing Agency

The proposed rule change was approved by the Deputy General Counsel of DTC on June 21, 2018.

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

(a) Purpose

The proposed rule change consists of proposed modifications to (i) the Fee Schedule⁷ to add the Application Fees and (ii) the Policy Statement with respect to the provision that requires a Non-U.S. Participant Applicant to provide a Foreign Legal Opinion, as described below. With respect to (i) above, the Fee Schedule would be amended to charge (A) each Participant Applicant the proposed Participant Application Fee, and (B) each Pledgee Applicant the proposed Pledgee Application Fee, as described below. With respect to (ii) above, the Policy Statement would be amended to (A) remove the provision that requires each Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion from its counsel and (B) provide that DTC would obtain a Foreign Legal Opinion from DTC Counsel in the Jurisdiction of Organization of a new Non-U.S. Participant Applicant. Each Non-U.S. Participant Applicant would be charged a Foreign Legal Opinion Fee with respect to the applicable Foreign Legal Opinion obtained by DTC, as described below. The proposed rule change would also amend the Policy Statement to impose the Time Limit of six months for an Applicant to submit an Application, with Required Documentation, before its Application would expire, as described below. The proposed rule change would also make other changes of a technical nature to the Rules text, as described below.

Pledgee Applicant. Certain certifications and other documentation, including but not limited to opinions of counsel, authorizing resolutions and appointment of authorized signers, may be required of a Participant Applicant depending on the nature and level of DTC services the Participant Applicant seeks to use. Participant Applicants are also required to provide certain financial and regulatory reports and other information, as applicable, to allow DTC to evaluate the Applicant's financial condition, operational capability and character. See Rule 2, supra note 1, and the Policy Statement, supra note 5.

⁷ Supra note 2.

Proposed Application Fees and Time Limit

DTC may approve an Applicant eligible for admission as a Participant or Pledgee⁸ only upon a determination by DTC that the Applicant meets reasonable standards of financial condition, operational capability and character at the time of its Application and on an ongoing basis thereafter.⁹ To facilitate DTC's review of an Application, the Applicant must satisfy DTC's Application requirements in form and substance satisfactory to DTC, including Required Documentation, in accordance with the Rules.¹⁰

The review of Participant and Pledgee Applications by DTC requires significant application of personnel and other resources related to legal, risk, compliance, account administration and other functions. In order to align revenue with these costs, DTC proposes to amend the Fee Schedule to charge (i) a Participant Application Fee of \$5,000 to each Participant Applicant that formally submits a Participant Application on or after July 2, 2018 ("Effective Date") and (ii) a Pledgee Application Fee of \$2,500 to each Pledgee Applicant that formally submits a Pledgee Application on or after the Effective Date.

Payment of the full amount of the applicable Application Fee would be due as of the date DTC provides the Applicant with access to DTC's online Application portal ("Portal")¹¹ and related payment instructions. An Application Fee would be non-refundable regardless of the outcome of the respective Application (i.e., approval, disapproval or expiration).

Pursuant to the proposed rule change, if an Applicant does not submit a completed Application with Required Documentation within the Time Limit of six months ("Submission Timeframe"), then the Application would expire. If after the expiration of an Application, the entity still wishes to apply, it would be required to formally re-apply by submitting a new Application with the Required Documentation, and incur another charge for the applicable Application Fee. The Submission Timeframe would begin on the date that DTC provides the Applicant with access to the Portal.

DTC believes the proposed Time Limit is reasonable, necessary and appropriate because (i) Required Documentation consists primarily of standard forms and other documentation, certifications and information, as applicable, that would be readily available to an Applicant that

⁸ See Rule 3, supra note 1 (setting forth qualifications for eligibility for Participants) and Section 3 of Rule 2, supra note 1 (setting forth Persons/entity types that may become Pledgees).

⁹ See Rule 2, supra note 1.

¹⁰ See Rule 2, supra note 1, and the Policy Statement, supra note 5 (setting forth Required Documentation and other requirements that an Applicant must satisfy prior to DTC's approval of the Applicant's Application).

¹¹ The Portal is a closed website that allows Applicants to retrieve the Application forms and templates of Required Documentation and to submit completed Applications, including Required Documentation, to DTC.

meets the applicable DTC membership qualifications and financial and operational requirements mentioned above and (ii) information contained in the Application and Required Documentation submitted by the Applicant, including financial reports and information, authorizing resolutions, appointment of authorized signers and opinions of counsel, may become out-of-date and/or inaccurate due to internal operational or financial changes at the Applicant, or due to changes in applicable law, if an Applicant does not complete an Application in a timely manner.

Proposed Legal Opinion Fee

The Required Documentation for U.S. and Non-U.S. Participant Applicants includes an opinion of counsel of the Applicant.¹² The Applicant's counsel must provide an opinion to the effect that the Participant's Agreement – which, among other provisions, provides that the DTC Rules and By-Laws shall be a part of the terms and conditions of every contract or transaction that the Participant may make or have with DTC – will be binding and enforceable on the Applicant when it becomes a Participant.¹³ To the extent that a Participant Applicant is organized under the laws of a jurisdiction outside of the United States, the required opinion must, in addition, specifically address issues such as DTC's ability to enforce its Rules (including its netting and default management rules) under the applicable insolvency regime of the Jurisdiction of Organization, and the enforceability of the choice of New York law to govern the Participant's Agreement and Rules.¹⁴

In order to address the legal costs of the review of legal opinion letters for Non-U.S. Participant Applicants, DTC proposes to modify the current process for obtaining Foreign Legal Opinions and implement the new Foreign Legal Opinion Fee.

Currently, the Non-U.S. Participant Applicant provides a Foreign Legal Opinion from counsel in its Jurisdiction of Organization; the opinion is then reviewed (and negotiated with the Applicant's counsel, as needed) by DTC with the advice of DTC's counsel.

Costs to DTC to review Foreign Legal Opinions vary depending on issues raised by an Applicant's counsel in their Foreign Legal Opinion, and the level of review and negotiation required for DTC to gain comfort that the law of the Applicant's Jurisdiction of Organization does not provide material impediments to enforcement of the Rules. Foreign Legal Opinion review is typically conducted by DTC with its U.S. counsel. Often, DTC may also need advice from outside counsel in the foreign jurisdiction of the Applicant, adding to the cost of the review.

Pursuant to the proposed rule change, DTC would select DTC Counsel to provide a Foreign Legal Opinion satisfactory to DTC for each applicable Jurisdiction of Organization. DTC would rely on each Foreign Legal Opinion for a specified time (subject to any interim change in applicable law). The proposed rule change would benefit Non-U.S. Participant

¹² See Sections 1 and 2 of Policy Statement, supra note 5.

¹³ See Section 1 of Rule 2, supra note 1 (setting forth the terms of the Participant's Agreement).

¹⁴ See Section 2 of Policy Statement, supra note 5.

Applicants because efficiencies would be gained from consolidating the process so that each Non-U.S. Participant Applicant would not be required to obtain a separate Foreign Legal Opinion. When the specified period expires, DTC would obtain periodic updates from its counsel, as reasonable.

Pursuant to the proposed rule change, the Fee Schedule would reflect that the initial Non-U.S. Participant Applicant from a given Jurisdiction of Organization to submit a Participant Application after the Effective Date, would be advised of a “Maximum Estimated Charge” based on an estimate of fees and charges provided to DTC by DTC Counsel with respect to obtaining a Foreign Legal Opinion for that Jurisdiction of Organization. DTC would advise the Non-U.S. Participant Applicant of the Maximum Estimated Charge in writing after DTC has had a reasonable opportunity to consult with DTC Counsel and obtain an estimate of fees and charges of DTC Counsel that would comprise the Maximum Estimated Charge.

DTC would attempt to minimize costs of DTC Counsel as reasonable. The amount of the Foreign Legal Opinion Fee charged to the Non-U.S. Participant Applicant would be the lesser of the Maximum Estimated Charge and the actual costs charged to DTC by DTC Counsel in connection with the review of the Foreign Legal Opinion. If within five business days after DTC advises the Non-U.S. Participant Applicant of the Maximum Estimated Charge, as described above, the Non-U.S. Participant Applicant notifies DTC in writing that it will terminate its Participant Application, the Non-U.S. Participant Applicant would not be charged a Foreign Legal Opinion Fee. If the Application is terminated, the Maximum Estimated Charge would no longer apply and DTC would obtain a new Maximum Estimated Charge from DTC Counsel if it receives a subsequent Application. If the initial Non-U.S. Participant Applicant does not terminate its Application within five business days of DTC advising it of the Maximum Estimated Charge, then the Non-U.S. Applicant would be billed for the Legal Opinion Fee in the amount that would be determined as described above, promptly after DTC Counsel has provided to DTC a final invoice stating the actual amount to be charged to DTC for the Foreign Legal Opinion. Payment by the Non-U.S. Participant Applicant of the full amount of the Foreign Legal Opinion Fee would be due within ten business days of the Non-U.S. Participant Applicant’s receipt of an invoice, including payment instructions, from DTC.

Each subsequent Non-U.S. Participant Applicant (“Subsequent Non-U.S. Applicant”) from a Jurisdiction of Organization would be charged a Foreign Legal Opinion Fee in an amount equal to the Foreign Legal Opinion Fee charged to the first Non-U.S. Participant Applicant from the Jurisdiction of Organization that was charged a Foreign Legal Opinion Fee. DTC would notify each Subsequent Non-U.S. Applicant in writing of the amount of the Legal Opinion Fee that was determined as described above. If within five business days after DTC advises the Subsequent Non-U.S. Participant Applicant of the applicable Legal Opinion Fee, the Non-U.S. Participant Applicant notifies DTC in writing that it will terminate its Participant Application, the Non-U.S. Participant Applicant would not be charged a Foreign Legal Opinion Fee. If the Subsequent Non-U.S. Applicant does not terminate its Application within five business days of DTC advising it of the amount of the Legal Opinion Fee, then the Applicant would be billed accordingly. Payment by the Non-U.S. Participant Applicant of the full amount of the Foreign Legal Opinion Fee would be due within ten business days of the Non-U.S. Participant Applicant’s receipt of an invoice, including payment instructions, from DTC.

The Fee Schedule would not expressly include an absolute maximum amount for the Foreign Legal Opinion Fee because, based on DTC's experience in reviewing Foreign Legal Opinions, the level of review required for DTC to gain comfort that the law of the Applicant's Jurisdiction of Organization does not provide material impediments to enforcement of the Rules can vary significantly by jurisdiction, resulting in significant variance in counsel costs to DTC. The Fee Schedule would not include an absolute minimum amount for the Foreign Legal Opinion Fee, because DTC would not charge an Applicant a Foreign Legal Opinion Fee that is in an amount that is higher than the actual amount billed by DTC Counsel to provide the applicable Foreign Legal Opinion.

Proposed Rule Changes

DTC proposes to amend (i) the text of the Policy Statement to (a) delete text requiring that a Foreign Legal Opinion be submitted by each Non-U.S. Participant Applicant, (b) add text to reflect that the Non-U.S. Participant Applicant would be required to agree to pay a fee (i.e., Foreign Legal Opinion Fee) relating to DTC obtaining a Foreign Legal Opinion from DTC Counsel, as discussed above, and (c) add a new Section 3 to the Policy Statement titled "Policy Statement on Application Fees and Time Limit for Submission of Applications and Required Documentation by Applicants," which would set forth the proposed Time Limit and a reference to the proposed Application Fees, as described above, and (ii) the DTC Fee Schedule to add the Application Fees and Foreign Legal Opinion Fee (and related terms of payment), as described above.

The proposed rule change would also make a technical change to modify the title of the Policy Statement to "Policy Statements on the Admission of Participants and Pledges."

In addition, the Policy Statement would be amended to add a legend ("Legend") stating that changes to the Policy Statement, as amended by this proposed rule change, are available at a link on www.dtcc.com. The Legend would also state that the changes have become effective upon filing with the Securities and Exchange Commission ("Commission") but have not yet been implemented. The Legend would state that on the Effective Date these changes will be implemented and the Legend will automatically be removed from the Policy Statement.

Effective Date

The proposed rule change would become effective on the Effective Date.

(b) Statutory Basis

Section 17A(b)(3)(D) of the Securities Exchange Act of 1934 ("Act")¹⁵ requires that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. DTC believes that the proposed Application Fees for Participants would be (i) equitably allocated because each Participant Applicant would be charged a fee for its Participant Application in an amount equal to the amount that each other Participant Applicant would be charged and (ii) reasonable because the respective Application Fees would allow DTC to pass

¹⁵ 15 U.S.C. 78q-1(b)(3)(D).

through to Participant Applicants the substantial costs to DTC associated with the review of Participant Applications that would otherwise be incurred by DTC. DTC believes the proposed Foreign Legal Opinion Fee would be equitably allocated because the amount charged to each Non-U.S. Participant Applicant with respect to a given Jurisdiction of Organization would be tied to, and would not exceed, the cost to DTC in obtaining the opinion for that jurisdiction, and, in accordance with the amendment to the Fee Schedule as described above, a Foreign Legal Opinion Fee in the same amount would be charged to all Applicants domiciled in the Jurisdiction of Organization for which an applicable Foreign Legal Opinion was obtained. In addition, DTC believes that the proposed Foreign Legal Opinion Fee would be reasonable because it (i) would be capped in the amount of the Maximum Estimated Charge, as described above, (ii) the amount of a Foreign Legal Opinion Fee charged to an Applicant would not be greater than the costs DTC may incur in connection with obtaining the applicable Foreign Legal Opinion, as described above and (iii) would allow DTC to pass through to Non-U.S. Participant Applicants the substantial costs to DTC associated with the review of Foreign Legal Opinions that would otherwise be incurred by DTC. Therefore, DTC believes that the proposed rule change would provide for the equitable allocation of reasonable fees among its participants, and is consistent with Section 17A(b)(3)(D).¹⁶

Section 17A(b)(3)(F)¹⁷ of the Act, requires, *inter alia*, that the Rules are designed to promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the proposed rule change to implement the Pledgee Application Fee is consistent with this provision because collection of the Pledgee Application Fee would facilitate DTC's ability to cover costs to it associated with DTC's review of Pledgee Applications, and therefore would facilitate DTC's ability to make prompt determinations as to whether to make its services available to a Pledgee Applicant and allow the processing of Pledges by Participants to it within DTC's system. Therefore, DTC believes that by facilitating the prompt admission of qualified Pledgees to DTC, and the inclusion of related pledge activity within the DTC system, the proposed rules change would promote the prompt and accurate clearance and settlement of securities transactions.¹⁸ In addition, DTC believes that the proposed rule change to modify the title of the Policy Statement to "Policy Statements on the Admission of Participants and Pledgees" is consistent with this provision because it would enhance clarity as to the application of the Policy Statement, and the users of DTC's services that would be affected by it. By providing for enhanced clarity for users of DTC's services in this regard, the proposed rule change would provide users with enhanced transparency with regard to the Rules relating to applying to be able to use DTC's services, including for the processing of securities transactions, and, therefore, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions.

¹⁶ Id.

¹⁷ 15 U.S.C. 78q-1(b)(3)(F).

¹⁸ Id.

Section 17A(b)(3)(F)¹⁹ of the Act, requires, *inter alia*, that the Rules are not designed to permit unfair discrimination in the admission of participants in the use of the clearing agency. DTC believes the proposed rule changes are consistent with this provision because (i) the proposal for DTC to obtain a single Foreign Legal Opinion from DTC Counsel for all new Non-U.S. Participant Applicants domiciled within a Jurisdiction of Organization, rather than requiring each Non-U.S. Participant Applicant to obtain an opinion from its own in its Jurisdiction of Organization, would provide for enhanced consistency in the review performed by DTC by eliminating the need for it to review multiple legal opinions submitted by each Applicant individually, and (ii) the proposed Time Limit would allow a sufficient amount of time for an Applicant to complete and submit to DTC the documentation and information necessary for DTC to be able to conduct its review of the Applicant's Application, as discussed above. Therefore, DTC believes that the proposed rule change would not permit unfair discrimination in the admission of participants in the use of DTC, and is consistent with the provisions of Section 17A(b)(3)(F).²⁰

4. Clearing Agency's Statement on Burden on Competition

DTC believes that the proposed changes to the Fee Schedule could impose a burden on competition because it would implement new fees payable by an Applicant in connection with an Application to DTC, thereby creating costs to the Applicant not previously realized by Applicants. DTC does not believe that any burden on competition imposed by the changes to the Fee Schedule would be significant because (i) the Application Fees would represent de minimus amounts for qualified Applicants that meet DTC's financial standards as set forth in the Policy Statement²¹ and (ii) the Foreign Legal Opinion Fee is unlikely to cause a material impact to a Non-U.S. Participant Applicant's overall cost of applying for DTC membership due to the coinciding proposal to eliminate the requirement for Non-U.S. Participant Applicants to provide a Foreign Legal Opinion, as described above, resulting in the elimination of the Applicant incurring the cost of obtaining a Foreign Legal Opinion from its own counsel. DTC believes that any burden on competition that is created by the proposed changes to the Fee Schedule would be necessary and appropriate in furtherance of the purposes of the Act²² in order to cover substantial costs to DTC associated with the review of Participant and Pledgee Applications and Foreign Legal Opinions that would otherwise be incurred by DTC, and ultimately, because DTC operates on an "at cost" fee model, its Participants generally.

DTC does not believe that the proposed rule change for DTC to obtain a single Foreign Legal Opinion from DTC Counsel for all Non-U.S. Participant Applicants domiciled within a Jurisdiction of Organization would impose a burden on competition, because it would merely shift the task of obtaining Foreign Legal Opinions to DTC. The proposed rule change may promote competition because DTC believes that the elimination of the requirement for each

¹⁹ Id.

²⁰ Id.

²¹ See supra note 5 at 132 and 134.

²² 15 U.S.C. 78q-1(b)(3)(I).

individual Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion would facilitate enhanced consolidation and efficiency in the review of Non-U.S. Participant Applicants' Applications by DTC, as described above.

DTC does not believe the proposed rule change to implement the Time Limit for submission of Required Documentation would impact competition, because the Required Documentation consists primarily of standard agreements, forms and other documentation, certifications and information, as applicable, that are currently required of Applicants and would be readily available, or could be readily prepared, within the proposed Time Limit, by an Applicant that meets the applicable DTC membership qualifications and financial and operational requirements mentioned above.

5. Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

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

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 Act²³ for Commission action.

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

(a) The proposed rule change is to take effect immediately upon filing pursuant to Section 19(b)(3)(A) of the Act.²⁴

(b) The proposed rule change would not (i) adversely affect the safeguarding of securities or funds in the custody or control of DTC or (ii) significantly affect the rights or obligations of users of DTC's services, because (A) the proposed change to the Policy Statement to (1) eliminate the requirement for each Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion from its own counsel and (2) provide for DTC to obtain Foreign Legal Opinions from DTC Counsel, as described above, would merely enhance the efficiency of the process for obtaining Foreign Legal Opinions, without altering the substance of DTC's legal review of issues presented by the Applications of Non-U.S. Participant Applicants and (B) the implementation of the Time Limit for submission of Required Documentation would provide qualified Applicants with sufficient time to timely and accurately complete its Application, as discussed above.²⁵

²³ 15 U.S.C. 78s(b)(2).

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4(f)(4).

The proposed rule change to add the Application Fees and Foreign Legal Opinion Fee establishes or changes a due, fee, or other charge, as described above.²⁶

(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 Rules

²⁶ 17 CFR 240.19b-4(f)(2).

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-[_____]; File No. SR-DTC-2018-002)

[DATE]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Rules and Fee Schedule Relating to Participant and Pledgee Applications

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on June __, 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. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rules 19b-4(f)(2) and (f)(4) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change of DTC⁵ consists of proposed modifications to (i) the DTC Fee Schedule (“Fee Schedule”)⁶ to add two new application fees that would be

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2) and (f)(4).

⁵ Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (the “Rules”), available at www.dtcc.com/~media/Files/Downloads/legal/rules/dtc_rules.pdf.

charged, respectively, to legal entities that formally submit an application (“Application”) to become either a Participant⁷ (each, a “Participant Applicant”) or a Pledgee⁸ (each, a “Pledgee Applicant”) of DTC (Participant Applicants and Pledgee Applicants, referred to collectively as “Applicants”), and (ii) DTC’s Policy Statements on the Admission of Participants (jointly referred to as the “Policy Statement”) with respect to the provision that requires a non-U.S. entity that applies to become a Participant (“Non-U.S. Participant Applicant”) to provide to DTC a legal opinion (“Foreign Legal Opinion”) of its counsel in its jurisdiction of organization (“Jurisdiction of Organization”).⁹ With respect to (i) above, the Fee Schedule would be amended to charge (A) each Participant Applicant a fee of \$5,000 in connection with its Application to become a Participant (“Participant Application Fee”), and (B) each Pledgee Applicant a fee of \$2,500 in connection with its Application to become a Pledgee (“Pledgee Application Fee”) (Participant Application Fee and Pledgee Application Fee, collectively referred to as “Application Fees”). With respect to (ii) above, the Policy Statement would be amended to (A) remove the provision that requires each Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion from its counsel and (B) provide that DTC would obtain a Foreign Legal Opinion from its outside counsel (“DTC Counsel”) in the Jurisdiction of Organization of a new Non-U.S. Participant Applicant, which opinion DTC would use in conjunction with its review of the Application of that and each subsequent new Non-U.S. Participant Applicant

⁶ Available at <http://www.dtcc.com/~media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf?la=en>.

⁷ See Rule 2, Section 1, supra note 5.

⁸ See Rule 2, Section 3, supra note 5.

⁹ See Policy Statement, supra note 5 at 133-134.

domiciled in that Jurisdiction of Organization, as described below. Each Non-U.S. Participant Applicant would be charged a fee (“Foreign Legal Opinion Fee”) with respect to the applicable Foreign Legal Opinion obtained by DTC, as described below. The proposed rule change would also amend the Policy Statement to impose a time limit (“Time Limit”) of six months for an Applicant to complete its Application with required documentation (“Required Documentation”),¹⁰ before its Application would expire, as described below. The proposed rule change would also make other changes of a technical nature to the Rules text, as described below.

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

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹⁰ The Required Documentation relates to the DTC services the Applicant seeks to utilize and includes, but is not limited to, the applicable form of agreement with DTC providing, among other matters, that the Applicant will abide by the Rules and agreeing to New York governing law. There is a standard form Participant’s Agreement to be signed by a Participant Applicant, and a standard form Pledgee’s Agreement to be signed by a Pledgee Applicant. Certain certifications and other documentation, including but not limited to opinions of counsel, authorizing resolutions and appointment of authorized signers, may be required of a Participant Applicant depending on the nature and level of DTC services the Participant Applicant seeks to use. Participant Applicants are also required to provide certain financial and regulatory reports and other information, as applicable, to allow DTC to evaluate the Applicant’s financial condition, operational capability and character. See Rule 2, supra note 5, and the Policy Statement, supra note 9.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change consists of proposed modifications to (i) the Fee Schedule¹¹ to add the Application Fees and (ii) the Policy Statement with respect to the provision that requires a Non-U.S. Participant Applicant to provide a Foreign Legal Opinion, as described below. With respect to (i) above, the Fee Schedule would be amended to charge (A) each Participant Applicant the proposed Participant Application Fee, and (B) each Pledgee Applicant the proposed Pledgee Application Fee, as described below. With respect to (ii) above, the Policy Statement would be amended to (A) remove the provision that requires each Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion from its counsel and (B) provide that DTC would obtain a Foreign Legal Opinion from DTC Counsel in the Jurisdiction of Organization of a new Non-U.S. Participant Applicant. Each Non-U.S. Participant Applicant would be charged a Foreign Legal Opinion Fee with respect to the applicable Foreign Legal Opinion obtained by DTC, as described below. The proposed rule change would also amend the Policy Statement to impose the Time Limit of six months for an Applicant to submit an Application, with Required Documentation, before its Application would expire, as described below. The proposed rule change would also make other changes of a technical nature to the Rules text, as described below.

¹¹ Supra note 6.

Proposed Application Fees and Time Limit

DTC may approve an Applicant eligible for admission as a Participant or Pledgee¹² only upon a determination by DTC that the Applicant meets reasonable standards of financial condition, operational capability and character at the time of its Application and on an ongoing basis thereafter.¹³ To facilitate DTC's review of an Application, the Applicant must satisfy DTC's Application requirements in form and substance satisfactory to DTC, including Required Documentation, in accordance with the Rules.¹⁴

The review of Participant and Pledgee Applications by DTC requires significant application of personnel and other resources related to legal, risk, compliance, account administration and other functions. In order to align revenue with these costs, DTC proposes to amend the Fee Schedule to charge (i) a Participant Application Fee of \$5,000 to each Participant Applicant that formally submits a Participant Application on or after July 2, 2018 ("Effective Date") and (ii) a Pledgee Application Fee of \$2,500 to each Pledgee Applicant that formally submits a Pledgee Application on or after the Effective Date.

Payment of the full amount of the applicable Application Fee would be due as of the date DTC provides the Applicant with access to DTC's online Application portal

¹² See Rule 3, supra note 5 (setting forth qualifications for eligibility for Participants) and Section 3 of Rule 2, supra note 5 (setting forth Persons/entity types that may become Pledgees).

¹³ See Rule 2, supra note 5.

¹⁴ See Rule 2, supra note 5, and the Policy Statement, supra note 9 (setting forth Required Documentation and other requirements that an Applicant must satisfy prior to DTC's approval of the Applicant's Application).

(“Portal”)¹⁵ and related payment instructions. An Application Fee would be non-refundable regardless of the outcome of the respective Application (i.e., approval, disapproval or expiration).

Pursuant to the proposed rule change, if an Applicant does not submit a completed Application with Required Documentation within the Time Limit of six months (“Submission Timeframe”), then the Application would expire. If after the expiration of an Application, the entity still wishes to apply, it would be required to formally re-apply by submitting a new Application with the Required Documentation, and incur another charge for the applicable Application Fee. The Submission Timeframe would begin on the date that DTC provides the Applicant with access to the Portal.

DTC believes the proposed Time Limit is reasonable, necessary and appropriate because (i) Required Documentation consists primarily of standard forms and other documentation, certifications and information, as applicable, that would be readily available to an Applicant that meets the applicable DTC membership qualifications and financial and operational requirements mentioned above and (ii) information contained in the Application and Required Documentation submitted by the Applicant, including financial reports and information, authorizing resolutions, appointment of authorized signers and opinions of counsel, may become out-of-date and/or inaccurate due to internal operational or financial changes at the Applicant, or due to changes in applicable law, if an Applicant does not complete an Application in a timely manner.

¹⁵ The Portal is a closed website that allows Applicants to retrieve the Application forms and templates of Required Documentation and to submit completed Applications, including Required Documentation, to DTC.

Proposed Legal Opinion Fee

The Required Documentation for U.S. and Non-U.S. Participant Applicants includes an opinion of counsel of the Applicant.¹⁶ The Applicant's counsel must provide an opinion to the effect that the Participant's Agreement – which, among other provisions, provides that the DTC Rules and By-Laws shall be a part of the terms and conditions of every contract or transaction that the Participant may make or have with DTC – will be binding and enforceable on the Applicant when it becomes a Participant.¹⁷ To the extent that a Participant Applicant is organized under the laws of a jurisdiction outside of the United States, the required opinion must, in addition, specifically address issues such as DTC's ability to enforce its Rules (including its netting and default management rules) under the applicable insolvency regime of the Jurisdiction of Organization, and the enforceability of the choice of New York law to govern the Participant's Agreement and Rules.¹⁸

In order to address the legal costs of the review of legal opinion letters for Non-U.S. Participant Applicants, DTC proposes to modify the current process for obtaining Foreign Legal Opinions and implement the new Foreign Legal Opinion Fee.

Currently, the Non-U.S. Participant Applicant provides a Foreign Legal Opinion from counsel in its Jurisdiction of Organization; the opinion is then reviewed (and negotiated with the Applicant's counsel, as needed) by DTC with the advice of DTC's counsel.

¹⁶ See Sections 1 and 2 of Policy Statement, supra note 9.

¹⁷ See Section 1 of Rule 2, supra note 5 (setting forth the terms of the Participant's Agreement).

¹⁸ See Section 2 of Policy Statement, supra note 9.

Costs to DTC to review Foreign Legal Opinions vary depending on issues raised by an Applicant's counsel in their Foreign Legal Opinion, and the level of review and negotiation required for DTC to gain comfort that the law of the Applicant's Jurisdiction of Organization does not provide material impediments to enforcement of the Rules. Foreign Legal Opinion review is typically conducted by DTC with its U.S. counsel. Often, DTC may also need advice from outside counsel in the foreign jurisdiction of the Applicant, adding to the cost of the review.

Pursuant to the proposed rule change, DTC would select DTC Counsel to provide a Foreign Legal Opinion satisfactory to DTC for each applicable Jurisdiction of Organization. DTC would rely on each Foreign Legal Opinion for a specified time (subject to any interim change in applicable law). The proposed rule change would benefit Non-U.S. Participant Applicants because efficiencies would be gained from consolidating the process so that each Non-U.S. Participant Applicant would not be required to obtain a separate Foreign Legal Opinion. When the specified period expires, DTC would obtain periodic updates from its counsel, as reasonable.

Pursuant to the proposed rule change, the Fee Schedule would reflect that the initial Non-U.S. Participant Applicant from a given Jurisdiction of Organization to submit a Participant Application after the Effective Date, would be advised of a "Maximum Estimated Charge" based on an estimate of fees and charges provided to DTC by DTC Counsel with respect to obtaining a Foreign Legal Opinion for that Jurisdiction of Organization. DTC would advise the Non-U.S. Participant Applicant of the Maximum Estimated Charge in writing after DTC has had a reasonable opportunity to

consult with DTC Counsel and obtain an estimate of fees and charges of DTC Counsel that would comprise the Maximum Estimated Charge.

DTC would attempt to minimize costs of DTC Counsel as reasonable. The amount of the Foreign Legal Opinion Fee charged to the Non-U.S. Participant Applicant would be the lesser of the Maximum Estimated Charge and the actual costs charged to DTC by DTC Counsel in connection with the review of the Foreign Legal Opinion. If within five business days after DTC advises the Non-U.S. Participant Applicant of the Maximum Estimated Charge, as described above, the Non-U.S. Participant Applicant notifies DTC in writing that it will terminate its Participant Application, the Non-U.S. Participant Applicant would not be charged a Foreign Legal Opinion Fee. If the Application is terminated, the Maximum Estimated Charge would no longer apply and DTC would obtain a new Maximum Estimated Charge from DTC Counsel if it receives a subsequent Application. If the initial Non-U.S. Participant Applicant does not terminate its Application within five business days of DTC advising it of the Maximum Estimated Charge, then the Non-U.S. Applicant would be billed for the Legal Opinion Fee in the amount that would be determined as described above, promptly after DTC Counsel has provided to DTC a final invoice stating the actual amount to be charged to DTC for the Foreign Legal Opinion. Payment by the Non-U.S. Participant Applicant of the full amount of the Foreign Legal Opinion Fee would be due within ten business days of the Non-U.S. Participant Applicant's receipt of an invoice, including payment instructions, from DTC.

Each subsequent Non-U.S. Participant Applicant ("Subsequent Non-U.S. Applicant") from a Jurisdiction of Organization would be charged a Foreign Legal

Opinion Fee in an amount equal to the Foreign Legal Opinion Fee charged to the first Non-U.S. Participant Applicant from the Jurisdiction of Organization that was charged a Foreign Legal Opinion Fee. DTC would notify each Subsequent Non-U.S. Applicant in writing of the amount of the Legal Opinion Fee that was determined as described above. If within five business days after DTC advises the Subsequent Non-U.S. Participant Applicant of the applicable Legal Opinion Fee, the Non-U.S. Participant Applicant notifies DTC in writing that it will terminate its Participant Application, the Non-U.S. Participant Applicant would not be charged a Foreign Legal Opinion Fee. If the Subsequent Non-U.S. Applicant does not terminate its Application within five business days of DTC advising it of the amount of the Legal Opinion Fee, then the Applicant would be billed accordingly. Payment by the Non-U.S. Participant Applicant of the full amount of the Foreign Legal Opinion Fee would be due within ten business days of the Non-U.S. Participant Applicant's receipt of an invoice, including payment instructions, from DTC.

The Fee Schedule would not expressly include an absolute maximum amount for the Foreign Legal Opinion Fee because, based on DTC's experience in reviewing Foreign Legal Opinions, the level of review required for DTC to gain comfort that the law of the Applicant's Jurisdiction of Organization does not provide material impediments to enforcement of the Rules can vary significantly by jurisdiction, resulting in significant variance in counsel costs to DTC. The Fee Schedule would not include an absolute minimum amount for the Foreign Legal Opinion Fee, because DTC would not charge an Applicant a Foreign Legal Opinion Fee that is in an amount that is higher than the actual amount billed by DTC Counsel to provide the applicable Foreign Legal Opinion.

Proposed Rule Changes

DTC proposes to amend (i) the text of the Policy Statement to (a) delete text requiring that a Foreign Legal Opinion be submitted by each Non-U.S. Participant Applicant, (b) add text to reflect that the Non-U.S. Participant Applicant would be required to agree to pay a fee (i.e., Foreign Legal Opinion Fee) relating to DTC obtaining a Foreign Legal Opinion from DTC Counsel, as discussed above, and (c) add a new Section 3 to the Policy Statement titled “Policy Statement on Application Fees and Time Limit for Submission of Applications and Required Documentation by Applicants,” which would set forth the proposed Time Limit and a reference to the proposed Application Fees, as described above, and (ii) the DTC Fee Schedule to add the Application Fees and Foreign Legal Opinion Fee (and related terms of payment), as described above.

The proposed rule change would also make a technical change to modify the title of the Policy Statement to “Policy Statements on the Admission of Participants and Pledges.”

In addition, the Policy Statement would be amended to add a legend (“Legend”) stating that changes to the Policy Statement, as amended by this proposed rule change, are available at a link on www.dtcc.com. The Legend would also state that the changes have become effective upon filing with the Commission but have not yet been implemented. The Legend would state that on the Effective Date these changes will be implemented and the Legend will automatically be removed from the Policy Statement.

Effective Date

The proposed rule change would become effective on the Effective Date.

2. Statutory Basis

Section 17A(b)(3)(D) of the Act¹⁹ requires that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. DTC believes that the proposed Application Fees for Participants would be (i) equitably allocated because each Participant Applicant would be charged a fee for its Participant Application in an amount equal to the amount that each other Participant Applicant would be charged and (ii) reasonable because the respective Application Fees would allow DTC to pass through to Participant Applicants the substantial costs to DTC associated with the review of Participant Applications that would otherwise be incurred by DTC. DTC believes the proposed Foreign Legal Opinion Fee would be equitably allocated because the amount charged to each Non-U.S. Participant Applicant with respect to a given Jurisdiction of Organization would be tied to, and would not exceed, the cost to DTC in obtaining the opinion for that jurisdiction, and, in accordance with the amendment to the Fee Schedule as described above, a Foreign Legal Opinion Fee in the same amount would be charged to all Applicants domiciled in the Jurisdiction of Organization for which an applicable Foreign Legal Opinion was obtained. In addition, DTC believes that the proposed Foreign Legal Opinion Fee would be reasonable because it (i) would be capped in the amount of the Maximum Estimated Charge, as described above, (ii) the amount of a Foreign Legal Opinion Fee charged to an Applicant would not be greater than the costs DTC may incur in connection with obtaining the applicable Foreign Legal Opinion, as described above and (iii) would allow DTC to pass through to Non-U.S. Participant Applicants the substantial costs to DTC associated with the review

¹⁹ 15 U.S.C. 78q-1(b)(3)(D).

of Foreign Legal Opinions that would otherwise be incurred by DTC. Therefore, DTC believes that the proposed rule change would provide for the equitable allocation of reasonable fees among its participants, and is consistent with Section 17A(b)(3)(D).²⁰

Section 17A(b)(3)(F)²¹ of the Act, requires, *inter alia*, that the Rules are designed to promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the proposed rule change to implement the Pledgee Application Fee is consistent with this provision because collection of the Pledgee Application Fee would facilitate DTC's ability to cover costs to it associated with DTC's review of Pledgee Applications, and therefore would facilitate DTC's ability to make prompt determinations as to whether to make its services available to a Pledgee Applicant and allow the processing of Pledges by Participants to it within DTC's system. Therefore, DTC believes that by facilitating the prompt admission of qualified Pledgees to DTC, and the inclusion of related pledge activity within the DTC system, the proposed rules change would promote the prompt and accurate clearance and settlement of securities transactions.²² In addition, DTC believes that the proposed rule change to modify the title of the Policy Statement to "Policy Statements on the Admission of Participants and Pledgees" is consistent with this provision because it would enhance clarity as to the application of the Policy Statement, and the users of DTC's services that would be affected by it. By providing for enhanced clarity for users of DTC's services in this regard, the proposed rule change would provide users with enhanced transparency with

²⁰ Id.

²¹ 15 U.S.C. 78q-1(b)(3)(F).

²² Id.

regard to the Rules relating to applying to be able to use DTC's services, including for the processing of securities transactions, and, therefore, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions.

Section 17A(b)(3)(F)²³ of the Act, requires, inter alia, that the Rules are not designed to permit unfair discrimination in the admission of participants in the use of the clearing agency. DTC believes the proposed rule changes are consistent with this provision because (i) the proposal for DTC to obtain a single Foreign Legal Opinion from DTC Counsel for all new Non-U.S. Participant Applicants domiciled within a Jurisdiction of Organization, rather than requiring each Non-U.S. Participant Applicant to obtain an opinion from its own in its Jurisdiction of Organization, would provide for enhanced consistency in the review performed by DTC by eliminating the need for it to review multiple legal opinions submitted by each Applicant individually, and (ii) the proposed Time Limit would allow a sufficient amount of time for an Applicant to complete and submit to DTC the documentation and information necessary for DTC to be able to conduct its review of the Applicant's Application, as discussed above. Therefore, DTC believes that the proposed rule change would not permit unfair discrimination in the admission of participants in the use of DTC, and is consistent with the provisions of Section 17A(b)(3)(F).²⁴

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

DTC believes that the proposed changes to the Fee Schedule could impose a burden on competition because it would implement new fees payable by an Applicant in

²³ Id.

²⁴ Id.

connection with an Application to DTC, thereby creating costs to the Applicant not previously realized by Applicants. DTC does not believe that any burden on competition imposed by the changes to the Fee Schedule would be significant because (i) the Application Fees would represent de minimus amounts for qualified Applicants that meet DTC's financial standards as set forth in the Policy Statement²⁵ and (ii) the Foreign Legal Opinion Fee is unlikely to cause a material impact to a Non-U.S. Participant Applicant's overall cost of applying for DTC membership due to the coinciding proposal to eliminate the requirement for Non-U.S. Participant Applicants to provide a Foreign Legal Opinion, as described above, resulting in the elimination of the Applicant incurring the cost of obtaining a Foreign Legal Opinion from its own counsel. DTC believes that any burden on competition that is created by the proposed changes to the Fee Schedule would be necessary and appropriate in furtherance of the purposes of the Act²⁶ in order to cover substantial costs to DTC associated with the review of Participant and Pledgee Applications and Foreign Legal Opinions that would otherwise be incurred by DTC, and ultimately, because DTC operates on an "at cost" fee model, its Participants generally.

DTC does not believe that the proposed rule change for DTC to obtain a single Foreign Legal Opinion from DTC Counsel for all Non-U.S. Participant Applicants domiciled within a Jurisdiction of Organization would impose a burden on competition, because it would merely shift the task of obtaining Foreign Legal Opinions to DTC. The proposed rule change may promote competition because DTC believes that the elimination of the requirement for each individual Non-U.S. Participant Applicant to

²⁵ See supra note 9 at 132 and 134.

²⁶ 15 U.S.C. 78q-1(b)(3)(I).

obtain a Foreign Legal Opinion would facilitate enhanced consolidation and efficiency in the review of Non-U.S. Participant Applicants' Applications by DTC, as described above.

DTC does not believe the proposed rule change to implement the Time Limit for submission of Required Documentation would impact competition, because the Required Documentation consists primarily of standard agreements, forms and other documentation, certifications and information, as applicable, that are currently required of Applicants and would be readily available, or could be readily prepared, within the proposed Time Limit, by an Applicant that meets the applicable DTC membership qualifications and financial and operational requirements mentioned above.

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

DTC has not received or solicited any written comments relating to this proposal.

DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-DTC-2018-002 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-2018-002. 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-2018-002 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.²⁷

Secretary

²⁷ 17 CFR 200.30-3(a)(12).

EXHIBIT 5

Bold, underlined text indicates additions.

~~Bold strikethrough~~ text indicates deletions.

RULES, BY-LAWS AND ORGANIZATION CERTIFICATE

OF

THE DEPOSITORY TRUST COMPANY

POLICY STATEMENTS

ON THE

ADMISSION OF PARTICIPANTS AND PLEDGEEES

[Changes to these Policy Statements, as amended by File No. SR-DTC-2018-002, are available at dtcc.com/~media/Files/Downloads/legal/rule-filings/2018/DTC/SR-DTC-2018-002.pdf. These changes became effective upon filing with the U.S. Securities and Exchange Commission but have not yet been implemented. On July 2, 2018, these changes will be implemented and this legend will automatically be removed from these Policy Statements.]

Section 1. Policy Statement on the Admission of U.S. Entities as Direct Depository Participants:

Section 2. Policy Statement on the Admission of Non-U.S. Entities as Direct Depository Participants: The policy permits entities that are organized in a country other than the United States and that are not otherwise subject to U.S. federal or state regulation (“non-U.S. entities”) to be eligible to become direct DTC Participants. Under the policy, DTC will require that the non-U.S. entity execute the standard DTC Participant’s Agreement and enter into an additional series of undertakings and agreements that are designed to address jurisdictional concerns, and to assure that DTC is provided with audited financial information that is acceptable to DTC.

Certain of these criteria may be waived where inappropriate to a particular applicant or class of applicants (e.g., a foreign government, international or national central securities depositories).

Undertakings and Agreements

In addition to executing the standard DTC Participants Agreement, the foreign entity must agree to:

- (b) **pay to DTC a fee as specified in the Procedures relating to DTC** obtaining an opinion of foreign counsel satisfactory to DTC providing, among other things, that the agreements described above may be enforced against the foreign entity in the courts of its home country or other jurisdictions where the entity or its property may be found*;

Section 3. Policy Statement on Application Fees and Time Limit for Submission of Complete Applications and Required Documentation by Applicants.

All applicants to become Participants or Pledges must pay a non-refundable application fee as specified in the Procedures for each application made by the applicant to DTC to become a Participant or Pledge.

If an applicant to become a Participant or Pledge does not complete and submit to DTC its application and all required documentation as required by DTC, in accordance with the Rules, within six months of DTC granting the applicant access to the application, then the applicant's application, and any required documentation submitted to DTC by the applicant, shall be null and void and the application shall be terminated by DTC. Any subsequent application to become a Participant or Pledge by the applicant shall be treated by DTC as a new application.

* DTC reserves the right to require the entity to deposit additional amounts to DTC's Participants Fund and to post a letter of credit in an instance where DTC, in its sole discretion, believes the entity presents legal risk.

DTC Fee Schedule

Membership and Pledgee Application Fees
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Fee Name	Amount (\$)	Conditions
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<u>General</u>		
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<u>Participant Application Fee</u>	<u>\$5,000</u>	<u>Per application to become a Participant, submitted on or after July 2, 2018. The fee is non-refundable regardless of the outcome of the application process (i.e., approval, disapproval or expiration). Full payment is due as of the date DTC has provided the applicant with (i) access to DTC's online application portal and (ii) payment instructions.</u>
<u>Pledgee Application Fee</u>	<u>\$2,500</u>	<u>Per application to become a Pledgee, submitted on or after July 2, 2018. The fee is non-refundable regardless of the outcome of the application process (i.e., approval, disapproval or expiration). Full payment is due as of the date DTC has provided the applicant with (i) access to DTC's online application portal and (ii) payment instructions.</u>

**Non-U.S. Entity Legal Opinion
Fee**

Varies

(a) For the initial applicant (“Initial Applicant”) organized in a given non-U.S. jurisdiction (“Jurisdiction of Organization”) to apply for DTC membership on or after July 2, 2018, if the applicant does not otherwise terminate its application in accordance with (c) below: The lesser of (i) a maximum estimated charge (“Maximum Estimated Charge”) and (ii) the actual costs charged to DTC, by outside counsel to DTC providing a legal opinion in form and substance satisfactory to DTC regarding the laws of the Jurisdiction of Organization.

(b) For each subsequent applicant organized in the applicable Jurisdiction of Organization (“Subsequent Non-U.S. Applicant”), if the Subsequent Non-U.S. Applicant does not otherwise terminate its application in accordance with (c) below: an amount equal to the fee charged to the Initial Applicant from the Jurisdiction of Organization, as determined in accordance with (a) above.

(c) The Non-U.S. Legal Opinion Fee is non-refundable regardless of the outcome of the application process (i.e., approval, disapproval or expiration); however, an applicant will not be charged a Non-U.S. Entity Legal Opinion Fee if it

terminates its application in writing within five business days of being notified in writing by DTC of the amount of the Maximum Estimated Charge (for an Initial Applicant), or fee amount (for a Subsequent Non-U.S. Applicant), as applicable.

(d) If the applicant does not terminate its application in accordance with (c) above, then the applicant will be billed the applicable fee amount as determined by DTC in accordance with the above, with full payment due within 10 business days of receipt of an invoice from DTC, including payment instructions.

Account Fees
