

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 31

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2021 - * 016

Amendment No. (req. for Amendments *)

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"/>
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Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>
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Rule

<input type="checkbox"/> 19b-4(f)(1)	<input checked="" type="checkbox"/> 19b-4(f)(4)
<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

Section 806(e)(1) *

☐

Section 806(e)(2) *

☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934

Section 3C(b)(2) *

☐

Exhibit 2 Sent As Paper Document

☐

Exhibit 3 Sent As Paper Document

☐

Description

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

Make Certain Revisions and Clarifications to the Rules

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 * Last Name *

Title *

E-mail *

Telephone * Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, The Depository Trust Company has duty caused this filing to be signed on its behalf by the undersigned thereunto duty authorized.

Date

(Title *)

By

(Name *)

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

Date: 2021.11.15
11:09:18 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

Add Remove View

Narrative (DTC) - Membership Agreeen

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

Exh 1A (DTC) - Membership Agreeeme

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 Advanced Notice by Clearing Agencies *

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 2- Notices, Written Comments, Transcripts, Other Communications

Add Remove View

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 Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Exh 3 (DTC) (Redacted) - Membership

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.

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Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

Add Remove View

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

Exh 5 (DTC) - Membership Agreeemen

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

Add Remove View

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”) is annexed hereto as Exhibit 5 and consists of modifications to DTC’s Rules, Bylaws and Organization Certificate (“Rules”) to (1) incorporate into the Rules the governing law of agreements and other documents provided to DTC pursuant to the Rules; (2) incorporate in the Rules the affirmative undertakings that Participants currently make in onboarding membership agreements; (3) clarify that Participants shall appoint a duly authorized representative in connection with their membership, and remove the requirement that DTC approve the form of power of attorney or resolutions of the Participant’s board of directors that evidences such authorization; and (4) clarify DTC’s ability to rely on electronic signatures on agreements and other documents provided to DTC pursuant to the Rules, as described in greater detail below.¹

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Deputy General Counsel of DTC on November 10, 2021 pursuant to delegated authority from DTC’s Board of Directors.

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

(a) Purpose

DTC is proposing amendments that would clarify, simplify and improve the disclosures in the Rules, primarily related to onboarding and other membership documentation between DTC and its Participants. DTC, along with its affiliates, National Securities Clearing Corporation and Fixed Income Clearing Corporation, has recently completed a review of the templates of onboarding agreements and other documents that are provided to DTC in connection with a firm’s application for membership, and the templates of agreements and documents Participants may provide to DTC during the course of their membership pursuant to the Rules. In connection with this review, DTC is proposing to make certain revisions and clarifications to the Rules.

More specifically, the proposed rule changes would (1) incorporate into the Rules the governing law of agreements and other documents provided to DTC pursuant to the Rules; (2) incorporate in the Rules the affirmative undertakings that Participants currently make in onboarding membership agreements; (3) clarify that Participants shall appoint a duly authorized representative in connection with their membership, and remove the requirement that DTC approve the form of power of attorney or resolutions of the Participant’s board of directors that

¹ Capitalized terms not defined herein are defined in the Rules, available at <https://www.dtcc.com/legal/rules-and-procedures>. Unless otherwise indicated by the context, the term “Participant” as used herein includes the term “Limited Participant.”

evidences such authorization; and (4) clarify DTC's ability to rely on electronic signatures on agreements and other documents provided to DTC pursuant to the Rules, as described in greater detail below.

Proposed Revisions to Rules Regarding Governing Law

DTC is proposing to revise Section 4 of Rule 1 (Definitions; Governing Law), which currently states that the Rules are governed by New York law.² The proposed change would revise Section 4 of Rule 1 to include a statement that agreements and other documents that are entered into between DTC and its Participants are also governed by New York law, unless otherwise expressly provided. Currently, agreements and other documents entered into between DTC and its Participants either include a governing law provision or are governed by New York law through the application of both Section 4 of Rule 1, which provides that the rights and obligations under the Rules are governed by New York law, and the DTC membership agreements, which provide that the Rules (including Section 4 of Rule 1) govern the matters and transactions between DTC and its Participants.

This proposed change would both clarify the governing law of the agreements and other documents entered into between DTC and its Participants pursuant to the Rules, and would allow DTC to simplify those documents by removing the governing law provisions in such documents.

Proposed Revisions to Incorporate Participant Undertakings into the Rules

DTC is proposing to revise Section 1 of Rule 2 (Participants and Pledges) to incorporate affirmative undertakings that Participants currently make in their onboarding membership agreements.³ This section currently provides that an applicant for membership with DTC shall sign and deliver to DTC an agreement under which the applicant would agree to the affirmative undertakings that are listed in this Section 1 of Rule 2.⁴ These undertakings include, for example, to abide by the Rules and be bound by all the provisions thereof, and to pay any amounts that become payable by the Participant to DTC pursuant to the Rules.⁵

To simplify and standardize the membership onboarding documentation, DTC is proposing to revise Section 1 of Rule 2 to state directly that Participants agree to each of the undertakings listed in that section. DTC would also make an identical revision to Rule 9(D) (Settling Banks) regarding the undertakings of Settling Banks. In connection with this proposed change, DTC would remove these undertakings from the template membership agreement, which already provides that Participants are bound by the Rules.

² Id.

³ Section 1 of Rule 2, id.

⁴ Id.

⁵ See Sections 1(a) and (d) of Rule 2, id.

Proposed Revisions to Requirements Related to Participants' Authorized Representatives

DTC is proposing to revise Sections 1 and 2 of Rule 7 (Participant Representatives), which describes Participants' requirement to appoint an authorized representative in connection with their membership with DTC.⁶ Currently, Section 1 of Rule 7 provides that a Participant may designate an authorized representative that is not either a general partner or an officer of the Participant, by either a power of attorney or resolutions of the Participant's board of directors, and requires such power of attorney and resolutions be in a form approved by DTC.⁷ Section 2 of Rule 7 requires Participants to provide DTC with the signatures of individuals who are authorized representatives for purposes of conducting business with DTC.⁸

In order to simplify the onboarding membership requirements, DTC is proposing to amend Section 1 of Rule 7 to clarify that a Participant's representative must be duly appointed and authorized, and to remove references to a power of attorney or resolutions of the Participant's board of directors. The proposed change would also remove the requirement that DTC approve the form of power of attorney or resolutions of the Participant's board of directors that evidences the due authorization of that representative.

Finally, DTC is proposing to remove Section 2 of Rule 7, which includes the requirement that Participants provide DTC with the signatures of representatives who are authorized to conduct business with DTC.⁹ In connection with this proposed change, DTC would renumber the remaining sections in Rule 7.

Proposed Revisions to Rules Regarding DTC's Reliance on Electronic Signatures

DTC is proposing to revise Rule 26, which is currently titled "Facsimile Signatures" and lists the circumstances in which DTC would rely on an electronic signature.¹⁰ The proposed revision to this Rule 26 would rename the rule to remove the word "Facsimile," and would also revise the rule to clarify that DTC may rely on an electronic signature with respect to any and all agreements and other documents delivered pursuant to the Rules. DTC would also remove reference to the circumstances in which it would accept an electronic signature, to make clear that DTC would do so in any circumstances. The proposed revisions would clarify and modernize the language in Rule 26, which still refers to outdated modes of electronic

⁶ Sections 1 and 2 of Rule 7, id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

communication, such as telex, and would align the language in this Rule to language used in the New York Electronic Signatures and Records Act.¹¹

(b) Statutory Basis

Section 17A(b)(3)(F) of the Securities Exchange Act of 1934 (“Act”) requires that the rules of DTC be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions.¹² DTC believes the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act because such changes would clarify and improve the transparency of the Rules and would allow DTC to simplify the membership agreements and other documentation provided to it by Participants pursuant to the Rules.

More specifically, the proposed changes would make clarifications to the Rules regarding (i) Participants’ duly authorized representatives in connection with their memberships; and (ii) DTC’s ability to rely on electronic signatures on agreements and other documents provided to it pursuant to the Rules. The proposed changes would also update the Rules in order to allow DTC to simplify the onboarding and other membership agreements and documents by incorporating in the Rules (1) the governing law of agreements and other documents provided to DTC pursuant to the Rules; and (2) the affirmative undertakings that Participants currently make in onboarding membership agreements.

By enhancing the clarity and transparency of the Rules, and allowing DTC to simplify the membership agreements and other documents, the proposed changes would allow Participants to more efficiently and effectively conduct their business in accordance with the Rules, which DTC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, DTC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.¹³

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

DTC does not believe the proposed rule changes would impact competition. The proposed rule changes would merely enhance the clarity and transparency of the Rules and would simplify the documentation that is provided to DTC by Participants pursuant to the Rules. Therefore, the proposed changes would not affect DTC’s operations or the rights and obligations of membership. As such, DTC believes the proposed rule changes would not have any impact on competition.

¹¹ N.Y. State Tech. Law § 304(2) (McKinney 2021).

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ Id.

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

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Securities and Exchange Commission ("Commission") does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

DTC reserves the right to not respond to any comments received.

6. Extension of Time Period for Commission Action

Not applicable.

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

(a) The proposed rule change is to take effect immediately upon filing pursuant to paragraph (A) of Section 19(b)(3) of the Act.¹⁴

(b) The proposed rule change effects a change in an existing service of DTC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of DTC or Participants¹⁵ because the proposed rule change would enhance the clarity and transparency of the Rules with respect to membership onboarding documentation but would not materially impact Participants' rights and obligations with respect to that documentation.

(c) Not applicable.

(d) Not applicable.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(4).

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 Notice Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act of 2010

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 – Revised Templates of Participant Agreement and Pledgee Agreement.
Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 3 pursuant to 17 CFR 240.24b-2 is being requested.

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed changes to the Rules.

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-[____]; File No. SR-DTC-2021-016)

[DATE]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Make Certain Revisions and Clarifications to the Rules

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 November __, 2021, The Depository Trust Company (“DTC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(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 consists of modifications to DTC’s Rules, Bylaws and Organization Certificate (“Rules”) to (1) incorporate into the Rules the governing law of agreements and other documents provided to DTC pursuant to the Rules; (2) incorporate in the Rules the affirmative undertakings that Participants currently make in onboarding

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(4).

membership agreements; (3) clarify that Participants shall appoint a duly authorized representative in connection with their membership, and remove the requirement that DTC approve the form of power of attorney or resolutions of the Participant's board of directors that evidences such authorization; and (4) clarify DTC's ability to rely on electronic signatures on agreements and other documents provided to DTC pursuant to the Rules, as described in greater detail below.⁵

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

DTC is proposing amendments that would clarify, simplify and improve the disclosures in the Rules, primarily related to onboarding and other membership documentation between DTC and its Participants. DTC, along with its affiliates, National Securities Clearing Corporation and Fixed Income Clearing Corporation, has

⁵ Capitalized terms not defined herein are defined in the Rules, available at <https://www.dtcc.com/legal/rules-and-procedures>. Unless otherwise indicated by the context, the term "Participant" as used herein includes the term "Limited Participant."

recently completed a review of the templates of onboarding agreements and other documents that are provided to DTC in connection with a firm's application for membership, and the templates of agreements and documents Participants may provide to DTC during the course of their membership pursuant to the Rules. In connection with this review, DTC is proposing to make certain revisions and clarifications to the Rules.

More specifically, the proposed rule changes would (1) incorporate into the Rules the governing law of agreements and other documents provided to DTC pursuant to the Rules; (2) incorporate in the Rules the affirmative undertakings that Participants currently make in onboarding membership agreements; (3) clarify that Participants shall appoint a duly authorized representative in connection with their membership, and remove the requirement that DTC approve the form of power of attorney or resolutions of the Participant's board of directors that evidences such authorization; and (4) clarify DTC's ability to rely on electronic signatures on agreements and other documents provided to DTC pursuant to the Rules, as described in greater detail below.

Proposed Revisions to Rules Regarding Governing Law

DTC is proposing to revise Section 4 of Rule 1 (Definitions; Governing Law), which currently states that the Rules are governed by New York law.⁶ The proposed change would revise Section 4 of Rule 1 to include a statement that agreements and other documents that are entered into between DTC and its Participants are also governed by New York law, unless otherwise expressly provided. Currently, agreements and other documents entered into between DTC and its Participants either include a governing law provision or are governed by New York law through the application of both Section 4 of

⁶ Id.

Rule 1, which provides that the rights and obligations under the Rules are governed by New York law, and the DTC membership agreements, which provide that the Rules (including Section 4 of Rule 1) govern the matters and transactions between DTC and its Participants.

This proposed change would both clarify the governing law of the agreements and other documents entered into between DTC and its Participants pursuant to the Rules, and would allow DTC to simplify those documents by removing the governing law provisions in such documents.

Proposed Revisions to Incorporate Participant Undertakings into the Rules

DTC is proposing to revise Section 1 of Rule 2 (Participants and Pledgees) to incorporate affirmative undertakings that Participants currently make in their onboarding membership agreements.⁷ This section currently provides that an applicant for membership with DTC shall sign and deliver to DTC an agreement under which the applicant would agree to the affirmative undertakings that are listed in this Section 1 of Rule 2.⁸ These undertakings include, for example, to abide by the Rules and be bound by all the provisions thereof, and to pay any amounts that become payable by the Participant to DTC pursuant to the Rules.⁹

To simplify and standardize the membership onboarding documentation, DTC is proposing to revise Section 1 of Rule 2 to state directly that Participants agree to each of the undertakings listed in that section. DTC would also make an identical revision to

⁷ Section 1 of Rule 2, id.

⁸ Id.

⁹ See Sections 1(a) and (d) of Rule 2, id.

Rule 9(D) (Settling Banks) regarding the undertakings of Settling Banks. In connection with this proposed change, DTC would remove these undertakings from the template membership agreement, which already provides that Participants are bound by the Rules.

Proposed Revisions to Requirements Related to Participants' Authorized Representatives

DTC is proposing to revise Sections 1 and 2 of Rule 7 (Participant Representatives), which describes Participants' requirement to appoint an authorized representative in connection with their membership with DTC.¹⁰ Currently, Section 1 of Rule 7 provides that a Participant may designate an authorized representative that is not either a general partner or an officer of the Participant, by either a power of attorney or resolutions of the Participant's board of directors, and requires such power of attorney and resolutions be in a form approved by DTC.¹¹ Section 2 of Rule 7 requires Participants to provide DTC with the signatures of individuals who are authorized representatives for purposes of conducting business with DTC.¹²

In order to simplify the onboarding membership requirements, DTC is proposing to amend Section 1 of Rule 7 to clarify that a Participant's representative must be duly appointed and authorized, and to remove references to a power of attorney or resolutions of the Participant's board of directors. The proposed change would also remove the requirement that DTC approve the form of power of attorney or resolutions of the Participant's board of directors that evidences the due authorization of that representative.

¹⁰ Sections 1 and 2 of Rule 7, id.

¹¹ Id.

¹² Id.

Finally, DTC is proposing to remove Section 2 of Rule 7, which includes the requirement that Participants provide DTC with the signatures of representatives who are authorized to conduct business with DTC.¹³ In connection with this proposed change, DTC would renumber the remaining sections in Rule 7.

Proposed Revisions to Rules Regarding DTC's Reliance on Electronic Signatures

DTC is proposing to revise Rule 26, which is currently titled “Facsimile Signatures” and lists the circumstances in which DTC would rely on an electronic signature.¹⁴ The proposed revision to this Rule 26 would rename the rule to remove the word “Facsimile,” and would also revise the rule to clarify that DTC may rely on an electronic signature with respect to any and all agreements and other documents delivered pursuant to the Rules. DTC would also remove reference to the circumstances in which it would accept an electronic signature, to make clear that DTC would do so in any circumstances. The proposed revisions would clarify and modernize the language in Rule 26, which still refers to outdated modes of electronic communication, such as telex, and would align the language in this Rule to language used in the New York Electronic Signatures and Records Act.¹⁵

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires that the rules of DTC be designed to, among other things, promote the prompt and accurate clearance and settlement of

¹³ Id.

¹⁴ Id.

¹⁵ N.Y. State Tech. Law § 304(2) (McKinney 2021).

securities transactions.¹⁶ DTC believes the proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act because such changes would clarify and improve the transparency of the Rules and would allow DTC to simplify the membership agreements and other documentation provided to it by Participants pursuant to the Rules.

More specifically, the proposed changes would make clarifications to the Rules regarding (i) Participants' duly authorized representatives in connection with their memberships; and (ii) DTC's ability to rely on electronic signatures on agreements and other documents provided to it pursuant to the Rules. The proposed changes would also update the Rules in order to allow DTC to simplify the onboarding and other membership agreements and documents by incorporating in the Rules (1) the governing law of agreements and other documents provided to DTC pursuant to the Rules; and (2) the affirmative undertakings that Participants currently make in onboarding membership agreements.

By enhancing the clarity and transparency of the Rules, and allowing DTC to simplify the membership agreements and other documents, the proposed changes would allow Participants to more efficiently and effectively conduct their business in accordance with the Rules, which DTC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, DTC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.¹⁷

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ Id.

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

DTC does not believe the proposed rule changes would impact competition. The proposed rule changes would merely enhance the clarity and transparency of the Rules and would simplify the documentation that is provided to DTC by Participants pursuant to the Rules. Therefore, the proposed changes would not affect DTC's operations or the rights and obligations of membership. As such, DTC believes the proposed rule changes would not have any impact on competition.

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

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

DTC reserves the right to not respond to any comments received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)¹⁸ of the Act and paragraph (f)¹⁹ of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-DTC-2021-016 on the subject line.

Paper Comments:

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

¹⁸ 15 U.S.C 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-DTC-2021-016. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2021-016 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.²⁰

Secretary

²⁰ 17 CFR 200.30-3(a)(12).

EXHIBIT 3

Revised Templates of Participant Agreement and Pledgee Agreement

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EXHIBIT 5

Bold, underlined text indicates proposed additions.

~~Bold, strikethrough~~ text indicates proposed deletions.



RULES

BY-LAWS

ORGANIZATION CERTIFICATE

THE DEPOSITORY TRUST COMPANY

RULE 1

DEFINITIONS; GOVERNING LAW

* * *

Section 4. The By-Laws, these Rules, and the Procedures, and all agreements and other documents entered into between a Participant or Pledgee and the Corporation, or otherwise delivered to or by the Corporation pursuant to these Rules and the Procedures, and the rights and obligations there~~under the By-Laws, the Rules and the Procedures~~, shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed and performed therein, unless otherwise expressly provided.

* * *

RULE 2

PARTICIPANTS AND PLEDGEES

Section 1.

* * *

~~An entity whose application to become a~~ Participant ~~has been approved by the Corporation~~ (i) shall, if required, make its ~~original~~ Required Participants Fund Deposit to the Participants Fund, determined in accordance with the provisions of Section 1 of Rule 4, and Required Preferred Stock Investment, determined in accordance with the provisions of Section 2 of Rule 4, (ii) shall, if it qualifies as an FFI Participant, complete and deliver to the Corporation a FATCA Certification and (iii) ~~shall, in every case, sign and deliver to the Corporation an instrument in writing whereby such applicant shall~~ agree that:

(a) The Participant shall abide by the By-Laws and these Rules ~~of the Corporation~~ and shall be bound by all of the provisions thereof including the provisions prescribing the rights and remedies which the Corporation shall have with respect to Securities held by or for the Corporation for the Participant's account, and the Corporation shall have all of the rights and remedies contemplated by the By-Laws and these Rules ~~of the Corporation~~. Notwithstanding that the Participant may have ceased to be a Participant, the Participant shall continue to be bound by the By-Laws and these Rules ~~of the Corporation~~ as to all matters and transactions occurring while the Participant was a Participant.

(b) The By-Laws and these Rules ~~of the Corporation~~ shall be a part of the terms and conditions of every contract or transaction which the Participant may make or have with the Corporation.

(c) The Participant shall pay to the Corporation the compensation due it for services rendered to the Participant based on the Corporation's fee schedules, and such fines as may be imposed or deposits as may be required in accordance with the By-Laws and these Rules ~~of the Corporation~~ for the failure to comply therewith.

* * *

(l) The Participant shall be bound by any amendment to the By-Laws or these Rules ~~of the Corporation~~ with respect to any transaction occurring subsequent to the time such amendment takes effect as fully as though such amendment were now a part of the By-Laws and these Rules ~~of the Corporation~~; provided, however, that (i) no such amendment shall affect the Participant's right to cease to be a Participant, and (ii) unless the Participant is given ten Business Days notice thereof and the opportunity to give written notice to the Corporation of its election to terminate its business with the Corporation, no such amendment shall change (A) the provisions of Section 1 of Rule 4 or the formula in accordance with which the Required Participants Fund Deposit of the Participant is determined or (B) the provisions of Section 2 of Rule 4 or the formula in accordance with which the Required Preferred Stock Investment of the Participant is determined.

* * *

RULE 7

PARTICIPANT REPRESENTATIVES

Section 1. There shall be present at the location of each Participant on each Business Day between the hours of 9:15 A.M. and 5:30 P.M., New York City time, and until the Participant's account with the Corporation, in the judgment of the Corporation, is settled and in balance, a representative **duly appointed and** authorized in the name and on behalf of the Participant to sign all instruments, correct errors, perform such duties as may be required under these Rules and the Procedures and transact all business requisite in connection with the Participant's business with, and the operations of, the Corporation (a "Participant Representative"). ~~In the case of a Participant which is a partnership, if the Participant Representative of the Participant is not a general partner of the Participant, such Participant Representative shall be authorized to act by written power of attorney. In the case of a Participant which is a corporation, such Participant Representative shall be authorized to act by resolution of the Board of Directors of such corporation. Such power of attorney or resolution, as the case may be, shall be in form approved by the Corporation.~~

~~*Section 2.* Every Participant shall file with the Corporation the signature of each Person who is authorized to act on behalf of the Participant pursuant to Section 1 of this Rule together with the power of attorney or resolution giving such authority.~~

Section 23. A Participant may appoint another Participant as its agent with respect to all of the appointing Participant's business carried out with the Corporation, provided such appointment has been consented to by the Corporation and is evidenced by such appointments, authorizations, certifications and other agreements in such form as the Corporation may require.

Section 34. Each Participant which does not appoint another Participant as its agent pursuant to Section 23 of this Rule shall make operational arrangements satisfactory to the Corporation to deliver to, and receive from, an office, agency or custodian of the Corporation Securities, instructions and other documents. In addition, if required by the Corporation because of the location of the Participant, the Participant shall arrange communications facilities between the Participant and the Corporation which shall be satisfactory to the Corporation.

Section 45. Each Settling Bank, in addition to satisfying the requirements of this Rule as a Participant, shall satisfy the requirements of this Rule with respect to its activities as a Settling Bank.

* * *

RULE 9(D)

SETTLING BANKS

A Settling Bank shall settle for itself and may settle for other Participants. Each Settling Bank ~~shall~~ agrees to abide by these Rules and the Procedures and shall enter into a separate Settling Bank Agreement with the Corporation and each Participant which the Settling Bank represents.

* * *

RULE 26

FACSIMILE SIGNATURES

With respect to any and all agreements and other documents entered into between a Participant or Pledgee and the Corporation, or otherwise delivered to or by T~~the Corporation pursuant to these Rules and the Procedures, the use of~~ may, at its option, in lieu of relying on an original signature, rely on an electronic signature ~~as if it were (and the signature shall be considered and~~ have the same validity and effect as) ~~a valid and binding original the use of a signature affixed by hand~~ in the following circumstances:

~~If such signature is transmitted, recorded or stored by any electronic, optical, or similar means (including but not limited to telecopy, imaging, xeroxing, electronic mail, electronic data interchange, telegram, or telex).~~

* * *