

Required fields are shown with yellow backgrounds and asterisks.

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

File No. * SR 2022 - * 014

Amendment No. (req. for Amendments *)

Filing by The Depository Trust Company

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * ☒ Amendment * ☐ Withdrawal ☐

Section 19(b)(2) * ☐ Section 19(b)(3)(A) * ☒ Section 19(b)(3)(B) * ☐

Pilot ☐ Extension of Time Period for Commission Action * ☐ Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☒ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 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 *).

Amend the Fee Guide

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 * RuleFilingAdmin@dtcc.com

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 12/22/2022

(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: 2022.12.22
13:45:33 -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 EDFS website.

Form 19b-4 Information *

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Narrative - DTC Fees - 2022-1222 Fin

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 Fees - 2022-1222 Final

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 *

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

Exhibit 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

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Exh 3 (Redacted) - DTC Fees - 2022-1

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 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 Fees - 2022-1222 Final.d

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 Proposed Rule Change

(a) The proposed rule change of The Depository Trust Company (“DTC”) is attached hereto as Exhibit 5.¹

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Businesses, Technology and Operations Committee of DTC’s Board of Directors (“Board”) on September 20, 2022, and October 18, 2022.

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

(a) Purpose

The proposed rule change would amend the Guide to the DTC Fee Schedule² (“Fee Guide”) to revise certain fees charged to Participants for settlement services,³ as described below.

Overview

DTC is a central securities depository, and as such, provides a central location in which Eligible Securities⁴ may be immobilized, or through which Securities may be dematerialized, and

¹ Each capitalized term not otherwise defined herein has its respective meaning as set forth the Rules, By-Laws and Organization Certificate of DTC (the “Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

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

³ Pursuant to Rule 2, Section 1, each Participant shall pay to DTC the compensation due it for services rendered to the Participant based on DTC’s fee schedules. See Rule 2, supra note 1.

⁴ Pursuant to Rule 5, Section 1, an Eligible Security shall only be a Security accepted by DTC, in its sole discretion, as an Eligible Security. See Rule 5, supra note 1. See also, DTC Operational Arrangements Necessary for Securities to Become and Remain Eligible for DTC Services (“OA”), available at <http://www.dtcc.com/~media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf>, at 6-19 (setting forth DTC eligibility requirements).

interests, in the form of Security Entitlements,⁵ in those Securities reflected in Accounts maintained for Participants.⁶ DTC provides its Participants with settlement services relating to Deliveries⁷ of such Securities on DTC's books.⁸

DTC operates a "low cost" pricing model and has in place procedures to control costs and to regularly review pricing levels against costs of operation. It reviews pricing levels against its costs of operation during the annual budget process. The budget is approved annually by the Board. DTC's fees are cost-based plus a markup, as approved by the Board or management (pursuant to authority delegated by the Board), as applicable. This markup of "low margin" is applied to recover development costs and operating expenses, and to accumulate capital sufficient to meet regulatory and economic requirements.⁹

After evaluation of DTC's short-term and long-term financial position in consideration of expected Participant activity, revenues, cost of funding, market volatility, and the financial markets more broadly, DTC has determined that it should increase the overall amount it collects from Participants through fees for its settlement services relating to Deliveries in order to cover its costs for settlement services and maintain the appropriate low margin above costs.

⁵ Pursuant to Rule 1, the term "Security Entitlement" has the meaning given to the term "security entitlement" in Section 8-102 of the New York Uniform Commercial Code. The interest of a Participant or Pledgee in a Security credited to its Account is a Security Entitlement. See Rule 1, supra note 1.

⁶ See also DTC Disclosure Framework for Covered Clearing Agencies and Financial Market Infrastructures, available at https://www.dtcc.com/-/media/Files/Downloads/legal/policy-and-compliance/DTC_Disclosure_Framework.pdf, at 5.

⁷ Pursuant to Rule 1, the term Delivery, as used with respect to a Security held in the form of a Security Entitlement on the books of DTC, means debiting the Security from an Account of the Deliverer and crediting the Security to an Account of the Receiver. A Delivery may be a Delivery Versus Payment or a Free Delivery, or both collectively, as the context may require. See Rule 1, supra note 1.

⁸ See Rule 9(A), Rule 9(B), Rule 9(C) and Rule 9(D), supra note 1, and Settlement Service Guide ("Settlement Guide"), available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Settlement.pdf>, at 21-31. DTC allows a Participant to settle securities transactions by making book-entry Deliveries to another Participant's account. DTC reduces the seller's position and increases the buyer's position without the need to move physical certificates. See Settlement Guide at 4-5.

⁹ For this purpose, DTC has established a percentage-based range ("Preferred Range") for its operating margin. Currently, DTC's operating margin is below the Preferred Range and the fee increase is projected to bring DTC's operating margin within the Preferred Range.

Specifically, operating expense increases for DTC's settlement services are driven by compensation and contract inflation, IT risk mitigation, resiliency initiatives and infrastructure investments partially offset by efficiencies. In this regard, the proposed rule change would increase certain fees relating to book-entry delivery in the settlement services section¹⁰ of the Fee Guide to bring the operating margin for DTC's settlement services within the Preferred Range, as described below.

Fee Revisions and Consolidations for Certain Settlement Services

Fee Increase for Day Deliver Orders

A Participant may submit an instruction ("Deliver Order") to DTC to make a Delivery¹¹ of Eligible Securities via book-entry to another Participant's account.¹² DTC reduces the Deliverer's¹³ position and increases the Receiver's¹⁴ position without the need to move physical certificates. Deliveries can be made Delivery Versus Payment¹⁵ or as a Free Delivery,¹⁶ depending on the applicable Participant's delivery instructions provided in the Deliver Order.

A Participant is charged a fee, named in the Fee Guide as "Day Deliver Order (including reclaims; excluding stock loans)," ("Day Deliver Order Fee") of 40 cents for a Deliver Order, except the charge is 17 cents for Deliver Orders submitted by the Participant for processing in

¹⁰ See Fee Guide, supra note 2, at 18.

¹¹ Supra note 8.

¹² See Rule 9(B), supra note 1.

¹³ Pursuant to Rule 1, the term "Deliverer," as used with respect to a Delivery of a Security, means the Person which Delivers the Security. See Rule 1, supra note 1.

¹⁴ Pursuant to Rule 1, the term "Receiver," as used with respect to a Delivery of a Security, means the Person which receives the Security. See id.

¹⁵ Pursuant to Rule 1, the term "Delivery Versus Payment" means a Delivery against a settlement debit to the Account of the Receiver, as provided in Rule 9(A) and Rule 9(B) and as specified in the Procedures. See Rule 1, supra note 1.

¹⁶ Pursuant to Rule 1, the term "Free Delivery" means a Delivery free of any payment by the Receiver through the facilities of the Corporation, as provided in Rule 9(B) and as specified in the Procedures. See id.

the night cycle.¹⁷ The latter fee, named the “Night Deliver Order” fee¹⁸ (“Night Deliver Order Fee”), is lower than the former because it is designed to encourage earlier submission of transactions by Participants, which results in more efficient settlement processing by increasing the volume of transactions processed in the night-cycle, which, in turn, enhances intraday settlement processing.¹⁹

The Receiver of the Delivery is charged 11 cents, regardless of time, per receive. This fee is named in the Fee Guide as “Receive, regardless of time (excluding reclaims and stock loans and returns).”²⁰

Pursuant to the proposed rule change, DTC would increase the Day Deliver Order Fee from 40 cents to 54 cents per item. The proposed fee reflects an amount that would facilitate DTC’s ability, as discussed above, to increase the overall fees DTC collects from Participants relating to its settlement services in order to cover its costs and maintain the appropriate low margin above costs.

As a result of the above-described proposed change, the Fee Guide entry for the Day Deliver Order Fee would be revised, as follows (Bold, underlined text indicates additions, Bold, strikethrough text indicates deletions):

¹⁷ See Fee Guide, supra note 2, at 18. On the night before settlement day (“S-1”) DTC commences “night cycle” processing. During the night cycle, DTC operates a process (“Night Batch Process”) that utilizes a settlement processing algorithm capable of evaluating each Participant’s transaction obligations, available positions, transaction priorities and risk management controls. Specifically, at approximately 8:30 PM on S-1, DTC subjects all transactions eligible for processing to the Night Batch Process. The Night Batch Process runs “off-line” (i.e., is not visible to Participants), allowing DTC to run multiple processing scenarios until the optimal processing scenario is identified. Once the optimal scenario is identified, the results are incorporated back into DTC’s core processing environment on a transaction-by-transaction basis prior to the start of daytime processing. Transactions that have satisfied DTC’s risk controls will be staged for settlement. However, as was the case prior to this change, if a transaction cannot satisfy DTC’s control functions initially, then it will recycle throughout the day, continuously attempting to satisfy the controls until approximately 3:10 PM for valued transactions and until 6:35 PM for free transactions. See Settlement Guide, supra note 8, at 7 and 72.

¹⁸ See id.

¹⁹ See Securities Exchange Act Release No. 84768 (December 10, 2018), 83 FR 64401 (December 14, 2018) (SR-DTC-2018-011).

²⁰ See Fee Guide, supra note 2, at 18.

FEE NAME	AMOUNT (\$)	CONDITIONS
Day deliver order (including reclaims; excluding stock loans)	0.40 <u>0.54</u>	Per item; charged to deliverer; applies to each DO submitted

As a result of its review of pricing levels against costs of operation of its settlement services, DTC believes that the proposed fee changes would enable DTC to offset its cost and expense while generating a low margin within the Preferred Range.

Fee Increase for Deliveries and Receives of Securities to and from CNS

Another important use of DTC book-entry transfer services is the interface of DTC with its affiliate National Securities Clearing Corporation (“NSCC”) for the processing of trades that are cleared and settled in the NSCC Continuous Net Settlement (“CNS”) system and are processed as Free Deliveries at DTC.²¹ DTC also processes Free Deliveries as instructed by NSCC to DTC relating to NSCC’s Automated Customer Account Transfer Service (“ACATS”).²²

A Participant is charged 7 cents for the Delivery of a Security to the NSCC CNS account at DTC (“CNS Account”) or for an ACATS Delivery on the Participant’s behalf.²³ Likewise, the receiving Participant of a Security from the CNS Account is charged 7 cents for the Delivery of the Securities from the CNS Account or for an ACATS Delivery to its account.²⁴ This fee is named in the Fee Guide as “Delivery to/from CNS (including ACATS).”²⁵

Specifically, pursuant to the proposed rule change, DTC would increase the Delivery to/from CNS (including ACATS) fee from 7 cents to 17 cents.

As a result of the above-described proposed changes, the text of the Fee Guide relating to these fees would be revised as follows (Bold, underlined text indicates additions, Bold, strikethrough text indicates deletions):

FEE NAME	AMOUNT (\$)	CONDITIONS
Delivery to/from CNS (including ACATS)	0.07 <u>0.17</u>	Per delivery or receive

²¹ See Settlement Guide, supra note 8, at 18-20.

²² See id at 20.

²³ See Fee Guide, supra note 2, at 18.

²⁴ Id.

²⁵ Id.

As a result of its review of pricing levels against costs of operation, DTC believes that these proposed fee amounts would enable DTC to offset its cost and expense while generating a low margin.

Participant Impact

The proposed rule change is expected to increase DTC's annual revenue by approximately \$30 million. Individual Participant impacts are project to vary depending on a Participant's settlement activity impacted by the proposed fee changes. As a result of the fee change, (i) 80% of Participants are projected to incur a 25% or less increase in overall fees charged, (ii) 13% are projected to incur an increase above 25% and below 50%, and (iii) 7% of Participants are projected to incur an increase in fees of greater than 50%.

Participant Outreach

DTC has conducted ongoing outreach to each Participant in order to provide them with notice of the proposed changes and the anticipated impact for the Participant. As of the date of this filing, no written comments relating to the proposed changes have been received in response to this outreach. The Commission will be notified of any written comments received.

Implementation Timeframe

DTC would implement this proposal on January 1, 2023. As proposed, a legend would be added to the Fee Guide stating there are changes that have become effective upon filing with the Commission but have not yet been implemented. The proposed legend also would include a date on which such changes would be implemented and the file number of this proposal, and state that, once this proposal is implemented, the legend would automatically be removed from the Fee Guide.

(b) Statutory Basis

DTC believes this proposal is consistent with the requirements of the Securities Exchange Act of 1934 (the "Act"), and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, DTC believes the proposed changes to modify settlement service fees, as described above, are consistent with Section 17A(b)(3)(D) of the Act,²⁶ for the reasons described below. DTC believes that the proposed changes to update the Fee Guide with the new fees are consistent with Rule 17Ad-22(e)(23)(ii),²⁷ as promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(D) of the Act requires, *inter alia*, that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among participants.²⁸ For the

²⁶ 15 U.S.C. 78q-1(b)(3)(D).

²⁷ 17 CFR.17Ad-22(e)(23)(ii).

²⁸ 15 U.S.C. 78q-1(b)(3)(D).

reasons set forth below, DTC believes that each of the proposed rule changes described above would provide for the equitable allocation of reasonable dues, fees, and other charges among Participants.

DTC believes the proposed rule change to (i) increase the Day Deliver Order Fee, and (ii) increase the Delivery to/from CNS fee as described above, would provide for the equitable allocation of reasonable fees. While the impact of the proposed fees would vary based on Members' usage of the underlying DTC services, the proposed rule change would not alter how these Fees are calculated or how such fees are allocated to Participants. In this regard, since the proposed change would not alter how these fees are charged to Participants, DTC believes that the fees would continue to be equitably allocated because they would continue to be charged based on volume of transaction activity for a given Participant. More specifically, as mentioned above, the Day Deliver Order Fee and the Night Deliver Order Fee are charged based on a Participant's volume of Deliveries during the applicable timeframes, as described above. As such, and as is currently the case, Participants that provide a greater number of Delivery instructions, or receive a greater number of Deliveries, would generally be subject to a higher overall charge for Deliveries and/or Receives, as applicable, based on volume of related transactions. Conversely, Participants that make fewer Deliveries and or receive few Deliveries would generally be subject to a smaller overall charge for Deliveries and receives based on volume.

Similarly, DTC believes that the Day Deliver Order Fee and the Delivery to/from CNS fee would continue to be reasonable fees under the proposed change described above. The proposed fees were selected for adjustment based on an analysis of projected market volumes and revenues for DTC during its annual budgeting process. Based on this analysis, first, DTC determined that it would increase the Delivery to/from CNS fee by an amount similar to the amount it was reduced in 2021.²⁹ DTC then determined that the Day Deliver Order Fee, which was also reduced in 2021, would be increased by an amount sufficient to close a remaining projected shortfall of DTC's operating margin versus the Preferred Range.³⁰ The proposed fee changes are intended to better align to the projected operating costs and expenses of DTC relating to settlement service and would result in an overall increase of fees imposed on DTC's Participants and are expected to bring DTC's operating margin for its settlement services within the Preferred Range. For this reason, DTC believes that the proposed rule change to (i) increase the Day Deliver Order Fee, and (ii) increase the Delivery to/from CNS fee, as described above, would be reasonable fees charged by DTC for these services and is consistent with Section 17A(b)(3)(D) of the Act.³¹

²⁹ In 2021, DTC reduced this fee from 16 cents to the current 7 cents. See Securities Exchange Act Release Number 90546 (December 7, 2020), 85 FR 78897 (December 1, 2020) (SR-DTC-2020-014).

³⁰ In 2021, DTC reduced the Day Deliver Order Fee from 45 cents to the current 40 cents. Id.

³¹ Supra note 28.

Rule 17Ad-22(e)(23)(ii) under the Act³² requires DTC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. The proposed fees would be clearly and transparently published in the Fee Guide, which is available on a public website,³³ thereby enabling Participants to identify the fees and costs associated with participating in DTC. As such, DTC believes the proposed rule change is consistent with Rule 17Ad-22(e)(23)(ii) under the Act.³⁴

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

DTC believes that the proposed rule change to increase the Day Deliver Order Fees and the Delivery to/from CNS fee may present a competitive burden among Participants because this change could increase the fees of those Participants that perform activity covered by these fees. DTC does not believe the proposed change in and of itself would mean that the burden on competition among Participants is significant. This is because even though the amount of the fee increase may seem significant, DTC believes the increase in fees would similarly affect all Participants that utilize DTC's services and be reflective of each Participant's individual activity at DTC, and therefore the burden on competition would not be significant. Regardless of whether the burden on competition is deemed significant, DTC believes any burden that is created by the proposed change would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.³⁵

Any such burden would be necessary because these proposed fee increases would provide DTC with the ability to achieve and maintain its net income margin. Any such burden would be appropriate because DTC believes that the fees would continue to be equitably allocated because they would continue to be charged based on volume of transaction activity for a given Participant.

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 would 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

³² 17 CFR 240.17Ad-22(e)(23)(ii).

³³ See supra note 2.

³⁴ 17 CFR 240.17Ad-22(e)(23)(ii).

³⁵ 15 U.S.C. 78q-1(b)(3)(I).

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-submitcomments>. 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.

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 changes are to take effect immediately upon filing pursuant to paragraph A of Section 19(b)(3) of the Act.³⁶

(b) Concerning the proposed changes to fees described above the proposed rule change establishes or changes a due, fee, or other charge.³⁷

(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 of 2010

Not applicable.

³⁶ 15 U.S.C 78s(b)(3)(A).

³⁷ 17 CFR 240.19b-4(f)(2).

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 – Confidential Supporting Information. *Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 3 pursuant to 17 CFR 240.24b-2 being requested.*

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed changes to the Fee Guide.

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-[____]; File No. SR-DTC-2022-014)

[DATE]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fee Guide

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 December __, 2022, 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)(2) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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).

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

The proposed rule change ⁵ consists of amendments to the Guide to the DTC Fee Schedule⁶ ("Fee Guide") to revise certain fees charged to Participants for settlement services,⁷ 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.

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

1. Purpose

The proposed rule change would amend the Fee to revise certain fees charged to Participants for settlement services, as described below.

⁵ Each capitalized term not otherwise defined herein has its respective meaning as set forth the Rules, By-Laws and Organization Certificate of DTC (the "Rules"), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

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

⁷ Pursuant to Rule 2, Section 1, each Participant shall pay to DTC the compensation due it for services rendered to the Participant based on DTC's fee schedules. See Rule 2, supra note 5.

Overview

DTC is a central securities depository, and as such, provides a central location in which Eligible Securities⁸ may be immobilized, or through which Securities may be dematerialized, and interests, in the form of Security Entitlements,⁹ in those Securities reflected in Accounts maintained for Participants.¹⁰ DTC provides its Participants with settlement services relating to Deliveries¹¹ of such Securities on DTC's books.¹²

⁸ Pursuant to Rule 5, Section 1, an Eligible Security shall only be a Security accepted by DTC, in its sole discretion, as an Eligible Security. See Rule 5, supra note 5. See also, DTC Operational Arrangements Necessary for Securities to Become and Remain Eligible for DTC Services ("OA"), available at <http://www.dtcc.com/~media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf>, at 6-19 (setting forth DTC eligibility requirements).

⁹ Pursuant to Rule 1, the term "Security Entitlement" has the meaning given to the term "security entitlement" in Section 8-102 of the New York Uniform Commercial Code. The interest of a Participant or Pledgee in a Security credited to its Account is a Security Entitlement. See Rule 1, supra note 5.

¹⁰ See also DTC Disclosure Framework for Covered Clearing Agencies and Financial Market Infrastructures, available at https://www.dtcc.com/~media/Files/Downloads/legal/policy-and-compliance/DTC_Disclosure_Framework.pdf, at 5.

¹¹ Pursuant to Rule 1, the term Delivery, as used with respect to a Security held in the form of a Security Entitlement on the books of DTC, means debiting the Security from an Account of the Deliverer and crediting the Security to an Account of the Receiver. A Delivery may be a Delivery Versus Payment or a Free Delivery, or both collectively, as the context may require. See Rule 1, supra note 5.

¹² See Rule 9(A), Rule 9(B), Rule 9(C) and Rule 9(D), supra note 5, and Settlement Service Guide ("Settlement Guide"), available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Settlement.pdf>, at 21-31. DTC allows a Participant to settle securities transactions by making book-entry Deliveries to another Participant's account. DTC reduces the seller's position and increases the buyer's position without the need to move physical certificates. See Settlement Guide at 4-5.

DTC operates a “low cost” pricing model and has in place procedures to control costs and to regularly review pricing levels against costs of operation. It reviews pricing levels against its costs of operation during the annual budget process. The budget is approved annually by the Board. DTC’s fees are cost-based plus a markup, as approved by the Board or management (pursuant to authority delegated by the Board), as applicable. This markup of “low margin” is applied to recover development costs and operating expenses, and to accumulate capital sufficient to meet regulatory and economic requirements.¹³

After evaluation of DTC’s short-term and long-term financial position in consideration of expected Participant activity, revenues, cost of funding, market volatility, and the financial markets more broadly, DTC has determined that it should increase the overall amount it collects from Participants through fees for its settlement services relating to Deliveries in order to cover its costs for settlement services and maintain the appropriate low margin above costs.

Specifically, operating expense increases for DTC’s settlement services are driven by compensation and contract inflation, IT risk mitigation, resiliency initiatives and infrastructure investments partially offset by efficiencies. In this regard, the proposed rule change would increase certain fees relating to book-entry delivery in the settlement

¹³ For this purpose, DTC has established a percentage-based range (“Preferred Range”) for its operating margin. Currently, DTC’s operating margin is below the Preferred Range and the fee increase is projected to bring DTC’s operating margin within the Preferred Range.

services section¹⁴ of the Fee Guide to bring the operating margin for DTC's settlement services within the Preferred Range, as described below.

Fee Revisions and Consolidations for Certain Settlement Services

Fee Increase for Day Deliver Orders

A Participant may submit an instruction ("Deliver Order") to DTC to make a Delivery¹⁵ of Eligible Securities via book-entry to another Participant's account.¹⁶ DTC reduces the Deliverer's¹⁷ position and increases the Receiver's¹⁸ position without the need to move physical certificates. Deliveries can be made Delivery Versus Payment¹⁹ or as a Free Delivery,²⁰ depending on the applicable Participant's delivery instructions provided in the Deliver Order.

A Participant is charged a fee, named in the Fee Guide as "Day Deliver Order (including reclaims; excluding stock loans)," ("Day Deliver Order Fee") of 40 cents for a Deliver Order, except the charge is 17 cents for Deliver Orders submitted by the

¹⁴ See Fee Guide, supra note 6, at 18.

¹⁵ Supra note 12.

¹⁶ See Rule 9(B), supra note 5.

¹⁷ Pursuant to Rule 1, the term "Deliverer," as used with respect to a Delivery of a Security, means the Person which Delivers the Security. See Rule 1, supra note 5.

¹⁸ Pursuant to Rule 1, the term "Receiver," as used with respect to a Delivery of a Security, means the Person which receives the Security. See id.

¹⁹ Pursuant to Rule 1, the term "Delivery Versus Payment" means a Delivery against a settlement debit to the Account of the Receiver, as provided in Rule 9(A) and Rule 9(B) and as specified in the Procedures. See Rule 1, supra note 5.

²⁰ Pursuant to Rule 1, the term "Free Delivery" means a Delivery free of any payment by the Receiver through the facilities of the Corporation, as provided in Rule 9(B) and as specified in the Procedures. See id.

Participant for processing in the night cycle.²¹ The latter fee, named the “Night Deliver Order” fee²² (“Night Deliver Order Fee”), is lower than the former because it is designed to encourage earlier submission of transactions by Participants, which results in more efficient settlement processing by increasing the volume of transactions processed in the night-cycle, which, in turn, enhances intraday settlement processing.²³

The Receiver of the Delivery is charged 11 cents, regardless of time, per receive. This fee is named in the Fee Guide as “Receive, regardless of time (excluding reclaims and stock loans and returns).”²⁴

Pursuant to the proposed rule change, DTC would increase the Day Deliver Order Fee from 40 cents to 54 cents per item. The proposed fee reflects an amount that would

²¹ See Fee Guide, supra note 6, at 18. On the night before settlement day (“S-1”) DTC commences “night cycle” processing. During the night cycle, DTC operates a process (“Night Batch Process”) that utilizes a settlement processing algorithm capable of evaluating each Participant’s transaction obligations, available positions, transaction priorities and risk management controls. Specifically, at approximately 8:30 PM on S-1, DTC subjects all transactions eligible for processing to the Night Batch Process. The Night Batch Process runs “off-line” (i.e., is not visible to Participants), allowing DTC to run multiple processing scenarios until the optimal processing scenario is identified. Once the optimal scenario is identified, the results are incorporated back into DTC’s core processing environment on a transaction-by-transaction basis prior to the start of daytime processing. Transactions that have satisfied DTC’s risk controls will be staged for settlement. However, as was the case prior to this change, if a transaction cannot satisfy DTC’s control functions initially, then it will recycle throughout the day, continuously attempting to satisfy the controls until approximately 3:10 PM for valued transactions and until 6:35 PM for free transactions. See Settlement Guide, supra note 12, at 7 and 72.

²² See id.

²³ See Securities Exchange Act Release No. 84768 (December 10, 2018), 83 FR 64401 (December 14, 2018) (SR-DTC-2018-011).

²⁴ See Fee Guide, supra note 6, at 18.

facilitate DTC's ability, as discussed above, to increase the overall fees DTC collects from Participants relating to its settlement services in order to cover its costs and maintain the appropriate low margin above costs.

As a result of the above-described proposed change, the Fee Guide entry for the Day Deliver Order Fee would be revised, as follows (Bold, underlined text indicates additions, Bold, strikethrough text indicates deletions):

FEE NAME	AMOUNT (\$)	CONDITIONS
Day deliver order (including reclaims; excluding stock loans)	0.40 <u>0.54</u>	Per item; charged to deliverer; applies to each DO submitted

As a result of its review of pricing levels against costs of operation of its settlement services, DTC believes that the proposed fee changes would enable DTC to offset its cost and expense while generating a low margin within the Preferred Range.

Fee Increase for Deliveries and Receives of Securities to and from
CNS

Another important use of DTC book-entry transfer services is the interface of DTC with its affiliate National Securities Clearing Corporation ("NSCC") for the processing of trades that are cleared and settled in the NSCC Continuous Net Settlement ("CNS") system and are processed as Free Deliveries at DTC.²⁵ DTC also processes Free Deliveries as instructed by NSCC to DTC relating to NSCC's Automated Customer Account Transfer Service ("ACATS").²⁶

²⁵ See Settlement Guide, supra note 12, at 18-20.

²⁶ See id at 20.

A Participant is charged 7 cents for the Delivery of a Security to the NSCC CNS account at DTC (“CNS Account”) or for an ACATS Delivery on the Participant’s behalf.²⁷ Likewise, the receiving Participant of a Security from the CNS Account is charged 7 cents for the Delivery of the Securities from the CNS Account or for an ACATS Delivery to its account.²⁸ This fee is named in the Fee Guide as “Delivery to/from CNS (including ACATS).”²⁹

Specifically, pursuant to the proposed rule change, DTC would increase the Delivery to/from CNS (including ACATS) fee from 7 cents to 17 cents.

As a result of the above-described proposed changes, the text of the Fee Guide relating to these fees would be revised as follows (Bold, underlined text indicates additions, Bold, strikethrough text indicates deletions):

FEE NAME	AMOUNT (\$)	CONDITIONS
Delivery to/from CNS (including ACATS)	0.07 <u>0.17</u>	Per delivery or receive

As a result of its review of pricing levels against costs of operation, DTC believes that these proposed fee amounts would enable DTC to offset its cost and expense while generating a low margin.

²⁷ See Fee Guide, supra note 6, at 18.

²⁸ Id.

²⁹ Id.

Participant Impact

The proposed rule change is expected to increase DTC's annual revenue by approximately \$30 million. Individual Participant impacts are project to vary depending on a Participant's settlement activity impacted by the proposed fee changes. As a result of the fee change, (i) 80% of Participants are projected to incur a 25% or less increase in overall fees charged, (ii) 13% are projected to incur an increase above 25% and below 50%, and (iii) 7% of Participants are projected to incur an increase in fees of greater than 50%.

Participant Outreach

DTC has conducted ongoing outreach to each Participant in order to provide them with notice of the proposed changes and the anticipated impact for the Participant. As of the date of this filing, no written comments relating to the proposed changes have been received in response to this outreach. The Commission will be notified of any written comments received.

Implementation Timeframe

DTC would implement this proposal on January 1, 2023. As proposed, a legend would be added to the Fee Guide stating there are changes that have become effective upon filing with the Commission but have not yet been implemented. The proposed legend also would include a date on which such changes would be implemented and the file number of this proposal, and state that, once this proposal is implemented, the legend would automatically be removed from the Fee Guide.

2. Statutory Basis

DTC believes this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, DTC believes the proposed changes to modify settlement service fees, as described above, are consistent with Section 17A(b)(3)(D) of the Act,³⁰ for the reasons described below. DTC believes that the proposed changes to update the Fee Guide with the new fees are consistent with Rule 17Ad-22(e)(23)(ii),³¹ as promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(D) of the Act requires, inter alia, that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among participants.³² For the reasons set forth below, DTC believes that each of the proposed rule changes described above would provide for the equitable allocation of reasonable dues, fees, and other charges among Participants.

DTC believes the proposed rule change to (i) increase the Day Deliver Order Fee, and (ii) increase the Delivery to/from CNS fee as described above, would provide for the equitable allocation of reasonable fees. While the impact of the proposed fees would vary based on Members' usage of the underlying DTC services, the proposed rule change would not alter how these Fees are calculated or how such fees are allocated to Participants. In this regard, since the proposed change would not alter how these fees are charged to Participants, DTC believes that the fees would continue to be equitably

³⁰ 15 U.S.C. 78q-1(b)(3)(D).

³¹ 17 CFR.17Ad-22(e)(23)(ii).

³² 15 U.S.C. 78q-1(b)(3)(D).

allocated because they would continue to be charged based on volume of transaction activity for a given Participant. More specifically, as mentioned above, the Day Deliver Order Fee and the Night Deliver Order Fee are charged based on a Participant's volume of Deliveries during the applicable timeframes, as described above. As such, and as is currently the case, Participants that provide a greater number of Delivery instructions, or receive a greater number of Deliveries, would generally be subject to a higher overall charge for Deliveries and/or Receives, as applicable, based on volume of related transactions. Conversely, Participants that make fewer Deliveries and or receive few Deliveries would generally be subject to a smaller overall charge for Deliveries and receives based on volume.

Similarly, DTC believes that the Day Deliver Order Fee and the Delivery to/from CNS fee would continue to be reasonable fees under the proposed change described above. The proposed fees were selected for adjustment based on an analysis of projected market volumes and revenues for DTC during its annual budgeting process. Based on this analysis, first, DTC determined that it would increase the Delivery to/from CNS fee by an amount similar to the amount it was reduced in 2021.³³ DTC then determined that the Day Deliver Order Fee, which was also reduced in 2021, would be increased by an amount sufficient to close a remaining projected shortfall of DTC's operating margin versus the Preferred Range.³⁴ The proposed fee changes are intended to better align to

³³ In 2021, DTC reduced this fee from 16 cents to the current 7 cents. See Securities Exchange Act Release Number 90546 (December 7, 2020), 85 FR 78897 (December 1, 2020) (SR-DTC-2020-014).

³⁴ In 2021, DTC reduced the Day Deliver Order Fee from 45 cents to the current 40 cents. Id.

the projected operating costs and expenses of DTC relating to settlement service and would result in an overall increase of fees imposed on DTC's Participants and are expected to bring DTC's operating margin for its settlement services within the Preferred Range. For this reason, DTC believes that the proposed rule change to (i) increase the Day Deliver Order Fee, and (ii) increase the Delivery to/from CNS fee, as described above, would be reasonable fees charged by DTC for these services and is consistent with Section 17A(b)(3)(D) of the Act.³⁵

Rule 17Ad-22(e)(23)(ii) under the Act³⁶ requires DTC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. The proposed fees would be clearly and transparently published in the Fee Guide, which is available on a public website,³⁷ thereby enabling Participants to identify the fees and costs associated with participating in DTC. As such, DTC believes the proposed rule change is consistent with Rule 17Ad-22(e)(23)(ii) under the Act.³⁸

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

DTC believes that the proposed rule change to increase the Day Deliver Order Fees and the Delivery to/from CNS fee may present a competitive burden among Participants because this change could increase the fees of those Participants that perform

³⁵ Supra note 32.

³⁶ 17 CFR 240.17Ad-22(e)(23)(ii).

³⁷ See supra note 6.

³⁸ 17 CFR 240.17Ad-22(e)(23)(ii).

activity covered by these fees. DTC does not believe the proposed change in and of itself would mean that the burden on competition among Participants is significant. This is because even though the amount of the fee increase may seem significant, DTC believes the increase in fees would similarly affect all Participants that utilize DTC's services and be reflective of each Participant's individual activity at DTC, and therefore the burden on competition would not be significant. Regardless of whether the burden on competition is deemed significant, DTC believes any burden that is created by the proposed change would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.³⁹

Any such burden would be necessary because these proposed fee increases would provide DTC with the ability to achieve and maintain its net income margin. Any such burden would be appropriate because DTC believes that the fees would continue to be equitably allocated because they would continue to be charged based on volume of transaction activity for a given Participant.

(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 would 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

³⁹ 15 U.S.C. 78q-1(b)(3)(I).

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-submitcomments>. 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.

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)⁴⁰ of the Act and paragraph (f)⁴¹ 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:

⁴⁰ 15 U.S.C. 78s(b)(3)(A).

⁴¹ 17 CFR 240.19b-4(f).

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-2022-014 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-2022-014. 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-2022-014 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.⁴²

Secretary

⁴² 17 CFR 200.30-3(a)(12).

EXHIBIT 3

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EXHIBIT 5

Bold and underlined text indicates proposed added language.

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

Guide to the ~~2022~~**2023** DTC Fee Schedule

[Changes to this Fee Guide, as amended by File No. SR-DTC-2022-014, are available at <https://www.dtcc.com/legal/sec-rule-filings>. These changes became effective upon filing with the Securities and Exchange Commission but have not yet been implemented. On January 1, 2023, these changes will be implemented and this legend will automatically be removed.]

Settlement Services

FEE NAME	AMOUNT (\$)	CONDITIONS
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Book-Entry Delivery, Excluding MMIs

Day deliver order (including reclaims; excluding stock loans)	0.40 <u>0.54</u>	Per item; charged to deliverer; applies to each DO submitted
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Delivery to/from CNS (including ACATS)	0.07 <u>0.17</u>	Per delivery or receive
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