

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-96799; File No. SR-DTC-2023-001)

February 3, 2023

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Clearing Agency Risk Management Framework

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 January 30, 2023, 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 amends the Clearing Agency Risk Management Framework (“Risk Management Framework”, or “Framework”) of DTC and its affiliates, Fixed Income Clearing Corporation (“FICC”) and National Securities Clearing Corporation (“NSCC,” and together with FICC, the “CCPs” and the CCPs together with

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).

DTC, the “Clearing Agencies”).⁵ Specifically, the proposed rule change would amend the Risk Management Framework to (1) update the description of the dashboards used by the Clearing Agencies as internal performance management tools to measure the effectiveness of their various operations; and (2) clarify and revise the descriptions of certain matters within the Framework and correct errors in those descriptions, as further described below. The proposed changes would update and clarify the Risk Management Framework but do not reflect changes to how the Clearing Agencies comply with the applicable requirements of Rule 17Ad-22(e), as described in greater detail 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.

⁵ See Securities Exchange Act Release Nos. 81635 (September 15, 2017), 82 FR 44224 (September 21, 2017) (File Nos. SR-DTC-2017-013; SR-FICC-2017-016; SR-NSCC-2017-012) (“Initial Filing”) and Securities Exchange Act Release No. 89271 (July 09, 2020), 85 FR 42933 (July 15, 2020) (File No. SR-NSCC-2020-012); Securities Exchange Act Release No. 89269 (July 09, 2020), 85 FR 42954 (July 15, 2020) (File No. SR-DTC-2020-009); and Securities Exchange Act Release No. 89270 (July 09, 2020), 85 FR 42927 (July 15, 2020) (File No. SR-FICC-2020-007) (together with the Initial Filing, the “Framework Filings”)

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

1. Purpose

The Clearing Agencies adopted the Risk Management Framework⁶ to provide an outline for how each of the Clearing Agencies (i) maintains a well-founded, clear, transparent and enforceable legal basis for each aspect of its activities; (ii) comprehensively manages legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by it; (iii) identifies, monitors, and manages risks related to links it establishes with one or more clearing agencies, financial market utilities, or trading markets; (iv) meets the requirements of its participants and the markets it serves efficiently and effectively; (v) uses, or at a minimum accommodates, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing and settlement; and (vi) publicly discloses certain information, including market data. In this way, the Risk Management Framework currently supports the Clearing Agencies' compliance with Rules 17Ad-22(e)(1), (3), (20), (21), (22) and (23) of the Standards,⁷ as described in the Framework Filings. In addition to setting forth the manner in which each of the Clearing Agencies addresses these requirements, the Risk Management Framework also contains a section titled "Framework Ownership and Change Management" that, among other matters, describes the Framework ownership and the required governance process for review and approval of changes to the Framework. In connection with the annual review

⁶ Supra note 5.

⁷ 17 CFR 240.17Ad-22(e)(1), (3), (20), (21), (22) and (23).

and approval of the Framework by the Board of Directors of each of NSCC, DTC and FICC (each a “Board” and collectively, the “Boards”), the Clearing Agencies are proposing to make certain revisions to the Framework.

First, the proposed changes would update the Risk Management Framework to reflect a change to the dashboards used by the Clearing Agencies as internal performance management tools to measure the effectiveness of various aspects of their operations, as described in greater detail below.

The proposed changes would also clarify and enhance the descriptions in the Risk Management Framework and correct errors in those descriptions by, for example, (1) enhancing the description of the Clearing Agencies processes for management of certain risks through risk tolerance statements; (2) clarifying the description of the “Three Lines of Defense,” including but not limited to updating the descriptions of the “first line of defense,” the “second line of defense,” and the “third line of defense,” (3) clarifying the definition of Rules; (4) enhancing the description of the purpose and approval process of “Risk Management Frameworks;” (5) updating the name of the Operational Risk Management group and the Third Party Risk function.

Finally, the proposed changes would capitalize terms that mistakenly were not previously capitalized but refer to a specific term, remove an unnecessary citation and make certain grammatical changes.

i. Proposed Amendments to Update the Description of Performance Measurement Tools

The proposed changes would update the Risk Management Framework to reflect a recent change to the dashboards that are used by the Clearing Agencies as internal performance management tools and address their compliance with the requirements of

Rule 17Ad-22(e)(21).⁸ Section 4.3 of the Framework identifies certain processes implemented by the Clearing Agencies to be efficient and effective in meeting the requirements of their respective participants and the markets they serve.⁹ This list of processes is not meant to be exhaustive, and the Clearing Agencies may use other methods to achieve their goals and meet their regulatory requirements. The proposed change would update the Framework to remove reference to a process that was previously used by the Clearing Agencies to monitor their performance and the review standards for such processes.

The Clearing Agencies previously used the DTCC Core Balanced Scoreboard (“BBS”) to provide insight into the effectiveness of their various operations in meeting the needs of their participants and the markets they serve. The Clearing Agencies have eliminated the BBS and now utilize multiple other dashboards to measure the outcomes that were previously measured by the BBS. The elimination of the BBS is not a material change in how the Clearing Agencies approach risk management, as they are simply using other methods to continue to comply with the requirements of Rule 17Ad-22(e)(21).¹⁰ The use of multiple dashboards allows for a more holistic view of the performance of the Clearing Agencies and their subsidiaries. The proposed change would also enhance the descriptions of these processes by describing the annual review of this process and how results are tracked.

⁸ 17 CFR 240.17Ad-22(e)(21).

⁹ Id.

¹⁰ Supra note 8.

ii. *Proposed Amendment to Clarify, Enhance, and Correct Descriptions in the Framework*

The proposed changes would improve the clarity and comprehensiveness of the descriptions of certain matters within the Risk Management Framework and correct grammatical errors in certain descriptions. Some specific examples of such proposed changes include:

1. Proposed Change to Describe the Clearing Agencies' Assessment and Review of Risk Tolerance Statements

Section 3 of the Framework describes management's responsibility to establish risk tolerance statements for the range of risks that arise in or are borne by the Clearing Agencies. Section 3 also outlines the review and approval process for such risk tolerance statements and the Clearing Agencies' performance relative to those statements. The proposed change would clarify that the Clearing Agencies' performance relative to those risk tolerance statements is assessed quarterly and is shared with senior management and the Board Risk Committees of the Clearing Agencies.

2. Proposed Changes to Clarify the Description of the "Three Lines of Defense"

Section 3.1 of the Framework describes the "three lines of defense" approach adopted by each of the Clearing Agencies for identifying, assessing, measuring, monitoring, mitigating, and reporting the risks that arise in or are borne by it. A proposed change would remove the last sentence of this Section, which states, "While the Framework provides a general description of the Three Lines of Defense approach for risk management, the Three Lines of Defense approach may be used by the Clearing Agencies for managing specific risks, for example operational risk, which is addressed in the Operational Risk Management Framework (see Section 3 below)" This sentence is

unnecessarily duplicative of the statements in Section 3.3.3 of the Framework which provides details of the various frameworks, separate and apart from this Framework, used by the Clearing Agencies to manage specific risks and, therefore, may cause confusion to a reader. The deletion of the sentence would resolve any such possible confusion, thereby clarifying the entirety of Section 3. The Clearing Agencies are also proposing a change to enhance the examples provided in Section 3.1.1 to illustrate the Clearing Agency Business/Support Areas role as the first line of defense in managing risk by adding two additional examples: a) “Defining and monitoring business risk metrics applicable to their function;” and b) “Clearly understanding and reporting the residual, unmitigated risk that is acceptable to their function.” Additionally, a proposed change to Section 3.1.3 would update the description of the responsibilities of internal audit to be in line with the internal audit charter.

3. Proposed Change to Clarify the Definition of “Rules”

Section 3.3.2 of the Framework includes a defined term for the “Rules” of the Clearing Agencies. The proposed change would clarify that the “Rules” referred to for purposes of this Framework are filed with the Commission. Therefore, the proposed change would update the definition of Rules for clarification purposes and would not substantively change the definition.

4. Enhance the Description of the Purpose and Approval Process of “Risk Management Frameworks”

Section 3.3.3 describes the system of frameworks, maintained by the Clearing Agencies, separate and apart from this Framework to manage a range of risks. This Section outlines in greater detail certain of these risk management frameworks and their purpose. The proposed changes to this Section 3.3.3 would enhance the description of

one of these frameworks; clarify that such frameworks are in support of this Framework; and clarify that such frameworks may be approved by an applicable Board committee as delegated by the Boards, pursuant to the Document Standards described in this Framework.

5. Stating a Change to the Name of the Vendor Risk Management Group and to the Third-Party Risk function Group

The Framework describes the role of the Operational Risk Management Group as the group that manages incidents, and the Third-Party Management Function manages third party risks to the Clearing Agencies. The proposed change would update the Framework to reflect a change in the name of these two groups. The Operational Risk Management Group is now referred to as Operational and Technology Risk and the Third-Party Risk Management group is now referred to as Third Party Risk. This proposed change would reflect a recent organizational name change.

6. Proposed Changes to Capitalize Defined Terms and Correct Grammatical and Formatting Errors, Removal of Citation

These proposed changes would fix grammatical errors and capitalize terms that should be defined terms in the Framework or removes inconsistent wording. Some of these changes include: (i) make IOSCO a defined term in footnote 2 for clarification purposes; (ii) change the word “settlement” to “settling” in Section 4.2 for consistency; (3) remove the words “and Liquidity Providers” from the heading “*Risks Related to Investment Counterparties and Liquidity Providers*” in Section 4.2.1 as the paragraph does not discuss liquidity providers and (4) deletion of footnote 21 as unnecessary.

The proposed rule change would make additional immaterial edits to the Framework that do not alter how the Clearing Agencies comply with the applicable requirements of Rule 17Ad-22(e).

2. Statutory Basis

The Clearing Agencies believe that the proposed changes are consistent with Section 17A(b)(3)(F) of the Act¹¹ for the reasons described below. Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.¹² The proposed changes would (1) update the Risk Management Framework to remove reference to the BBS and include a description of the governance around the dashboards used by the Clearing Agencies to measure the effectiveness of their operations, and (2) clarify the descriptions of certain matters within the Framework to improve comprehensiveness and correct errors, as described above. By creating clearer, updated descriptions and correcting errors, the Clearing Agencies believe that the proposed changes would make the Risk Management Framework more effective in providing an overview of the important risk management activities of the Clearing Agencies, as described therein.

As described in the Framework Filings, the risk management functions described in the Risk Management Framework allow the Clearing Agencies to continue to promote the prompt and accurate clearance and settlement of securities transactions and continue

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

¹² Id.

to assure the safeguarding of securities and funds which are in their custody or control or for which they are responsible notwithstanding the default of a member of an affiliated family. The proposed changes to improve the clarity and accuracy of the descriptions of risk management functions within the Framework would assist the Clearing Agencies in carrying out these risk management functions. Therefore, the Clearing Agencies believe these proposed changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act.¹³

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

The Clearing Agencies do not believe that the proposed changes to the Framework described above would have any impact, or impose any burden, on competition. As described above, the proposed rule change would improve the comprehensiveness of the Framework by creating clearer, updated descriptions and correcting errors, thereby making the Risk Management Framework more effective in providing an overview of the important risk management activities of the Clearing Agencies. As such, the Clearing Agencies do not believe that the proposed rule change would 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.

¹³ Id.

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-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.

DTC reserves the right not to 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)¹⁴ of the Act and paragraph (f)¹⁵ 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.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f).

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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-2023-001 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-DTC-2023-001. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for

website viewing and printing in the Commission’s Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC’s website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2023-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood
Assistant Secretary

¹⁶ 17 CFR 200.30-3(a)(12).