

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 32	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2017 - * 020 Amendment No. (req. for Amendments *)
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Filing by The Depository Trust Company
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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

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

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

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

The Depository Trust Company is proposing to add Rule 37 to provide for specifically designated Accounts to which Eligible Securities may be credited that the Participant or Pledgee wishes to segregate as the property of its customers subject to the customer property segregation rules and regulations of the CFTC.

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 * Aimee Last Name * Bandler
 Title * Assistant General Counsel
 E-mail * abandler@dtcc.com
 Telephone * (212) 855-3148 Fax

Signature

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

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

(Title *)
 Date 10/20/2017
 By Lois J. Radisch
 (Name *)
 Managing Director and Deputy General Counsel
 lradisch@dtcc.com

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

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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

Form 19b-4 Information *

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

Exhibit 1 - Notice of Proposed Rule Change *

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

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

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

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

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Exhibit Sent As Paper Document

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

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

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

Exhibit 4 - Marked Copies

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

Exhibit 5 - Proposed Rule Text

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

Partial Amendment

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

1. Text of the Proposed Rule Change

(a) The proposed rule change of The Depository Trust Company (“DTC”) is annexed hereto as Exhibit 5.¹ The proposal would add new Rule 37 (Segregated Accounts for Customer Property) to provide that a Participant or Pledgee may establish a specifically designated Account to which Eligible Securities may be credited that the Participant or Pledgee wishes to segregate as the property of its customers that trade commodities, options, swaps, and other products (“Customer Property”) subject to the Customer Property Segregation Rules.² Based on this segregation structure and the representations and warranties made by the Participant or Pledgee under the proposed Rule, DTC would, upon the request of the Participant or Pledgee, provide an acknowledgment of the segregation of such Customer Property,³ as further described below.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Risk Committee of the Board of Directors of DTC at a meeting duly called and held on February 9, 2016.

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

(a) Purpose

The proposal would add new Rule 37 (Segregated Accounts for Customer Property) to provide that a Participant or Pledgee may establish a specifically designated Account to which Eligible Securities may be credited that the Participant or Pledgee wishes to segregate as Customer Property subject to the Customer Property Segregation Rules. Based on this segregation structure and the representations and warranties made by the Participant or Pledgee

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

² “Customer Property Segregation Rules” means the rules and regulations of the Commodity Futures Trading Commission (“CFTC”), relating to the deposit of customer property (including money, securities and other property) held by derivatives clearing organizations (“DCOs”) or futures commission merchants (“FCMs”) for customers that trade commodities, options, swaps and other products. 7 U.S.C. 6d; 17 CFR 1.20-1.30, 22, 30. Under the proposed rule change, only Deposited Securities credited to an appropriately designated Account may constitute “Customer Property” for purposes of such Customer Property Segregation Rules; DTC does not, and will not under the proposed rule change, segregate money.

³ See 7 U.S.C. 6d(a)(2); 7 U.S.C. 6d(f); 17 CFR 1.20(d); 1.20(g); 1.26; 22.5; 30.7.

under the proposed Rule, DTC would, upon the request of the Participant or Pledgee, provide an acknowledgment of the segregation of such Customer Property, as further described below.

A. Background

a. DTC Omnibus Account Structure

DTC maintains omnibus Accounts for its Participants and Pledgees.⁴ That is, it does not distinguish among Accounts that Participants or Pledgees may use for activities that are

⁴ DTC holds Eligible Securities collectively on behalf of Participants and reflects the transfer of interests in those Eligible Securities among Participants by computerized book-entry. Eligible Securities Deposited with DTC for book-entry transfer services are registered in the name of its nominee, Cede & Co. (“Cede”), a New York partnership. When the Eligible Securities are registered in the name of Cede, DTC acquires legal title to the Eligible Securities and, when DTC credits interests in these Eligible Securities to the Securities Accounts of Participants, those Participants acquire a beneficial interest in the Eligible Securities and a Security Entitlement with respect to those Eligible Securities is credited to their Accounts. A Security Entitlement is both a package of personal rights against the securities intermediary [in this case, DTC] and an interest in the property held by the securities intermediary. NYUCC § 8-102(14)(i); NYUCC § 8-102(17) and OFF. CMT. 17. A security entitlement is not, however, a specific property interest in any [security] held by the securities intermediary or by the clearing corporation through which the securities intermediary holds the [security]. NYUCC § 8-102(17) and OFF. CMT. 17. Thus, a Participant does not have a right to any particular security; each Participant has a proportionate interest in the fungible total inventory of the issue held by DTC.

Participants, in many cases, are themselves securities intermediaries, maintaining securities accounts for the benefit of their customers, crediting a portion of the amount of any issue of a Security held in their Account(s) to one or more customers, as securities entitlements of their customers against them. That is, their customers are entitlement holders, holding the rights and property interest represented by the amount of the security credited to their account(s) vis a vis the Participant. Some customers of a Participant may also be securities intermediaries, holding on behalf of, and maintaining securities accounts for, their own customers, and so forth. DTC does not know whether a Participant is holding interest in the Securities for itself or on behalf of its customers, as their securities intermediary.

This tiered system of intermediaries holding interests in securities for their respective customers is generally described as the “indirect holding system.”(*id.*) Any entitlement holder may only assert its rights to a security entitlement against its own securities intermediary; Participants and Pledgees are in contractual privity with DTC; their customers are not and do not have any claim against DTC to the security entitlement of the Participant. Such customers of a Participant would have securities entitlements against the Participant that is acting on their behalf as their “securities intermediary.” Such customers only have rights against the Participant, and not against the Participant’s securities intermediary; *i.e.*, DTC. *See* NYUCC § 8-503 OFF. CMT. 2. (“The entitlement holder cannot assert rights directly against other persons, such as other intermediaries [DTC] through whom the intermediary [the Participants] holds the positions . . .”). Moreover, DTC does not owe any duties to such customers. *See* NYUCC §8-115 OFF. CMT. 4. (“[T]his section embodies one of the fundamental principles of the Article 8

proprietary or conducted by the Participant or Pledgee for the benefit of customer(s). The Rules expressly provide that “[a] Participant or Pledgee which utilizes the services of [DTC] for another Person shall, so far as the rights of [DTC], and other Participants and Pledgees are concerned, be liable as principal.”⁵

The Rules provide for Segregated Accounts that Participants have typically used to separate Securities held for their customers. The characteristics of a Segregated Account are, chiefly, that DTC has no lien on or claim to the Securities credited thereto to secure any obligation of the Participant to DTC.⁶ Participants therefore use Segregated Accounts to separately identify customer property.⁷

The Rules also provide that Securities Pledged to a Pledgee (when credited to the Account of the Pledgee in a Free Pledge or, in a Pledge Versus Payment), are held free of any lien or other interest of DTC.⁸ Thus, the Pledge mechanism is a tool that may be used by a Pledgee to segregate Securities at DTC.

If a Participant or Pledgee holds Segregated or Pledged Securities on behalf of customers, that would be reflected in the accounts maintained by the Participant or Pledgee for its customers. DTC has no knowledge of whether Securities credited in that manner are held by the Participant or Pledgee for customers. It is the sole responsibility of the Participant or Pledgee to maintain appropriate records on its own books to identify customer Securities separately.

b. Customer Property Segregation Rules of the CFTC

Because DTC is agnostic as to whether, when and how any Participant or Pledgee may be utilizing its Account for the benefit of customers, DTC cannot independently verify that any particular Securities are “customer securities” *vis-à-vis* the Participant or Pledgee. However, FCMs and DCOs have statutory requirements for the separate identification of Customer Property pursuant to the Customer Property Segregation Rules.⁹ To accommodate this need of

Footnote continued from previous page

indirect holding system rules – that a securities intermediary [DTC] owes duties only to its own entitlement holders [its Participants]”).

⁵ Rule 2, Section 2, supra note 1.

⁶ Rule 1, Section 1, supra note 1.

⁷ Participants that are registered broker-dealers use Segregation Accounts as a tool to maintain compliance with their obligations under Rule 15c3-3 of the Securities Exchange Act of 1934, as amended (the “Act”) (“Customer Protection Rule”). 17 CFR 240.15c3-3. The Customer Protection Rule requires, among other things, that broker-dealers maintain control of all fully-paid or excess margin Securities they hold for the accounts of customers. Compliance with those obligations by such broker-dealers is external to DTC. See Rule 2, supra note 1.

⁸ Rule 4(A), supra note 1.

⁹ See supra note 2.

certain Participants or Pledges that are FCMs or DCOs, DTC proposes this rule change, pursuant to which DTC would provide acknowledgment of Customer Property credited to the specified Accounts, in reliance on the representations of the Participant or Pledgee provided in the proposed Rule.¹⁰

The Customer Property Segregation Rules require that each FCM and DCO separately account for, and segregate from its own proprietary funds, all money, securities, or other property deposited by futures customers¹¹ for trading on designated contract markets.¹² The Customer Property Segregation Rules also provide that an FCM or DCO may only deposit futures customer property with a bank or trust company, and, additionally, an FCM may deposit with a DCO or another FCM (each, a “depository”).¹³ FCMs and DCOs are required to obtain a written acknowledgment from the depository in which the depository acknowledges and agrees to requirements and conditions set forth below (“Acknowledgment Letter”).¹⁴ The Customer Property Segregation Rules prescribe the precise form of Acknowledgment Letter that is required for each the entity type (FCM and DCO) and the type of Customer Property.¹⁵

c. CFTC Required Acknowledgment Letter

Each Acknowledgment Letter must be executed in the form specified in the Customer Property Segregation Rules with no additions, deletions or modifications permitted.¹⁶ In the

¹⁰ DTC is proposing this rule change to provide Participants and Pledgees that may be FCMs or DCOs a mechanism to comply with their obligations under the Customer Property Segregation Rules.

¹¹ “Futures Customer” means, with certain exceptions outlined in 17 CFR 1.3(iiii), any person who uses a futures commission merchant, introducing broker, commodity trading advisor, or commodity pool operator as an agent in connection with trading in any contract for the purchase or sale of a commodity for future delivery or any option on such contract. See 17 CFR 1.3(iiii).

¹² See 17 CFR 1.20.

¹³ 17 CFR 1.20(d); 1.20(g); 1.26; 22.5; 30.7. An FCM may also deposit customer property at a DCO or another FCM.

¹⁴ 17 CFR 1.20, 1.26, 30.7. Although the Acknowledgment Letter requirement may relate to DTC, it is the sole obligation of the FCM or DCO. DTC is not subject to the Customer Property Segregation Rules, including without limitation, with respect to the Acknowledgment Letter.

¹⁵ The Acknowledgment Letter requirements are set forth in 17 CFR 1.20(d) and 1.26 (with respect to futures customer funds), 22.5 (with respect to cleared swaps customer collateral) and 30.7(d) (with respect to 30.7 customer funds-applicable to FCMs only). See Appendices A and B to 17 CFR 1.20; Appendix A to 17 CFR 1.26; Appendix E to 17 CFR 30.

¹⁶ 17 CFR 1.20(d)(2), 22.5(a) and 30.7(d)(2).

Acknowledgement Letter, the depository is required to acknowledge and agree, among other things:

(1) that the FCM/DCO has opened or will open the subject account for the purpose of depositing, Customer Property, as required by Customer Property Segregation Rules, including Regulation 1.20, as amended;

(2) that the Customer Property held by the depository after being deposited into the subject account will be separately accounted for and segregated on the depository's books from the FCM/DCO's own funds and from any other funds or accounts held by the FCM/DCO in accordance with the Customer Property Segregation Rules;

(3) that such Customer Property may not be used by the depository or by the FCM/DCO to secure or guarantee any obligations that the FCM/DCO might owe the depository, and they may not be used by FCM/DCO to secure or obtain credit from the depository; and

(4) that the Customer Property in the subject account shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities the FCM/DCO has or may have owing to the depository.

An FCM Acknowledgment Letter has additional examination, connectivity, and information requirements.¹⁷

B. The Proposed Rule

DTC would, pursuant to the proposed rule change, establish an Account type that a Participant or Pledgee could use to segregate its Customer Property and provide DTC with the representations needed in order for DTC to execute FCM and DCO Acknowledgment Letters for such Accounts, as may be requested. Because DTC does not have independent knowledge of whether a Participant or Pledgee is utilizing an Account for the benefit of customers, in the absence of such representations, DTC would not be able to sign an Acknowledgement Letter.

The proposed rule change would add Rule 37 to the Rules, to provide for:

(1) the establishment and maintenance by a Participant or Pledgee that is a DCO or FCM (respectively, "DCO Party" and "FCM Party") of one or more segregated Accounts (respectively, a "Segregated DCO Account" or "Segregated FCM Account") for the purpose of holding interests in Customer Property;

(2) credits to and debits from Segregated DCO Accounts and Segregated FCM Accounts in the manner otherwise provided by in the Rules and Procedures;

(3) the representation of each DCO Party to DTC:

¹⁷ See Appendix A to 17 CFR 1.20.

i. that the only interests in property that such DCO Party shall cause or allow to be credited to its Segregated DCO Account (or Accounts) shall be interests in Deposited Securities that constitute Customer Property;

ii. that interests in Customer Property credited to its Segregated DCO Account (or Accounts) shall not be used by such DCO Party to secure or otherwise guarantee any obligations that such DCO Party might owe to DTC;

iii. that interests in Customer Property credited to its Segregated DCO Account (or Accounts) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities that such DCO Party may have owing to DTC; and

iv. that DTC shall be entitled to rely on the representations of such DCO Party in connection with any acknowledgment that DTC may be required to provide to such DCO Party and/or the CFTC pursuant to the Customer Property Segregation Rules or for any other purpose;

(4) the representation of each FCM Party to DTC:

i. that the only interests in property that such FCM Party shall cause or allow to be credited to its Segregated FCM Account (or Accounts) shall be interests in Deposited Securities that constitute Customer Property;

ii. that interests in Customer Property credited to its Segregated FCM Account (or Accounts) shall not be used by such FCM Party to secure or otherwise guarantee any obligations that such FCM Party might owe to DTC;

iii. that interests in Customer Property credited to its Segregated FCM Account (or Accounts) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities that such FCM Party may have owing to DTC; and

iv. that DTC shall be entitled to rely on the representations of such FCM Party in connection with any acknowledgment that DTC may be required to provide to such FCM Party and/or the CFTC pursuant to the Customer Property Segregation Rules or for any other purpose;

(5) the representation of DTC to each DCO Party that interests in Customer Property credited to the Segregated DCO Account (or Accounts) of such DCO Party:

i. may not be used by DTC to secure or guarantee any obligations that such DCO Party might owe to DTC;

ii. may not be used by such DCO Party to secure or obtain credit from DTC;
and

iii. shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities such DCO Party may have owing to DTC; provided, however, that this prohibition does not affect the right of DTC to recover funds advanced in the

form of cash transfers, lines of credit, repurchase agreements or other liquidity arrangements DTC makes in lieu of liquidating non-cash assets held in the Segregated DCO Account (or Accounts) of such DCO Party or in lieu of converting cash held in the Segregated DCO Account (or Accounts) of such DCO Party to cash in a different currency;

(6) the representation of DTC to each FCM Party that interests in Customer Property credited to the Segregated FCM Account (or Accounts) of such FCM Party:

i. may not be used by DTC to secure or guarantee any obligations that such FCM Party might owe to DTC;

ii. may not be used by such FCM Party to secure or obtain credit from DTC;
and

iii. shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities such FCM Party may have owing to DTC; provided, however, that this prohibition does not affect the right of DTC to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other liquidity arrangements DTC makes in lieu of liquidating non-cash assets held in the Segregated FCM Account (or Accounts) of such FCM Party or in lieu of converting cash held in the Segregated FCM Account (or Accounts) of such FCM Party to cash in a different currency;

(7) DTC's disclaimer of liability:

i. to any DCO Party or FCM Party as a result of DTC acting on an instruction from such DCO Party or FCM Party to credit to or debit from interests in Customer Property from a Segregated DCO Account or Segregated FCM Account, respectively;

ii. to any DCO Party or FCM Party as a result of (x) any loss or liability suffered or incurred by such DCO Party or FCM Party arising out of or relating to the matters subject to proposed Rule 37, unless caused directly by the gross negligence or willful misconduct of DTC or by a violation of Federal securities law by DTC for which there is a private right of action, or (y) any force majeure, market disruption or technical malfunction that prevents DTC from performing its obligations to such DCO Party or FCM Party pursuant to proposed Rule 37;
and

iii. to any third party (including without limitation any customer of any DCO Party or FCM Party) for any reason; and

(8) a provision stating that in the event of a conflict between proposed Rule 37 and the provisions of any other Rule, the provisions of Proposed Rule 37 would govern.

Implementation Timeframe

The proposed rule change would be implemented 30 days after the date of filing, or such shorter time as the Securities and Exchange Commission ("Commission") may designate.

(b) Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to DTC, in particular Section 17A(b)(3)(F) of the Act¹⁸ and Rule 17Ad-22(e)(21) thereunder.¹⁹

Section 17A(b)(3)(F) of the Act requires, *inter alia*, that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.²⁰ The proposed rule change provides a basis on which DTC may provide Acknowledgement Letters, affording the efficiency of DTC book-entry transfers for securities transactions relating to Customer Property. By establishing special segregated Accounts for Participants and Pledges to use for Customer Property held at DTC, where they otherwise would have the administrative burden of segregating Customer Property at another depository in compliance with the Customer Property Segregation Rules, proposed Rule 37 is designed to promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F), cited above.

Rule 17Ad-22(e)(21) requires, *inter alia*, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves.²¹ Pursuant to the proposed rule change, the Rules would be updated to establish a framework for DTC to provide Acknowledgement Letters to Participants and Pledges who are DCOs or FCMs that would allow them to meet their requirements under the Customer Property Segregation Rules, while utilizing the efficiency provided by DTC book-entry transfers, consistent with the requirements of Rule 17Ad-22(e)(21), cited above.

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

DTC does not believe that the proposed rule change would have any impact, or impose any burden, on competition because the proposed Rule and its features would be available to all Participants and Pledges equally on a non-discriminatory basis. Participants and Pledges will be charged fees applicable to the maintenance of Accounts and transaction fees that are not different from established published fees.

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

DTC has not solicited and does not intend to solicit comments regarding the proposed rule change. DTC has not received any unsolicited written comments from interested parties.

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ 17 CFR 240.17Ad-22(e)(21).

²⁰ 15 U.S.C. 78q-1(b)(3)(F).

²¹ 17 CFR 240.17Ad-22(e)(21).

To the extent DTC receives written comments on the proposed rule change, DTC will forward such comments to the Commission.

6. Extension of Time Period for Commission Action

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

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

Pursuant to Section 19(b)(3)(A) of the Act²² and Rule 19b-4(f)(6)²³ thereunder, the proposed rule change is filed for immediate effectiveness because it does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms would not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.

Additionally, DTC has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

The proposed rule change does not present any novel or controversial issues. Rather, the proposed rule change would support the segregation of Customer Property at DTC in accordance with the Customer Property Segregation Rules.

For the foregoing reasons, this proposed rule change qualifies as a “non-controversial” rule change under Rule 19b-4(f)(6),²⁴ which renders the proposed rule change effective upon filing with the Commission. At any time within 60 days of the filing of this 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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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

The proposed rule change is not based on the rules of another self-regulatory organization or the Commission.

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(6).

²⁴ Id.

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

Not applicable.

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

Not applicable.

11. Exhibits

Exhibit 1 – Not applicable.

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

Exhibit 2 – Not applicable.

Exhibit 3 – Not applicable.

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed changes to Rules.

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-[_____]; File No. SR-DTC-2017-020)

[DATE]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish a Special Segregation Account for a Participant or Pledgee That is a Derivatives Clearing Organization or Futures Commission Merchant

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”) and Rule 19b-4² thereunder, notice is hereby given that on October 20, 2017, 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 DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act and Rule 19b-4(f)(6)⁴ thereunder. 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 proposal would add new Rule 37 (Segregated Accounts for Customer Property) to provide that a Participant⁵ or Pledgee may establish a specifically designated

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)(6).

⁵ Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of The Depository

Account to which Eligible Securities may be credited that the Participant or Pledgee wishes to segregate as the property of its customers that trade commodities, options, swaps, and other products (“Customer Property”) subject to the Customer Property Segregation Rules.⁶ Based on this segregation structure and the representations and warranties made by the Participant or Pledgee under the proposed Rule, DTC would, upon the request of the Participant or Pledgee, provide an acknowledgment of the segregation of such Customer Property,⁷ as further 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, DTC 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. DTC 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

Trust Company (the “Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

⁶ “Customer Property Segregation Rules” means the rules and regulations of the Commodity Futures Trading Commission (“CFTC”), relating to the deposit of customer property (including money, securities and other property) held by derivatives clearing organizations (“DCOs”) or futures commission merchants (“FCMs”) for customers that trade commodities, options, swaps and other products. 7 U.S.C. 6d; 17 CFR 1.20-1.30, 22, 30. Under the proposed rule change, only Deposited Securities credited to an appropriately designated Account may constitute “Customer Property” for purposes of such Customer Property Segregation Rules; DTC does not, and will not under the proposed rule change, segregate money.

⁷ See 7 U.S.C. 6d(a)(2); 7 U.S.C. 6d(f); 17 CFR 1.20(d); 1.20(g); 1.26; 22.5; 30.7.

1. Purpose

The proposal would add new Rule 37 (Segregated Accounts for Customer Property) to provide that a Participant or Pledgee may establish a specifically designated Account to which Eligible Securities may be credited that the Participant or Pledgee wishes to segregate as Customer Property subject to the Customer Property Segregation Rules. Based on this segregation structure and the representations and warranties made by the Participant or Pledgee under the proposed Rule, DTC would, upon the request of the Participant or Pledgee, provide an acknowledgment of the segregation of such Customer Property, as further described below.

A. Background

a. DTC Omnibus Account Structure

DTC maintains omnibus Accounts for its Participants and Pledgees.⁸ That is, it

⁸ DTC holds Eligible Securities collectively on behalf of Participants and reflects the transfer of interests in those Eligible Securities among Participants by computerized book-entry. Eligible Securities Deposited with DTC for book-entry transfer services are registered in the name of its nominee, Cede & Co. (“Cede”), a New York partnership. When the Eligible Securities are registered in the name of Cede, DTC acquires legal title to the Eligible Securities and, when DTC credits interests in these Eligible Securities to the Securities Accounts of Participants, those Participants acquire a beneficial interest in the Eligible Securities and a Security Entitlement with respect to those Eligible Securities is credited to their Accounts. A Security Entitlement is both a package of personal rights against the securities intermediary [in this case, DTC] and an interest in the property held by the securities intermediary. NYUCC § 8-102(14)(i); NYUCC § 8-102(17) and OFF. CMT. 17. A security entitlement is not, however, a specific property interest in any [security] held by the securities intermediary or by the clearing corporation through which the securities intermediary holds the [security]. NYUCC § 8-102(17) and OFF. CMT. 17. Thus, a Participant does not have a right to any particular security; each Participant has a proportionate interest in the fungible total inventory of the issue held by DTC.

Participants, in many cases, are themselves securities intermediaries, maintaining securities accounts for the benefit of their customers, crediting a portion of the amount of any issue of a Security held in their Account(s) to one or more

does not distinguish among Accounts that Participants or Pledges may use for activities that are proprietary or conducted by the Participant or Pledgee for the benefit of customer(s). The Rules expressly provide that “[a] Participant or Pledgee which utilizes the services of [DTC] for another Person shall, so far as the rights of [DTC], and other Participants and Pledgees are concerned, be liable as principal.”⁹

The Rules provide for Segregated Accounts that Participants have typically used to separate Securities held for their customers. The characteristics of a Segregated Account are, chiefly, that DTC has no lien on or claim to the Securities credited thereto to

customers, as securities entitlements of their customers against them. That is, their customers are entitlement holders, holding the rights and property interest represented by the amount of the security credited to their account(s) vis a vis the Participant. Some customers of a Participant may also be securities intermediaries, holding on behalf of, and maintaining securities accounts for, their own customers, and so forth. DTC does not know whether a Participant is holding interest in the Securities for itself or on behalf of its customers, as their securities intermediary.

This tiered system of intermediaries holding interests in securities for their respective customers is generally described as the “indirect holding system.”(id.) Any entitlement holder may only assert its rights to a security entitlement against its own securities intermediary; Participants and Pledgees are in contractual privity with DTC; their customers are not and do not have any claim against DTC to the security entitlement of the Participant. Such customers of a Participant would have securities entitlements against the Participant that is acting on their behalf as their “securities intermediary.” Such customers only have rights against the Participant, and not against the Participant’s securities intermediary; i.e., DTC. See NYUCC § 8-503 OFF. CMT. 2. (“The entitlement holder cannot assert rights directly against other persons, such as other intermediaries [DTC] through whom the intermediary [the Participants] holds the positions . . .”). Moreover, DTC does not owe any duties to such customers. See NYUCC §8-115 OFF. CMT. 4. (“[T]his section embodies one of the fundamental principles of the Article 8 indirect holding system rules – that a securities intermediary [DTC] owes duties only to its own entitlement holders [its Participants]”).

⁹ Rule 2, Section 2, supra note 5.

secure any obligation of the Participant to DTC.¹⁰ Participants therefore use Segregated Accounts to separately identify customer property.¹¹

The Rules also provide that Securities Pledged to a Pledgee (when credited to the Account of the Pledgee in a Free Pledge or, in a Pledge Versus Payment), are held free of any lien or other interest of DTC.¹² Thus, the Pledge mechanism is a tool that may be used by a Pledgee to segregate Securities at DTC.

If a Participant or Pledgee holds Segregated or Pledged Securities on behalf of customers, that would be reflected in the accounts maintained by the Participant or Pledgee for its customers. DTC has no knowledge of whether Securities credited in that manner are held by the Participant or Pledgee for customers. It is the sole responsibility of the Participant or Pledgee to maintain appropriate records on its own books to identify customer Securities separately.

b. Customer Property Segregation Rules of the CFTC

Because DTC is agnostic as to whether, when and how any Participant or Pledgee may be utilizing its Account for the benefit of customers, DTC cannot independently verify that any particular Securities are “customer securities” *vis-à-vis* the Participant or Pledgee. However, FCMs and DCOs have statutory requirements for the separate

¹⁰ Rule 1, Section 1, supra note 5.

¹¹ Participants that are registered broker-dealers use Segregation Accounts as a tool to maintain compliance with their obligations under Rule 15c3-3 of the Act (“Customer Protection Rule”). 17 CFR 240.15c3-3. The Customer Protection Rule requires, among other things, that broker-dealers maintain control of all fully-paid or excess margin Securities they hold for the accounts of customers. Compliance with those obligations by such broker-dealers is external to DTC. See Rule 2, supra note 5.

¹² Rule 4(A), supra note 5.

identification of Customer Property pursuant to the Customer Property Segregation Rules.¹³ To accommodate this need of certain Participants or Pledges that are FCMs or DCOs, DTC proposes this rule change, pursuant to which DTC would provide acknowledgment of Customer Property credited to the specified Accounts, in reliance on the representations of the Participant or Pledgee provided in the proposed Rule.¹⁴

The Customer Property Segregation Rules require that each FCM and DCO separately account for, and segregate from its own proprietary funds, all money, securities, or other property deposited by futures customers¹⁵ for trading on designated contract markets.¹⁶ The Customer Property Segregation Rules also provide that an FCM or DCO may only deposit futures customer property with a bank or trust company, and, additionally, an FCM may deposit with a DCO or another FCM (each, a “depository”).¹⁷ FCMs and DCOs are required to obtain a written acknowledgment from the depository in which the depository acknowledges and agrees to requirements and conditions set forth

¹³ See supra note 6.

¹⁴ DTC is proposing this rule change to provide Participants and Pledges that may be FCMs or DCOs a mechanism to comply with their obligations under the Customer Property Segregation Rules.

¹⁵ “Futures Customer” means, with certain exceptions outlined in 17 CFR 1.3(iiii), any person who uses a futures commission merchant, introducing broker, commodity trading advisor, or commodity pool operator as an agent in connection with trading in any contract for the purchase or sale of a commodity for future delivery or any option on such contract. See 17 CFR 1.3(iiii).

¹⁶ See 17 CFR 1.20.

¹⁷ 17 CFR 1.20(d); 1.20(g); 1.26; 22.5; 30.7. An FCM may also deposit customer property at a DCO or another FCM.

below (“Acknowledgment Letter”).¹⁸ The Customer Property Segregation Rules prescribe the precise form of Acknowledgment Letter that is required for each the entity type (FCM and DCO) and the type of Customer Property.¹⁹

c. CFTC Required Acknowledgment Letter

Each Acknowledgment Letter must be executed in the form specified in the Customer Property Segregation Rules with no additions, deletions or modifications permitted.²⁰ In the Acknowledgement Letter, the depository is required to acknowledge and agree, among other things:

(1) that the FCM/DCO has opened or will open the subject account for the purpose of depositing, Customer Property, as required by Customer Property Segregation Rules, including Regulation 1.20, as amended;

(2) that the Customer Property held by the depository after being deposited into the subject account will be separately accounted for and segregated on the depository’s books from the FCM/DCO’s own funds and from any other funds or accounts held by the FCM/DCO in accordance with the Customer Property Segregation Rules;

¹⁸ 17 CFR 1.20, 1.26, 30.7. Although the Acknowledgment Letter requirement may relate to DTC, it is the sole obligation of the FCM or DCO. DTC is not subject to the Customer Property Segregation Rules, including without limitation, with respect to the Acknowledgement Letter.

¹⁹ The Acknowledgment Letter requirements are set forth in 17 CFR 1.20(d) and 1.26 (with respect to futures customer funds), 22.5 (with respect to cleared swaps customer collateral) and 30.7(d) (with respect to 30.7 customer funds-applicable to FCMs only). See Appendices A and B to 17 CFR 1.20; Appendix A to 17 CFR 1.26; Appendix E to 17 CFR 30.

²⁰ 17 CFR 1.20(d)(2), 22.5(a) and 30.7(d)(2).

(3) that such Customer Property may not be used by the depository or by the FCM/DCO to secure or guarantee any obligations that the FCM/DCO might owe the depository, and they may not be used by FCM/DCO to secure or obtain credit from the depository; and

(4) that the Customer Property in the subject account shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities the FCM/DCO has or may have owing to the depository.

An FCM Acknowledgment Letter has additional examination, connectivity, and information requirements.²¹

B. The Proposed Rule

DTC would, pursuant to the proposed rule change, establish an Account type that a Participant or Pledgee could use to segregate its Customer Property and provide DTC with the representations needed in order for DTC to execute FCM and DCO Acknowledgment Letters for such Accounts, as may be requested. Because DTC does not have independent knowledge of whether a Participant or Pledgee is utilizing an Account for the benefit of customers, in the absence of such representations, DTC would not be able to sign an Acknowledgement Letter.

The proposed rule change would add Rule 37 to the Rules, to provide for:

(1) the establishment and maintenance by a Participant or Pledgee that is a DCO or FCM (respectively, “DCO Party” and “FCM Party”) of one or more segregated Accounts (respectively, a “Segregated DCO Account” or “Segregated FCM Account”) for the purpose of holding interests in Customer Property;

²¹ See Appendix A to 17 CFR 1.20.

(2) credits to and debits from Segregated DCO Accounts and Segregated FCM Accounts in the manner otherwise provided by in the Rules and Procedures;

(3) the representation of each DCO Party to DTC:

i. that the only interests in property that such DCO Party shall cause or allow to be credited to its Segregated DCO Account (or Accounts) shall be interests in Deposited Securities that constitute Customer Property;

ii. that interests in Customer Property credited to its Segregated DCO Account (or Accounts) shall not be used by such DCO Party to secure or otherwise guarantee any obligations that such DCO Party might owe to DTC;

iii. that interests in Customer Property credited to its Segregated DCO Account (or Accounts) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities that such DCO Party may have owing to DTC; and

iv. that DTC shall be entitled to rely on the representations of such DCO Party in connection with any acknowledgment that DTC may be required to provide to such DCO Party and/or the CFTC pursuant to the Customer Property Segregation Rules or for any other purpose;

(4) the representation of each FCM Party to DTC:

i. that the only interests in property that such FCM Party shall cause or allow to be credited to its Segregated FCM Account (or Accounts) shall be interests in Deposited Securities that constitute Customer Property;

ii. that interests in Customer Property credited to its Segregated FCM Account (or Accounts) shall not be used by such FCM Party to secure or otherwise

guarantee any obligations that such FCM Party might owe to DTC;

iii. that interests in Customer Property credited to its Segregated FCM Account (or Accounts) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities that such FCM Party may have owing to DTC; and

iv. that DTC shall be entitled to rely on the representations of such FCM Party in connection with any acknowledgment that DTC may be required to provide to such FCM Party and/or the CFTC pursuant to the Customer Property Segregation Rules or for any other purpose;

(5) the representation of DTC to each DCO Party that interests in Customer Property credited to the Segregated DCO Account (or Accounts) of such DCO Party:

i. may not be used by DTC to secure or guarantee any obligations that such DCO Party might owe to DTC;

ii. may not be used by such DCO Party to secure or obtain credit from DTC; and

iii. shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities such DCO Party may have owing to DTC; provided, however, that this prohibition does not affect the right of DTC to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other liquidity arrangements DTC makes in lieu of liquidating non-cash assets held in the Segregated DCO Account (or Accounts) of such DCO Party or in lieu of converting cash held in the Segregated DCO Account (or Accounts) of such DCO Party to cash in a different currency;

(6) the representation of DTC to each FCM Party that interests in Customer Property credited to the Segregated FCM Account (or Accounts) of such FCM Party:

- i. may not be used by DTC to secure or guarantee any obligations that such FCM Party might owe to DTC;
- ii. may not be used by such FCM Party to secure or obtain credit from DTC; and
- iii. shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities such FCM Party may have owing to DTC; provided, however, that this prohibition does not affect the right of DTC to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other liquidity arrangements DTC makes in lieu of liquidating non-cash assets held in the Segregated FCM Account (or Accounts) of such FCM Party or in lieu of converting cash held in the Segregated FCM Account (or Accounts) of such FCM Party to cash in a different currency;

(7) DTC's disclaimer of liability:

- i. to any DCO Party or FCM Party as a result of DTC acting on an instruction from such DCO Party or FCM Party to credit to or debit from interests in Customer Property from a Segregated DCO Account or Segregated FCM Account, respectively;
- ii. to any DCO Party or FCM Party as a result of (x) any loss or liability suffered or incurred by such DCO Party or FCM Party arising out of or relating to the matters subject to proposed Rule 37, unless caused directly by the gross negligence or willful misconduct of DTC or by a violation of Federal securities law by DTC for

which there is a private right of action, or (y) any force majeure, market disruption or technical malfunction that prevents DTC from performing its obligations to such DCO Party or FCM Party pursuant to proposed Rule 37; and

iii. to any third party (including without limitation any customer of any DCO Party or FCM Party) for any reason; and

(8) a provision stating that in the event of a conflict between proposed Rule 37 and the provisions of any other Rule, the provisions of Proposed Rule 37 would govern.

Implementation Timeframe

The proposed rule change would be implemented 30 days after the date of filing, or such shorter time as the Commission may designate.

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to DTC, in particular Section 17A(b)(3)(F) of the Act²² and Rule 17Ad-22(e)(21) thereunder.²³

Section 17A(b)(3)(F) of the Act requires, *inter alia*, that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.²⁴ The proposed rule change provides a basis on which DTC may provide Acknowledgement Letters, affording the efficiency of DTC book-entry transfers for securities transactions relating to Customer Property. By establishing special

²² 15 U.S.C. 78q-1(b)(3)(F).

²³ 17 CFR 240.17Ad-22(e)(21).

²⁴ 15 U.S.C. 78q-1(b)(3)(F).

segregated Accounts for Participants and Pledgees to use for Customer Property held at DTC, where they otherwise would have the administrative burden of segregating Customer Property at another depository in compliance with the Customer Property Segregation Rules, proposed Rule 37 is designed to promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F), cited above.

Rule 17Ad-22(e)(21) requires, inter alia, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves.²⁵ Pursuant to the proposed rule change, the Rules would be updated to establish a framework for DTC to provide Acknowledgement Letters to Participants and Pledgees who are DCOs or FCMs that would allow them to meet their requirements under the Customer Property Segregation Rules, while utilizing the efficiency provided by DTC book-entry transfers, consistent with the requirements of Rule 17Ad-22(e)(21), cited above.

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

DTC does not believe that the proposed rule change would have any impact, or impose any burden, on competition because the proposed Rule and its features would be available to all Participants and Pledgees equally on a non-discriminatory basis.

Participants and Pledgees will be charged fees applicable to the maintenance of Accounts and transaction fees that are not different from established published fees.

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

²⁵ 17 CFR 240.17Ad-22(e)(21).

DTC has not solicited and does not intend to solicit comments regarding the proposed rule change. DTC has not received any unsolicited written comments from interested parties. To the extent DTC receives written comments on the proposed rule change, DTC will forward such comments to the Commission.

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

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)²⁶ of the Act and Rule 19b-4(f)(6) thereunder.²⁷

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:

²⁶ 15 U.S.C. 78s(b)(3)(A).

²⁷ 17 CFR 240.19b-4(f)(6).

- 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-2017-020 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-DTC-2017-020. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-DTC-2017-020 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.²⁸

Secretary

²⁸ 17 CFR 200.30-3(a)(12).

Bold, Underlined text indicates additions.

Rule 37 was filed for immediate effectiveness, however, it will not be implemented until November 21, 2017. Bold and underlined text indicates added language. Once implemented, this legend will automatically be removed from the Rules.

RULE 37

SEGREGATED ACCOUNTS FOR CUSTOMER PROPERTY

Section 1. Certain Defined Terms.

(a) For purposes of this Rule 37:

“CFTC” means the Commodity Futures Trading Commission.

“Customer Property” means interests in Deposited Securities held by a DCO or FCM for customers that trade commodities, options, swaps and other products.

“Customer Property Segregation Rules” means the rules and regulations of the CFTC relating to the deposit of customer funds (including money, securities and other property) held by DCOs and FCMs for customers that trade commodities, options, swaps and other products.

“DCO” means a derivatives clearing organization.

“DCO Party” means a DCO that is a Participant or Pledgee (other than the Corporation) that instructs the Corporation to establish one or more Segregated DCO Accounts for such DCO.

“FCM” means a futures commission merchant.

“FCM Party” means an FCM that is a Participant or Pledgee (other than the Corporation) that instructs the Corporation to establish one or more Segregated FCM Accounts for such FCM.

“Segregated DCO Account” means, (i) with respect to a DCO that is a Participant, a Segregated Participant Account of such DCO, and (ii) with respect to a DCO that is a Pledgee, a Segregated Pledgee Account of such DCO.

“Segregated FCM Account” means, (i) with respect to an FCM that is a Participant, a Segregated Participant Account of such FCM, and (ii) with respect to an FCM that is a Pledgee, a Segregated Pledgee Account of such FCM.

“Segregated Participant Account” means a Segregated Account established and maintained by the Corporation for a Participant for the sole purpose of holding customer property segregated from the property of the Participant in accordance with the Customer Property Segregation Rules.

“Segregated Pledgee Account” means an Account established and maintained by the Corporation for a Pledgee for the sole purpose of holding customer property segregated from the property of the Pledgee in accordance with the Customer Property Segregation Rules.

(b) Other capitalized terms used in this Rule 37 shall have the meanings given to such terms elsewhere in these Rules.

Section 2. Segregated DCO Accounts.

(a) Establishment and Maintenance of Segregated DCO Accounts. A DCO Party may, in the manner specified by the Corporation, request that the Corporation establish and maintain one or more Segregated DCO Accounts for such DCO. Each Segregated DCO Account shall be titled in the manner required by the Customer Property Segregation Rules and as agreed by the DCO Party and the Corporation.

(b) Credits to and Debits from Segregated DCO Accounts. Interests in Customer Property may be credited to and debited from a Segregated DCO Account in the manner otherwise provided by these Rules and the Procedures.

Section 3. Segregated FCM Accounts.

(a) Establishment and Maintenance of Segregated FCM Accounts. An FCM Party may, in the manner specified by the Corporation, request that the Corporation establish and maintain one or more Segregated FCM Accounts for such FCM. Each Segregated FCM Account shall be titled in the manner required by the Customer Property Segregation Rules and as agreed by the FCM Party and the Corporation.

(b) Credits to and Debits from Segregated FCM Accounts. Interests in Customer Property may be credited to and debited from a Segregated FCM Account in the manner otherwise provided by these Rules and the Procedures.

Section 4. Certain Representations of DCO Parties and FCM Parties.

(a) Representations of DCO Parties. Each DCO Party represents to the Corporation (i) that the only interests in property that such DCO Party shall cause or allow to be credited to its Segregated DCO Account (or Accounts) shall be interests in Deposited Securities that constitute Customer Property, (ii) that interests in Customer Property credited to its Segregated DCO Account (or Accounts) shall not be used by such DCO Party to secure or otherwise guarantee any obligations that such DCO Party might owe to the Corporation, (iii) that interests in Customer Property credited to its Segregated DCO Account (or Accounts) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities that such DCO Party may have owing to the

Corporation and (iv) that the Corporation shall be entitled to rely on the representations of such DCO Party contained in this paragraph (a) in connection with any acknowledgment that the Corporation may be required to provide to such DCO Party and/or the CFTC pursuant to the Customer Property Segregation Rules or for any other purpose.

(b) *Representations of FCM Parties.* Each FCM Party represents to the Corporation (i) that the only interests in property that such FCM Party shall cause or allow to be credited to its Segregated FCM Account (or Accounts) shall be interests in Deposited Securities that constitute Customer Property, (ii) that interests in Customer Property credited to its Segregated FCM Account (or Accounts) shall not be used by such FCM Party to secure or otherwise guarantee any obligations that such FCM Party might owe to the Corporation, (iii) that interests in Customer Property credited to its Segregated FCM Account (or Accounts) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities that such FCM Party may have owing to the Corporation and (iv) that the Corporation shall be entitled to rely on the representations of such FCM Party contained in this paragraph (b) in connection with any acknowledgment that the Corporation may be required to provide to such FCM Party and/or the CFTC pursuant to the Customer Property Segregation Rules or for any other purpose.

Section 5. Certain Representations of the Corporation.

(a) *Representations to DCO Parties.* The Corporation represents to each DCO Party that interests in Customer Property credited to the Segregated DCO Account (or Accounts) of such DCO Party (i) may not be used by the Corporation to secure or guarantee any obligations that such DCO Party might owe to the Corporation, (ii) may not be used by such DCO Party to secure or obtain credit from the Corporation and (iii) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities such DCO Party may have owing to the Corporation; provided, however, that this prohibition does not affect the right of the Corporation to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other liquidity arrangements the Corporation makes in lieu of liquidating non-cash assets held in the Segregated DCO Account (or Accounts) of such DCO Party or in lieu of converting cash held in the Segregated DCO Account (or Accounts) of such DCO Party to cash in a different currency.

(b) *Representations to FCM Parties.* The Corporation represents to each FCM Party that interests in Customer Property credited to the Segregated FCM Account (or Accounts) of such FCM Party (i) may not be used by the Corporation to secure or guarantee any obligations that such FCM Party might owe to the Corporation, (ii) may not be used by such FCM Party to secure or obtain credit from the Corporation and (iii) shall not be subject to any right of offset or lien for or on account of any indebtedness, obligations or liabilities such FCM Party may have owing to the Corporation; provided, however, that this prohibition does not affect the right of the Corporation to recover funds advanced in the form of cash transfers, lines of credit, repurchase agreements or other liquidity arrangements the Corporation makes in lieu of liquidating non-cash assets held in the Segregated FCM Account (or Accounts) of such FCM Party or in lieu of converting

cash held in the Segregated FCM Account (or Accounts) of such FCM Party to cash in a different currency.

Section 6. Certain Exclusions from Liability. The Corporation shall have no liability:

(a) to any DCO Party as a result of the Corporation acting on an instruction from such DCO Party pursuant to Section 2(b) of this Rule 37;

(b) to any FCM Party as a result of the Corporation acting on an instruction from such FCM Party pursuant to Section 3(b) of this Rule 37;

(c) to any DCO Party or FCM Party as a result of (i) any loss or liability suffered or incurred by such DCO Party or FCM Party arising out of or relating to the matters subject to this Rule 37, unless caused directly by the gross negligence or willful misconduct of the Corporation or by a violation of Federal securities law by the Corporation for which there is a private right of action, or (ii) any force majeure, market disruption or technical malfunction that prevents the Corporation from performing its obligations to such DCO Party or FCM Party pursuant to this Rule 37; or

(d) to any third party (including any customer of any DCO Party or FCM Party) for any reason.

Section 7. Conflicting Provisions.

In the event of any conflict between the provisions of this Rule 37 and the provisions of any other Rule, the provisions of this Rule 37 shall govern.