

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-86113; File No. SR-DTC-2019-001)

June 14, 2019

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Operational Arrangements Relating to Transfer Agent and Trustee Notices

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 13, 2019, 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 of DTC⁵ consists of modifications to the DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for

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).

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

DTC Services) (“OA”)⁶ in order to amend DTC’s Procedures⁷ regarding (i) the available methods for a transfer agent⁸ or trustee⁹ to notify DTC of a change relating to ceasing to perform or assumption of transfer agent services on behalf of an Issuer of Securities (“Issuer”) or when the transfer agent or trustee is changing its name or address, (ii) the deadline by which a transfer agent must provide such a notice, (iii) the required timeframe for DTC to make such notices from transfer agents available to Participants, and (iv) other clarifying and technical changes, 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.

⁶ Available at <http://www.dtcc.com/~//media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf>.

⁷ Pursuant to the Rules, the term “Procedures” means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. See Rule 1, Section 1, supra note 5.

⁸ Transfer agents record changes of ownership, maintain the issuer’s security holder records, cancel and issue certificates, and distribute dividends. Because transfer agents stand between issuing companies and security holders, efficient transfer agent operations are critical to the successful completion of secondary trades. See <https://www.sec.gov/divisions/marketreg/mrtransfer.shtml>. (describing transfer agents and related information).

⁹ A trustee is hired by an issuer of debt securities and is responsible for registration, transfer and payment of the securities.

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

1. Purpose

The proposed rule change consists of modifications to the OA¹⁰ in order to amend DTC’s Procedures regarding (i) the available methods for a transfer agent or trustee to notify DTC of a change relating to ceasing to perform or assumption of transfer agent services on behalf of an Issuer or when the transfer agent or trustee is changing its name or address, (ii) the deadline by which a transfer agent must provide such a notice, (iii) the required timeframe for DTC to make such notices from transfer agents available to Participants, and (iv) other clarifying and technical changes, as described below.

Background

In 1995, the Securities and Exchange Commission (“Commission”) approved a DTC rule filing (“1995 Rule Filing”)¹¹ for DTC to be designated as the “appropriate qualified registered securities depository” to receive notices of transfer agent changes (“17Ad-16 Notice”) pursuant to Rule 17Ad-16¹² (“Rule 17Ad-16”) of the Securities Exchange Act of 1934, as amended (“Act”).¹³ Rule 17Ad-16 is designed to address transfer delays due to unannounced transfer agent changes, including the termination of the

¹⁰ Supra note 6.

¹¹ See Securities Exchange Act Release No. 35378 (February 15, 1995), 60 FR 9875 (February 22, 1995) (File No. SR-DTC-95-02).

¹² 17 CFR 240.17Ad-16. Pursuant to Rule 17Ad-16, an “appropriate qualified registered securities depository” shall mean the qualified registered securities depository that the Commission so designates by order or, in the absence of such designation, the qualified registered securities depository that is the largest holder of record of all qualified registered securities depositories as of the most recent record date. 17 CFR 240.17Ad-16(f).

¹³ 15 U.S.C. 78q-1.

transfer agent services for a particular issue and the change of the name or address of a transfer agent.¹⁴ Rule 17Ad-16 requires a registered transfer agent to send a 17Ad-16 Notice to the “appropriate qualified registered securities depository” (a) on or before the later of ten calendar days prior to the effective date of such termination or the day the transfer agent is notified of the effective date of such termination¹⁵ and (b) on or before the later of ten calendar days prior to the effective date of a change in the transfer agent’s name or address or when that transfer agent assumes transfer agent services on behalf of an issuer of securities.¹⁶

For purposes of submitting a 17Ad-16 Notice to DTC, the OA provides that a transfer agent should (i) use the template Notice of Assumption or Termination of Transfer Agent Services Form 17Ad-16 (“17Ad-16 Change Form”) designated for this purpose that is made available by DTC on DTCC’s website,¹⁷ and (ii) send the completed form, signed by the transfer agent, in a portable document format to a designated e-mail address,¹⁸ by the effective date of the change being reported on the form.¹⁹

The OA also provides that in the event of a change in trustee with respect to an issue of Securities, DTC requires that the new and prior trustee update the trustee information

¹⁴ See Securities Exchange Act Release No. 35039 (December 1, 1994), 59 FR 63656 (December 8, 1994) (File No. S7-1-92).

¹⁵ 17 CFR 240.17Ad-16(a).

¹⁶ 17 CFR 240.17Ad-16(b).

¹⁷ Available at <http://dtcc.com/matching-settlement-and-asset-services/agent-services/dtc-eligible-agent>.

¹⁸ The address designated for this purpose is TAServices@dtcc.com. See OA, *supra* note 6, at 17.

¹⁹ OA, *supra* note 6, at 17.

previously provided to DTC by the trustee for the issue using the 17Ad-16 Change Form and sending the form, signed by the trustee, in portable document format, to a designated e-mail address.²⁰

Once received, DTC would make the form submitted by the transfer agent or trustee available to its Participants by posting it to DTC's Legal Notice System ("LENS").²¹

Proposed Rule Change

Electronic Submission of 17Ad-16 Change Forms

Pursuant to the proposed rule change, to facilitate the reduction of costs and administrative burdens associated with the processing of transfer agent and trustee notices, DTC would modify the OA to allow transfer agents and trustees to provide the applicable notices electronically through a designated link on the DTCC website,²² as described below. In this regard, the proposed method would allow for the submission of a notice that follows the template of the 17Ad-16 Change Form that is electronically signed²³ and submitted by

²⁰ OA, supra note 6, at 18.

²¹ LENS enables Participants to choose from a menu on a secure interface with DTC certain notices received by DTC which they order. The Commission issued an order approving LENS on June 12, 1991. See Securities Exchange Act Release No. 29291 (June 12, 1991), 56 FR 28190 (June 19, 1991) (File No. SR-DTC-91-08). LENS was originally accessible through the DTC Participant Terminal System ("PTS"). Id. DTC subsequently implemented a web-based LENS interface. See Securities Exchange Act Release No. 43964 (February 14, 2001), 66 FR 11190 (February 22, 2001) (SR-DTC-00-18). The LENS PTS function was retired effective August 27, 2010, and Participants may access LENS via the web-based functionality mentioned above. See Securities Exchange Act Release No. 62686 (August 10, 2010), 75 FR 50032 (August 16, 2010) (SR-DTC-2010-10).

²² Supra note 17.

²³ Pursuant to Rule 26, DTC may, at its option, in lieu of relying on an original signature, rely on a signature as if it were (and the signature shall be considered and have the same effect as) a valid and binding signature in the following

the transfer agent or trustee, as applicable, using the designated link. The OA would still allow for submission of such notices via e-mail, as described above. However, DTC believes that also allowing for a wholly-electronic method for the completion, signing and submission of the 17Ad-16 Change Form would reduce costs and administrative burdens for transfer agents and trustees by eliminating the manual processing otherwise entailed with an e-mail submission.²⁴

Notification Timeframe for Transfer Agents to Provide Notices

The OA currently states that a transfer agent should notify DTC of the transfer agent's termination of services for an Issuer by the effective date and does not provide a deadline for notifications to DTC of other events that are reportable by the transfer agent to DTC pursuant to Rule 17Ad-16. Pursuant to the proposed rule change, in order to harmonize the timeframe stated in the OA in this regard with the requirements of Rule 17Ad-16,²⁵ discussed above, DTC would amend the OA to require that a transfer agent must notify DTC when terminating or assuming transfer agent services on behalf of an Issuer, or when the transfer agent is changing its name or address, before the later of (a) 10 calendar days prior to the effective date or (b) in the case of a termination or assumption,

circumstances: If such signature is transmitted, recorded or stored by an electronic, optical, or similar means (including but not limited to telecopy, imaging, xeroxing, electronic mail, electronic data interchange, telegram or telex). Rule 26, supra note 5.

²⁴ The manual processing that may be necessary for a transfer agent or trustee to make an e-mail submission of a notice, which would be eliminated by instead using the proposed electronic method to submit the form, includes the transfer agent or trustee printing, completing, manually signing the notice and converting it to the portable document format currently required by the OA.

²⁵ 17 CFR 240.17Ad-16(a).

the date the transfer agent is (1) notified of the effective date, or (2) becomes aware of, the termination or assumption date, as applicable.

DTC believes that the proposed amendment to the timeframes for transfer agents to provide 17Ad-16 Notices, as set forth above, would promote the prompt and accurate clearance and settlement of securities by facilitating DTC's ability to distribute to its Participants via LENS, a transfer agent's notification made by it pursuant to Rule 17Ad-16 prior to the effective date, to the extent the notice is timely provided by the transfer agent, thus reducing the potential for transfer delays due to unannounced transfer agent changes.

Posting 17Ad-16 Notices to LENS

The 1995 Rule Filing stated that DTC would make 17Ad-16 Notices available to Participants via LENS no later than the Business Day²⁶ following DTC's receipt of such notice from the transfer agent.²⁷ Rule 17Ad-16 states that a qualified registered securities depository that receives notice pursuant to the requirements noted above, "shall deliver a copy of such notices to its own participants within 24 hours."²⁸

In order to provide enhanced transparency with regard to the timeframe for DTC to post notices consistent with 1995 Rule Filing, and reflecting the underlying requirement of Rule 17Ad-16 in this regard, DTC would add text to the OA to clarify that DTC would make each 17Ad-16 Notice available to Participants within 24 hours of DTC's receipt of a 17Ad-16 Notice from the transfer agent, not including weekends and holidays (i.e., non-Business Days). For example, if DTC receives a 17Ad-16 Notice through the designated e-

²⁶ Pursuant to Rule 1, the term Business Day means any day on which DTC is open for business. Rule 1, supra note 5.

²⁷ See supra note 11.

²⁸ 17 CFR 240.17Ad-16(d)(1).

mail or electronic methods described above at 6:00 p.m. Eastern Time (“ET”) on a Monday (that is not a holiday), DTC would make the 17Ad-16 Notice available for viewing by Participants on LENS no later than 5:59 p.m. ET on Tuesday. For weekends, if DTC receives a notice at or after 6:00 p.m. ET on a Friday, DTC would make the 17Ad-16 Notice available for viewing by Participants on LENS no later than 5:59 p.m. ET on Monday.

Proposed Changes to the Text of the OA

Pursuant to the proposed rule change, DTC would amend Section II (B)(4) of the OA to (i) provide for the electronic submission of applicable notices/forms by transfer agents, as described above, (ii) amend the OA to require that a transfer agent must notify DTC when terminating or assuming transfer agent services on behalf of an Issuer, or when the transfer agent is changing its name or address, before the later of (a) 10 calendar days prior to the effective date or (b) the date the transfer agent is (1) notified of the effective date, or (2), in the case of a termination or assumption, becomes aware of, the termination or assumption date, as applicable, and (iii) add a new subsection (f) that would state that DTC would make each 17Ad-16 Notice available to Participants within 24 hours of DTC’s receipt of a 17Ad-16 Notice from the transfer agent, not including weekends and holidays (i.e., non-Business Days), as described above. The text would also include an example illustrating the timeline pursuant to which the notices would be made available on LENS that is consistent with the example provided under “Posting 17Ad-16 Notices to LENS” above.

The proposed rule change would also amend the text of Section II (B)(4) of the OA to (i) correct a typographical error where the Act is not referred to by its full name, (ii) allow transfer agents to submit the 17Ad-16 Change Form in Word format, (iii) update the

information that should be included on transfer agent notices to include the agent name, address, contact name, contact phone, contact e-mail, and agent number, (iv) add a defined term for 17Ad-16 Notices, (v) note that notices sent to DTC, as described above, will be made available to Participants for viewing on LENS, (vi) modify text in two places that refer to the requirements of Rule 17Ad-16 to conform the OA text to the terminology in the rule regarding a transfer agent “ceasing to perform”²⁹ services on behalf of an issuer rather than referring to the transfer agent “terminating” such services as currently stated in the OA, (vii) conform the title of the 17Ad-16 Change Form as set forth in the OA to the title which appears on DTCC’s website which is “*Notice of Assumption or Termination of Transfer Agent Services Form 17Ad-16*” followed by “also known as 17Ad-16 Change Form” (viii) clarify the location and name of the link where a template of the 17Ad-16 Change Form is available,³⁰ and (ix) make technical and clarifying changes to the text for enhanced flow and readability.

The proposed rule change would amend Section II (B)(5) to (i) conform the title of the 17Ad-16 Change Form as set forth in the OA to the title which appears on DTCC’s website which is “*Notice of Assumption or Termination of Transfer Agent Services Form 17Ad-16*” followed by “also known as 17Ad-16 Change Form” (ii) clarify the location and name of the link where a template of the 17Ad-16 Change Form is available,³¹ (iii) add a

²⁹ 17 CFR 240.17Ad-16(a).

³⁰ The revised OA text would state that a template of the *Notice of Assumption or Termination of Transfer Agent Services Form 17Ad-16* can be obtained from DTCC’s website at: <http://dtcc.com/matching-settlement-and-asset-services/agent-services/dtc-eligible-agent> and by clicking on the link titled “Notice of Assumption or Termination of Transfer Agent Services Form 17Ad-16.”

³¹ Id.

clarifying statement that DTC would make notices from trustees received pursuant to this section available for viewing by Participants on LENS, and (iv) make technical and clarifying changes to the text for enhanced flow and readability.

The proposed rule change would also add a note to the sections relating to posting of 17Ad-16 Notices and trustee notices (the new Section II (B)(4)(f) and Section II (B)(5), respectively) to state that (1) DTC does not screen the 17Ad-16 Notices for confidential information, and (2) it is the full and sole responsibility of the transfer agent or trustee, as applicable, submitting a 17Ad-16 Notice to ensure that the information contained in the 17Ad-16 Notice is correct and does not include any information that would otherwise be deemed as confidential or material non-public information.

The proposed rule change would revise text that indicates to the effect that a transfer agent or trustee, as applicable, “should” use or is required to use the template of the 17Ad-16 Change Form made available by DTC to notify DTC of a change relating to a transfer agent or trustee, as applicable, to instead state that the transfer agent or trustee, as applicable, “may” use the DTC template 17Ad-16 Change Form for this purpose. This change to the text reflects that Rule 17Ad-16 states the information that a transfer agent should include on a notice, but it does not mandate the use of a template of a qualified registered securities depository.³²

In addition, DTC would make a technical change to Sections VI (E)(1)(a) and (b) to change the e-mail address for Issuers and agents to submit notices submitted to DTC in

³² See 17 CFR 240.17Ad-16(a) and (b).

accordance with those sections from lensnotices@dtcc.com to
LegalandTaxNotices@dtcc.com.³³

Effective Date

The proposed rule change would become effective upon filing with the
Commission.

2. Statutory Basis

Section 17A(b)(3)(F)³⁴ of the Act requires that the rules of the clearing agency be designed, inter alia, to promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the proposed rule change is consistent with this provision of the Act because, by amending DTC's Procedures regarding (i) the available methods for a transfer agent or trustee to notify DTC of a change relating to ceasing to perform or assumption of transfer agent services on behalf of an Issuer or when the transfer agent or trustee is changing its name or address, (ii) the deadline by which a transfer agent must provide such a notice, and (iii) the required timeframe for DTC to make such notices from transfer agents available to Participants, it would facilitate the prompt and accurate clearance and settlement of securities transactions by facilitating timely and efficient distribution of changes to information for transfer agents and trustees to DTC and Participants, as described above, and therefore promote the ability of DTC

³³ These sections relate to the submission of consent notices and certain legal notices respectively. Consent notices are submitted by an issuer or agent via e-mail to provide notices of record dates for the purpose of facilitating the solicitation of consents from or voting by beneficial owners of Securities. See OA, supra note 6, at 52. The legal notices to be submitted to DTC via e-mail in accordance with Section VI (E)(1)(b) include notices to security holders of bankruptcies, litigation/class actions and defaults. Id.

³⁴ 15 U.S.C. 78q-1(b)(3)(F).

and Participants to interface with transfer agents and trustees with respect to functions performed by them, including the registration, transfer and payment of the securities.

DTC also believes that the proposed rule changes are consistent with Section 17A(b)(3)(F), cited above, because by making technical and clarifying changes to the text within the Procedures set forth in the OA regarding the (i) amendment to Section II (B) of the OA to (a) correct a typographical error where the Act is not referred to by its full name, (b) allow transfer agents and trustees to submit the 17Ad-16 Change Form in Word format, (c) update information that should be included on transfer agent notices to include the agent name, address, contact name, contact phone, contact e-mail, and agent number, (d) add a defined term for 17Ad-16 Notices, (e) add a note that transfer agent notices and trustee notices provided by transfer agents and trustees, respectively, to DTC, as described above, are made available for viewing by Participants on LENS, and (f) add a note to the sections relating to responsibilities of transfer agents and trustees with respect to accuracy and confidentiality considerations relating to 17Ad-16 Notices and trustee notices (Sections II (B)(4)(f) and II (B)(5), respectively), as described above, and by (ii) providing a change in e-mail address for issuers and agents to submit notices submitted to DTC in accordance with Sections VI (E)(1)(a) and (b) of the OA, as described above, the proposed rule change would provide enhanced transparency for transfer agents, trustees and Issuers with respect to the Procedures relating to submission and processing of notices that may be submitted by them, as applicable, in accordance with the sections of the OA mentioned above. Therefore, by providing transfer agents, trustees and Issuers with enhanced transparency with regard to the Procedures relating to the submission and processing of notices, and therefore facilitating the prompt posting of notices and

distribution of information on LENS to Participants related to Securities held by the Participants, and that may be the subject of transactions processed through the DTC system, DTC believes that the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions consistent with the Act.

Rule 17Ad-16(d)(1)³⁵ requires that, inter alia, the appropriate qualified registered securities depository that receives 17Ad-16 Notices shall deliver a copy of such notices to its own participants within 24 hours. Rule 17Ad-16(d)(2)³⁶ provides that a qualified registered securities depository may comply with its notice requirements under Rule 17Ad-16(d)(1)³⁷ by making available the notice of all material information from the notice within 24 hours in a manner set forth in the rules of the qualified registered securities depository. DTC believes that the proposed rule change is consistent with Rule 17Ad-16(d)(1) because it would amend the text of the OA, as described above, to provide that DTC would make 17Ad-16 Notices that it receives available to Participants via LENS within 24 hours of receipt, not including weekends and holidays (i.e., non-Business Days).³⁸ DTC believes the proposed rule change is consistent with Rule 17Ad-16(d)(2) because, as described above, the proposed rule change would add the text described in the sentence immediately above to the OA, which are Procedures filed as rules with the Commission.

³⁵ 17 CFR 240.17Ad-16(d)(1).

³⁶ 17 CFR 240.17Ad-16(d)(2).

³⁷ 17 CFR 240.17Ad-16(d)(1).

³⁸ Supra note 26.

(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. The proposed rule change would, (i) with respect to the proposed rule changes to amend the OA regarding notification timeframes relating to transfer agent notifications to DTC and the distribution of those notifications by DTC to its Participants, merely align and clarify the text of the OA in accordance with the applicable requirements relating to such notifications set forth in Rule 17Ad-16 and the provisions of the 1995 Rule Filing as described above, and (ii) with respect to the addition of an electronic method for the submission of notices by transfer agents and trustees, merely allow for an additional means for such notices to be submitted and not impact the existing e-mail option, as described above. Therefore, the proposed rule change would not impact, or impose any burden 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. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act³⁹ and paragraph (f) of Rule 19b-4 thereunder.⁴⁰ 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

³⁹ 15 U.S.C. 78s(b)(3)(A).

⁴⁰ 17 CFR 240.19b-4(f).

appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-DTC-2019-001 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-2019-001. 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-2019-001 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.⁴¹

Vanessa A. Countryman
Acting Secretary

⁴¹ 17 CFR 200.30-3(a)(12).