

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-88157; File No. SR-DTC-2020-003)

February 11, 2020

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Transition the Application Used for Participant Access to the Imaging Function Relating to Deposited Certificates from a Non-Web-Based Application to a Web-Based Application

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 31, 2020, 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.

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).

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

The proposed rule change⁵ would amend DTC's Procedures⁶ set forth in the Deposits Guide and the Custody Guide to provide for an update of DTC's imaging function ("Imaging Function") relating to Securities certificates deposited by Participants at DTC, through the Deposits service and Custody service, to transition the application used for Participant access to the Imaging Function from a non-web-based application, referred to as the Imaging Fax and E-mail System ("IFE"), available on DTC's Participant Terminal System ("PTS") and Participant Browser Service ("PBS"),⁷ to a web-based application accessible through PBS, to be named Image Viewer, as discussed below.⁸ The proposed rule change to use Image Viewer on PBS as a replacement of IFE would (i) facilitate the modernization of the method of making certificate images available to Participants and (ii) make ministerial and clarifying changes to the text of Procedures set forth in the Deposits Guide and Custody Guide, as discussed below. In addition, DTC would amend the Guide to the DTC Fee Schedule ("Fee Guide")⁹ to conform the description of a fee relating to the Imaging Function to reflect the proposed changes to the Imaging Function, 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

⁵ Capitalized terms not otherwise defined in this rule filing are defined as set forth in the Rules, By-Laws and Organization Certificate of DTC (the "Rules"), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>, the Deposits Service Guide ("Deposits Guide"), available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Deposits.pdf>

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The proposed rule change would amend DTC's existing Procedures set forth in the Deposits Guide and the Custody Guide to provide for an update of the Imaging Function, to transition the application used for Participant access to the Imaging Function from an application referred to as the IFE, available on PTS and PBS, to a web-based

and the Custody Service Guide ("Custody Guide"), available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Custody.pdf>.

⁶ 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, supra note 5. The Procedures include, but are not limited to, the Deposits Guide and the Custody Guide.

⁷ PTS is an interface accessible through a designated terminal that allows for Participant input and inquiry into DTC's services. PBS is an interface that allows Participants to make input and inquiry using functionality compatible with internet browser technology.

⁸ DTC currently uses an application supported by a vendor for its imaging application. This application is reaching end-of-life because the vendor has notified DTC that it is terminating its support of the application, prompting DTC to replace it with a new application and providing an opportunity to modernize image viewing capabilities. Image Viewer, the application that DTC would implement for the imaging function pursuant to the proposed rule change, has been developed by DTC and would be supported by DTC.

⁹ Available at <http://www.dtcc.com/~media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf>.

application accessible through PBS, to be named Image Viewer, as discussed below. The proposed rule change to use Image Viewer on PBS as a replacement of IFE would (i) facilitate the modernization of the method of making certificate images available to Participants and (ii) make ministerial and clarifying changes to text of Procedures set forth in the Deposits Guide and Custody Guide, as discussed below. In addition, DTC would amend the Fee Guide to conform the description of a fee relating to the Imaging Function to reflect the proposed changes to the Imaging Function, as described below.

Deposit of Security Certificates with DTC

DTC performs various services for Participants to promote the prompt and accurate clearance and settlement of Securities, including maintaining Accounts that list a Participant's Securities holdings at DTC and allowing Participants to present Securities to be made eligible for DTC's depository and book-entry services. If a Security is accepted by DTC as meeting DTC's eligibility requirements for services and is Deposited with DTC for credit to the Securities Account of a Participant, it becomes an "Eligible Security."¹⁰ Other issues of Securities may be added through corporate actions with respect to Eligible Securities, including events such as name changes, mergers and spinoffs. Prior to processing a corporate action, DTC reviews the subject Securities for

¹⁰ See Rule 5, supra note 5; DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services) ("Operational Arrangements"), Section 1, available at <http://www.dtcc.com/~media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf>.

continuing eligibility.¹¹ Thereafter, Participants may Deposit shares of an Eligible Security into their respective DTC Accounts.¹²

Security certificates for Eligible Securities are eligible for Deposit at DTC when they are delivered to DTC in accordance with the Rules and Procedures and pursuant to Article 8 (“Article 8”) of the New York Uniform Commercial Code (“NYUCC”).¹³ Under Article 8, a registered owner may transfer a Securities certificate, and the Securities the certificate represents, to a “purchaser” (in this case, DTC) by means of indorsement and Delivery.¹⁴ DTC’s Rules and Procedures require that the indorsement be made in favor of DTC’s nominee, Cede & Co, which is the holder of record of Securities eligible for DTC’s book-entry services.¹⁵ Having thereby “acquired” the indorsed Security certificate as the purchaser, DTC comes into possession of the rights that the registered owner of the Security would have.¹⁶ Ordinarily, under the DTC Rules and Procedures, the indorsed certificate is presented to the issuer or transfer agent for registration in the name of Cede & Co., so that, in addition to physical possession of the negotiable certificate, Cede & Co. is reflected as the registered holder on the books and records of the issuer maintained by its transfer agent.¹⁷

¹¹ See Operational Arrangements, Section I, supra note 10.

¹² Rule 6, supra note 5.

¹³ NYUCC 8-101 – 8-602.

¹⁴ NYUCC 8-301, 8-304, 8-102 and Official Comment 11 thereto.

¹⁵ See Rule 6, supra note 5.

¹⁶ NYUCC 8-302.

¹⁷ See Deposits Guide, supra note 5 at 13.

Separately, the Custody service enables Participants that hold (i) Securities that (A) are not presently eligible for book-entry services at DTC and/or (B) would otherwise be eligible for DTC book-entry services but are not registered in the name of DTC's nominee, Cede & Co., and/or (ii) certain assets that are not Securities ("Non-Security Assets"), to deposit those Securities and/or Non-Security Assets, as applicable, with DTC for safe-keeping, in accordance with requirements set forth in the Custody Guide.¹⁸ Certificates for Securities and Non-Security Assets deposited through the Custody service are maintained in DTC's secure vault in a Participant's name or a Participant's customer's name (i.e., they are not transferred into DTC's nominee name, Cede & Co.).¹⁹ In addition, once a Security is deposited into the Custody service, DTC may perform limited depository services relating to the Security including physical processing for the Security on a Participant's behalf, such as facilitating the transfer of Security Certificates, and providing services available through the Custody Reorganization Service.²⁰

Imaging Function

DTC scans certificates that are deposited through the Deposits service or the Custody service to create electronic images that are made available to a Participant via e-mail or facsimile per a request submitted by a Participant through IFE.²¹ In order to be

¹⁸ See Custody Guide for the types of Securities and Non-Security Assets eligible for deposit to the Custody Service, supra note 5, at 5, 12.

¹⁹ See Custody Guide, supra note 5 at 4.

²⁰ See Custody Guide, supra note 5, at 14-17 (providing Procedures for the Custody Reorganization Service). The limited depository services provided by DTC as described above relate only to securities processing functions and do not apply to Non-Security Assets.

²¹ See Deposits Guide, supra note 5 at 21; See Custody Guide supra note 5 at 4-5.

able to store or forward images, a Participant must access IFE, where it can request that an image be faxed or emailed to up to six recipients. Once received, an image can be converted into a compatible format, such as .pdf, before it can be stored on the recipient's own system or re-forwarded.

Proposed Replacement of IFE with Image Viewer

As mentioned above, IFE is reaching end-of-life because the vendor that supports it has notified DTC that it is terminating its support of the application, prompting DTC to replace it with a new application that would modernize image viewing capabilities. Image Viewer, the application that DTC would implement for the imaging function pursuant to the proposed rule change, has been developed by DTC and would be supported by DTC.

DTC believes that migrating the Imaging function from IFE, which is not web-based, to the web-based Image Viewer, would provide Participants with a method to obtain electronic images of their certificates that is more compatible with modern systems used by its Participants. Pursuant to the proposed rule change, Image Viewer would allow Participants to view, download and save images of certificates using the new web-based application Image Viewer. Through the new Image Viewer, images would be transmitted in a format that is readily accessible through most modern systems and which may be stored or viewed on the Participant's own systems.

As indicated above, the Image Viewer would only be available via PBS. DTC does not believe this will materially impact Participants' access to the service as all Participants that previously accessed IFE through PTS have connectivity to PBS.

DTC believes that the capability to distribute facsimile copies of images through IFE has become obsolete as Participants request that images be delivered via e-mail nearly all the time.²² In this regard, pursuant to the proposed rule change, the option to choose facsimile distribution would be eliminated.

Proposed Rule Change

Pursuant to the proposed rule change DTC would make the following changes to the text of the Deposits Guide:

1. DTC would delete all references to IFE and its functionality, including related methods of distribution of images, throughout the Deposits Guide.
2. DTC would add a new section titled “Image Viewer” that describes the functionality for the application as described above, including that a Participant may view, download and save imaged copies of certificates via a web-based Image Viewer, which can be accessed from the following PBS functions:²³

²² During the 12-month period ending November 2019, DTC received a total of approximately 29,000 IFE requests for images, with only 54 (less than .002 percent) of those requests using facsimile as the method of distribution. Although the option to choose facsimile distribution of an image by DTC would not be available upon implementation of the proposed rule change, every Participant has access to PBS and would be able to use Image Viewer upon implementation of the proposed change to retrieve an image. The image would be available to the Participant in a format that could be readily used by the Participant to re-transmit the image via facsimile if the Participant so chooses.

²³ These functions are currently available and are listed in the Deposits Guide for use by Participants for retrieval of certificate images through IFE. Pursuant to the proposed rule change, these functions would instead be used to access Image Viewer functionality.

- Deposit Automation²⁴ – for regular, bearer²⁵/nontransferable,²⁶ and reorg deposits;²⁷
- Branch Inquiry²⁸ – for branch deposits;
- Restricted Deposit Service²⁹ – for deposits of certificates bearing a restricted legend;

²⁴ Deposit Automation is a PBS function that allows a Participant to prepare a deposit through the Deposit Automation System and generate a deposit ticket to be sent to DTC along with the physical Security certificates. See Deposits Guide, supra note 5 at 7 and 12.

²⁵ “Bearer deposit” refers to the deposit of a bearer Security. A bearer Security is a Security that is not registered with the issuer in the name of the owner and that is negotiable without endorsement and transferred by delivery. See Deposits Guide, supra note 5 at 10.

²⁶ Non-transferable Securities are Securities for which transfer services for a Security, typically through the registration of the Security on books maintained by a transfer agent, are not available. See Securities Exchange Act Release No. 86897 (September 6, 2019), 84 FR 48187 (September 12, 2019). See Deposits Guide, supra note 5 at 34-35 for Deposit Procedures relating to non-transferable Securities.

²⁷ Reorg Deposits refers to the function that allows Participants to deposit an Eligible Security that is undergoing or has undergone a mandatory reorganization, as well as full calls and partial calls. See Deposits Guide, supra note 5 at 25.

²⁸ “Branch inquiry” allows a Participant to view the status of a Branch Deposit. See Deposits Guide, supra note 5 at 12. A Branch Deposit refers to a deposit made through the Branch Deposit service where Participant’s branch office receives physical certificates from their customers and enter details of the certificates into their internal system. See Deposits Guide, supra note 5 at 11. The branch office of the Participant then transmits the certificate details to its main office and ships the Securities to DTC. See id.

²⁹ See Deposits Guide, supra note 5 at 27-30. DTC’s Restricted Deposit Service (“RDS”) allows a Participant to deposit restricted securities into a Participant’s segregated account within DTC’s Custody Service until the applicable restriction has been lifted and the full or partial sale of the securities is complete. See Securities Exchange Act Release No. 34-41891 (September 20, 1999), 64 FR 52115 (September 27, 1999). Securities credited to this account will not be registered in the name of Cede & Co. and therefore will not be available for book-

- Deposit Inquiry– for deposits still in transfer as of the close of business the previous business day;³⁰ and
 - Securities Transfer Legal Deposits – for legal deposits.³¹
3. DTC would revise individual references to imaging functionality included in tables relating to PTS/PBS functions for the Branch Deposits service and RDS to reflect the change that the Imaging Function would be accessible via Image Viewer instead of IFE, as described herein.

Pursuant to the proposed rule change DTC would make the following changes to the text of the Custody Guide:

1. DTC would make the following changes to the Imaging section:
 - a. Remove the two last paragraphs of the section that describe connectivity specifications necessary to obtain images (through IFE). These specifications would not apply to a Participant’s ability to access Image Viewer;
 - b. Delete references to IFE and any IFE functionality;

entry transfer. See id. In addition, RDS functionality allows the processing of a transfer of all or a portion of the securities once the restriction is lifted, and the registration of the unrestricted securities (or portion thereof) in the name of Cede & Co. See id.

³⁰ The “Deposit Inquiry” function allows a Participant to receive a report that tracks the Participant’s deposit activity. See Deposits Guide, supra note 5 at 37.

³¹ A legal deposit consists of a Security registered in the name of the holder (i.e., not a bearer security) and the legal documentation required for the transfer registration of that Security into the name of DTC’s nominee, Cede & Co. See Deposits Guide, supra note 5 at 16.

- c. Add a description that Participants using Image Viewer would have the ability to view, download and save and imaged copies of certificates via Image Viewer; and
 - d. Consolidate a sentence stating that each item is scanned front and back with another sentence that describes that each deposit ticket, certificate and legal document is scanned.
2. DTC would revise a reference to imaging functionality through IFE in the section titled “Restricted Deposit Service” to reflect that Participants would have the ability to view, download and save images of certificates via Image Viewer.

Pursuant to the proposed rule change, DTC would make the following change to the Fee Guide to conform text describing a related fee to the changes to the Imaging Function as described above:

<u>Fee Name</u>	<u>Amount(\$)</u>	<u>Conditions</u>
<u>Transmission of image of deposit by fax or e-mail, first recipient Request to display/download an Image</u>	5.50	Per deposit per request

Implementation Timeframe

The proposed rule change would be implemented by February 28, 2020, on a date to be announced via a DTC Important Notice. DTC would include a legend on the cover page of the Deposits Guide and the Custody Guide stating (i) that proposed changes to the Procedures, as amended by proposed rule change would be available at dtcc.com/~media/Files/Downloads/legal/rule-filings/2020/DTC/SR-DTC-2020-003.pdf, (ii) that these changes became effective upon filing with the SEC but have not yet been implemented, (iii) the proposed changes will be implemented by February 28, 2020 on a

date to be announced via a DTC Important Notice and (iv) upon implementation, this legend would automatically be removed from these Procedures.

2. Statutory Basis

DTC believes that this proposal is consistent with the requirements of the Act,³² as described below.

Section 17A(b)(3)(F) of the Act³³ requires, inter alia, that the Rules be designed to assure the safeguarding of securities which are in the custody or control of DTC or for which it is responsible. As mentioned above, DTC scans certificates, that are deposited through the Deposits service or the Custody service and then held in DTC's secure vault, to create images that are made available to a Participant in an electronic format. The proposed rule change would migrate the distribution of images of certificates of Securities, to a more flexible application designed to use a web-based platform that would facilitate the accessibility of images to Participants by providing for enhanced compatibility with modern systems used by Participants to obtain the images. In this regard, the proposed rule change would allow DTC to continue to provide images of certificates in an electronic format that is readily accessible to Participants, without the need to remove a certificate from the vault to be able to make and provide a copy to the Participant. Therefore, DTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,³⁴ because it is designed to assure the safeguarding of securities which are in the custody and control of DTC or for which it is responsible, by

³² 15 U.S.C. 78q-1.

³³ 15 U.S.C. 78q-1(b)(3)(F).

³⁴ Id.

facilitating an accessible means for Participants to obtain copies of Securities certificates deposited by them without removal of the certificates from DTC's secure vault.

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

DTC does not believe that the proposed rule change will have any impact on competition because neither the decommissioning of IFE nor the elimination of access to the Imaging Function through PTS would affect Participants' ability to access the Imaging Function, as Participants will be able direct their imaging requests through Image Viewer.

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

Written comments relating to this proposed rule change have not been solicited or received. 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 Act³⁵ and paragraph (f) of Rule 19b-4 thereunder.³⁶ 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.

³⁵ 15 U.S.C. 78s(b)(3)(A).

³⁶ 17 CFR 240.19b-4(f).

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-2020-003 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-2020-003. 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-2020-003 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.³⁷

J. Matthew DeLesDernier
Assistant Secretary

³⁷ 17 CFR 200.30-3(a)(12).