

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83871; File No. SR-DTC-2018-007)

August 17, 2018

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Process of the Reduction of Dividend or Interest Payments to a Participant on Treasury Shares or Repurchased Debt Securities

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 August 9, 2018, 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)(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 proposed rule change of DTC would amend the Operational Arrangements and the Distributions Guide⁵ to streamline the process for reducing payment to a

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 DTC (the “Rules”), available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>; the DTC Operational Arrangements (Necessary for Securities to Become and Remain

Participant of a dividend or interest payment with respect to an equity or debt security, when such Participant held, on the record date for the distribution: (i) shares of the security that had been repurchased by the issuer of the security (“Treasury Shares”) or (ii) debt that had been repurchased by the issuer of the debt (“Repurchased Debt Securities”). Specifically, DTC proposes to provide functionality to Participants so that a Participant that held Treasury Shares or Repurchased Debt Securities on the record date would use the Corporate Actions Web (“CA Web”) to reduce its entitlement to the distribution by the amount attributable to the Treasury Shares or Repurchased Debt Securities. The proposed rule change would also amend the Fee Guide to modify and clarify the fees associated with Treasury Shares or Repurchased Debt Securities adjustments.⁶ In addition, DTC would make ministerial and clarifying changes to the Operational Arrangements and the Fee Guide, as discussed 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

Eligible for DTC Services) (“Operational Arrangements”), available at <http://www.dtcc.com/~media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf>; the Distributions Service Guide (the “Distributions Guide”), available at <http://www.dtcc.com/~media/Files/Downloads/legal/service-guides/Service%20Guide%20Distributions.pdf>; and the Guide to the 2018 DTC Fee Schedule (“Fee Guide”), available at <http://www.dtcc.com/~media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf>.

⁶ The proposed rule changes with respect to the Fee Guide would apply to Treasury Shares or Repurchased Debt Securities position adjustments in connection with distributions with a record date as well as to distributions with an effective date (i.e., mandatory corporate actions). For information on the process for reducing payment on Treasury Shares or Repurchased Debt Securities in connection with an effective date distribution, see Operational Arrangements, supra note 5, at 42-43.

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

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

1. Purpose

The proposed rule change would amend the Operational Arrangements and the Distributions Guide to streamline the process for reducing payment to a Participant of a dividend or interest payment with respect to an equity or debt security, when such Participant held, on the record date for the distribution, Treasury Shares or Repurchased Debt Securities. Specifically, DTC proposes to provide functionality to Participants so that a Participant that held Treasury Shares or Repurchased Debt Securities on the record date would use the CA Web to reduce its entitlement to the distribution by the amount attributable to the Treasury Shares or Repurchased Debt Securities. The proposed rule change would also amend the Fee Guide to modify and clarify the fees associated with Treasury Shares or Repurchased Debt Securities adjustments. In addition, DTC would make ministerial and clarifying changes to the Operational Arrangements and the Fee Guide, as discussed below.

(i) Background

A. Dividend and Interest Payments

DTC receives information on dividend and interest payment distributions (each, an "announcement") from the issuer, the transfer agent or paying agent of the issuer

(each, an “Agent”), exchanges, trustees, and various other industry sources.⁷ An announcement of a distribution typically includes, among other things, a security description and CUSIP, record date, payable date, and either the rate per share for a dividend or the interest rate per \$1,000 principal amount. DTC uses the information to publish a notice of the distribution to its Participants.⁸

With respect to a distribution with a record date (a “Record Date Distribution”), DTC systemically captures the position in the subject security for each Participant as of the record date (“Record Date Position”). DTC calculates the distribution entitlement of each Participant based on its Record Date Position, the rate information in the announcement, and any elections of the Participant with respect to options offered by distribution event, if applicable.⁹ Each Participant may view its projected entitlements as calculated by DTC.¹⁰ Based on the aggregate entitlements of all Participants that had position in the CUSIP on the record date, DTC calculates the amount of funds (for an

⁷ DTC also maintains internal records for scheduled fixed rate interest and principal payments.

⁸ DTC typically publishes announcements via CA Web and International Organization for Standardization (“ISO”) 20022 messaging. For information about CA Web and ISO 20022, see Securities Exchange Act Release No. 79746 (January 5, 2017), 82 FR 3372 (January 11, 2017) (SR-DTC-2016-014).

⁹ Examples of option types include elections for cash, securities, or a combination of both.

¹⁰ A Participant can obtain information about its Record Date Positions and entitlements from DTC through DTC’s Computer-to-Computer Facility (“CCF”) files, CA Web and ISO 20022. For information about CCF files, see Securities Exchange Act Release No. 79746 (January 5, 2017), 82 FR 3372 (January 11, 2017) (SR-DTC-2016-014). It is the Participant’s responsibility to verify the accuracy of information against its own records, and to report any discrepancy to DTC. See Distributions Guide, supra note 5, at 24.

interest payment or cash dividend) and/or shares of stock (for a stock dividend) it expects to receive from the Agent on the payable date (“DTC Expected Payment”).

Typically, on the Business Day prior to the payable date, DTC will confirm the DTC Expected Payment with the Agent. On the payable date, DTC receives the payment of funds and/or shares of stock from the Agent. After DTC validates that it has received the full amount of the DTC Expected Payment, DTC will allocate the distribution to Participants in accordance with the entitlement of each Participant.

B. Current Process for the Reduction of Payment on Treasury Shares or Repurchased Debt Securities (for Cash Dividend, Stock Dividend, or Interest Payments)

An issuer may engage in a stock or debt buyback program, which may include repurchasing its securities through a broker dealer or market maker that is a Participant or a direct or indirect customer of a Participant. If the repurchased securities are neither cancelled by the issuer nor withdrawn from DTC by the Participant before the record date for a distribution, then the Participant would be holding Treasury Shares or Repurchased Debt Securities on the record date.

A Participant that is holding Treasury Shares or Repurchased Debt Securities on the record date (which, by definition, the Participant holds directly or indirectly for the benefit of the issuer), should not receive a distribution payment with respect to such shares because, generally, an issuer does not make a distribution to itself. As such, an Agent should not include Treasury Shares or Repurchased Debt Securities when it calculates the total amount of a Record Date Distribution it will pay DTC on the payable date.

However, DTC does not have independent knowledge of whether a Participant is holding Treasury Shares or Repurchased Debt Securities. If DTC is not aware that the

Record Date Position of a Participant includes Treasury Shares or Repurchased Debt Securities, DTC would calculate its DTC Expected Payment based on the total of Record Date Positions of its Participants, including any Treasury Shares or Repurchased Debt Securities. The imbalance may not be discovered until DTC confirms the DTC Expected Payment with the Agent on the Business Day prior to the payable date, or even on the payable date, when DTC may receive a distribution from the Agent that is less than the DTC Expected Payment (because the Agent did not include the funds and/or shares of stock otherwise attributable to the Treasury Shares or Repurchased Debt Securities).

DTC needs to be informed of the amount of any Treasury Shares or Repurchased Debt Securities that were held by any Participant on the record date, so DTC can reduce the captured Record Date Position of the relevant Participant, recalculate the expected entitlement of such Participant and adjust the DTC Expected Payment accordingly. For example, if ten shares of CUSIP X were credited to the account of a Participant on the record date for a dividend distribution for CUSIP X, the captured Record Date Position of the Participant would be ten shares of CUSIP X. Ordinarily, DTC would calculate the amount of the entitlement of the Participant to the dividend by applying the announced rate for the distribution to the Record Date Position of ten shares. However, assume that four of the ten shares of CUSIP X of the Participant's Record Date Position were Treasury Shares. The Participant would not be entitled to receive a dividend for its entire Record Date Position of ten shares of CUSIP X. Once informed that the Participant was holding four shares of CUSIP X that were Treasury Shares on the record date, DTC would need to reduce the Record Date Position of the Participant by four shares. DTC

would then need to recalculate the entitlement of the Participant by applying the announced rate to the adjusted Record Date Position of six shares of CUSIP X.

As currently provided in the Operational Arrangements, an issuer or Agent must notify DTC in writing that one or more Participants held Treasury Shares or Repurchased Debt Securities on the record date, and that the DTC Expected Payment will be reduced by the amount attributable to the Treasury Shares or Repurchased Debt Securities held by the Participant(s). The issuer or Agent letter must include identification of the security, record date, payable date, the total number of Treasury Shares or Repurchased Debt Securities held at DTC on the record date, Participant name and number, and number of shares/principal value per Participant subject to the reduction.¹¹ DTC must also receive a signed letter from each Participant that was holding the Treasury Shares or Repurchased Debt Securities that includes, among other things, a Participant officer-level authorization of the reduction, and an indemnification statement.¹²

The letters from the issuer or Agent and Participant(s) must be emailed to the designated DTC mailbox no later than three Business Days prior to the payable date. Once DTC receives the letters, DTC manually verifies the information in the letters against the applicable distribution announcement for CUSIP, record date, payable date, and rate, and validates the Record Date Position of the applicable Participant(s). DTC

¹¹ Since 2002, the issuer or Agent has been responsible for notifying DTC of a payment reduction due to Treasury Shares or Repurchased Debt Securities. See Securities Exchange Release No. 45994 (May 29, 2002), 67 FR 39452 (June 7, 2002) (SR-DTC-2002-02).

¹² In 2011, DTC modified the process to require that the issuer or Agent also provide DTC with Participant(s) confirmation letters of the Treasury Shares or Repurchased Debt Securities that they held on the record date. Securities Exchange Act No. 65901 (December 6, 2011), 76 FR 77281, 77282 (December 12, 2011) (SR-DTC-2011-10).

staff then use the Position Adjustment Tool (“PAT”), an existing internal function of its Participant Browser System (“PBS”), to reduce the Record Date Position of the Participant(s) by the amount of the Treasury Shares or Repurchased Debt Securities that were held by the Participant(s) on the record date.¹³ The projected entitlement of the Participant(s) to the distribution is then recalculated by applying the announced rate to the adjusted Record Date Position(s). The manual reduction must be completed on or before two Business Days prior to the payable date, because PAT requires overnight processing. On the Business Day prior to the payable date, DTC reviews and adjusts, as necessary, any of the elections the Participant(s) made prior to the position reduction (e.g., tax elections or dividend reinvestment) that may have been affected by the adjustment.¹⁴

C. Current Fees

Currently, each Participant is charged fifty dollars (\$50) per position adjustment,¹⁵ provided that the adjustment is made no later than two Business Days prior to the payable date (a “timely” position adjustment).¹⁶

¹³ This adjustment only affects the captured Record Date Position for purposes of the distribution. There is no change to the actual position held by the Participant.

¹⁴ The DTC Expected Amount would be recalculated accordingly.

¹⁵ Position adjustment fees are charged per adjustment irrespective of security-type or value of the distribution. These fees also apply to position adjustments with respect to distributions with an effective date. Position adjustments in connection with a distribution with an effective date are infrequent and may occur approximately once a year.

¹⁶ See Fee Guide, supra note 5, at 8. The fee was established in 2011 at forty dollars (\$40) to recover costs. See Securities Exchange Act Release No. 63659 (January 6, 2011), 76 FR 2430 (January 13, 2011) (SR-DTC-2010-17). The fee was

If a Participant submits a position adjustment request less than two Business Days prior to the payable date (a “late” position adjustment), it is charged a fee of three hundred and fifty dollars (\$350) reflecting (i) DTC costs associated with the adjustment, and (ii) a disincentive charge, in order to discourage late position adjustments, which require exception processing.¹⁷

(ii) Proposal

A. Position Adjustment Tool

DTC is in the process of migrating PAT from PBS to CA Web, and, pursuant to the proposed rule change, would make this functionality available to Participants for this purpose. The proposed rule change would provide that a Participant that held Treasury Shares or Repurchased Debt Securities on the record date must use the PAT functionality

increased in 2013 to fifty dollars (\$50). See Securities Exchange Act Release No. 65597 (May 16, 2013), 78 FR 30382 (May 22, 2013) (SR-DTC-2013-06).

¹⁷ See Fee Guide, supra note 5, at 8. The fee was established in 2011 at three hundred dollars (\$300) to recover the increased costs of late adjustments as well as to discourage behavior that was keeping the industry from achieving peak efficiency (i.e., exception processing due to late submissions). See Securities Exchange Act Release No. 63659 (January 6, 2011), 76 FR 2430 (January 13, 2011) (SR-DTC-2010-17). When DTC makes a position adjustment with less than two Business Days prior to the payable date, (i) it requires additional analysis, (ii) the payable date activities and calculations for the distribution are disrupted, and (iii) resources need to be diverted to perform research, resolve any imbalance with the Agent, and coordinate the return of any overpayment. The fee was increased in 2013 to three hundred and fifty dollars (\$350) to further discourage exception processing and to more closely align to the amount of risk presented, as well as to the costs of additional research and analysis by DTC to ascertain exact event details, Participant entitlements and payment calculations. See Securities Exchange Act Release No. 65597 (May 16, 2013), 78 FR 30382 (May 22, 2013) (SR-DTC-2013-06). Approximately two hundred and fifty dollars (\$250) of the fee was attributable to cost recovery, the balance of approximately one hundred dollars (\$100) was a charge to discourage exception processing. Since then, approximately 10% of all Record Date Position adjustments have been late.

on the CA Web to reduce its Record Date Position by the amount of the Treasury Shares or Repurchased Debt Securities it held on the record date.¹⁸ By allowing Participants to use this functionality, and by removing direct DTC intervention, the proposed rule change would help automate and streamline the position adjustment process, reducing the risk of errors and delays associated with the manual submission and processing of Record Date Position adjustments.¹⁹ In addition, for timely position adjustments, an issuer or Agent would no longer be required to initiate the position adjustment.²⁰

DTC believes that the process for a Participant to adjust its Record Date Position for a distribution using PAT functionality on CA Web would be straightforward. Currently, a Participant can view its Record Date Position and its entitlement with respect to a specific distribution event on the “Entitlements” tab on CA Web. Pursuant to the

¹⁸ The requirement to use the CA Web PAT functionality would only apply to Record Date Distributions. DTC will continue to use the existing manual process and forms with respect to distributions with an effective date. See Operational Arrangements, supra note 5, at 42-43.

¹⁹ Such errors may include, but are not limited to, data input errors, event misidentification, and entitlement calculation errors. Such errors could result in incorrect allocations which would need to be reversed and reallocated, thereby affecting payment finality. Even pre-allocation, such errors could lead to an imbalance with the Agent. If DTC cannot balance with the Agent, the allocation of the distribution could be delayed while DTC researches and resolves the issue and rebalances with the Agent. Reversed or delayed allocations could also impact Participants that had relied on the allocation to effect other securities transactions and would therefore impact the prompt and accurate clearance and settlement of securities transactions.

²⁰ Since the requirement for Participant confirmation letters was added in 2011, DTC has increasingly relied on the Participant confirmation letters and DTC’s reconciliation with the issuer or Agent before the payable date. As such, DTC believes that the initial issuer or Agent letter would not be necessary in connection with a Participant’s position adjustment through the CA Web, because the entitlements would systemically be updated and would be more easily reconciled with the issuer or Agent.

proposed rule change, the PAT functionality for a Record Date Distribution would be available on the Entitlements tab for any Participant that held a position on the record date. Using PAT, the Participant would reduce its Record Date Position in the subject CUSIP by the amount of Treasury Shares or Repurchased Debt Securities it held on the record date. The DTC system would then systemically recalculate the entitlement of the Participant based on the adjusted Record Date Position.

The proposed rule change would not affect the existing deadline for submitting a timely Record Date Position adjustment.²¹ Therefore, a Participant would have to make its position adjustment through the CA Web no later than two Business Days prior to the payable date. If a Participant wants to adjust its entitlement less than two Business Days prior to the payable date, it would have to follow the existing manual process described above.

B. Fee Change

Pursuant to the proposed rule change, DTC would amend the Fee Guide to modify the fees associated with position adjustments with respect to Treasury Shares or Repurchased Debt Securities, in order to (i) align the fees with the operational costs of processing a Record Date Position adjustment and (ii) encourage Participants to process their own Record Date Position adjustments with the PAT functionality through CA Web, rather than relying on the manual and exception processing that is required for a late position adjustment.

Under the proposed rule change, a Participant that adjusts its position no later than two Business Days prior to the payable date would be charged twenty-five dollars (\$25)

²¹ PAT would continue to require overnight processing.

per adjustment, a decrease from the current fee of fifty dollars (\$50).²² DTC believes that the lower fee would be appropriate because DTC would have reduced costs due to the decrease in DTC's manual processing.

In addition, DTC would increase the fee charged to the Participant for a position adjustment performed less than two Business Days prior to the payable date. The fee would be increased from three hundred and fifty dollars (\$350) to five hundred dollars (\$500) per adjustment. The purpose of the proposed increase is to encourage Participants to use the PAT functionality to perform Record Date Position adjustments by discouraging the late submissions of position adjustments, which would continue to require manual and exception processing.²³

(iii) Proposed Rule Changes

A. Operational Arrangements

Section IV.C.2.

Pursuant to the proposed rule change, the Operational Arrangements would be amended to add a paragraph under the current heading "Reduction of Payment on Treasury or Repurchased Securities (for Cash Dividend or Interest Payment)," which would be retitled "Reduction of Payment on Treasury Shares or Repurchased Debt Securities (for Cash Dividend or Interest Payment)" to clarify that the process applies to both debt and equity securities. The proposed paragraph would state that "[a] Participant that holds treasury shares or repurchased debt securities (*i.e.*, issuer buy-back) at DTC on

²² See supra note 16.

²³ See supra note 17. Approximately two hundred and fifty dollars (\$250) of the proposed fee would be attributable to cost, and the balance of approximately two hundred and fifty dollars (\$250) would be a disincentive charge.

the record date for a cash dividend or interest payment shall submit an instruction through the Corporate Actions Web (“CA Web”) to reduce its entitlement to the payment by the amount attributable to such treasury shares or repurchased securities. Such instruction must be submitted by the Participant no later than two business days prior to payable date; otherwise, an instruction will need to be manually submitted to DTC in accordance with the below process.”

The proposed rule change would not substantively change the existing paragraph that describes the manual process that would be required of the issuer or Agent if a Participant does not submit an instruction through CA Web no less than two Business Days prior to the payable date. However, pursuant to the proposed rule change, the paragraph would be amended to clarify language. Specifically, the paragraph would reflect that the manual process would apply if the Participant does not submit an instruction through CA Web, and language about a deadline that is no longer applicable would be removed.

Section IV.D.3.

Pursuant to the proposed rule change, the Operational Arrangements would be amended to add a paragraph under the current heading “Reduction of Payment on Treasury or Repurchased Securities (for Stock Dividend Payments),” which would be retitled “Reduction of Payment on Treasury Shares (for Stock Dividend Payments)” to clarify that the process applies to equity securities. The proposed paragraph would state that “[a] Participant that holds treasury shares at DTC on the record date for a stock dividend payment shall submit an instruction through the CA Web to reduce its entitlement to the distribution by the amount attributable to such treasury shares. Such

instruction must be submitted by the Participant no later than two business days prior to payable date; otherwise, an instruction will need to be manually submitted to DTC in accordance with the below process.”

The proposed rule change would not substantively change the existing paragraph that describes the manual process that would be required of the issuer or Agent if a Participant misses the cut-off for adjusting its Record Date Position with PAT. However, pursuant to the proposed rule change, the paragraph would be amended to streamline language. Specifically, the paragraph would reflect that it would apply if the Participant does not submit an instruction through CA Web no less than two Business Days prior to the payable date, and language about a deadline that is no longer applicable would be removed.

Section VI.B.1.

In addition, for consistency, DTC proposes to replace the current heading with “Reduction of Payment on Treasury Shares or Repurchased Debt Securities.”

B. Distributions Guide

As discussed above, pursuant to the proposed rule change, an issuer or Agent would no longer be required to initiate a Record Date Position adjustment with respect to Treasury Shares or Repurchased Debt Securities.²⁴ Rather, a Participant that held Treasury Shares or Repurchased Debt Securities on the record date for a distribution would be able to directly adjust its own Record Date Position. As such, DTC is proposing to amend the Distributions Guide to add a section titled “Position Adjustment

²⁴ See supra note 20.

for Reduction of Payment on Treasury Shares or Repurchased Debt Securities (for Record Date Distributions).” The section would provide that “[t]o the extent that a participant is holding treasury shares or repurchased debt securities (i.e., issuer buyback) on the record date for a cash or stock dividend or interest payment, the participant may not be entitled to the distribution. The participant must utilize the position adjustment tool in CA Web to reduce its record date position of the subject CUSIP by the amount of the treasury or repurchased securities, so that it will not be funded on payable date for such securities. Position adjustments through CA Web must be made no later than two business days prior to payable date. On or after the business day prior to payable date, the adjustment will need to be manually processed, as further described in the Operational Arrangements, and the participant will be subject to an additional fee.”

C. Fee Guide

Pursuant to the proposed rule change, the Fee Guide would be amended to reflect that the fee charged to a Participant that adjusts its position with respect to Treasury Shares or Repurchased Debt Securities on or before two Business Days prior to the payable date would be twenty-five dollars (\$25), a decrease from the current fee of fifty dollars (\$50). The Fee Guide would also be amended to reflect that the fee charged to a Participant for a position adjustment performed less than two Business Days prior to the payable date would be increased from three hundred and fifty dollars (\$350) to five hundred dollars (\$500).

For enhanced clarity, DTC is proposing to change the relevant heading in the Fee Guide from “Treasury Shares” to “Treasury Shares or Repurchased Debt Securities Adjustments” to reflect that the process and fees apply to both equity and debt securities.

For consistency, DTC would also modify the fee names under this heading from “Treasury Shares Adjustments” to “Treasury Shares or Repurchased Debt Securities Adjustments” and from “Late Treasury Shares Adjustments” to “Late Treasury Shares or Repurchased Debt Securities Adjustments.”

Pursuant to the proposed rule change, DTC would modify the conditions listed in the Fee Guide to clarify the time at which an adjustment is late, in order to conform to current practice. For “Treasury Shares or Repurchased Debt Securities Adjustments,” the condition would be modified to state: “Per adjustment made on or before 2 business days prior to payable date.” For “Late Treasury Shares or Repurchased Debt Securities Adjustments,” the condition would be modified to state: “Per adjustment made less than 2 business days prior to payable date.”

D. Implementation Timeframe

DTC expects to implement the proposed changes no earlier than thirty (30) days after the date of filing, or such shorter time as the Commission may designate, and no later than October 1, 2018. DTC would announce the implementation date of the proposed change by Important Notice, posted to its website.

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 a registered clearing agency. Specifically, DTC believes that the proposed rule change is consistent with

Section 17A(b)(3)(F) of the Act²⁵ and Section 17A(b)(3)(D) of the Act²⁶ for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, inter alia, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.²⁷ By automating the Record Date Position adjustment process for Treasury Shares and Repurchased Debt Securities, thereby reducing the manual intervention by DTC, the proposed rule change would (i) increase the efficiency of the DTC centralized processing of dividend and interest payments by streamlining the Record Date Position adjustment process, and (ii) reduce the risk of errors and delays associated with manual processing,²⁸ which DTC believes would promote the prompt and accurate clearance of securities transactions by DTC. In addition, the proposed rule change would make clarifying and ministerial changes to the Operational Arrangements and Fee Guide. Making clarifying and ministerial changes to help ensure that the procedures relating to position adjustments in connection with Treasury Shares or Repurchased Debt Securities are accurate and clear would facilitate Participants' understanding of their rights and obligations with respect thereto. When Participants better understand their rights and obligations regarding DTC's services, they can act in accordance with the Rules, which DTC believes would promote the prompt and accurate clearance and settlement of securities transactions by DTC. Therefore, DTC believes that these proposed rule changes would promote the

²⁵ 15 U.S.C. 78q-1(b)(3)(F).

²⁶ 15 U.S.C. 78q-1(b)(3)(D).

²⁷ 15 U.S.C. 78q-1(b)(3)(F).

²⁸ See supra note 19.

prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act, cited above.

Section 17A(b)(3)(D) of the Act requires, inter alia, that the Rules provide for the equitable allocation of reasonable fees among Participants.²⁹ DTC believes that the proposed rule change to the fee with respect to a timely position adjustment would provide for the equitable allocation of reasonable fees. DTC's manual intervention in the Record Date Position adjustment process would be reduced because Participants would be able to use the PAT functionality to make their Record Date Position adjustments, and therefore DTC's costs with respect to processing timely Record Date Position adjustments would decrease. Pursuant to the proposed rule change, the fee would be reduced to align with the anticipated decrease in operational costs for DTC, and therefore would be reasonable. In addition, the fee would continue to be charged on a per adjustment basis and would therefore be equitably allocated because all Participants that perform timely position adjustments would be treated equally under the proposal.

DTC believes that the proposed rule changes to the fee with respect to a late position adjustment would provide for the equitable allocation of reasonable fees. Currently, the fee is designed (i) to align with DTC's operational cost (approximately 71% of the fee), and (ii) to have a deterrent effect on late adjustments (approximately 29% of the fee). DTC's operational costs for late position adjustments would not change pursuant to the proposed rule change. However, as noted above, under the current fee approximately 10% of Record Date Position adjustments continue to be late, which suggests that the disincentive portion of the current fee does not have a sufficient

²⁹ 15 U.S.C. 78q-1(b)(3)(D).

deterrent effect. Further, pursuant to the proposed rule change, the risks associated with the manual processing of late position adjustments—the risk of error and the associated risks of delayed allocation or re-allocation of the distribution—would be disproportionately greater than any risks associated with timely position adjustments. Currently, both timely and late Record Date Position adjustments carry the risks associated with manual processing. However, pursuant to the proposed rule change, only late Record Date Position adjustments would be subject to the risks of manual processing because timely Record Date Position adjustments would be performed through the CA Web. Given the insufficient deterrent effect of the current fee and the disproportionate risks of late position adjustments, DTC believes that discouraging late Record Date Position adjustments would be more crucial than before. As such, DTC believes that the proposed increase of the fee is reasonable because the increase from three hundred and fifty dollars (\$350) to five hundred dollars (\$500) is a modest amount designed to provide a stronger disincentive to Participants from submitting late position adjustments. DTC believes that this stronger disincentive could reduce the number of late position adjustments and encourage Participants to use the PAT functionality through CA Web, thereby promoting an efficient process and avoiding the risks of manual processing, which could result in delayed allocations or otherwise affect payment finality. In addition, DTC believes that the proposed rule change provides for the equitable allocation of fees because all Participants that submit a late position adjustment would be equally subject to the fee, which would continue to be charged on a per adjustment basis irrespective of security-type or value of the distribution. Therefore, DTC believes that

the proposed rule change would provide for the equitable allocation of reasonable fees among Participants, consistent with Section 17A(b)(3)(D) of the Act.

In addition, the proposed rule change is designed to be consistent with Rule 17Ad-22(e)(21) promulgated under the Act.³⁰ Rule 17Ad-22(e)(21) requires DTC, inter alia, to 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. The proposed rule change, as described above, would modify the Operational Arrangements and the Distributions Guide to streamline the position adjustment process for Participants that held Treasury Shares or Repurchased Debt Securities on the record date for a dividend or interest payment, which would enhance (i) efficiency in making such adjustments by reducing DTC's manual intervention in the process, and (ii) effectiveness in making such adjustments by providing PAT functionality to Participants to make their own Record Date Position adjustments and discouraging manual processing. Therefore, by establishing a more efficient and effective process for Participants to reduce their entitlements to Record Date Distributions in respect of Treasury Shares or Repurchased Debt Securities, and consequently, for DTC to allocate Record Date Distributions, DTC believes that the proposed change is consistent with the requirements of Rule 17Ad-22(e)(21), promulgated under the Act, cited above.

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

DTC believes that the proposed rule change with respect to streamlining the process for reducing payment to a Participant of a dividend or interest payment, when

³⁰ 17 CFR 240.17Ad-22(e)(21).

such Participant held Treasury Shares or Repurchased Debt Securities on the record date for the distribution, would not have an impact on competition.³¹ Although the proposed rule change requires Participants to use the CA Web to make Record Date Position adjustments, the requirement to use the CA Web, which would facilitate the position adjustment process for all Participants, would not impose a burden on competition. The CA Web is an existing DTC platform that all Participants are required to use to access other types of services, and is already used by Participants to view their Record Date Positions and related entitlements. In addition, the requirement would apply equally to all Participants that held Treasury Shares or Repurchased Debt Securities on the record date for a dividend or interest payment. Therefore, DTC believes that the proposed rule change with respect to streamlining the process of Record Date Position adjustments would not impose a burden on competition.

DTC believes that the proposed rule change to decrease the fee for a timely position adjustment may impact competition, but would not create a burden on competition.³² The decreased fee could promote competition by positively impacting Participants' operating costs. Based on the foregoing, DTC believes that the proposed rule change would not impose a burden on competition, but may promote competition.

DTC believes that the proposed rule change to increase the fee for a late position adjustment could have an impact on competition because it could create a burden on competition by increasing Participants' fees and thereby negatively affect such Participants' operating costs. However, DTC believes that any burden on competition

³¹ 15 U.S.C. 78q-1(b)(3)(I).

³² Id.

would not be significant and would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.³³ DTC believes any burden on competition would not be significant because (i) ideally, the fee would apply no one, as Participants would be discouraged from submitting late position adjustments, (ii) the fee would only apply when a Participant holds Treasury Shares or Repurchased Debt Securities on the record date of a dividend or interest distribution, and a Participant could only be charged once per distribution event, (iii) the fee would be charged on a per-adjustment basis, irrespective of security-type or value of the distribution, and would apply equally to any Participant that submits a late position adjustment, (iv) Participants can manage their late fees by making timely position adjustments, and (v) the amount of the increase, one hundred and fifty dollars (\$150), is a modest amount that could be managed by Participants by making timely position adjustments. Therefore, DTC believes that the proposed rule change to the fee for late position adjustments would not impose a significant burden on competition.³⁴

DTC believes that any burden on competition that may be created by the proposed rule change to increase the fee for late position adjustments would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.³⁵ DTC believes that the proposed rule change to increase the fee for late position adjustments, in order to encourage streamlined processing of position adjustments and discourage manual and exception processing of position adjustments,

³³ Id.

³⁴ Id.

³⁵ Id.

would be necessary in furtherance of the purposes of the Act because the Rules must be designed to promote the prompt and accurate clearance and settlement of securities transactions.³⁶ As discussed above, under the current fee approximately 10% of Record Date Position adjustments continue to be late, which suggests that the disincentive portion of the current fee does not have a sufficient deterrent effect. Further, pursuant to the proposed rule change, the risks associated with the manual processing of late position adjustments—the risk of error and the associated risks of delayed allocation or re-allocation of the distribution—would be disproportionately greater than any risks associated with timely position adjustments. Currently, both timely and late Record Date Position adjustments carry the risks associated with manual processing, but pursuant to the proposed rule change, only late Record Date Position adjustments would be subject to the risks of manual processing because timely Record Date Position adjustments would be performed through the CA Web. In light of the insufficient deterrent effect of the current fee and the disproportionate risks of late position adjustments, DTC believes that increasing the fee for late position adjustments is necessary in order to discourage late Record Date Position adjustments, which may lead to errors that could result in an imbalance with the Agent and delayed allocation or incorrect allocations which would need to be reversed and reallocated, thereby affecting payment finality. In addition, reversed or delayed allocations could also impact Participants that had relied on the allocation to effect other securities transactions. Thus, DTC believes that the proposed rule change to increase the fee for late position adjustments is designed to promote the prompt and accurate clearance and settlement of securities transactions and would

³⁶ 15 U.S.C. 78q-1(b)(3)(F).

therefore be necessary in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.

DTC believes that the proposed rule change to increase the fee for late position adjustments, in order to encourage streamlined processing of position adjustments and to discourage manual and exception processing of position adjustments, would be appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.³⁷ As discussed above, DTC believes that the current fee does not have a sufficient deterrent effect on late position adjustments. Therefore, DTC believes that it would be appropriate to increase the disincentive portion of the fee by one hundred and fifty dollars (\$150) in order to strengthen the deterrent effect of the fee on late position adjustments. In addition, DTC believes that the proposed rule change provides for the equitable allocation of fees because all Participants that submit a late position adjustment would be equally subject to the fee, which would continue to be charged on a per adjustment basis irrespective of security-type or value of the distribution. Therefore, DTC believes that the proposed rule change to increase the late fee for late position adjustments would be appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.³⁸

DTC does not believe that the proposed rule change with respect to the clarifying and ministerial changes to the Operational Arrangements and the Fee Guide would have any impact on competition³⁹ because it would merely update the Operational

³⁷ 15 U.S.C. 78q-1(b)(3)(I).

³⁸ Id.

³⁹ Id.

Arrangements and the Fee Guide to make changes for accuracy and clarity, and therefore would not affect the rights and obligations of any Participant or other interested party.

(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

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) of the Act and Rule 19b-4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

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-2018-007 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-2018-007. 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-2018-007 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.⁴⁰

Eduardo A. Aleman
Assistant Secretary

⁴⁰ 17 CFR 200.30-3(a)(12).