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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92249; File No. SR-DTC-2021-005]

**Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of
and Immediate Effectiveness of Proposed Rule Change to Modify the DTC
Settlement Service Guide and the Form of DTC Pledgee's Agreement**

June 24, 2021

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 15, 2021, 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 primarily 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 modify the DTC Settlement Service Guide (“Settlement Guide”)⁶ and the form of DTC Pledgee’s Agreement (“Pledgee’s Agreement”),⁷ as described below. Specifically, the proposed rule change would revise text in the Settlement Guide and Pledgee’s Agreement to clarify the text with respect to the processing of book entries of Pledge-related⁸ activity at DTC. The proposed revisions

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

⁶ Available at <https://www.dtcc.com/legal/rules-and-procedures>. The Settlement Guide constitutes Procedures of DTC relating to its Settlement services. 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, infra note 7. DTC’s Procedures are filed with the Commission. They are binding on DTC and each Participant in the same manner as they are bound by the Rules. See Rule 27, infra note 7.

⁷ Available at <https://www.dtcc.com/legal/rules-and-procedures>. Pursuant to Rule 2, Section 3, an entity that uses DTC’s Pledge services must enter into an agreement with DTC satisfactory to DTC. See Rule 2, Section 3, supra note 5. In this regard, DTC requires a Pledgee that is not a Participant to sign a Pledgee’s Agreement. Participants enter into a Participant’s Agreement that binds them to the Rules and Procedures (including, but not limited to, those related to Pledge activity), and are not required by DTC to enter into a separate Pledgee’s Agreement. See also Rule 2, Section 1, supra note 5 (providing terms of the Participant’s Agreement).

⁸ Pursuant to Rule 1, the defined term “Pledge” in the Rules means, inter alia, “creating or providing for a security interest in a Certificated or Uncertificated Security, a Securities Account or a Securities [sic] Entitlement in accordance with the NYUCC.” See Rule 1, supra note 5. Pursuant to Rule 1, the term “NYUCC” means the Uniform Commercial Code of New York, as amended from time to time. See Rule 1, supra note 5. Pursuant to Rule 1, the term “Certificated Security” has the meaning given to the term “certificated security” in Section 8-102 of the NYUCC. See Rule 1, supra note 5. Pursuant to Section 8-102 of the NYUCC, “certificated security” means a security that is represented by a certificate. See NYUCC 8-102. Pursuant to Rule 1, the term “Uncertificated Security” has the meaning given to the term “uncertificated security” in Section 8-

would reflect in the text of the Settlement Guide and Pledgee’s Agreement that Pledged Securities remain credited to a Pledgor’s Account unless the Pledgee makes a demand for the Pledged Securities, as described below. In this regard, the respective texts of the Settlement Guide and the Pledgee’s Agreement currently indicate that Pledged Securities are credited to a Pledgee’s Account. As discussed below, the proposed rule change relates to a technical aspect of the operational processing of Pledge transactions and would not impact the rights or obligations of a Participant or Pledgee are. The text of the proposed changes to the rules of DTC are described in greater detail below.

102 of the NYUCC. See Rule 1, supra note 5. Pursuant to Section 8-102 of the NYUCC, “uncertificated security” means a security that is not represented by a certificate. Pursuant to Rule 1, the term “Securities Account” (1) as used with respect to a Participant or Pledgee, means an account maintained by DTC for the Participant or Pledgee to which Securities transactions of the Participant or Pledgee effected through the facilities of DTC are debited and credited in the manner specified in the Rules and Procedures; and (2) as used with respect to DTC, means an internal account of DTC to which Securities transactions are debited and credited to DTC. See Rule 1, supra note 5. Pursuant to Rule 1, the term “Security Entitlement” has the meaning given to the term “security entitlement” in Section 8-102 of the NYUCC. The interest of a Participant or Pledgee in a Security credited to its Account is a Security Entitlement. See id. Pursuant to Section 8-102 of the NYUCC, “security entitlement” means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5. See NYUCC § 8-102. NYUCC § 8-501(b) provides that a person acquires a “security entitlement” when, inter alia, a securities intermediary indicates by book entry that a financial asset has been credited to the person’s securities account. The absence of the crediting of a financial asset to an account of a Pledgee and the fact that an account of a Pledgee is not a securities account under Article 8 mean that the Pledgee has not acquired a security entitlement under Article 8. See NYUCC § 8-501(b). Pursuant to Section 8-102, “entitlement holder” means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of Section 8-501(b)(2) or (3), that person is the entitlement holder. See NYUCC § 8-102.

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.

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

1. Purpose

The proposed rule change of DTC would modify the Settlement Guide and the form of Pledgee's Agreement, as described below. Specifically, the proposed rule change would revise text in the Settlement Guide and Pledgee's Agreement to clarify the text with respect to the processing of book entries of Pledge-related⁹ activity at DTC. The proposed revisions would reflect in the text of the Settlement Guide and Pledgee's Agreement that Pledged Securities remain credited to a Pledgor's Account unless the Pledgee makes a demand for the Pledged Securities, as described below. In this regard, the respective texts of the Settlement Guide and the Pledgee's Agreement currently indicate that Pledged Securities are credited to a Pledgee's Account. As discussed below, the proposed rule change relates to a technical aspect of the operational processing of Pledge transactions and would not impact the rights or obligations of a Participant or Pledgee.

⁹ See supra note 8.

The following discussion is provided by DTC and includes, but is not limited to, its own analysis of applicable state law provisions that DTC believes are relevant for purposes of describing the proposed rule change.

Background

Eligibility for Pledge Services

The Pledge services of DTC are available to banks, trust companies, broker-dealers and other Persons approved by DTC, which have entered into an agreement with DTC that is satisfactory to it, for the purpose of effecting a Pledge of Deposited Securities to such banks, trust companies, broker-dealers and other Persons.¹⁰ A Pledgee may but need not be a Participant. A Pledgee is required by DTC to sign a Pledgee's Agreement unless it is also a Participant. Participants are not required to sign a separate Pledgee's Agreement to use DTC's pledge services because the Participant's Agreement binds the Participant to DTC's Rules and Procedures, including those relating to Pledge-related activity. Only a Pledgee that is a Participant may receive a Pledge Versus Payment.¹¹

Book Entry of Pledges and Legal Effect

As indicated above, the definition of a "Security Entitlement" in the DTC Rules incorporates the definition of such term in Article 8 of the NYUCC and notes that "[t]he interest of a Participant or Pledgee in a Security credited to its Account is a Security Entitlement."

¹⁰ See Rule 2, Section 3, supra note 5.

¹¹ See id.

However, as more fully discussed below, while the Settlement Guide and the Pledgee's Agreement make reference to the movement of Securities to a Pledgee's Account, from an operational standpoint, DTC does not in fact credit a Security to an Account of a Pledgee; what the Pledgee receives is not a Security Entitlement. The Securities remain credited to the Pledgor's account until the Pledgee releases the Pledged Securities or makes a demand for the Pledged Securities, as discussed below. Rather, a notation is placed on the Account of the Pledgor that the Securities are Pledged to the Pledgee, and the Securities remain in Pledged status until the Pledgee instructs otherwise.

As described below, this bookkeeping method does not adversely impact the rights of the Pledgee in that the Pledgee maintains Control over the Pledged Securities, and the Pledged Securities cannot be used by the Pledgor for any other transaction unless the Pledgee releases the Securities from the Pledged status through an instruction to DTC.

DTC's Description of Pledge

The Settlement Guide states that:

“[w]hen pledging securities to a pledgee, the pledgor's position is moved from the pledgor's general free account to the pledgee's account which prevents the pledged position from being used to complete other transactions. Likewise, the release of a pledged position would move the pledged position back to the pledgor's general free account where it would then be available to complete other transactions.”¹²

Paragraph 2 of DTC's form of Pledgee's Agreement provides that:

“[s]o long as Pledgee shall maintain a Depository Trust account, Depository Trust, upon the pledge to Pledgee of securities held by Depository Trust for the account

¹² See Settlement Guide, supra note 6 at 3-4.

of any depositor in Depository Trust, will make appropriate entries on its books transferring the securities from the account of such depositor to the account of Pledgee and shall maintain such securities in the account of Pledgee until instructed by Pledgee to release such securities to the account of the pledgor, to deliver such securities to the order of Pledgee or to transfer such securities on the books of Depository Trust to the account of a depositor in Depository Trust other than the pledgor.”

The descriptions of DTC’s Pledge arrangements in the (1) Settlement Guide, with respect to the text shown above, and as more fully described below, and (2) form of Pledgee’s Agreement are imprecise because in practice DTC does not move or transfer the securities from an account of the Pledgor to an account of the Pledgee, as more fully described below.

The definition of a “Security Entitlement” in the DTC Rules incorporates the definition of such term in Article 8 of the NYUCC and notes that “[t]he interest of a Participant or Pledgee in a Security credited to its Account is a Security Entitlement.”

However, since DTC is not in fact crediting a Security to an Account of a Pledgee, what the Pledgee receives is not a Security Entitlement.

The definition of an “Entitlement Holder” in the DTC Rules incorporates the definition of such term in Article 8 of the NYUCC (as to which see below) and notes that “[a] Participant or Pledgee is an Entitlement Holder with respect to a Security credited to its Account”.

However, since DTC is not in fact crediting a Security to an Account of a Pledgee, the Pledgee is not an Entitlement Holder. However, the Pledgee maintains Control of the Pledged Securities as more fully described below. A key to a Pledgee exercising its Control is its ability to instruct through DTC an Entitlement Order for the delivery, Pledge release or withdrawal of a security.

Entitlement Order

The definition of an “Entitlement Order” in the Rules incorporates the definition of such term in Article 8 of the NYUCC that “[a]n instruction from a Participant or Pledgee to the Corporation with respect to a Delivery, Pledge, Release or Withdrawal of a Security credited to a Securities Account is an Entitlement Order”.

Note that the definition of an Entitlement Order does not require that the Security be credited to a Securities Account of the instructor. The breadth of this definition allows permitted entities, such as Pledgees, to issue Entitlement Orders to DTC in respect of Securities credited to Securities Accounts belonging to others.

DTC Rule 9(B)¹³ provides that:

“[i]f [DTC] receives an instruction from a Pledgee to effect a Delivery or Withdrawal of Pledged Securities, such instruction shall have the effect of notifying [DTC] that the Pledgee elects not to Release the Pledged Securities but, rather, to assert its Control over the Pledged Securities by the transfer of a greater interest in the Pledged Securities to itself or another Person. [DTC] shall accept such an instruction as a representation that the Pledgee is acting in accordance with applicable law, rules or regulations, agreements or any adjudication thereof.”

¹³ See Rule 9(B), supra note 5.

Under NYUCC Section 8-507(a),¹⁴ a securities intermediary satisfies its duty to comply with an Entitlement Order if it acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary. DTC satisfies its duty to comply with an Entitlement Order if it acts with respect to the duty as agreed upon by the Entitlement Holder and the Securities Intermediary. In the case of Security Entitlements Pledged on the books of DTC, DTC satisfies its duty to comply with an Entitlement Order by complying with the Entitlement Order of the Pledgee.

Control

Under NYUCC Section 9-106(a),¹⁵ “[a] person has control of a certificated security, uncertificated security, or security entitlement as provided in Section 8-106”.¹⁶

Under NYUCC Section 8-106(d), “[a] purchaser has “control” of a security entitlement if:

- (1) the purchaser becomes the entitlement holder;
- (2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; or
- (3) another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.”

¹⁴ NYUCC § 8-507(a).

¹⁵ See NYUCC § 9-106(a).

¹⁶ NYUCC § 8-106.

Under NYUCC Section 1-102,¹⁷ a purchaser is “a person that takes by purchase” with “purchase” being defined as “taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property”.

NYUCC Section 8-106(f) further provides that “[a] purchaser has “control” under subsection (c)(2) or (d)(2) even if any duty of the issuer or the securities intermediary to comply with instructions or entitlement orders originated by the purchaser is subject to any condition or conditions (other than further consent by the registered owner or the entitlement holder).”

Official Comment 4 to NYUCC Section 8-106¹⁸ notes that:

“[s]ubsection (d)(2) provides that a purchaser has control if the securities intermediary has agreed to act on entitlement orders originated by the purchaser if no further consent by the entitlement holder is required. Under subsection (d)(2), control may be achieved even though the original entitlement holder remains as the entitlement holder.”

Example 6 of Official Comment 4 is illustrative:

“Able & Co., a securities dealer, grants Alpha Bank a security interest in a security entitlement that includes 1000 shares of XYZ Co. stock that Able holds through an account with Clearing Corporation. Able causes Clearing Corporation to transfer the shares into a pledge account, pursuant to an agreement under which Able will continue to receive dividends, distributions, and the like, but Alpha has the right to direct

¹⁷ See NYUCC § 1-102.

¹⁸ See NYUCC § 8-106.

dispositions. As in Example 3, Alpha has control of the 1000 shares under subsection (d)(2).”

In the case of security entitlements Pledged on the books of DTC, because DTC will comply with the instructions of a Pledgee as provided for in Rule 9(B),¹⁹ which is an agreement between DTC and its Participants and Pledgees, a Pledgee has control of such security entitlements under NYUCC Section 8-106(d)(2) even when the Pledged Securities remain credited to the account of the Pledgor.

DTC’s Pledge arrangements operate pursuant to the DTC Rules and the NYUCC. When Security Entitlements are Pledged to a Pledgee through the facilities of DTC, the Pledgee has a security interest in such Pledged Security Entitlements.²⁰ A Pledgee has “control” under Articles 8 and 9 of the NYUCC and under the DTC Rules of any Security Entitlements Pledged to it through the facilities of DTC,²¹ and the Pledgee is empowered to issue Entitlement Orders²² to DTC to direct the release, delivery or withdrawal of any such Pledged Security Entitlements.

¹⁹ See Rule 9(B), supra note 5.

²⁰ The interest transferred is, however, only a security interest if the Pledgor and Pledgee have an agreement outside of DTC that constitutes a security agreement under applicable law and as to which the other requirements for attachment and enforceability of a security interest have been satisfied. The agreement is entered into by the parties outside of DTC, and DTC does not have knowledge or information on the existence of such an agreement between the parties.

²¹ The definition of “Control” in the Rules incorporates the definition of such term in Article 8 of the NYUCC and notes that “[a] Pledgee has Control of Pledged Securities until they are Delivered, Released or Withdrawn by the Pledgee.” See Rule 1, Section 1, supra note 5.

²² The definition of an “Entitlement Order” in the Rules incorporates the definition of such term in Section 8-102 of the NYUCC and notes that “[a]n instruction from a Participant or Pledgee to the Corporation with respect to a Delivery, Pledge, Release or Withdrawal of a Security credited to a Securities Account is an

Example of a Pledge by a Participant to a Pledgee

When Security Entitlements credited to Participant A's account at DTC are Pledged to Pledgee B through the facilities of DTC, B has a security interest in such Pledged security entitlements.²³

B does not itself have "security entitlements" to the underlying securities and B is not an "entitlement holder" as such terms are defined in the NYUCC.

However, B as Pledgee would have "control" under Articles 8 and 9 of the NYUCC and under the Rules of any Security Entitlements Pledged to it through the facilities of DTC, and B is empowered to issue Entitlement Orders to DTC to direct the release, delivery or withdrawal of any such Pledged Security Entitlements.

Proposed Rule Change

Proposed change to text of Settlement Guide

Pursuant to the proposed rule change, DTC would revise the text of the Settlement Guide to reflect that Pledged Securities would not move to an Account of the Pledgee. As discussed above, the movement of the securities is not required to effect a Pledge and does not impact the rights of Pledgor or Pledgee under the Rules or the NYUCC. Rather Pledged Securities continue to be credited to the Pledgor's account, however with a system notation showing the status of the position as Pledged by the Pledgor to the

Entitlement Order". As noted above, pursuant to Section 8-102, "entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement. See NYUCC 8-102.

²³ As mentioned above, the interest transferred is, however, only a security interest if A and B have an agreement outside of DTC that constitutes a security agreement under applicable law and as to which the other requirements for attachment and enforceability of a security interest have been satisfied.

Pledgee. This status systemically prevents the Pledged position from being used to complete other transactions, which is consistent with the Pledgee's Control over the Pledged Securities, as discussed above. Likewise, the release of a Pledged position results in the removal of the notation of the Pledge status of the position and the position would become available to the Pledgor to complete other transactions.

The changes to the Settlement Guide text are technical in nature, and while enhancing clarity with respect to the book entries performed by DTC as they relate to Pledge activity, the change would not impact the rights or obligations of Participants and Pledgees. In this regard, the applicable sections of the Settlement Guide would be revised to (1) clarify the text with respect operational aspect of book entries of Pledges, as discussed above, (2) make changes to text for readability necessary in the context of the proposed clarification, and (3) revise text for consistency related to the use of the defined terms, including, but not limited to, Delivery Versus Payment, Pledge, Pledgee, Pledgor and Pledge Versus Payment, as follows: (*italicized* text indicates additions; [bracketed] text indicates deletions):

(a) Text included in Item 3 (Collateral Loans) set forth under the heading

“Settlement Transactions”²⁴ would be revised as follows:

“The collateral loan service allows a Participant (the [pledgor] *Pledgor*) to [pledge] *Pledge* securities as collateral for a loan or for other purposes and also request the release of [pledged] *Pledged* securities. This service allows such [pledges] *Pledges* and [pledge] *Pledge* releases to be made free, meaning that the money component of the transaction is settled

²⁴ See Settlement Guide, supra note 6 at 3-4.

outside of the depository, or valued, meaning that the money component of the transaction is settled through DTC as a debit/credit to the [pledgor's] *Pledgor's* and [pledgee's] *Pledgee's* DTC money settlement account. When [pledging] *Pledging* securities to a [pledgee] *Pledgee*, the [pledgor's] *Pledgor's* position [is moved from the Pledgor's general free account to the Pledgee's account] *continues to be credited to the Pledgor's account, however with a system notation showing the status of the position as Pledged by the Pledgor to the Pledgee. This status systemically* [which] prevents the [pledged] *Pledged* position from being used to complete other transactions. Likewise, the release of a [pledged] *Pledged* position [would move the pledged position back to the] *results in the removal of the notation of the Pledge status of the position and the position would become* [pledgor's general free account where it would then be] available to *the Pledgor to complete other transactions.*"

(b) Text included under the heading "About the Product" that appears under the heading "Collateral Loan Program"²⁵ would be revised as follows:

"The Collateral Loan Program allows you to [pledge] *Pledge* securities [from] *held in* your general free account as collateral for a loan or for other purposes (such as Letters of Credit) to a [pledgee] *Pledgee* participating in the program. You can also request the [pledgee] *Pledgee* to release [pledge] *Pledged* securities [back to your general free account]. These [pledges] *Pledges* and releases can be free (when money proceeds are

²⁵ See Settlement Guide, supra note 6 at 8-9.

handled outside DTC) or valued (when money proceeds are applied as debits and credits to the [pledgee's] *Pledgee's* and [pledgor's] *Pledgor's* money settlement accounts). A Pledgee may, but need not be, a Participant. Only a Pledgee which is a Participant may receive valued [pledges] *Pledges*.”

- (c) Text included under the heading “Pledges to the Options Clearing Corporation”²⁶ would be revised as follows:

“A Participant writing an option on any options exchange may fully collateralize that option by [pledging] *Pledging* the underlying securities by book-entry through DTC to the Options Clearing Corporation (OCC). If the option is called (exercised), the securities may be released and delivered to the holder of the call. If the option contract is not exercised, OCC validates a release of the [pledged] *Pledged* securities [, which are then returned to the Participant’s general free account].”

- (d) Text included under the heading “Release of Deposits with Options Clearing Corporation on Expired Options” would be revised as follows:

“OCC automatically releases securities deposited with it to cover margin requirements on an option contract when the option contract expires. [The securities are then allocated to your general free account.] Notification of the released securities is received via the Collateral Loan Services functionality in the Settlement User Interface or automated output.”

²⁶ See Settlement Guide, supra note 6 at 10.

(e) In addition to any proposed changes to apply generally with respect to the Settlement Guide text as described above, text included under the heading “Shared Control Accounts”²⁷ would be revised to delete text shown below that states “Pledgee accounts continue to be available at DTC.” This sentence was added to the text when Shared control account arrangements were added to the Procedures²⁸ to clarify that the existing Pledge-related services would continue to be offered. As both the original Pledge program and the Shared control account process are both established programs, DTC believes the sentence is no longer necessary.

About the Product

Shared control accounts are available as an alternative to “agreement to pledge” arrangements.

Background

When a Participant [pledges] *Pledges* securities to [the pledgee account of] a [pledge] *Pledgee* at DTC (sometimes called a “hard pledge”), the securities are under the sole control of the [pledgee] *Pledgee*. Only the [pledgee] *Pledgee* can redeliver or release the securities. [Pledgee accounts continue to be available at DTC.]

Shared control accounts are available at DTC as an alternative to agreement to [pledge] *Pledge* (sometimes called “agreement to deliver”) arrangements. A [pledgee] *Pledgee* has control over securities delivered by a Participant to the Participant’s shared

²⁷ See Settlement Guide, supra note 6 at 15-16.

²⁸ See Securities Exchange Act Release No. 40191 (July 10, 1998), 63 FR 38444 (July 16, 1998) (SR-DTC-98-5).

control account at DTC since the [pledge] *Pledgee* has the ability to redeliver the securities without further consent by the Participant. Until the [pledgee] *Pledgee* redelivers the securities, the Participant has the flexibility to redeliver or make substitutions for the securities without obtaining the [pledgee's] *Pledgee's* release of the securities.

Shared controls are separately identified in DTC's Reference Directory. Participants interested in establishing a shared control account should contact their Relationship Manager.

Procedures for DTC Shared Control Accounts

The following procedures are an addition to DTC's Procedures for Pledges.

1. Any Participant may establish a shared control account at DTC and may designate any DTC [pledgee] *Pledgee* to be the [pledgee] *Pledgee* for that shared control account. A Participant may deliver securities (or other financial assets) by a [free pledge] *Free Pledge* from any of its DTC accounts (the "original account") to its shared control account in order to grant a security interest or other interest in the securities to the [pledgee] *Pledgee*. The shared control account is an account of the Participant and is identified with a separate account number from any other account of the Participant. A Participant may establish multiple shared control accounts, but only one [pledge] *Pledge* can be designated for each shared control account.
2. Except as modified by these procedures, the operation of a shared control account is identical to the operation of a DTC [pledge] *Pledge*

[*account*] and all DTC procedures applicable to [pledge] *Pledge* [*accounts*] are applicable to shared control accounts. No [deliveries vs. payment] *Deliveries Versus Payment*, [pledges vs. payment] *Pledges Versus Payment*, or physical deposits can be made to a shared control account and no [deliveries vs. payment] *Pledges Versus Payment*, [pledges vs. payment] *Pledges Versus Payment*, or physical withdrawals can be made from a shared control account. A Participant should not deliver securities to another Participant's shared control account. In the instructions for a delivery of securities to a shared control account, the mandatory hypothecation code field should be completed in the same manner as it is for a *Pledge made without the use of a shared control* [delivery to a pledge] account. The DTC fees and charges for a transaction involving a shared control account are the same as the fees and charges for a *Pledge transaction that does not* [involving] *involve* a [pledge] *Pledge* account. The DTC monthly account usage charges applicable to a shared control account are charged to the Participant. The DTC reports and statements to the Participant and the [pledge] *Pledge* for a transaction involving a shared control account are the same as the reports and statements for a transaction involving a [pledge] *Pledge that does not involve a shared control* account.

3. [As with a pledge account, voting] *Voting* rights on the securities credited to a shared control account are assigned to the Participant.

Cash dividend and interest payments and other cash distributions on such securities are credited to the original account. Distribution of securities for which the ex-distribution date is on or prior to the payable date or in which the distribution is payable in a different security are also credited to the original account. Any stock splits or other distributions of the same securities for which the ex-distribution date is after the payable date are credited to the shared control account.

4. The securities credited to a shared control account cannot be designated as or included in the collateral for any obligation of the Participant or the [pledgee] *Pledgee* to DTC. DTC has no lien or other interest in any securities credited to a shared control account.”

Proposed change to text of the Pledgee’s Agreement

Pursuant to the proposed rule change, DTC would revise the text of the Pledgee’s Agreement to reflect that Pledged Securities do not move to a Pledgee account. The change is technical in nature and while enhancing clarity with respect to the book entries performed by DTC as they relate to Pledge activity, the change would not impact the rights or obligations of Participants and Pledgees pursuant to the Rules, Settlement Guide and/or the Pledgee’s Agreement. In this regard, the applicable text of the Pledgee’s Agreement would be revised as follows: (*italicized* text indicates additions; [bracketed] text indicates deletions):

“[s]o long as Pledgee shall maintain a Depository Trust account, Depository Trust, upon the pledge to Pledgee of securities held by Depository Trust for the account of any depositor in Depository Trust, will make appropriate entries on its books *to*

indicate the pledge of [transferring] the securities from [the account of] such depositor to the [account of] Pledgee and shall maintain such securities [in the account of] with a notation that the securities are pledged by the depositor to the Pledgee until instructed by Pledgee to release such securities to the [account of the] pledgor, to deliver such securities to the order of Pledgee or to transfer such securities on the books of Depository Trust to the account of a depositor in Depository Trust other than the pledgor.”

Effective Date

The proposed rule change would become effective upon filing.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act,²⁹ 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 for the reasons described below.

As described above, the proposed rule change would allow Participants and Pledgees to more readily understand the Rules and Procedures relating to the processing of book entries of Pledges at DTC by (1) clarifying text to more accurately reflect the operational process of how book entries of Pledges are entered on DTC’s system, and (2) making changes to text for readability necessary in the context of the proposed clarification. By clarifying the Rules to facilitate Participants’ and Pledgees’ ability to understand the operational processes relating to Pledge services, and in particular with respect to how book-entries are made on DTC’s system with respect to Pledge transactions, DTC believes that the proposed changes would facilitate Participants’ and

²⁹ 15 U.S.C. 78q-1(b)(3)(F).

Pledges' ability to process Pledge transactions by enhancing their understanding of how Securities subject to a Pledge transaction are credited to and held in a Pledgee's Account pending either their release from Pledge or the exercise of a demand for the Pledged Securities by the Pledgee. Therefore, by facilitating the ability of Participants to understand how book-entries of Securities movements are performed and how Pledged Securities are held, DTC believes the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(f) of the Act.³⁰

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

DTC does not believe that the proposed rule change would have any impact on competition because it would merely make technical clarifying changes and changes for enhanced readability to the text of the Settlement Guide and the Pledgee's Agreement that would not otherwise affect Participants' and Pledgees' rights or obligations.

(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 were received by DTC and were filed as an Exhibit 2 to the proposal, as required by the Form 19b-4 and the General Instructions thereto.

The proposed rule change was originally filed with the Commission in April 2021 and posted to the website of DTC's parent company, The Depository Trust and Clearing Corporation ("DTCC"). However, because the filing did not satisfy a regulatory

³⁰

Id.

formatting requirement, the Commission had to reject the filing and it was subsequently removed from the DTCC website.

In the time it has taken for DTC to refile the proposal, DTC has received several written comments, which, again, were filed as an Exhibit 2 to the proposal. Although DTC understands those comments to be generally supportive of the proposed changes, based on DTC's review of each of the comments, DTC believes there is a general misunderstanding of the purpose of this proposed rule change.

For the sake of clarity, and as more fully described above, this proposed rule change will not alter DTC's current practices. Rather, it will merely clarify how securities Pledged through DTC are recorded in DTC's system. More specifically, and as more fully described above, the Settlement Guide currently states that Securities Pledged through DTC are held in an account of the Pledgee. However, in practice, the Securities remain in the Pledgor's account but are marked as Pledged. This is the existing practice today and will not change. Rather, the proposed change will clarify the text of the Settlement Guide to better reflect the current practice. The change will not affect the legal rights or obligations of the parties involved in the pledge.

DTC will notify the Commission of any additional 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)³¹ of the Act and paragraph (f)³² of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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-2021-005 on the subject line.

Paper Comments:

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

³¹ 15 U.S.C 78s(b)(3)(A).

³² 17 CFR 240.19b-4(f).

All submissions should refer to File Number SR-DTC-2021-005. 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-2021-005 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³³

J. Matthew DeLesDernier,

Assistant Secretary.

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³³ 17 CFR 200.30-3(a)(12).