

arguments with respect to the issues identified above, as well as any other concerns they may have with the Proposed Rule Change. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act,<sup>40</sup> Rule 17Ad-22(e)(13) under the Act,<sup>41</sup> Rule 17Ad-22(e)(23)(i) under the Act,<sup>42</sup> or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4(g) under the Act,<sup>43</sup> any request for an opportunity to make an oral presentation.<sup>44</sup>

Interested persons are invited to submit written data, views, and arguments regarding whether the Proposed Rule Change should be approved or disapproved by April 16, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by April 30, 2018.

The Commission asks that commenters address the sufficiency of NSCC's statements in support of the Proposed Rule Change, which are set forth in the Notice,<sup>45</sup> in addition to any other comments they may wish to submit about the Proposed Rule Change.

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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2017-018 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-NSCC-2017-018. This file number should be included on the

subject line if email 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 NSCC and on The Depository Trust & Clearing Corporation'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-NSCC-2017-018 and should be submitted on or before April 16, 2018. Rebuttal comments should be submitted by April 30, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>46</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2018-06016 Filed 3-23-18; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82915; File No. SR-DTC-2018-001]

### Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change To Amend the By-Laws

March 20, 2018.

On February 2, 2018, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") proposed rule change

SR-DTC-2018-001, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> The proposed rule change was published for comment in the **Federal Register** on February 14, 2018.<sup>3</sup> The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission approves the proposed rule change.

#### I. Description of the Proposed Rule Change

The proposed rule change would amend the DTC By-Laws ("By-Laws")<sup>4</sup> to (1) revise DTC's governance procedures, (2) change certain DTC Board of Directors ("Board") titles, officer titles, and offices (and their respective powers and duties), (3) update the compensation section for officers, and (4) make technical changes and corrections, each discussed more fully below.

##### A. Changes to DTC's Governance Procedures

Under the proposed rule change, DTC would revise certain governance procedures of the By-Laws. Specifically, DTC proposes to (1) change the required frequency of the Board's and the Executive Committee's meetings, (2) remove the word "monthly" from the phrase "regular monthly meetings" when describing Board meetings, and (3) permit the Board to act by unanimous written consent.<sup>5</sup>

DTC proposes to reduce the required frequency of its Board meetings and Executive Committee meetings, as provided for in Section 2.6 (Meetings) of the By-Laws,<sup>6</sup> to better align the frequency of the Board meetings with those of the Fixed Income Clearing Corporation ("FICC") and the National Securities Clearing Corporation ("NSCC").<sup>7</sup> Specifically, the proposal would reduce the minimum required number of Board meetings from ten meetings per year (with at least two

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 82671 (February 8, 2018), 83 FR 6639 (February 14, 2018) (SR-DTC-2018-001) ("Notice").

<sup>4</sup> The By-Laws are included in the Rules, By-Laws and Organization Certificate of DTC ("Rules"), available at <http://www.dtcc.com/legal/rules-and-procedures>.

<sup>5</sup> Notice, 83 FR at 6640.

<sup>6</sup> Hereinafter, section references will always be to the By-Laws unless otherwise stated.

<sup>7</sup> Notice, 83 FR at 6640. DTC, FICC, and NSCC are subsidiaries of the Depository Trust and Clearing Corporation ("DTCC"), each having the same Board of Directors as DTCC. See Securities Exchange Act Release No. 74142 (January 27, 2015), 80 FR 5188 (January 30, 2015) (SR-FICC-2014-810, SR-NSCC-2014-811, SR-DTC-2014-812).

<sup>40</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>41</sup> 17 CFR 240.17Ad-22(e)(13).

<sup>42</sup> 17 CFR 240.17Ad-22(e)(23)(i).

<sup>43</sup> 17 CFR 240.19b-4(g).

<sup>44</sup> Section 19(b)(2) of the Act grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

<sup>45</sup> See Notice, *supra* note 4.

<sup>46</sup> 17 CFR 200.30-3(a)(57).

meetings during any three-month period) to six meetings per year (with at least one meeting during any three-month period).<sup>8</sup> The proposal would also delete the provision in current Section 2.6 (Meetings) requiring the Executive Committee to meet during each 30-day period in which the Board does not meet.<sup>9</sup>

Due to the proposed changes to the frequency of Board meetings and Executive Committee meetings, DTC proposes to remove the word “monthly” from Section 2.6 (Meetings).<sup>10</sup> The proposal would also permit the Board to fix times and places for its regular meetings and not require the Board to provide notice of such regular meetings.<sup>11</sup>

Finally, DTC proposes to add proposed Section 2.9 (Action by Unanimous Written Consent).<sup>12</sup> This section would permit the Board to take all actions that may be taken at a Board meeting by unanimous written consent, in lieu of an actual meeting.<sup>13</sup> The provision would require that any written consent (1) identify the action to be taken, (2) be signed by all directors, and (3) be filed with the minutes of the proceedings of the Board.<sup>14</sup>

#### *B. Changes to Certain Titles, Offices, and Related Powers and Duties*

DTC also proposes changes to the titles, offices, and related powers and duties of certain Board and officer personnel, as further described below.

##### 1. Non-Executive Chairman of the Board

DTC proposes to replace the title of “Chairman of the Board” with the title of “Non-Executive Chairman of the Board.”<sup>15</sup> DTC proposes to change its By-Laws to reflect that this position is held by a non-executive.<sup>16</sup> Therefore, DTC would change relevant references in the By-Laws from “Chairman” and “Chairman of the Board” to “Non-Executive Chairman of the Board.”<sup>17</sup> DTC also would delete certain references in the By-Laws to the Non-

Executive Chairman of the Board as a member of DTC management because the position is no longer in management.<sup>18</sup>

In the proposed Section 2.8 (Non-Executive Chairman of the Board), DTC would identify the powers and duties of the Non-Executive Chairman of the Board, including (1) general responsibility for carrying out the policies of the Board, (2) general supervision of the Board and its activities and general leadership of the Board, (3) presiding over stockholders’ meetings (when present), and (4) such other powers and duties as the Board may designate.<sup>19</sup> Proposed Section 2.8 (Non-Executive Chairman of the Board) also would include a provision stating that a presiding director (as elected by the Board) shall preside at all stockholders and Board meetings when the Non-Executive Chairman of the Board is absent.<sup>20</sup> Additionally, Proposed Section 2.8 (Non-Executive Chairman of the Board) would provide that the Non-Executive Chairman of the Board’s performance of any enumerated duty shall be conclusive evidence of his power to act.<sup>21</sup>

The proposal also identifies the individuals to whom the Non-Executive Chairman may assign duties. In proposed Section 3.2 (Powers and Duties of the President and Chief Executive Officer), the Non-Executive Chairman of the Board would have the authority to designate powers and duties to the President and Chief Executive Officer (“CEO”).<sup>22</sup> In proposed Section 3.2 (Powers and Duties of Managing Directors), DTC also would add the Non-Executive Chairman of the Board to the list of individuals who have the ability to assign powers and duties to Managing Directors.<sup>23</sup> Finally, in proposed Section 3.4 (Powers and Duties of the Secretary), the Non-Executive Chairman of the Board (*i.e.*, not the President and CEO) would have the authority to assign additional powers and duties to the Secretary.<sup>24</sup>

##### 2. Office of the CEO

DTC proposes to revise the By-Laws to reflect that one individual holds the office of the President and CEO. As such, the proposal would change the By-Laws to add the office of the CEO and combine the office of the President and the office of the CEO into one office (President and CEO).<sup>25</sup> While current Section 3.3 (Powers and Duties of the President) provides that the President shall be the CEO, current Section 3.1 (General Provisions) does not include CEO in the list of designated officer positions, though President is currently included in this list.<sup>26</sup> Therefore, DTC proposes to revise the relevant references in the By-Laws from President to President and CEO.<sup>27</sup>

Additionally, DTC proposes to make several By-Laws revisions to reflect the responsibilities for the consolidated role of President and CEO.<sup>28</sup> First, DTC would delete and replace current Section 3.3 (Powers and Duties of the President) with proposed Section 3.2 (Powers and Duties of the President and CEO).<sup>29</sup> Proposed Section 3.2 (Powers and Duties of the President and CEO) would clarify the powers and duties associated with the role of President and CEO.<sup>30</sup> For example, in proposed Section 3.2 (Powers and Duties of the President and CEO) the President and CEO would have general supervision over the overall business strategy, business operations, systems, customer outreach, as well as risk management, control, and staff functions, subject to the direction of the Board and the Non-Executive Chairman of the Board.<sup>31</sup> In addition, because the office of the Chief Operating Officer (“COO”) would be eliminated (as described further below), the current COO responsibility of general supervision over DTC’s operations in current Section 3.4 (Powers and Duties of the Chief Operating Officer) would be assigned to the President and CEO.<sup>32</sup> Proposed Section 3.2 (Powers and Duties of the President and CEO) would also delineate the authority that the Non-Executive Chairman of the Board has over the President and CEO by stating that the latter would have such other powers and perform such other duties

<sup>8</sup> Notice, 83 FR at 6640.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* Although the proposal would not require the Board to provide notice of its regular meetings, the proposal would not affect other existing notice requirements in the By-Laws, such as the requirement in Section 1.4 (Notice of Meetings) to provide notice of meetings in which stockholders are required or permitted to take action and Section 2.6 (Meetings) regarding special meetings of the Board. Rules, *supra* note 4.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Notice, 83 FR at 6641.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* This provision is designed to correct an inaccuracy in current By-Laws Section 3.3 (Powers and Duties of the President), which gives presiding authority over stockholder meetings to the President when the Chairman of the Board is absent. Proposed Section 2.8 (Non-Executive Chairman of the Board) would be consistent with the Mission Statement and Charter of DTC, FICC, NSCC, and DTCC, which gives presiding authority over stockholder meetings to a presiding director when the Non-Executive Chairman of the Board is absent.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Notice, 83 FR at 6642.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

as the Board or the Non-Executive Chairman of the Board may designate.<sup>33</sup>

DTC also proposes to reassign or reclassify several responsibilities currently assigned to the President.<sup>34</sup> Specifically, the responsibility for executing the Board's policies would be assigned to the Non-Executive Chairman of the Board rather than to the President and CEO.<sup>35</sup> Additionally, DTC would remove the statement "performance of any such duty by the President shall be conclusive evidence of his power to act" in current Section 3.3 (Powers and Duties of the President).<sup>36</sup>

As mentioned above, DTC would delete language from the By-Laws stating that, in the absence of the Chairman of the Board, the President shall preside at all meetings of shareholders and all Board meetings (when present).<sup>37</sup> Similarly, DTC would delete language from the By-Laws stating that the President and Board currently have the authority to assign powers and duties to the Comptroller in current Section 3.8 (Powers and Duties of the Comptroller), as discussed below.<sup>38</sup> In proposed Section 3.5 (Powers and Duties of the Chief Financial Officer) the President and CEO and Board would have the authority to assign duties to the Chief Financial Officer ("CFO").<sup>39</sup>

The proposal also removes certain responsibilities from the President. In proposed Section 3.4 (Powers and Duties of the Secretary), the power to assign additional powers and duties to the Secretary would be removed from the President and granted to the Non-Executive Chairman of the Board.<sup>40</sup>

### 3. Office of the CFO; Office of the Comptroller

The proposal would add the office of the CFO and assign to the CFO general supervision of the financial operations of DTC.<sup>41</sup> References in the By-Laws to the Comptroller would be deleted because DTC states that it neither has a Comptroller nor plans to appoint one.<sup>42</sup> In proposed Section 3.5 (Powers and Duties of the Chief Financial Officer) the CFO would be granted overall supervision authority over the financial operations of DTC, and upon request,

the CFO would counsel and advise other officers of DTC and perform other duties as agreed with the President and CEO (or as determined by the Board).<sup>43</sup> The proposal also provides that the CFO would report directly to the President and CEO.<sup>44</sup> Furthermore, because the Treasurer would directly report to the CFO, proposed Section 3.6 (Powers and Duties of the Treasurer) would provide that the Treasurer would have all such powers and duties as generally are incident to the position of Treasurer or as the CFO (in addition to the President and CEO and the Board) may assign.<sup>45</sup>

### 4. Office of the COO

In this proposal, DTC would delete references in the By-Laws to the COO because DTC states that it no longer has a COO and has no plans to appoint one.<sup>46</sup>

### 5. Executive Director; Vice President

In this proposal, DTC would change the title of Vice President to Executive Director, and update the Executive Director position's related powers and duties to reflect the position's seniority level.<sup>47</sup> In DTC's organizational structure, Executive Directors report to Managing Directors.<sup>48</sup> Due to this level of seniority, DTC proposes to remove provisions in the By-Laws that previously allowed Vice Presidents (now, Executive Directors) to call special meetings of shareholders, or to preside over shareholder meetings unless specifically designated to do so by the Board.<sup>49</sup>

### 6. Other Changes to the Powers and Duties of the Board and Certain Other Designated Officers

In proposed Section 3.1 (General Provisions), DTC proposes to add a parenthetical phrase to clarify that the Board's power to appoint other officers includes, but is not limited to, the power to appoint a Vice Chairman of the Corporation and one or more Executive Directors.<sup>50</sup> Additionally, in current Section 3.1 (General Provisions), DTC proposes to clarify that neither the Secretary nor any Assistant Secretary can hold the following offices (1) Vice Chairman of the Corporation or (2) President and CEO.<sup>51</sup>

The proposal also enumerates the responsibilities of DTC's Managing

Directors.<sup>52</sup> In proposed Section 1.2 (Special Meetings), Managing Directors would be added to the list of officers authorized to call special meetings of the stockholders.<sup>53</sup> Similarly, in proposed Section 2.6 (Meetings), Managing Directors would be added to the list of officers authorized to call special meetings of the Board.<sup>54</sup> Further, in current Section 6.1 (Certificates for Shares), Managing Directors would be removed from the list of officers authorized to sign certificates for shares, enabling DTC to limit the authorized signatories of certificates for shares of DTC to a smaller number of individuals within senior management.<sup>55</sup>

DTC also proposes to amend the By-Laws to remove specific powers from the Treasurer and Assistant Treasurer.<sup>56</sup> In current Section 6.1 (Certificates for Shares), DTC proposes to delete the reference to Treasurer and Assistant Treasurer from the list of authorized signatories because DTC expects the Secretary or Assistant Secretary (who are each currently listed as authorized signatories) to sign any share certificates.<sup>57</sup>

### C. Compensation of the President and CEO

Proposed Section 3.10 (Compensation of the President and CEO) would reflect DTC's current compensation-setting practices. Current Section 3.12 (Compensation of Officers) states that (1) the compensation, if any, of the Chairman of the Board, and the President shall be fixed by a majority (which shall not include the Chairman of the Board or the President) of the entire Board of Directors, and (2) salaries of all other officers shall be fixed by the President with the approval of the Board and no officer shall be precluded from receiving a salary because he is also a director.<sup>58</sup> DTC proposes to state that the Compensation Committee of the Corporation will recommend the compensation for the President and CEO to the Board of Directors for approval.<sup>59</sup> In addition, DTC also proposes to delete the language stating that (1) salaries of all other officers shall be fixed by the President with approval of the Board, and (2) no officer shall be precluded

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* As stated above, that power resides with the presiding director who is elected annually by the Board. See *supra* note 20.

<sup>38</sup> Notice, 83 FR at 6642.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Notice, 83 FR at 6643.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> Notice, 83 FR at 6643–44. DTC states that it proposes this change for consistency with the DTCC/DTCC/FICC/NSCC Compensation and Human Resources Committee Charter. *Id.*

from receiving a salary because he is also a director.<sup>60</sup> DTC proposes to delete compensation-related references to the Chairman of the Board because the Non-Executive Chairman of the Board does not receive compensation.<sup>61</sup> Finally, DTC proposes to change the title of proposed Section 3.10 from “Compensation of Officers” to “Compensation of the President and Chief Executive Officer” because this section would no longer address the compensation of officers other than the President and CEO.<sup>62</sup>

#### D. Technical Changes and Corrections

DTC proposes technical changes and/or corrections to the By-Laws for clarity and readability, as described below.<sup>63</sup>

##### 1. Statutory References and Requirements

DTC would delete direct statutory references from the By-Laws.<sup>64</sup> DTC states that it would make this change to have the By-Laws remain consistent and accurate despite any changes to a specifically cited statute.<sup>65</sup>

##### 2. Audit Committee

DTC proposes to revise proposed Section 2.11 (Audit Committee) to have the description of its Audit Committee conform to the description of the Audit Committee in the by-laws of FICC.<sup>66</sup>

##### 3. Other Technical Changes and Corrections

DTC proposes to make additional technical and grammatical changes to address (1) typographical errors, (2) section numbering, (3) grammatical errors, (4) heading consistency, and (5) gender references.<sup>67</sup>

## II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization.<sup>68</sup> The Commission believes the proposal is consistent with Act, specifically Section 17A(b)(3)(F) of the Act and Rules 17Ad-22(e)(1) and, in part, (2) under the Act.<sup>69</sup>

#### A. Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency, such as DTC, be designed to protect the public interest.<sup>70</sup> As discussed above, the proposed rule change would make a number of updates to the By-Laws.

First, the proposed changes to the By-Laws would provide specific requirements for, and remove ambiguous language around, the Board’s required meeting frequency. Specifically, the proposal would align the frequency of Board meetings with the frequency of the related FICC and NSCC meetings, reducing the number of Board meetings to six annually. The proposal also would state that the Board may act through unanimous written consent, clarifying that the Board can make important decisions without having to conduct a formal Board meeting. Further, the proposal would eliminate the word “monthly” from the By-Laws’ description of the Board’s meeting frequency, removing ambiguity around whether the Board must meet monthly (given the required number of meetings is six). Altogether, these proposed governance changes would help enable DTC and its stakeholders to better understand when, and specifically, how often, the Board must conduct meetings.

Second, DTC proposes to revise DTC’s description of the titles and responsibilities of its Board and senior management to match DTC’s current corporate structure. These changes would help the Board, as well as DTC’s management, employees, and participants, understand which officer or office is responsible for each of DTC’s executive-level functions.

Third, the proposal would update the compensation-setting section of the By-Laws to reflect the Compensation Committee Charter practice, as well as to reflect that the Non-Executive Chairman of the Board would not receive compensation. The proposal’s increased clarity around compensation-setting would better inform DTC stakeholders and the general public about how DTC sets the level of compensation for its highest-level executive (the President and CEO) and that the Non-Executive Chairman does not draw a salary.

Finally, DTC’s proposed technical changes and corrections to its By-Laws would enhance the clarity, transparency, and readability of DTC’s organizational documents. In this way, the proposal would better enable the

Board, as well as DTC’s management, employees, and participants, to understand their respective authorities, rights, and obligations regarding DTC’s clearance and settlement of securities transactions.

Governance arrangements are critical to the sound operation of clearing agencies.<sup>71</sup> Specifically, clear and transparent governance documents promote accountability and reliability in the decisions, rules, and procedures of a clearing agency.<sup>72</sup> Clear and transparent governance documents also provide interested parties, including owners, participants, and general members of the public, with information about how a clearing agency’s decisions are made and what the rules and procedures are designed to accomplish.<sup>73</sup> Further, the decisions, rules, and procedures of a clearing agency are important, as they can have widespread impact, affecting multiple market participants, financial institutions, markets, and jurisdictions.<sup>74</sup>

As stated above, the proposed rule change would provide DTC stakeholders with a better understanding of how DTC makes decisions that could ultimately affect the financial system. Such transparency helps ensure that DTC reliably makes decisions and follows clearly articulated policies and procedures. Accordingly, the Commission finds that the proposed rule change is designed to enhance the clarity and transparency of DTC’s organizational documents, which would help protect the public interest, consistent with Section 17A(b)(3)(F) of the Act.<sup>75</sup>

#### B. Rule 17Ad-22(e)(1) Under the Act

Rule 17Ad-22(e)(1) under the Act requires a covered clearing agency<sup>76</sup> to

<sup>71</sup> Securities Exchange Act Release No. 71699 (May 21, 2014), 79 FR 29508 (May 22, 2014) (“Covered Clearing Agency Standards Proposing Release”) at 29521.

<sup>72</sup> Securities Exchange Act Release No. 64017 (March 3, 2011), 76 FR 14472 (March 16, 2011) at 14488.

<sup>73</sup> *Id.*

<sup>74</sup> Covered Clearing Agency Standards Proposing Release, 79 FR at 29521.

<sup>75</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>76</sup> A “covered clearing agency” means, among other things, a clearing agency registered with the Commission under Section 17A of the Exchange Act (15 U.S.C. 78q-1 *et seq.*) that is designated systemically important by the Financial Stability Oversight Counsel (“FSOC”) pursuant to the Payment, Clearing, and Settlement Supervision Act of 2010 (12 U.S.C. 5461 *et seq.*). See 17 CFR 240.17Ad-22(a)(5)–(6). On July 18, 2012, FSOC designated DTC as systemically important. U.S. Department of the Treasury, “FSOC Makes First Designations in Effort to Protect Against Future Financial Crises,” available at <https://>

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Notice, 83 FR at 6644.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Notice, 83 FR at 6644–45.

<sup>68</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>69</sup> 15 U.S.C. 78q-1(b)(3)(F); 17 CFR 240.17Ad-22(e)(1) and (2).

<sup>70</sup> 15 U.S.C. 78q-1(b)(3)(F).

establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for a well-founded, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.<sup>77</sup>

As discussed above, the proposed rule change would update the By-Laws by (1) providing specific requirements for, and removing ambiguous language around, the Board's required meeting frequency, (2) updating DTC's description of the titles and responsibilities of its Board and senior management to match DTC's current corporate structure, (3) documenting DTC's current compensation-setting process, and (4) enacting technical corrections to increase readability.

Each of the proposed changes is designed to help ensure that the By-Laws better reflect DTC's governance practices in a clear, transparent, and consistent manner. This increased transparency would help convey to DTC's stakeholders, and the public generally, a key legal basis for the activities of the highest levels of DTC's leadership described in the By-Laws. Therefore, the Commission finds that the proposed rule change is designed to help ensure that DTC's organizational documents remain well-founded, transparent, and legally enforceable in all relevant jurisdictions, consistent with Rule 17Ad-22(e)(1) under the Act.<sup>78</sup>

#### *C. Rule 17Ad-22(e)(2)(i) and (v) Under the Act*

Rule 17Ad-22(e)(2)(i) and (v) under the Act requires that DTC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that, among other things, (1) are clear and transparent and (2) specify clear and direct lines of responsibility.<sup>79</sup>

As described above, DTC proposes a number of changes to its By-Laws that would provide clarity and transparency by setting specific standards for DTC (in the case of Board meeting frequency), and revising By-Laws provisions that were outdated or incorrect (in the case of responsibilities and titles of its Board members and senior management, compensation-setting practices, and technical edits). Specifically, the new Board meeting requirements would set clear numerical parameters around the

specific frequency of such meetings, while also providing consistency with similar meetings at FICC and NSCC. The proposal also would provide clarity that the Board does not have to meet monthly (as is currently stated) by removing the qualifier "monthly." The proposed change allowing the Board to act by unanimous written consent, in lieu of a meeting, also would help provide transparency by clearly indicating how the Board may act without conducting a formal meeting. Similarly, the proposed changes to the titles and offices (and their related powers and duties) would provide clarity and transparency because they would clearly set forth DTC's current organizational structure, including the lines of responsibility of various officers and the Board. The proposed changes relating to compensation-setting would also give clarity and transparency by (1) accurately reflecting the process that is followed pursuant to the Compensation Committee Charter, and (2) clarifying that the Non-Executive Chairman of the Board does not receive compensation. Finally, the proposed technical changes and corrections would raise the clarity and transparency of the By-Laws by removing grammatical and typographical errors.

For these reasons, the Commission finds that the proposed rule change is designed to enhance clarity and transparency in DTC's governance arrangements, as well as to specify clear and direct lines of responsibility for various officer positions and the Board within DTC's organizational structure, consistent with Rule 17Ad-22(e)(2)(i) and (v) under the Act.<sup>80</sup>

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act<sup>81</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR-DTC-2018-001 be, and hereby is, APPROVED.<sup>82</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>83</sup>

**Eduardo A. Aleman**,  
*Assistant Secretary*.

[FR Doc. 2018-06021 Filed 3-23-18; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82916; File No. SR-NSCC-2018-001]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Amend the By-Laws

March 20, 2018.

On February 2, 2018, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-NSCC-2018-001, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> The proposed rule change was published for comment in the **Federal Register** on February 14, 2018.<sup>3</sup> The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission approves the proposed rule change.

#### I. Description of the Proposed Rule Change

The proposed rule change would amend the NSCC By-Laws ("By-Laws")<sup>4</sup> to (1) change certain NSCC Board of Directors ("Board") titles, officer titles, and offices (and their respective powers and duties), (2) update the compensation section for officers, and (3) make technical changes and corrections, each discussed more fully below. The proposed rule change would amend the Rules to incorporate, by reference, the By-Laws and the Certificate of Incorporation.

##### *A. Changes to Certain Titles, Offices, and Related Powers and Duties*

NSCC proposes changes to the titles, offices, and related powers and duties of

<sup>83</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 82674 (February 8, 2018), 83 FR 6633 (February 14, 2018) (SR-NSCC-2018-001) ("Notice").

<sup>4</sup> As discussed below, the By-Laws and NSCC's Certificate of Incorporation ("Certificate of Incorporation") would each be incorporated by reference into NSCC's Rules and Procedures ("Rules"), available at <http://www.dtcc.com/legal/rules-and-procedures>.

[www.treasury.gov/press-center/press-releases/Pages/tg1645.asp](http://www.treasury.gov/press-center/press-releases/Pages/tg1645.asp). Therefore, DTC is a covered clearing agency.

<sup>77</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>78</sup> *Id.*

<sup>79</sup> 17 CFR 240.17Ad-22(e)(2)(i) and (v).

<sup>80</sup> *Id.*

<sup>81</sup> 15 U.S.C. 78q-1.

<sup>82</sup> In approving the proposed rule change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).