

All submissions should refer to File Number SR–NYSEArca–2018–40. 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 such filing also will be available for inspection and copying at the principal office of the Exchange. 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–NYSEArca–2018–40, and should be submitted on or before July 24, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83544; File No. SR–DTC–2018–002]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Rules and Fee Schedule Relating to Participant and Pledgee Applications

June 28, 2018.

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 21, 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 Rules 19b–4(f)(2) and (f)(4) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The proposed rule change of DTC⁵ consists of proposed modifications to (i) the DTC Fee Schedule (“Fee Schedule”)⁶ to add two new application fees that would be charged, respectively, to legal entities that formally submit an application (“Application”) to become either a Participant⁷ (each, a “Participant Applicant”) or a Pledgee⁸ (each, a “Pledgee Applicant”) of DTC (Participant Applicants and Pledgee Applicants, referred to collectively as “Applicants”), and (ii) DTC's Policy Statements on the Admission of Participants (jointly referred to as the “Policy Statement”) with respect to the provision that requires a non-U.S. entity that applies to become a Participant (“Non-U.S. Participant Applicant”) to provide to DTC a legal opinion (“Foreign Legal Opinion”) of its counsel in its jurisdiction of organization (“Jurisdiction of Organization”).⁹ With respect to (i) above, the Fee Schedule would be amended to charge (A) each Participant Applicant a fee of \$5,000 in connection with its Application to become a Participant (“Participant Application Fee”), and (B) each Pledgee Applicant a fee of \$2,500 in connection with its Application to become a Pledgee (“Pledgee Application Fee”) (Participant Application Fee and Pledgee Application Fee, collectively referred to as “Application Fees”). With respect to (ii) above, the Policy Statement would be amended to (A)

remove the provision that requires each Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion from its counsel and (B) provide that DTC would obtain a Foreign Legal Opinion from its outside counsel (“DTC Counsel”) in the Jurisdiction of Organization of a new Non-U.S. Participant Applicant, which opinion DTC would use in conjunction with its review of the Application of that and each subsequent new Non-U.S. Participant Applicant domiciled in that Jurisdiction of Organization, as described below. Each Non-U.S. Participant Applicant would be charged a fee (“Foreign Legal Opinion Fee”) with respect to the applicable Foreign Legal Opinion obtained by DTC, as described below. The proposed rule change would also amend the Policy Statement to impose a time limit (“Time Limit”) of six months for an Applicant to complete its Application with required documentation (“Required Documentation”),¹⁰ before its Application would expire, as described below. The proposed rule change would also make other changes of a technical nature to the Rules text, as described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

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

¹⁰ The Required Documentation relates to the DTC services the Applicant seeks to utilize and includes, but is not limited to, the applicable form of agreement with DTC providing, among other matters, that the Applicant will abide by the Rules and agreeing to New York governing law. There is a standard form Participant's Agreement to be signed by a Participant Applicant, and a standard form Pledgee's Agreement to be signed by a Pledgee Applicant. Certain certifications and other documentation, including but not limited to opinions of counsel, authorizing resolutions and appointment of authorized signers, may be required of a Participant Applicant depending on the nature and level of DTC services the Participant Applicant seeks to use. Participant Applicants are also required to provide certain financial and regulatory reports and other information, as applicable, to allow DTC to evaluate the Applicant's financial condition, operational capability and character. See Rule 2, *supra* note 5, and the Policy Statement, *supra* note 9.

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)(2) and (f)(4).

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

⁶ Available at <http://www.dtcc.com/-/media/Files/Downloads/legal/fee-guides/dtcfeeguide.pdf?la=en>.

⁷ See Rule 2, Section 1, *supra* note 5.

⁸ See Rule 2, Section 3, *supra* note 5.

⁹ See Policy Statement, *supra* note 5 at 133–134.

³¹ 17 CFR 200.30–3(a)(12).

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

1. Purpose

The proposed rule change consists of proposed modifications to (i) the Fee Schedule¹¹ to add the Application Fees and (ii) the Policy Statement with respect to the provision that requires a Non-U.S. Participant Applicant to provide a Foreign Legal Opinion, as described below. With respect to (i) above, the Fee Schedule would be amended to charge (A) each Participant Applicant the proposed Participant Application Fee, and (B) each Pledgee Applicant the proposed Pledgee Application Fee, as described below. With respect to (ii) above, the Policy Statement would be amended to (A) remove the provision that requires each Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion from its counsel and (B) provide that DTC would obtain a Foreign Legal Opinion from DTC Counsel in the Jurisdiction of Organization of a new Non-U.S. Participant Applicant. Each Non-U.S. Participant Applicant would be charged a Foreign Legal Opinion Fee with respect to the applicable Foreign Legal Opinion obtained by DTC, as described below. The proposed rule change would also amend the Policy Statement to impose the Time Limit of six months for an Applicant to submit an Application, with Required Documentation, before its Application would expire, as described below. The proposed rule change would also make other changes of a technical nature to the Rules text, as described below.

Proposed Application Fees and Time Limit

DTC may approve an Applicant eligible for admission as a Participant or Pledgee¹² only upon a determination by DTC that the Applicant meets reasonable standards of financial condition, operational capability and character at the time of its Application and on an ongoing basis thereafter.¹³ To facilitate DTC's review of an Application, the Applicant must satisfy DTC's Application requirements in form and substance satisfactory to DTC, including Required Documentation, in accordance with the Rules.¹⁴

The review of Participant and Pledgee Applications by DTC requires significant application of personnel and other resources related to legal, risk, compliance, account administration and other functions. In order to align revenue with these costs, DTC proposes to amend the Fee Schedule to charge (i) a Participant Application Fee of \$5,000 to each Participant Applicant that formally submits a Participant Application on or after July 2, 2018 ("Effective Date") and (ii) a Pledgee Application Fee of \$2,500 to each Pledgee Applicant that formally submits a Pledgee Application on or after the Effective Date.

Payment of the full amount of the applicable Application Fee would be due as of the date DTC provides the Applicant with access to DTC's online Application portal ("Portal")¹⁵ and related payment instructions. An Application Fee would be non-refundable regardless of the outcome of the respective Application (*i.e.*, approval, disapproval or expiration).

Pursuant to the proposed rule change, if an Applicant does not submit a completed Application with Required Documentation within the Time Limit of six months ("Submission Timeframe"), then the Application would expire. If after the expiration of an Application, the entity still wishes to apply, it would be required to formally re-apply by submitting a new Application with the Required Documentation, and incur another charge for the applicable Application Fee. The Submission Timeframe would begin on the date that DTC provides the Applicant with access to the Portal.

DTC believes the proposed Time Limit is reasonable, necessary and appropriate because (i) Required Documentation consists primarily of standard forms and other documentation, certifications and information, as applicable, that would be readily available to an Applicant that meets the applicable DTC membership qualifications and financial and operational requirements mentioned above and (ii) information contained in the Application and Required Documentation submitted by the Applicant, including financial reports and information, authorizing resolutions, appointment of authorized signers and opinions of counsel, may become out-of-date and/or inaccurate

due to internal operational or financial changes at the Applicant, or due to changes in applicable law, if an Applicant does not complete an Application in a timely manner.

Proposed Legal Opinion Fee

The Required Documentation for U.S. and Non-U.S. Participant Applicants includes an opinion of counsel of the Applicant.¹⁶ The Applicant's counsel must provide an opinion to the effect that the Participant's Agreement—which, among other provisions, provides that the DTC Rules and By-Laws shall be a part of the terms and conditions of every contract or transaction that the Participant may make or have with DTC—will be binding and enforceable on the Applicant when it becomes a Participant.¹⁷ To the extent that a Participant Applicant is organized under the laws of a jurisdiction outside of the United States, the required opinion must, in addition, specifically address issues such as DTC's ability to enforce its Rules (including its netting and default management rules) under the applicable insolvency regime of the Jurisdiction of Organization, and the enforceability of the choice of New York law to govern the Participant's Agreement and Rules.¹⁸

In order to address the legal costs of the review of legal opinion letters for Non-U.S. Participant Applicants, DTC proposes to modify the current process for obtaining Foreign Legal Opinions and implement the new Foreign Legal Opinion Fee.

Currently, the Non-U.S. Participant Applicant provides a Foreign Legal Opinion from counsel in its Jurisdiction of Organization; the opinion is then reviewed (and negotiated with the Applicant's counsel, as needed) by DTC with the advice of DTC's counsel.

Costs to DTC to review Foreign Legal Opinions vary depending on issues raised by an Applicant's counsel in their Foreign Legal Opinion, and the level of review and negotiation required for DTC to gain comfort that the law of the Applicant's Jurisdiction of Organization does not provide material impediments to enforcement of the Rules. Foreign Legal Opinion review is typically conducted by DTC with its U.S. counsel. Often, DTC may also need advice from outside counsel in the foreign jurisdiction of the Applicant, adding to the cost of the review.

¹¹ *Supra* note 6.

¹² See Rule 3, *supra* note 5 (setting forth qualifications for eligibility for Participants) and Section 3 of Rule 2, *supra* note 5 (setting forth Persons/entity types that may become Pledgees).

¹³ See Rule 2, *supra* note 5.

¹⁴ See Rule 2, *supra* note 5, and the Policy Statement, *supra* note 9 (setting forth Required Documentation and other requirements that an

Applicant must satisfy prior to DTC's approval of the Applicant's Application).

¹⁵ The Portal is a closed website that allows Applicants to retrieve the Application forms and templates of Required Documentation and to submit completed Applications, including Required Documentation, to DTC.

¹⁶ See Sections 1 and 2 of Policy Statement, *supra* note 9.

¹⁷ See Section 1 of Rule 2, *supra* note 5 (setting forth the terms of the Participant's Agreement).

¹⁸ See Section 2 of Policy Statement, *supra* note 9.

Pursuant to the proposed rule change, DTC would select DTC Counsel to provide a Foreign Legal Opinion satisfactory to DTC for each applicable Jurisdiction of Organization. DTC would rely on each Foreign Legal Opinion for a specified time (subject to any interim change in applicable law). The proposed rule change would benefit Non-U.S. Participant Applicants because efficiencies would be gained from consolidating the process so that each Non-U.S. Participant Applicant would not be required to obtain a separate Foreign Legal Opinion. When the specified period expires, DTC would obtain periodic updates from its counsel, as reasonable.

Pursuant to the proposed rule change, the Fee Schedule would reflect that the initial Non-U.S. Participant Applicant from a given Jurisdiction of Organization to submit a Participant Application after the Effective Date, would be advised of a “Maximum Estimated Charge” based on an estimate of fees and charges provided to DTC by DTC Counsel with respect to obtaining a Foreign Legal Opinion for that Jurisdiction of Organization. DTC would advise the Non-U.S. Participant Applicant of the Maximum Estimated Charge in writing after DTC has had a reasonable opportunity to consult with DTC Counsel and obtain an estimate of fees and charges of DTC Counsel that would comprise the Maximum Estimated Charge.

DTC would attempt to minimize costs of DTC Counsel as reasonable. The amount of the Foreign Legal Opinion Fee charged to the Non-U.S. Participant Applicant would be the lesser of the Maximum Estimated Charge and the actual costs charged to DTC by DTC Counsel in connection with the review of the Foreign Legal Opinion. If within five business days after DTC advises the Non-U.S. Participant Applicant of the Maximum Estimated Charge, as described above, the Non-U.S. Participant Applicant notifies DTC in writing that it will terminate its Participant Application, the Non-U.S. Participant Applicant would not be charged a Foreign Legal Opinion Fee. If the Application is terminated, the Maximum Estimated Charge would no longer apply and DTC would obtain a new Maximum Estimated Charge from DTC Counsel if it receives a subsequent Application. If the initial Non-U.S. Participant Applicant does not terminate its Application within five business days of DTC advising it of the Maximum Estimated Charge, then the Non-U.S. Applicant would be billed for the Legal Opinion Fee in the amount that would be determined as described

above, promptly after DTC Counsel has provided to DTC a final invoice stating the actual amount to be charged to DTC for the Foreign Legal Opinion. Payment by the Non-U.S. Participant Applicant of the full amount of the Foreign Legal Opinion Fee would be due within ten business days of the Non-U.S. Participant Applicant’s receipt of an invoice, including payment instructions, from DTC.

Each subsequent Non-U.S. Participant Applicant (“Subsequent Non-U.S. Applicant”) from a Jurisdiction of Organization would be charged a Foreign Legal Opinion Fee in an amount equal to the Foreign Legal Opinion Fee charged to the first Non-U.S. Participant Applicant from the Jurisdiction of Organization that was charged a Foreign Legal Opinion Fee. DTC would notify each Subsequent Non-U.S. Applicant in writing of the amount of the Legal Opinion Fee that was determined as described above. If within five business days after DTC advises the Subsequent Non-U.S. Participant Applicant of the applicable Legal Opinion Fee, the Non-U.S. Participant Applicant notifies DTC in writing that it will terminate its Participant Application, the Non-U.S. Participant Applicant would not be charged a Foreign Legal Opinion Fee. If the Subsequent Non-U.S. Applicant does not terminate its Application within five business days of DTC advising it of the amount of the Legal Opinion Fee, then the Applicant would be billed accordingly. Payment by the Non-U.S. Participant Applicant of the full amount of the Foreign Legal Opinion Fee would be due within ten business days of the Non-U.S. Participant Applicant’s receipt of an invoice, including payment instructions, from DTC.

The Fee Schedule would not expressly include an absolute maximum amount for the Foreign Legal Opinion Fee because, based on DTC’s experience in reviewing Foreign Legal Opinions, the level of review required for DTC to gain comfort that the law of the Applicant’s Jurisdiction of Organization does not provide material impediments to enforcement of the Rules can vary significantly by jurisdiction, resulting in significant variance in counsel costs to DTC. The Fee Schedule would not include an absolute minimum amount for the Foreign Legal Opinion Fee, because DTC would not charge an Applicant a Foreign Legal Opinion Fee that is in an amount that is higher than the actual amount billed by DTC Counsel to provide the applicable Foreign Legal Opinion.

Proposed Rule Changes

DTC proposes to amend (i) the text of the Policy Statement to (a) delete text requiring that a Foreign Legal Opinion be submitted by each Non-U.S. Participant Applicant, (b) add text to reflect that the Non-U.S. Participant Applicant would be required to agree to pay a fee (*i.e.*, Foreign Legal Opinion Fee) relating to DTC obtaining a Foreign Legal Opinion from DTC Counsel, as discussed above, and (c) add a new Section 3 to the Policy Statement titled “Policy Statement on Application Fees and Time Limit for Submission of Applications and Required Documentation by Applicants,” which would set forth the proposed Time Limit and a reference to the proposed Application Fees, as described above, and (ii) the DTC Fee Schedule to add the Application Fees and Foreign Legal Opinion Fee (and related terms of payment), as described above.

The proposed rule change would also make a technical change to modify the title of the Policy Statement to “Policy Statements on the Admission of Participants and Pledgees.”

In addition, the Policy Statement would be amended to add a legend (“Legend”) stating that changes to the Policy Statement, as amended by this proposed rule change, are available at a link on www.dtcc.com. The Legend would also state that the changes have become effective upon filing with the Commission but have not yet been implemented. The Legend would state that on the Effective Date these changes will be implemented and the Legend will automatically be removed from the Policy Statement.

Effective Date

The proposed rule change would become effective on the Effective Date.

2. Statutory Basis

Section 17A(b)(3)(D) of the Act¹⁹ requires that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. DTC believes that the proposed Application Fees for Participants would be (i) equitably allocated because each Participant Applicant would be charged a fee for its Participant Application in an amount equal to the amount that each other Participant Applicant would be charged and (ii) reasonable because the respective Application Fees would allow DTC to pass through to Participant Applicants the substantial costs to DTC associated with the review of Participant Applications that would

¹⁹ 15 U.S.C. 78q–1(b)(3)(D).

otherwise be incurred by DTC. DTC believes the proposed Foreign Legal Opinion Fee would be equitably allocated because the amount charged to each Non-U.S. Participant Applicant with respect to a given Jurisdiction of Organization would be tied to, and would not exceed, the cost to DTC in obtaining the opinion for that jurisdiction, and, in accordance with the amendment to the Fee Schedule as described above, a Foreign Legal Opinion Fee in the same amount would be charged to all Applicants domiciled in the Jurisdiction of Organization for which an applicable Foreign Legal Opinion was obtained. In addition, DTC believes that the proposed Foreign Legal Opinion Fee would be reasonable because it (i) would be capped in the amount of the Maximum Estimated Charge, as described above, (ii) the amount of a Foreign Legal Opinion Fee charged to an Applicant would not be greater than the costs DTC may incur in connection with obtaining the applicable Foreign Legal Opinion, as described above and (iii) would allow DTC to pass through to Non-U.S. Participant Applicants the substantial costs to DTC associated with the review of Foreign Legal Opinions that would otherwise be incurred by DTC. Therefore, DTC believes that the proposed rule change would provide for the equitable allocation of reasonable fees among its participants, and is consistent with Section 17A(b)(3)(D).²⁰

Section 17A(b)(3)(F)²¹ of the Act, requires, *inter alia*, that the Rules are designed to promote the prompt and accurate clearance and settlement of securities transactions. DTC believes that the proposed rule change to implement the Pledge Application Fee is consistent with this provision because collection of the Pledge Application Fee would facilitate DTC's ability to cover costs to it associated with DTC's review of Pledge Applications, and therefore would facilitate DTC's ability to make prompt determinations as to whether to make its services available to a Pledge Applicant and allow the processing of Pledges by Participants to it within DTC's system. Therefore, DTC believes that by facilitating the prompt admission of qualified Pledges to DTC, and the inclusion of related pledge activity within the DTC system, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions.²² In addition, DTC believes that the proposed rule change to modify the title

of the Policy Statement to "Policy Statements on the Admission of Participants and Pledges" is consistent with this provision because it would enhance clarity as to the application of the Policy Statement, and the users of DTC's services that would be affected by it. By providing for enhanced clarity for users of DTC's services in this regard, the proposed rule change would provide users with enhanced transparency with regard to the Rules relating to applying to be able to use DTC's services, including for the processing of securities transactions, and, therefore, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions.

Section 17A(b)(3)(F)²³ of the Act, requires, *inter alia*, that the Rules are not designed to permit unfair discrimination in the admission of participants in the use of the clearing agency. DTC believes the proposed rule changes are consistent with this provision because (i) the proposal for DTC to obtain a single Foreign Legal Opinion from DTC Counsel for all new Non-U.S. Participant Applicants domiciled within a Jurisdiction of Organization, rather than requiring each Non-U.S. Participant Applicant to obtain an opinion from its own in its Jurisdiction of Organization, would provide for enhanced consistency in the review performed by DTC by eliminating the need for it to review multiple legal opinions submitted by each Applicant individually, and (ii) the proposed Time Limit would allow a sufficient amount of time for an Applicant to complete and submit to DTC the documentation and information necessary for DTC to be able to conduct its review of the Applicant's Application, as discussed above. Therefore, DTC believes that the proposed rule change would not permit unfair discrimination in the admission of participants in the use of DTC, and is consistent with the provisions of Section 17A(b)(3)(F).²⁴

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

DTC believes that the proposed changes to the Fee Schedule could impose a burden on competition because it would implement new fees payable by an Applicant in connection with an Application to DTC, thereby creating costs to the Applicant not previously realized by Applicants. DTC does not believe that any burden on competition imposed by the changes to

the Fee Schedule would be significant because (i) the Application Fees would represent de minimus amounts for qualified Applicants that meet DTC's financial standards as set forth in the Policy Statement²⁵ and (ii) the Foreign Legal Opinion Fee is unlikely to cause a material impact to a Non-U.S. Participant Applicant's overall cost of applying for DTC membership due to the coinciding proposal to eliminate the requirement for Non-U.S. Participant Applicants to provide a Foreign Legal Opinion, as described above, resulting in the elimination of the Applicant incurring the cost of obtaining a Foreign Legal Opinion from its own counsel. DTC believes that any burden on competition that is created by the proposed changes to the Fee Schedule would be necessary and appropriate in furtherance of the purposes of the Act²⁶ in order to cover substantial costs to DTC associated with the review of Participant and Pledge Applications and Foreign Legal Opinions that would otherwise be incurred by DTC, and ultimately, because DTC operates on an "at cost" fee model, its Participants generally.

DTC does not believe that the proposed rule change for DTC to obtain a single Foreign Legal Opinion from DTC Counsel for all Non-U.S. Participant Applicants domiciled within a Jurisdiction of Organization would impose a burden on competition, because it would merely shift the task of obtaining Foreign Legal Opinions to DTC. The proposed rule change may promote competition because DTC believes that the elimination of the requirement for each individual Non-U.S. Participant Applicant to obtain a Foreign Legal Opinion would facilitate enhanced consolidation and efficiency in the review of Non-U.S. Participant Applicants' Applications by DTC, as described above.

DTC does not believe the proposed rule change to implement the Time Limit for submission of Required Documentation would impact competition, because the Required Documentation consists primarily of standard agreements, forms and other documentation, certifications and information, as applicable, that are currently required of Applicants and would be readily available, or could be readily prepared, within the proposed Time Limit, by an Applicant that meets the applicable DTC membership qualifications and financial and

²⁰ *Id.*

²¹ 15 U.S.C. 78q-1(b)(3)(F).

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ See *supra* note 9 at 132 and 134.

²⁶ 15 U.S.C. 78q-1(b)(3)(I).

operational requirements mentioned above.

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

DTC has not received or solicited any written comments relating to this proposal. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) 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 email to rule-comments@sec.gov. Please include File Number SR-DTC-2018-002 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-2018-002. 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 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-2018-002 and should be submitted on or before July 24, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83530; File No. SR-Phlx-2018-50]

Self-Regulatory Organizations; Nasdaq Phlx LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Exchange's Penny Pilot Program

June 28, 2018.

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 25, 2018, Nasdaq Phlx LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

²⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 1034 (Minimum Increments)³ to extend through December 31, 2018 or the date of permanent approval, if earlier, the Penny Pilot Program in options classes in certain issues ("Penny Pilot" or "Pilot"), and to change the date when delisted classes may be replaced in the Penny Pilot.

The text of the proposed rule change is set forth below. Proposed new language is *italicized* and proposed deleted language is in brackets.

* * * * *

Nasdaq PHLX Rules

Options Rules

* * * * *

Rule 1034. Minimum Increments

(a) Except as provided in subparagraphs (i)(B) and (iii) below, all options on stocks, index options, and Exchange Traded Fund Shares quoting in decimals at \$3.00 or higher shall have a minimum increment of \$.10, and all options on stocks and index options quoting in decimals under \$3.00 shall have a minimum increment of \$.05.

(i)(A) No Change.

(B) For a pilot period scheduled to expire [June 30, 2018]*December 31, 2018* or the date of permanent approval, if earlier (the "pilot"), certain options shall be quoted and traded on the Exchange in minimum increments of \$0.01 for all series in such options with a price of less than \$3.00, and in minimum increments of \$0.05 for all series in such options with a price of \$3.00 or higher, except that options overlying the PowerShares QQQ Trust ("QQQ")[®], SPDR S&P 500 Exchange Traded Funds ("SPY"), and iShares Russell 2000 Index Funds ("IWM") shall be quoted and traded in minimum increments of \$0.01 for all series regardless of the price. A list of such options shall be communicated to membership via an Options Trader Alert ("OTA") posted on the Exchange's website.

The Exchange may replace any pilot issues that have been delisted with the next most actively traded multiply listed options classes that are not yet included in the pilot, based on trading activity in the previous six months. The replacement issues may be added to the pilot on the second trading day following [January 1, 2018]*July 1, 2018*.

(C) No Change.

³ References herein to rules refer to rules of Phlx, unless otherwise noted.