

comment, the Data Policies, the 12 comments received in alphabetical order, and an alphabetical listing of such comments.

Nine commenters³⁶ requested greater clarity with respect to the definition and examples of non-display use. Specifically, the commenters requested that the Exchange provide a consistent definition of non-display use. As described above, the definition of non-display use will be accessing, processing or consuming an NYSE Amex data product delivered via direct and/or Redistributor data feeds, for a purpose other than in support of its display or further internal or external redistribution. The Exchange believes that this definition addresses the comments and will clearly describe the types of activities that will qualify for the proposed fee. The Exchange also provided examples for illustrative purposes, which are not exclusive.

Four commenters³⁷ also questioned whether price referencing, compliance, accounting or auditing activities, and derived data should be considered non-display use. The Data Policies listed price referencing, compliance, accounting or auditing activities, and derived data as examples of non-display usage; however, as discussed above, the Exchange has determined that price referencing for the purposes of algorithmic trading and/or smart order routing would be considered Non-Display Trading Activities, and applications that use the data product for non-trading activities, such as compliance, accounting or auditing activities, and derived data are not covered by the non-display fees and are subject to the current standard per-device fee structure.

Three commenters³⁸ asked for examples of how the Exchange would charge for customers that use both display and non-display devices. The Exchange believes that the pricing examples provided above are responsive to this request. One commenter³⁹ stated that the proposed fees are excessive. The Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory for the reasons discussed in Section 3(b) above.

³⁶ Barclays, Brown Brothers Harriman, CMC Markets, Deutsche Bank, Flowtraders, Nomura, Threadneedle, Transtrend BV, and UBS.

³⁷ Barclays, CMC Markets, Transtrend BV, and UBS.

³⁸ Essex Radez LLC, Fidelity Market Data, and Lloyds TSB Bank plc.

³⁹ Essex Radez LLC.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)⁴⁰ of the Act and subparagraph (f)(2) of Rule 19b-4⁴¹ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)⁴² of the Act to determine whether the proposed rule change should be approved or disapproved.

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-NYSEMKT-2013-40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSEMKT-2013-40. 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 Web site (<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

⁴⁰ 15 U.S.C. 78s(b)(3)(A).

⁴¹ 17 CFR 240.19b-4(f)(2).

⁴² 15 U.S.C. 78s(b)(2)(B).

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 Web site 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR-NYSEMKT-2013-40 and should be submitted on or before June 6, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴³

Kevin M. O'Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69556; File No. SR-DTC-2013-802]

Self-Regulatory Organizations; The Depository Trusts Company; Notice of Filing and No Objection To Advance Notice To Renew Its Existing Credit Facility

May 10, 2013.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010¹ ("Clearing Supervision Act") and Rule 19b-4(n)(1)(i) under the Securities Exchange Act of 1934,² notice is hereby given that on April 22, 2013, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") advance notice SR-DTC-2013-802 ("Advance Notice") as described in Items I, II and III below, which Items have been prepared primarily by DTC. This publication serves as solicitation of comments on the Advance Notice from

⁴³ 17 CFR 200.30-3(a)(12).

¹ 12 U.S.C. 5465(e)(1).

² 17 CFR 240.19b-4(n)(1)(i).

interested persons and as notice of no objection to the Advance Notice.

I. Clearing Agency's Statement of the Terms of Substance for the Advance Notice

DTC is renewing its 364-day syndicated, revolving credit facility ("Renewal"), as described in additional detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections A and B below, of the most significant aspects of such statements.³

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

Description of Change

As part of its liquidity risk management regime, DTC maintains a \$1.9 billion, 364-day committed, revolving line of credit with a syndicate of commercial lenders ("Credit Facility"), which is renewed every year. The terms and conditions of the Renewal are specified in the Twelfth Amended and Restated Revolving Credit Agreement to be dated as of May 14, 2013, among DTC, National Securities Clearing Corporation ("NSCC"),⁴ the lenders party thereto, and JPMorgan Chase Bank, N.A. as the administrative agent, and are substantially the same as the terms and conditions of the existing Credit Facility agreement dated as of May 15, 2012 among the same parties. Although the aggregate commitments being sought under the Renewal increased to \$16 billion, the commitments to DTC as a borrower will remain at \$1.9 billion as provided in the existing Credit Facility agreement. As of April 19, 2013, NSCC and DTC had received aggregate commitments of \$10.121 billion towards the Renewal.

This agreement and its substantially similar predecessor agreements have

³ The Commission has modified the text of the summaries prepared by DTC.

⁴ The Credit Facility provides for both DTC and NSCC as borrowers, with an aggregate commitment of \$1.9 billion for DTC and the amount of any excess aggregate commitment for NSCC. The borrowers are not jointly and severally liable and each lender has a ratable commitment to each borrower. DTC and NSCC have separate collateral to secure their separate borrowings.

been in place since the introduction of same-day funds settlement at DTC because DTC requires same-day liquidity resources to cover the failure-to-settle of its largest Participant or affiliated family of Participants. If a Participant fails to satisfy its end-of-day net settlement obligation, DTC may borrow under the Credit Facility to enable it, if necessary, to fund settlement among non-defaulting Participants. Any borrowing would be secured principally by securities that were intended to be delivered to the defaulting Participant upon payment of its net settlement obligation and securities previously designated by the defaulting Participant as collateral, as well as the portion of the Participant's deposit to the Participants Fund held as DTC Series A Preferred Stock.⁵ The Credit Facility is built into DTC's primary risk management controls (i.e., the net debit cap and collateral monitor), which require that the end-of-day net funds settlement obligation of a Participant is fully collateralized and cannot exceed DTC's liquidity resources.

Anticipated Effect on and Management of Risk

DTC believes that the Credit Facility is a cornerstone of DTC risk management and its renewal is critical to the DTC risk management infrastructure. The Renewal does not otherwise affect or alter the management of risk at DTC.

(B) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

No written comments were solicited or received with respect to the Advance Notice.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The clearing agency may implement the proposed change pursuant to Section 806(e)(1)(G) of the Clearing Supervision Act if it has not received an objection to the proposed change within 60 days of the later of (i) the date that

⁵ DTC maintains a Participants Fund to which each Participant is required to make a cash deposit, based on its historic settlement activity, which is partially allocated to an investment in shares of DTC Series A Preferred Stock up to 25% of the Participant's required cash amount. The cash portion of the Participants Fund additionally provides a liquidity resource for settlement and, to the extent invested in securities, repurchase agreements or deposits may be pledged to support a borrowing. See DTC's Rules, By-laws, Organization Certificate, Rules 4 and 4(A) (http://dtcc.com/legal/rules_proc/dtc_rules.pdf).

the Commission received the advance notice or (ii) the date the Commission receives any further information it requested for consideration of the notice.⁶ The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.⁷

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension.⁸ A proposed change may be implemented in less than 60 days from the date of receipt of the advance notice, or the date the Commission receives any further information it requested, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.⁹ The clearing agency shall post notice on its Web site of proposed changes that are implemented.¹⁰

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the advance notice is consistent with the Clearing Supervision 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 No. SR-DTC-2013-802 on the subject line.

Paper Comments

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

All submissions should refer to File No. SR-DTC-2013-802. 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

⁶ 12 U.S.C. 5465(e)(1)(G).

⁷ 12 U.S.C. 5465(e)(1)(F).

⁸ 12 U.S.C. 5465(e)(1)(H).

⁹ 12 U.S.C. 5465(e)(1)(I).

¹⁰ 17 CFR 240.19b-4(n)(4)(i).

Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 Web site 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 filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at http://dtcc.com/downloads/legal/rule_filings/2013/dtc/SR-DTC-2013-802.pdf.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-DTC-2013-802 and should be submitted on or before June 6, 2013.

V. Commission Findings and Notice of No Objection

Although Title VIII does not specify a standard of review for advance notices, the Commission believes that the stated purpose of Title VIII is instructive.¹¹ The stated purpose of Title VIII is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically-important financial market utilities ("FMU")¹² and providing an enhanced role for the Board of Governors of the Federal Reserve System ("Board of Governors") in the supervision of risk management standards for systemically-important FMUs.¹³

Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the

supervisory agency or the appropriate financial regulator.¹⁴ Section 805(b) of the Clearing Supervision Act states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.¹⁵

The Commission adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act on October 22, 2012 ("Clearing Agency Standards").¹⁶ The Clearing Agency Standards became effective on January 2, 2013 and require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.¹⁷ As such, it is appropriate for the Commission to review advance notices against the objectives and principles for risk management standards as described in Section 805(b), as well as the applicable Clearing Agency Standards promulgated under Section 805(a).

The Advance Notice is a proposal to enter into a renewed Credit Facility, as described above, which is designed to help mitigate the risk that DTC would be under collateralized in the event that a Participant would fail to satisfy its end-of-day net settlement obligation. Consistent with Section 805(b) of the Clearing Supervision Act,¹⁸ the Commission believes the proposal promotes robust risk management, as well as the safety and soundness of DTC's operations, while reducing systemic risks and supporting the stability of the broader financial system, by maintaining a cornerstone to DTC's risk management system in a Credit Facility, in preparation for a possible failure-to-settle by a Participant.

Additionally, Commission Rule 17Ad-22(d)(11) regarding default procedures,¹⁹ adopted as part of the

Clearing Agency Standards,²⁰ requires that registered clearing agencies "establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default."²¹ Here, as described above, the renewed Credit Facility should help DTC continue to meet its respective obligations in a timely fashion, in the event that a Participant fails-to-settle, thereby helping to contain losses and liquidity pressures from that failure.

As described in Item III above, Section 806(e)(1)(G) of the Clearing Supervision Act provides that a designated FMU may implement a change contained in an advance notice if it has not received an objection to the proposed change within the applicable 60 day period.²² However, Section 806(e)(1)(I) allows the Commission to issue a non-objection prior to the 60th day.²³ If the Commission chooses to issue a non-objection prior to the 60th day, it must notify the designated FMU in writing that it does not object and authorize implementation of the change on an earlier date.²⁴ If the Commission chooses to object prior to the 60th day, it must similarly notify the designated FMU.²⁵

In its filing with the Commission, DTC requested that the Commission notify DTC, under Section 806(e)(1)(I) of the Clearing Supervision Act, that the Commission has no objection to the Advance Notice no later than Friday, May 10, 2013, two business days before the existing Credit Facility is set to expire on Tuesday, May 14, 2013, to ensure that there is no period of time that DTC operates without the Credit Facility.

For the reasons stated above, the Commission does not object to the Advance Notice.

VI. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Clearing Supervision Act,²⁶ that the Commission *does not object* to the change described in advance notice SR-DTC-2013-802 and that DTC be and hereby is

¹¹ 12 U.S.C. 5461(b).

¹² DTC was designated as a systemically important FMU by the Financial Stability Oversight Council ("FSOC") on July 18, 2012. FSOC 2012 Annual Report, Appendix A, <http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf>.

¹³ 12 U.S.C. 5461(b).

¹⁴ 12 U.S.C. 5464(a)(2).

¹⁵ 12 U.S.C. 5464(b).

¹⁶ Release No. 34-68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

¹⁷ The Clearing Agency Standards are substantially similar to the risk management standards established by the Board of Governors governing the operations of designated FMUs that are not clearing entities and financial institutions engaged in designated activities for which the Commission or the Commodity Futures Trading Commission is the Supervisory Agency. See Financial Market Utilities, 77 FR 45907 (Aug. 2, 2012).

¹⁸ See 12 U.S.C. 5464(b).

¹⁹ 17 CFR 240.17Ad-22(d)(11).

²⁰ Release No. 34-68080 (Oct. 22, 2012), 77 FR 66219 (Nov. 2, 2012).

²¹ 17 CFR 240.17Ad-22(d)(11).

²² See 12 U.S.C. 5465(e)(1)(G).

²³ 12 U.S.C. 5465(e)(1)(I).

²⁴ *Id.*

²⁵ 12 U.S.C. 5465(e)(1)(E).

²⁶ 12 U.S.C. 5465(e)(1)(I).

authorized to implement the change as of the date of this notice.

By the Commission.

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2013-11603 Filed 5-15-13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69557; File No. SR-NSCC-2013-803]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and No Objection To Advance Notice To Renew Its Existing Credit Facility

May 10, 2013.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010¹ (“Clearing Supervision Act”) and Rule 19b-4(n)(1)(i) under the Securities Exchange Act of 1934,² notice is hereby given that on April 22, 2013, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) advance notice SR-NSCC-2013-803 (“Advance Notice”) as described in Items I, II and III below, which Items have been prepared primarily by NSCC. This publication serves as solicitation of comments on the Advance Notice from interested persons and as notice of no objection to the Advance Notice.

I. Clearing Agency’s Statement of the Terms of Substance for the Advance Notice

NSCC is renewing its 364-day syndicated, revolving credit facility (“Renewal”), as described in additional detail below.

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A and B below, of the most significant aspects of such statements.³

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Advance Notice

Description of Change

As part of its liquidity risk management regime, NSCC maintains a 364-day committed, revolving line of credit with a syndicate of commercial lenders (“Credit Facility”), which is renewed every year. Under the existing Credit Facility, NSCC may borrow up to \$7.43 billion of an aggregate commitment of \$9.33 billion.⁴ The terms and conditions of the Renewal are specified in the Twelfth Amended and Restated Revolving Credit Agreement to be dated as of May 14, 2013, among NSCC, DTC, the lenders party thereto, and JPMorgan Chase Bank, N.A. as the administrative agent, and are substantially the same as the terms and conditions of the existing Credit Facility agreement dated as of May 15, 2012 among the same parties. However, the aggregate commitments being sought under the Renewal increased to \$16 billion. As of April 19, 2013, NSCC and DTC had received aggregate commitments of \$10.121 billion towards the Renewal, of which all but \$1.9 billion would be the commitments to NSCC as a borrower.

This agreement and its substantially similar predecessor agreements have been in place since the introduction of same-day funds settlement at NSCC because NSCC requires same-day liquidity resources to cover the failure-to-settle of its largest Member or affiliated family of Members. If a Member defaults on its end-of-day settlement obligations, NSCC may borrow under the Credit Facility to enable it, if necessary, to fund settlement among non-defaulting Members. Any borrowing would be secured principally by (i) securities deposited by Members in NSCC’s Clearing Fund (i.e., the Eligible Clearing Fund Securities, as defined in Rule 4 of NSCC Rules and Procedures,⁵ pledged by Members to NSCC in lieu of cash Clearing Fund deposits); and (ii) securities cleared through NSCC’s Continuous Net Settlement System that were intended for delivery to the defaulting Member upon payment of its net settlement obligation. NSCC’s

⁴ The Credit Facility provides for both The Depository Trust Company (“DTC”) and NSCC as borrowers, with an aggregate commitment of \$1.9 billion for DTC and the amount of any excess aggregate commitment for NSCC. The borrowers are not jointly and severally liable and each lender has a ratable commitment to each borrower. DTC and NSCC have separate collateral to secure their separate borrowings.

⁵ See NSCC Rules and Procedures, Rule 4 (http://dtcc.com/legal/rules_proc/nscs_rules.pdf).

Clearing Fund, which operates as its default fund, addresses potential exposure through a number of risk-based component charges calculated and assessed daily. As integral parts of NSCC’s risk management structure, NSCC believes that the Credit Facility and the Clearing Fund together help NSCC to have sufficient liquidity to complete end-of-day money settlement.

Anticipated Effect on and Management of Risk

NSCC believes that the Credit Facility is a cornerstone of NSCC risk management, and its renewal is critical to the NSCC risk management infrastructure. The Renewal does not otherwise affect or alter the management of risk at NSCC.

(B) Clearing Agency’s Statement on Comments on the Advance Notice Received From Members, Participants, or Others

No written comments were solicited or received with respect to the Advance Notice.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The clearing agency may implement the proposed change pursuant to Section 806(e)(1)(G) of the Clearing Supervision Act if it has not received an objection to the proposed change within 60 days of the later of (i) the date that the Commission received the advance notice or (ii) the date the Commission receives any further information it requested for consideration of the notice.⁶ The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.⁷

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension.⁸ A proposed change may be implemented in less than 60 days from the date of receipt of the advance notice, or the date the Commission receives any further information it requested, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.⁹ The

⁶ 12 U.S.C. 5465(e)(1)(G).

⁷ 12 U.S.C. 5465(e)(1)(F).

⁸ 12 U.S.C. 5465(e)(1)(H).

⁹ 12 U.S.C. 5465(e)(1)(I).

¹ 12 U.S.C. 5465(e)(1).

² 17 CFR 240.19b-4(n)(1)(i).

³ The Commission has modified the text of the summaries prepared by NSCC.