

April 14, 2016

Brent J. Fields
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Securities and Exchange Commission Release No. 34-76743
File Number S7-27-15, Advance Notice of Proposed Rulemaking, Concept
Release and Request for Comment on Transfer Agent Regulations (“Concept
Release”)

Dear Mr. Fields:

Computershare Limited, on behalf of itself and the U.S. and Canadian registered transfer agent affiliates described below (“Computershare”), welcomes the opportunity to respond to the request for comment made by the U.S. Securities and Exchange Commission (the “Commission”) in its Concept Release regarding transfer agency rulemaking. We would also like to thank the Commission and its Staff for their tremendous effort in issuing the very comprehensive Concept Release relating to reviewing the role of a transfer agent in the overall market system and updating and modernizing transfer agency rules, as well as for the additional time granted by the Commission to respond.

Computershare is a global leader in transfer agency, employee equity plans, proxy solicitation and other specialized financial, governance and communications services. Within the Computershare family, Computershare Inc. and Computershare Trust Company, N.A. (individually “CTCNA,” and collectively with Computershare Inc., “Computershare US”) are registered transfer agents in the United States. Computershare Trust Company of Canada and Computershare Investor Services, Inc. are registered transfer agents in Canada (collectively, “Computershare Canada”).

Computershare US is one of the largest transfer agents in the United States, servicing approximately 18 million registered shareholder accounts and 6,000 issuer clients.¹ Computershare Canada services approximately 1.9 million registered shareholder accounts and 3,000 Canadian issuers, approximately 200 of which have Qualifying Securities.²

¹ This information is based on Computershare US’s most recent Form TA-2 filing.

² “Qualifying Security” is defined in the Concept Release as a “security registered pursuant to Section 12 of the Exchange Act or with respect to any security which would be required to be registered except for the exemption contained in subsection (g)(2)(B) or (g)(2)(G) of Section 12.” 80 Fed. Reg. 81960 (Dec. 31, 2015).

Computershare agrees with and supports the positions of the Securities Transfer Association (“STA”) and the Securities Transfer Association of Canada (“STAC”) in their respective comment letters to the Commission dated April 13, 2016 (the “STA Comment Letter”) and April 13, 2016³ (the “STAC Comment Letter”). We note that Computershare US and Computershare Canada take an active role in these industry organizations through membership on the STA Board and various STA committees, and participated in the development of the STA and STAC comment letters. Computershare, however, would like to offer its additional comments on certain proposals and items where it has a particular interest or concern, or a unique view including due to its global enterprise.

Specifically, Computershare would like to address some of the broad requests for comment such as prioritization in rulemaking, evolution of the industry, expansion of transfer agent activities, and non-U.S. transfer agents. In addition, Computershare would like to offer its comments on matters presented as specific concept release questions, including outsourcing, access to beneficial holder information, crowdfunding, corporate action processing, co-transfer agents, alternatives to a central securities depository model, fees to market participants, and consideration of a self-regulatory organization. Finally, we will be addressing certain proposals for rulemaking under the Concept Release including, without limitation, written agreements, safeguarding of funds and securities, restricted securities, and “blockchain” technology.

I. PRIORITIES IN RULEMAKING

As an overhaul of the transfer agent regulations, including amendments to existing rules and the introduction of new rules, will take considerable time, Computershare supports the idea of proposing rule amendments and new rules in phases. Computershare agrees with the STA’s recommended priorities of requiring minimal capital and/or insurance levels for transfer agents, addressing safeguarding of funds and securities, mandating adoption of business continuity/disaster recovery programs, and requiring written agreements between agents and issuers. In order to ensure the integrity of the system and protection to securityholders, Computershare would also recommend that the Commission prioritize rulemaking regarding information security and restricted securities.

Another important issue for the Commission to address relates to non-U.S. transfer agents. For some time, there has been confusion and ambiguity concerning the treatment of and application of rules to non-U.S. transfer agents. Further, with an increasingly integrated global economy, there are more instances of U.S. and non-U.S. issuers with securities listed in multiple jurisdictions with different corporate and regulatory requirements to follow. We believe the Commission should carefully consider its rulemaking in relation to non-U.S. transfer agents and non-U.S. market structures, as will be more fully discussed below.

³ Please note that the STAC Comment Letter states that it strongly supports the positions set forth in the STA’s Comment Letter. Comment letter of STAC (April 13, 2016), page 1.

In any proposed rulemaking, as is customary, Computershare would expect that the Commission would implement the new or amended rules prospectively and would provide a reasonable amount of time between adoption and the effective date to allow transfer agents sufficient time to develop policies, procedures and make any systems or operational changes to enable them to comply.

II. EVOLUTION OF INDUSTRY

Computershare expects the industry to evolve in a number of ways based on market changes (e.g., dematerialization, shortened settlement cycle, private markets, and crowdfunding), technology, issuer needs, changes in the registered shareholder base, regulatory changes, and more global interconnectivity and cross border transactions. New rulemaking may also cause a reduction in the number of agents as some small agents may find it too costly to comply.

Dematerialization efforts continue throughout the industry, but we would not anticipate full dematerialization to be realized for a long time due to the number of paper certificates still in circulation. Even for securities held in a book-entry environment, processing of transfers is still a manual process due to the standard practice of requiring a physical instruction with a medallion guarantee. While DRS Profile transactions are done electronically, these are still a small percentage of an agent's processing as they only apply for movements to and from a broker-dealer. As a result, the rules should continue to account for both uncertificated and certificated shares. We have been active participants in market discussions to achieve further dematerialization and note that market stakeholders have been anticipating further rulemaking from the stock exchanges in this area.

Technology changes may evolve to the point where more transactions are processed electronically and in a more automated fashion. The emergence of new technologies like blockchain, or distributed ledger, if they become prevalent, has the potential to enhance and expedite this transition. A greater reliance on technology in an electronic environment will result in a greater focus on and expenditures in information security to ensure the integrity of the market system and safeguarding of issuer and shareholder records.

Finally, in order to address expected future changes to the industry, we would recommend that any proposed rules be principle-based rather than process-based or technology specific. This will avoid the need for continual updates to the rules or ambiguities in interpreting the rules.

III. CONSIDERATIONS FOR PROPOSED RULEMAKING

In developing rule proposals, Computershare would recommend that the Commission consider the principal-agent relationship that serves as the basis of a transfer agent's duties, as well as the litany of existing state and federal laws and regulations already governing the obligations of a transfer agent in the performance of its transfer agency and related services. The Commission

recognizes in the Concept Release that these other laws apply to transfer agents, but careful consideration of them in any proposed rulemaking is warranted. Computershare references certain existing laws and regulations throughout this letter.

A. Principal/Agency Law and the Uniform Commercial Code

In performing transfer agency services, transfer agents act as agent for the issuer of securities. Principal/agency law applies in the form of both common law principles and the Uniform Commercial Code (“UCC”). We note that Section 3(a)(25) of the Securities Exchange Act of 1934 (the “Exchange Act”) also recognizes this relationship as it defines a transfer agent as a person “who engages on behalf of an issuer of securities” to perform certain functions.

Under principal/agency law, “[a]gency is the fiduciary relationship that arises when one person (a “principal”) manifests assent to another person (an “agent”) that the agent shall act on the principal's behalf and subject to the principal's control, and the agent manifests assent or otherwise consents so to act.”⁴ In the context of a transfer agent, this means there is no direct relationship between the transfer agent and the principal’s shareholders. In performing its functions as transfer agent, such as processing transfers, updating shareholder records, making dividend payments, and sending shareholder communications, the transfer agent is acting on behalf of the principal (issuer) and performing the principal’s duties. The terms of such agency relationship are generally reflected in a contract, to which the shareholders are not a party and are not third-party beneficiaries. The transfer agent in such a relationship would have no independent duties to the shareholder, and the principal (issuer) is liable for the actions of the transfer agent in performing such services. The principal (issuer), not the transfer agent, is the party with duties to the issuer’s shareholders.

Article 8 of the UCC specifically addresses the transfer of securities and obligations of the issuer and its transfer agent in processing transfers. It is important to note that although Article 8 provides that transfer agents have the same obligations as issuers, under applicable case law, they have not been provided with the same protections.⁵ This means that transfer agents are not always able to avail themselves of the protections under the UCC for wrongful transfer or failure to transfer, resulting in additional risk to transfer agents especially when presented with opposing direction from a shareholder and an issuer. These implications and requirements under the UCC need to be considered by the Commission in any proposed rulemaking, specifically relating to transfers and the handling of restricted stock, to ensure there is no conflict with the UCC or conflicting obligations of agents under the UCC and federal securities laws. Potential areas of conflict will be noted throughout these comments.

⁴ Restatement (Third) of Agency § 1.01 (2006).

⁵ See U.C.C. § 8-407 (2016), Official Comment 1.

B. Banking Laws

Many registered transfer agents like CTCNA are banks or trust companies, and therefore are already subject to state or federal banking laws, rules, regulations and inter-agency guidelines. For such agents, banking law already addresses many of the areas of proposed rulemaking or areas subject to the Commission's request for comment including, without limitation: information security/cyber-security;⁶ physical security;⁷ business continuity/disaster recovery ("BCP/DR");⁸ capital requirements;⁹ financial reporting;¹⁰ outsourcing arrangements;¹¹ and plan activity notifications, disclosures and recordkeeping.¹²

Computershare would recommend that the Commission ensure that any proposed rulemaking is consistent with existing banking law and would request that banks already subject to existing banking law be exempt from any similar rules proposed by the Commission. It would not only be challenging from a compliance standpoint, but also burdensome for a bank transfer agent to have to comply with two sets of similar rules on the same topic. In addition, having two separate sets of similar rules could become problematic if the bank transfer agent is examined by both regulators with respect to such rules and the regulators provide different or conflicting interpretations or guidance. Just as the Office of The Comptroller of the Currency ("OCC") has a rule that defers to the Commission's rules as they relate to operational and reporting requirements for transfer agent activities of registered national bank transfer agents,¹³ the Commission could defer to bank regulations for bank transfer agents on areas such as information security, BCP/DR, and plan transaction notifications and recordkeeping. This would avoid duplication of regulations, and still ensure all transfer agents have appropriate regulations in place governing such matters. We would note that some transfer agents like Computershare US have both a bank transfer agent and non-bank transfer agent registered with the Commission. This is another reason consistency between any rules proposed by the Commission and existing bank rules is important, *i.e.*, to ensure all transfer agents have the same requirements.

⁶ See, e.g., 12 C.F.R. § 30, Appendix B to Part 30 – Interagency Guidelines Establishing Information Security Standards.

⁷ See, e.g., 12 C.F.R. § 21.3.

⁸ See, e.g., Office of the Comptroller of the Currency, FFIEC Information Technology Examination Handbook: Business Continuity Planning Booklet, OCC Bulletin 2008-6 (March 19, 2008); and Office of the Comptroller of the Currency, FFIEC Information Technology Examination Handbook: Strengthening the Resilience of Outsourced Technology Services, New Appendix for Business Continuity Planning Booklet, OCC Bulletin 2015-9 (February 6, 2015).

⁹ See, e.g., 12 C.F.R. § 3.

¹⁰ See 12 U.S.C. § 161 and 12 C.F.R. § 304.3.

¹¹ See, e.g., Office of the Comptroller of the Currency, Third Party Relationships: Risk Management Guidance, OCC Bulletin 2013-29 (Oct. 30, 2013) and 12 C.F.R. § 30, Appendix B to Part 30 – Interagency Guidelines Establishing Information Security Standards.

¹² See, e.g., 12 C.F.R. §§ 12.3-12.5.

¹³ See 12 C.F.R. § 9.20.

C. State Law

In addition to considering the UCC and banking laws, we would recommend the Commission also consider other state laws governing the services provided by transfer agents. For example, state corporate law covers the issuance of certificated and uncertificated shares (including statements for such shares), as well as restrictions on securities.¹⁴ To the extent state law already exists, additional Commission regulations are unnecessary and could create conflicting obligations of issuers and transfer agents. Information security and privacy are also subjects covered by state law, and vary state by state. For example, for any transfer agents who maintain personal information of Massachusetts securityholders, extensive legal requirements already exist for such agents to have an information security program, encrypt data, and notify holders of security breaches.¹⁵ Finally, state law already addresses unclaimed property, with complex and varying requirements for each state that apply to transfer agent's issuer clients as the "holders" of unclaimed funds and securities. This area of law is currently under review by the Uniform Law Commission and a number of industry organizations including the STA, with revisions expected to be made to the Uniform Unclaimed Property Act. For these reasons, additional rule making by the Commission on unclaimed property would not be recommended.

D. Broker-Dealer Model

Throughout the Concept Release, the Commission either proposes or asks for comments on the applicability of broker-dealer regulations to transfer agents. Computershare agrees with the position of the STA that a broker-dealer regulatory model is not appropriate for transfer agents. As noted above, the relationship between a transfer agent and the issuer is a principal/agent relationship. Unlike broker-dealers, transfer agents do not have a direct customer relationship with the issuer's shareholders. The shareholders do not come to Computershare to open an account, like they do with a broker-dealer to avail themselves to a wide range of financial assets, but rather generally become registered shareholders on the records of Computershare through various means such as being the recipient of an issuance by the issuer (e.g., an employee stock award), a gift or inheritance, a private sale, a corporate action event, or a purchase through a broker-dealer (and subsequent issuance of certificated or DRS shares at the broker-dealer's request). Computershare is subject to the UCC requirement to process a transfer instruction that is presented in good order, and does not have an opportunity or requirement to perform a "know-your-customer" review similar to that of a broker-dealer at the point an account reflecting ownership is established. Further, there is no reason at the initial establishment to perform any diligence as the new holders are not requesting a transaction, but rather only receiving shares to which they are entitled. Broker-dealers are performing very different transactions than transfer agents such as providing investment advice, exercising investment discretion, maintaining

¹⁴ See, e.g., Del. Code Ann. tit. 8, § 158 (2016) regarding issuing certificates, and 8 Del. Code Ann. tit. 8, §151(f) and Mass. Gen. Laws Ann. ch. 156D, §6.26 (2015) concerning statements for uncertificated shares. See, e.g., Del. Code Ann. tit. 8, § 202 (2016), Mass. Gen. Laws Ann. ch.156D § 6.27 (2016), and U.C.C. § 8-204 (2016) regarding placing restrictions on securities.

¹⁵ See 201 Mass. Code Regs. 17.

deposits of funds in money market funds, and extending credit to allow purchases of securities on margin. These types of services create a fiduciary customer relationship with the individual and present significant financial risk, warranting the significant regulatory requirements imposed on broker-dealers. The role of a transfer agent is primarily clerical - recording and transferring shares, updating holder information, and making dividend payments, all on behalf of the transfer agent's issuer client.

We believe that not only is proposing broker-dealer rules as the model for transfer agents inappropriate, it is unnecessary given the relationship of the parties and services provided. Further, for large agents such as Computershare, some of the proposals would create unfathomable costs and operational burdens due to the large number of issuers serviced and securityholder accounts maintained. For example, the proposal to keep all communications received and sent by a transfer agent in its business¹⁶ (a broker-dealer requirement) would have a staggering impact on Computershare US and Computershare Canada given they maintain records for approximately 20 million securityholders combined. Unlike broker-dealers, transfer agents cannot easily pass on the costs associated with such regulatory requirements to securityholders as they have no customer relationship with such holders. The costs would need to be borne by the issuer, with an impact to shareholders, as will be further discussed below.

E. Costs

Finally, in any proposed rulemaking, we would request that the Commission seriously weigh the costs to comply with the rules proposed against the expected benefit. We would implore the Commission to ask with every proposal whether there is truly a deficiency in the existing environment that needs to be addressed and, if so, how it can be addressed in the most cost effective manner. Rule changes often result in systems development, will require the adoption of or changes to procedures, training, and monitoring, and will result in additional compliance and operational costs. Such costs will need to be passed on to issuer clients and ultimately their shareholders (either directly or indirectly, impacting the capital that could be returned to shareholders).¹⁷

IV. TRANSFER AGENT ACTIVITIES UNDER SECTION 3(a)(25)

In response to *Question Number 125*, Computershare would not support any expansion of the transfer agent activities listed under Section 3(a)(25) of the Exchange Act enacted by Congress. The listed functions are the prime functions that a transfer agent performs on behalf of its issuer clients, consistent with the duties of a transfer agent under state corporate law: (1) issuing securities and countersigning stock certificates; (2) registering the transfer of securities; (3) monitoring the issuance of securities to prevent unauthorized issuance; and (4) exchanging or

¹⁶ See *Question Number 49*.

¹⁷ Although contracts may provide for the issuer to absorb additional costs related to regulatory changes, transfer agents may face pressure from issuer clients to absorb at least some of the costs, making it even more challenging for agents to succeed in a highly competitive market. This may lead to further consolidation in the industry.

converting securities. Other functions performed by transfer agents, such as paying agent and tabulation agent, are services that are not unique to the transfer agency business and are performed by other entities that are not transfer agents and in other industries. Subjecting transfer agents to additional regulations for these services while other non-transfer agents have no such regulations would put transfer agents at a competitive disadvantage. Requiring all entities performing these services to register as transfer agents seems beyond the scope of activities intended by Congress.¹⁸

Additionally, there are already state and federal laws and regulations applicable to these other types of services. For example, paying agents must comply with federal tax regulations in withholding and reporting payments, and check cashing processes are subject to UCC Article 4. Computershare also notes that escrow agent and true custodian activities are performed separately from transfer agent activities under separate agreements with customers and are subject to banking law and bank regulatory oversight. Computershare Canada further has stock exchange mandated requirements with respect to escrow activities.

V. NON-U.S. AGENTS and NON-QUALIFYING SECURITIES SERVICED BY A REGISTERED TRANSFER AGENT

A. Overview

As the marketplace and ability to raise capital have become more global, the number of instances where US and non-US issuers list their Qualifying Securities in the US as well as in other jurisdictions continues to grow. This creates a complicated structure of more than one transfer agent, multiple exchanges and depositories (and thus different exchange rules, depository rules, and market operating structures), and with respect to foreign issuers, different corporate law requirements in connection with maintaining the register of security holders.

The transfer agent rules when drafted did not contemplate cross-jurisdictional concerns; however, the rules now give rise to regulatory risk and commercial uncertainty for foreign issuers and their non-US agents. We therefore appreciate the opportunity presented by the Commission to provide input on these aspects of the rules, and look forward to a further dialogue on this with a view to resolving this uncertainty.

In our view, in reviewing the application of the transfer agent rules to non-US agents acting for issuers of Qualifying Securities, the Commission should separate the analysis into two related aspects:

1. To what extent it is necessary for the protection of the integrity of the national clearance and settlement system to have regulatory oversight of the records maintained and conduct of non-US transfer agents operating outside US

¹⁸ See STA Comment Letter, page 15, footnote 32.

jurisdiction and with no direct link to any national clearance and settlement system in the US; and

2. Where oversight of non-US agents is deemed appropriate, the Commission should consider the extent to which the transfer agent rules should apply to the conduct of such agents, including addressing where the rules conflict with the domestic legal obligations of the issuer or the non-US agent. The rules should only apply in respect of the conduct of a non-US agent in administering Qualifying Securities.

As a matter of principle, Computershare believes the Commission's transfer agent rules should not apply with equal force to US and non-US transfer agents that provide transfer-related services for Qualifying Securities. Our general position in this regard excludes the position of Canadian transfer agents, which we comment on below. Specifically, we do not believe the transfer agent rules should apply to the services of the non-US transfer agent performed in respect of the non-US-located share registers of foreign issuers. As we have outlined below, the non-US transfer agent's services are limited to the administration of a securityholder register that records title to securities that are not traded and settled on the US markets. The administration of that non-US register does not impact the safety and efficiency of the US national clearance and settlement system, and is subject to relevant local regulation and oversight to ensure market efficiency and investor protection. Accordingly, we see no basis for the Commission to seek to exercise jurisdiction over such activities occurring outside of the US, in relation to foreign securities.¹⁹

For the avoidance of doubt, we are not suggesting that the transfer agent rules should not apply with equal force to US incorporated companies that list Qualifying Securities on a market outside the US; nor are we suggesting that the transfer agent rules should not apply if a US issuer of Qualifying Securities employs a foreign agent to administer its complete master securityholder file (in our view the foreign agent should be required to register with the Commission and should be subject to the transfer agent rules in such circumstances). We also note that the US transfer agent rules do not currently apply to the administration of registers of US-incorporated companies that issue securities solely in an offshore offering under Regulation S, where such securities are not Qualifying Securities.

We would welcome the opportunity to discuss the issues addressed in this section of our response further, and to clarify any questions on the structures used by foreign issuers to have their Qualifying Securities traded in the US and the interaction with non-US regulatory responsibilities.

¹⁹ As noted in the STA's Comment Letter at page 16, footnote 35, in Morrison v. National Australia, 561 U.S. 247 (2010), a case involving the application of US securities laws to non-US securities and non-US investors, the Supreme Court stated "[n]othing suggests that this national public interest pertains to transactions conducted upon foreign exchanges and markets."

B. Background – Register Structures of Foreign Issuers

Qualifying Securities of foreign issuers may be traded in the US in their form as common shares or as American Depositary Receipts (“ADRs”). Where the common shares are directly traded in the US, it is necessary that the foreign issuer’s domestic law allow the administration of a securityholder register in the US, to facilitate US-based registration, clearing and settlement in connection with US-based trading. In many cases for foreign issuers that adopt this direct equity trading or listing structure, their domestic corporate law allows the issuer to establish separate “split” registers to record securityholder ownership relevant to and in the different markets where the issuer’s shares may be listed, in addition to requiring access to the records of the issuer’s total issued capital in the domestic jurisdiction for regulatory oversight purposes. For example, some foreign issuers are able to establish an overseas branch register in a foreign jurisdiction in addition to having a principal register located in their domestic jurisdiction. The foreign issuers are required to ensure that their total issued capital is appropriately balanced and reconciled across such registers to preserve the integrity of the securities issuance.

In a “split” register structure, the foreign issuer has two (or in some cases more) separate component registers that make up the overall share register: a principal register in its jurisdiction of incorporation; and at least a “branch” register in the US to support trading on a US market. The foreign issuer’s total issued capital is the combination of the number of securities recorded on the principal register and those securities recorded on the US branch register (and any other such branch registers). The issuer appoints an agent in its home market as registrar for the principal register and separately appoints a US transfer agent to administer the US branch register. The securities recorded on both registers generally constitute the same class of securities and have equivalent rights, but each register is administered wholly separately as a distinct record of shareholdings in the relevant jurisdiction. The principal agent has responsibility, however, for reconciling the total issuance on behalf of the issuer, based on data communicated to it by the foreign issuer’s US transfer agent. For some foreign issuers, the entirety of their securities issuance is recorded on the US-based register and there is no register in the issuer’s domestic market.

In some jurisdictions there is additional complexity in the foreign issuer’s register structure, as the principal share register may be split into sub-registers as a result of the domestic market and legal structure. For example, for Australian issuers whose shares are listed on the Australian Stock Exchange, the domestic central securities depository (“CSD”) administers one sub-register to provide CSD account holders with direct legal title. The other sub-register is operated by the issuer’s non-US transfer agent. The issuer’s non-US transfer agent reconciles with the CSD sub-register to confirm total issued capital, but the CSD is in fact the operator or administrator of the sub-register and record transfers between securityholder accounts.

There are also a relatively small number of foreign issuers that list or trade direct equity in the US without using this split register approach, due to specific domestic corporate law requirements. For those issuers, a US agent is appointed to perform the functions of a transfer

agent under the transfer agent rules, including interfacing with The Depository Trust Company (“DTC”) to facilitate clearing and settlement, and to process transfers, handle shareholder inquiries, and other transfer agent services. To meet its domestic regulatory requirements, the foreign issuer also appoints an agent in their domestic market solely to provide access to the register in accordance with local law, for example to facilitate public inspection or regulatory reporting requirements. For such issuers, the non-US agent in the jurisdiction in which the issuer is incorporated does not undertake any transfer agent functions as defined in Section 3(a)(25) of the Exchange Act in respect of any such register.

C. Application of Transfer Agent Rules to Non-US Agents

In the above-described structures for markets other than Canada, where the foreign issuer of Qualifying Securities utilizes either ADRs or a direct equity structure to facilitate trading on US markets, a US transfer agent is appointed to administer their US-based securityholder records. For ADRs, the depository bank appoints the transfer agent; and for direct equity listings the foreign issuer makes the appointment. Such transfer agent is registered with the Commission and subject to the transfer agent rules. In the case of ADRs, the US-based register is for ADRs and not the underlying Qualifying Securities; and for direct equity structures the US-based register is a component or the entirety of their equity securityholder register depending on whether they are listed in another jurisdiction.

We question how the public interest in investor protection or the safe and efficient functioning of the US national clearance and settlement system is served by the Commission seeking to extend its regulatory oversight to the administration of securityholder records that are located outside the US and pertain to transactions conducted on foreign markets. The transfer agent rules should in our view not apply with equal force to the non-US agents that administer such records. We also note that if the rules were applied to all non-US agents that perform transfer agent functions, as defined in the rules, for Qualifying Securities of foreign issuers, this would also require registration and supervision of CSDs (in markets where the CSD administers a part, or all, of the foreign issuer’s non-US register). We question whether this is the Commission’s intention.

Computershare also notes that for a number of transfer agent rules, it is not practicable or feasible to require a non-US transfer agent to comply in relation to the administration of a non-US register. For example, requiring fingerprinting of employees would contravene the domestic laws of a number of jurisdictions. Further, applying turnaround times for updating of the non-US register is likely to conflict with domestic requirements to process transactions and to interface with domestic clearing and settlement systems. We therefore stress that in the event that the Commission seeks to apply any of the transfer agent rules to non-US transfer agents, this should be carefully considered to ensure that the rules are strictly related to US investor protection and the integrity of the securities issue, which we consider to be the central policy principles.

D. Non-Qualifying Securities Serviced by a Registered Transfer Agent

Computershare urges the Commission not to codify existing staff interpretations that registered transfer agents that service at least one Qualifying Security must apply all of the transfer agent rules to all securities serviced by that transfer agent. In our view, this technical interpretation of the rules has driven unnecessary complexity and costs for both transfer agents and their clients that are not issuers of Qualifying Securities. We question the basis for this extension of the Commission's regulatory oversight beyond those issuers (and their investors) that the Commission has specific regulatory authority to oversee.

This interpretive approach has particular impact for Canadian transfer agents and their clients. It also creates complexity and significant commercial uncertainty for all foreign issuers of Qualifying Securities and their foreign agents. This exacerbates the risks and uncertainty created by the current lack of clarity in application of the transfer agent rules to non-US transfer agents administering non-US registers.

Requiring a non-US transfer agent to comply with the Commission's transfer agent rules in respect of all its clients, simply because the agent acts on behalf of even one issuer of Qualifying Securities, is a significant regulatory burden and, in our view, unjustified. It is prohibitively costly not only to the transfer agent but also to all its clients that are not issuers of Qualifying Securities, and correspondingly to those issuers' investors. It also places the regulated transfer agent at a real competitive disadvantage to other transfer agents in its market that do not service issuers of Qualifying Securities, who would accordingly not need to subject their clients (that do not issue Qualifying Securities) to the costs and obligations of compliance with the rules. In foreign markets where few issuers (and therefore agents) are subject to registration with the Commission, this also creates a risk that foreign transfer agents will refuse to service issuers of Qualifying Securities. There are real-life examples of cross border transactions (e.g., cross border mergers and acquisitions) being frustrated by the uncertainty created by the transfer agent rules in their current form.

We therefore urge the Commission to clarify in the rules that the transfer agent rules apply only in relation to the activities of the registered transfer agent in administering the securityholder records of issuers of Qualifying Securities, and, as noted above, only for those activities conducted in connection to the register that services the US national clearance and settlement system.²⁰

²⁰ For US registered transfer agents such as Computershare US, it may be operationally easier to apply the transfer agent rules equally to the records of Qualifying Securities and non-Qualifying Securities. However, clarification that a US transfer agent need not apply the rules to non-Qualifying Securities is equally important, especially with the growth of private companies resulting from the JOBS Act and crowdfunding rules.

E. Canadian Transfer Agents

Computershare notes that Canadian transfer agents that service Qualifying Securities, including Computershare Canada, currently register with the Commission under the transfer agent rules. In our view, Canadian transfer agents are distinguishable from other non-US transfer agents due to the very close trading, clearing and settlement ties between these North American securities markets that create a unique securityholder administrative environment and support the current structure. However, as discussed above we are also of the view that Canadian transfer agents should only be subject to the Commission's transfer agent rules in relation to Qualifying Securities.

VI. PROPOSED RULEMAKING

A. Registration and Annual Reporting Requirements

In response to *Question Numbers 7 and 8*, Computershare would not object to the Commission's proposal to require annual audited financial statements as a means to ensure transfer agents are financially viable in view of their critical role in shareholder recordkeeping and safeguarding of funds and securities. However, we would question how the Commission would evaluate the data and what action the Commission would take based on its review of the data. Transfer agents would need to clearly understand the implications of making such filings.

If annual audited financial statements are required by regulation, they should be submitted only to the Commission and not made available to the public as most transfer agents are not public companies. In addition, we would suggest that for a transfer agent covered in a parent company's annual audited financials on a consolidated basis, such parent company's financials should suffice. While U.S. GAAP Taxonomy may be appropriate for U.S. companies, for non-U.S. transfer agents, such as Canadian agents, the Commission should accept financial statements using the applicable accounting methodology accepted in such other jurisdictions. This would be consistent with the Commission's approach to financial statements required to be filed for foreign private issuers.²¹ As Computershare does not support public filing of financial statements, requiring XML or XBRL would not be relevant.

In any event, forcing the use of XBRL for the disclosure of certain financial records seems to be flawed conceptually. Investors will not benefit from being able to make inquiries concerning financial information. Even if such information was made public (whether or not via XBRL), investors cannot choose whether or not to deal with a transfer agent, since the transfer agent is chosen by and is the agent of the issuer. Conversely, the issuer enters into a service agreement

²¹ See Acceptance From Foreign Private Issuers of Financial Statements Prepared in Accordance with International Financial Reporting Standards Without Reconciliation to U.S. GAAP, 73 Fed. Reg. 986 (January 4, 2008), providing that foreign private issuers may present financial statements pursuant to International Financial Reporting Standards as issued by the International Accounting Standards Board or home country account standards without a reconciliation to U.S. GAAP.

with its chosen agent and does not need XBRL solutions in order to determine the financial status of its service provider.

Finally, to the extent the Commission imposes other measures such as capital and insurance requirements for transfer agents as supported by the STA and absent further clarification from the Commission on the purpose and use of the financial statements as noted above, we believe financial statements would not be needed.

In response to *Question Number 9*, Computershare would not object to the disclosure of affiliated broker-dealers used in connection with transfer agency services or plan services in the Form TA-2. However, Computershare would not support the Commission prohibiting transfer agents from having affiliations with broker-dealers or providing services if they do have affiliations. If a transfer agent uses an affiliated broker-dealer, such broker-dealer must still comply with all regulatory requirements in servicing the transfer agent in the same manner as other clients.

In response to *Question Number 11*, Computershare strongly supports the position stated by the STA. Agreements between issuers and agents should not be required to be filed with the Commission or made public as they reflect confidential negotiated business terms between two commercial parties. Each issuer client may be different in terms of shareholder base, services requested, and service levels requirements. In publicly filing such agreements, transfer agents would lose the ability to negotiate commercially acceptable terms based on different client requirements and services. This proposal would be extremely detrimental to competition in an already highly competitive marketplace. Computershare sees no regulatory or public policy benefit to making commercially negotiated terms between transfer agents and issuers available to the public. It is difficult to understand the policy driver for this suggestion. The Commission can already review agreements between issuers and transfer agents during its examinations of transfer agents, enabling it to achieve its stated objective of monitoring trends, gathering data and addressing emerging regulatory issues.

B. Written Agreements between Transfer Agents and Issuers

Computershare supports the STA's position that the Commission should propose a rule requiring transfer agents to have a written agreement with each issuer client, to apply prospectively to any new transfer agent appointments. Computershare believes that the Commission should require such written agreement to include provisions concerning the term, services to be provided, termination rights, termination fees and costs (including early termination fees and costs to convert to a new agent), any indemnification terms agreed upon by the parties, as well as how any funds deposited in connection with dividend disbursement or other payments will be held and maintained. We also believe agreements should require representations and warranties from the issuer with respect to the registration status of the issuer's shares and a provision requiring the issuer to notify agents of any changes to the registration status. As will be discussed below, this requirement would be important in the context of restricted securities.

As noted above, Computershare, similar to the STA, however, would oppose any obligation to disclose fee arrangements between it and its issuer clients in its filings with the Commission. We would also oppose using standardized contract language concerning fees or standardizing fees. Fee structures can be complex depending on the size of the shareholder base and services required, thus making it difficult to compare one agent's fees to another. We see no regulatory or public policy benefit from requiring such disclosure. Publicly disclosing fees also would be extremely detrimental to competition. Transfer agents and issuers have operated successfully in a free market system as to contract terms and fees since the inception of these services and regulation of transfer agents. As discussed in the STA's comment letter, public disclosure is not needed to promote shareholder protection, as shareholders do not read the Form TA-2, do not pay the fees, and have no choice as to the transfer agent handling their securities as this choice is made by the issuer.

C. Safeguarding Funds and Securities

Safeguarding funds and securities is a critical component of the services provided by a transfer agent. Computershare agrees with the STA's position in supporting enhancements to the existing rule. Specifically, Computershare supports: (i) a requirement that issuer funds are kept separate from a transfer agent's corporate assets; (ii) policies and procedures to address access and control over accounts and reconciliation of cash balances (requiring at least monthly reconciliations);²² (iii) policies and procedures addressing placement and maintenance of funds with banks; (iv) annual reporting of cash balances held in connection with the agent's transfer agency services in the Form TA-2 as of the last calendar day of the year; and (v) any audit of policies, procedures, and controls in connection with safeguarding be covered by the independent audit report required under Rule 17Ad-13 (not a separate audit report as contemplated in *Question Number 23*).

In response to *Question Numbers 21, 24, and 25*, as discussed previously in connection with written agreements, we believe the handling of funds should be an item required to be covered in the agreement between the transfer agent and issuer. Computershare further believes it is appropriate to require transfer agents to have policies and procedures related to the handling of funds. As a best practice, Computershare would recommend that such policies and procedures address: (i) banks at which funds may be deposited (including acceptable bank rating) and in what amounts, to ensure concentration risk and counterparty risk are considered; (ii) controls on who is authorized to open and close bank accounts and move or place funds; (iii) controls to move and reconcile funds; (iv) separation of duties; (v) periodic reporting to management of fund amounts and placement; and (vi) reviews of banks at which deposits are held. Such policies and procedures should apply whether the transfer agent uses an affiliated bank or not. We would note to the Commission that some issuer clients impose a "positive pay" system where dividends

²² We believe all agents should have a minimum standard for reconciliation of cash balances. We expect that larger agents such as Computershare would continue their existing practice of reconciling on a much more frequent basis.

or other funds are held by the issuer (rather than placed with the agent) with the issuer's chosen bank. In this system, the transfer agent requisitions funds as needed to cover the payment of checks as they clear. This different payment methodology would need to be considered in any rulemaking. A principles based approach to protection of funds may be more appropriate than highly prescriptive rules that must by necessity cover all of the various means by which funds are administered and distributed.

Computershare, however, would strongly oppose proposed new rules similar to broker-dealer rules for annual reporting, independent audits, and notification, or rules requiring agents to keep funds in a "special bank account" as broker-dealers are required to do (*Question Number 25*), as we believe these would be too onerous, costly to comply with, and unnecessary. We believe the measures that are supported above will adequately address the handling and protection of funds, and no further paying agent requirements are needed.

Issuers are commercial entities, with knowledgeable finance and/or treasury personnel, and are sufficiently capable of negotiating terms to ensure the funds they place with paying agents are secure and handled appropriately. Under their contracts with issuers, transfer agents are already subject to terms and conditions relating to their handling of funds and paying agent functions, thus providing additional protection to any regulatory requirements in place. We would also again note the broker-dealer/customer relationship is not akin to the relationship between the transfer agent and issuer for whom it is providing paying agent services. The broker-dealer rules are intended to address the risks attendant to the use by the broker-dealer of the investor's funds and assets, such as the extension of credit with a margin account, as well as the difference in sophistication between a broker-dealer professional and an investor; neither of these concerns apply in the context of the relationship between a transfer agent and its issuer clients.

In response to *Question Numbers 27 and 28*, Computershare would also oppose any rules that would require separate recordkeeping, reporting or holding of what the Commission has defined in the Concept Release as "residual" or "unclaimed" funds. All funds and securities will be subject to the same safeguarding and information security requirements that may be promulgated by the Commission. Transfer agents do not currently make such distinction with respect to funds and securities, and to do so would require changes to systems, policies and procedures, and operations that would create unnecessary costs.

In response to *Question Number 26*, Computershare agrees with the STA that transfer agents should be required to have an appropriate level of insurance, with the particular types of insurance and coverage amounts based on the agent's business activities. The determination of insurance needs should be a part of an agent's risk management framework. We note that Computershare US and Computershare Canada are already subject to the insurance requirements of the NYSE (set forth in the NYSE Listed Company Manual) as they service NYSE listed companies; and Computershare US is subject to DTC's insurance requirement as a FAST agent.

In connection with the section of the Concept Release concerning safeguarding of securities, as well as elsewhere in the Concept Release, we note that the Commission often uses the term “custody.” Except when transfer agents may have in their “custody” blank physical stock certificates, we would like to clarify that transfer agents are not acting in a custodial role. Rather, transfer agents are recordkeepers who record the shares held by registered securityholders on their recordkeeping system and maintain the file of registered holders (generally electronically). Transfer agents are not holding shares in custody for individual securityholders, and there is no custodial relationship between the agent and the registered securityholder. Computershare believes it is important that the proposed rulemaking does not incorrectly characterize the transfer agent’s role, as acting in a custodial capacity implies additional obligations that a transfer agent does not have to the individual securityholder.²³

D. Restricted Securities and Compliance with Federal Securities Laws

Computershare understands the importance of preventing the distribution of unregistered securities and supports the efforts of the Commission to address this issue to protect investors, especially in the context of microcap fraud. As discussed below, Computershare supports the position of the STA and STAC with respect to the questions and proposals presented by the Commission concerning restricted securities and compliance with federal securities laws. However, as an agent that processes a high volume of restricted securities transactions, close to 50,000 transactions in 2015, Computershare US would like to provide additional commentary on this subject as any rulemaking will have a significant impact on our business and our issuer clients.

1. Rulemaking and Guidance by the Commission is Needed

Computershare strongly agrees with the STA and STAC that the Commission should issue a rule requiring opinions and supporting documentation (such as securityholder representation letters) to remove a restricted legend for shares that are “restricted” or “control” securities under Rule 144.²⁴ We also strongly support the establishment of a safe harbor from liability for transfer agents that obtain and rely upon an opinion to remove a restricted legend, as set forth in the STA Comment Letter.

In relation to issuances, Computershare would support a requirement that transfer agents obtain either an opinion of counsel (for new issuers) or representations from the issuer, where appropriate, at the time they are appointed as the agent, confirming the registration status of the securities for which they will be acting as agent. For issuers that have been in existence for a

²³ Note that some bank transfer agents may act as a custodian as an ancillary service to transfer agency clients or other clients. However, these services are separate from core transfer agent functions and are performed in accordance with customer contracts and any applicable banking laws.

²⁴ Restricted legends also relate to contractual restrictions in place between issuers and security holders for securities. Transfer agents remove these legends based on instruction from the issuer, without a requirement for a legal opinion. We would not expect the Commission to address such restricted legends in its rulemaking.

long time, law firms are understandably not able to issue opinions on shares issued in the past and will only issue opinions for securities whose registration or exemptions they were involved in reviewing. As discussed earlier with respect to written agreement requirements, we believe that issuers should be required to notify transfer agents of the change in the registration status of the shares. This will assist agents in knowing, for example, when previously unregistered shares are now registered, thus allowing the shares to have restricted legends removed and freely trade. We believe it is the issuer's obligation (based on state corporate law) to advise transfer agents of any restricted legends that should be placed on securities and to provide the specific restricted legend.

It has been extremely difficult for transfer agents to meet the Commission's expectation of transfer agents as "gatekeepers" in connection with restricted stock transactions (all while risking enforcement action for violations under Section 5) without any rule allowing agents to require issuers and securityholders to provide specific documentation and without any specific guidance as to what is required to ensure compliance with federal securities laws. In most situations, transfer agents require both legal opinions and representation letters from shareholders to remove restricted legends. In requesting such documentation, which we deem reasonable and prudent in light of federal securities laws, Computershare and other agents are continually put at odds with their clients and outside law firms that do not want to provide such documentation. They rightfully assert that under agency law, an instruction from the issuer should suffice,²⁵ and that there is no legal requirement for agents to obtain opinions. They also object to the cost of procuring one. Law firms cite challenges with approval by their opinion committees. The process of obtaining opinions and other documentation creates client and securityholder dissatisfaction, and delays the processing of restricted stock transactions while the parties dispute what is required. The ambiguity in what is required and expected by the Commission further creates commercial uncertainty for agents, as law firms often assert that other agents have less onerous requirements and threaten to move the client's business elsewhere. Rules would create an even playing field for transfer agents, as agents would then have consistent processing requirements.

In addition to a requirement for opinions and a safe harbor, Computershare would also recommend that the Commission provide guidelines to transfer agents on what should be required to remove a restricted legend in various situations. There are myriad scenarios involving a request to remove a legend that are not addressed or provided a safe harbor under Rule 144 or elsewhere. These situations generally involve no sale and include, without limitation, the following: (i) a gift of stock to a family member or entity that appears to be a charitable organization from an affiliate of the issuer whose shares may be "control" securities, "restricted" securities or both (while Rule 144 clearly allows the transferee to tack on to the holding period of the original holder, it does not indicate what conditions need to be met by the transferee to receive the shares without a restricted legend); (ii) distributions from limited

²⁵ See Restatement (Third) of Agency §8.09(2), which provides "An agent has a duty to comply with all lawful instructions received from the principal and persons designated by the principal concerning the agent's actions on behalf of the principal."

partnerships to their partners or limited liability companies to their members; (iii) requests to remove restricted legends from shares held by a non-affiliate for six months but less than one year where there is no sale; and (iv) requests by affiliates to move securities that are either “restricted,” “control” or both, to their brokerage account after a six month holding period, without an immediate sale, but with agreement to comply with Rule 144 at the time of the sale. These examples demonstrate the complexity of situations presented to agents and the need for guidance at a broad level as it would be impossible to cover every scenario. Computershare US would be glad to provide further detail to the Commission on the scenarios presented on a regular basis to enable the Commission to determine what guidance would be most useful to transfer agents and, in turn, the broader market.

For all of the above reasons, specific rulemaking by the Commission on what is required to remove a restricted legend for purposes of complying with federal securities laws is critical to bring clarity to this issue among the various industry participants as well as consistency in the handling of these items. We believe this will help achieve the Commission’s objective of preventing the unregistered distribution of securities and microcap fraud. It will also have the benefit of more efficient and consistent processing of these items by transfer agents resulting in greater commercial certainty and service satisfaction by all parties involved.

2. Due Diligence of Parties to Restricted Securities Transactions

Computershare takes the same position as the STA in opposing any proposals that would require transfer agents to perform the contemplated due diligence on issuers, securityholders and law firms in connection with restricted stock transactions. Transfer agents have neither the authority nor the resources to perform the types of investigations suggested by the Commission. As noted in the STA comment letter, such requirements would be extremely burdensome and costly. It is also not clear what the Commission would expect transfer agents to do with any information found. For example, would agents be expected to reject opinions if they came from an attorney that had any disciplinary history in the past? Would certain law firms not be acceptable? What if an article questioned activities of a company or alleged claims of wrongdoing against a company or its management? Requiring due diligence without specific rules on what information would require an agent to reject a transaction would only put agents in the same difficult position they are in today in having to exercise their own judgment concerning a transaction without any legal authority to do so, and contrary to principal-agent law.

For the reasons already stated, we would also oppose imposing broker-dealer like “know-your-customer” requirements for securityholders as there is no direct customer relationship between transfer agents and securityholders.²⁶ In addition, it is the issuer’s obligation, not the transfer

²⁶ See, Office of the Comptroller of the Currency, Frequently Asked Questions (updated): Final Customer Identification Program Rule, OCC Bulletin 2005-16 (April 28, 2005), providing that shareholders are not “customers” of transfer agents, including when agents effect transactions in a dividend reinvestment plan or other plan that does not cause them to be a broker under the Exchange Act, thus eliminating the requirement for transfer agents to perform a customer identification program review for such shareholders.

agent's to know the control persons of the issuer. Transfer agents follow the instruction of the issuer, when given, to affix a legend to the securities of a control person.

With respect to issuer due diligence, we believe basic due diligence should be performed at the time the transfer agent enters into a contract with the issuer, rather than at the point of specific transactions. Bank transfer agents are already required under the USA PATRIOT Act to perform certain due diligence on clients. In response to *Question Number 37*, Computershare would support a requirement for transfer agents upon their appointment as the transfer agent to obtain a list of officers of the issuer authorized to give issuance instructions, as this is customary practice.²⁷

3. Form of Restricted Securities

In response to *Question Number 42*, restricted securities are issued and recorded on the transfer agent's records in both certificated and uncertificated form today. Computershare US cannot speak to whether any holders of restricted securities are held in street name, other than to note that DTC makes a service available to issuers to set up specific classes of restricted securities issued under Rule 144A and Regulation S that can be maintained through DTC. Transfer agents would have one position on its records for such securities in the name of DTC's nominee, Cede & Co., and do not have access to the underlying securityholder information. Likewise, in Canada, legended securities are held with the The Canadian Depository for Securities Limited ("CDS") and responsibility for appropriately handling the sale of such securities is that of the broker, with no tracking of beneficial ownership by the transfer agent.

In further response to *Question Number 42*, as required by state corporate law, when uncertificated securities with restrictions are issued, a notice (statement) is sent to the holder including the share amount and noting the restriction.²⁸ As state law already exists for such statements, no rulemaking by the Commission is needed. In response to the Commission's question concerning restricted securities held in DRS form, we believe that such restricted securities should remain on the records of the transfer agent until the legend can legally be removed. In the past, the industry has reviewed the potential of restricted securities in DRS form being held in street name, but the potential solution presented by DTC was declined by transfer agents as it was not cost effective given the significant development and the limited need as many restrictions are short term.

4. Background Checks

In response to *Question Number 47*, Computershare US believes that the required fingerprinting under SEC Rule 17f-2 already provides sufficient background check information on its

²⁷ We are unclear on the question from the Commission as to whether the list of authorized officers should include those authorized to give cancellation instructions. Cancellation of stock certificates is not done at the direction of the issuer, but rather upon the occurrence of certain transactions initiated by the registered holder (e.g., transfers, exchanges, conversions to book-entry form).

²⁸ See, e.g., Del. Code Ann. tit. 8, § 202, Mass. Gen. Laws Ann. ch.156D § 6.27 (2016).

employees. Computershare and other transfer agents may perform additional background checks and employment verification for their employees, but would not support additional mandated checks. Any kind of background checks performed are subject to local privacy and employment laws, both in the U.S. and Canada. Transfer agents should have the flexibility to work within the parameters of applicable law to perform employee background checks they deem appropriate given the duties of the employee.

As far as background checks for third-party service provider personnel, Computershare ensures adequate background checks are performed through contractual obligations with such service providers. It is not feasible for transfer agents to perform such checks as they would not have authority to do so as they are not the employer of such personnel. We also would not support requiring certain transfer agent employees to be registered with the Commission, as the services provided by transfer agent employees are primarily clerical or professional in nature. To the extent the Commission was contemplating license requirements similar to those for broker-dealer personnel, as set forth above, we would deem these to be inappropriate given the different nature of the relationship and services between broker-dealers and their customers, and transfer agents and securityholders.

5. Recordkeeping of Communications

In response to *Question Number 49*, the Commission should not require transfer agents to maintain originals of all communications received and copies of all communications sent by transfer agents related to their business. This would be extremely burdensome and costly. Record retention should be limited to those items already addressed in the existing transfer agency rules, as these adequately address the primary functions of a transfer agent.

E. Cybersecurity, Information Technology, and Related Issues

Computershare supports the Commission in its endeavors to modernize the rules to address the cybersecurity risks presented by electronic recordkeeping as well as to address business continuity and disaster recovery. As technology has evolved, most large and even small transfer agents maintain the master securityholder file and other records electronically through various systems. With an industry push towards dematerializing stock certificates, the issuance of stock is primarily done in uncertificated form. In addition to storing the basic accountholder information, transfer agents now store other securityholder information such as cost basis, e-mail information, consents to electronic delivery, bank account information. For these reasons, information security of recordkeeping systems is critical. We note that as a bank transfer agent, CTCNA is already subject to oversight by the OCC and comprehensive regulatory guidance on information security practices including without limitation requirements for implementing an information security program²⁹ and physical security program,³⁰ BCP/DR programs,

²⁹ 12 C.F.R. § 30 – Appendix B to Part 30 – Interagency Guidelines Establishing Information Security Standards.

³⁰ 12 C.F.R. § 21.3.

cybersecurity risk assessments, and authentication protocols. As a result, because we default to the highest applicable standards, the Computershare US and Computershare Canada transfer agent recordkeeping systems meet or exceed such guidelines. In addition, we would note that as an agent for large issuer clients, we are required by such clients to meet high standards with respect to information security.

The Commission asks a number of questions about the risks faced by transfer agents with respect to the information it stores electronically. The biggest risk faced by transfer agents is the loss of or unauthorized access to personal information of securityholders. This risk is presented in a number of ways including online access, application breaches, e-mail phishing attempts, denial of service attacks, and malware.

As set forth in the STA's comment letter, in order to address cybersecurity risks, Computershare believes guidance from the Commission with recommended best practices rather than specific rulemaking is more appropriate. This would provide flexibility based on the size of the agent and services provided and allow for changes based on evolving technology and security measures, consistent with the approach taken by banking regulators. We also would recommend that other Commission regulated entities be subject to such guidance.

At a high level, Computershare believes such guidance should recommend a layered security approach including an information security risk assessment, application security, infrastructure security, security and governance, personnel security, and physical security. Such approach should be applied to all systems, applications, components and infrastructure that support core transfer agent business operations. We would also recommend a multi-factor authentication approach for certain online transactions as set forth in banking regulations. As protecting data is a company-wide undertaking, employee training should be a key component of any information security program.

In connection with protecting electronic communications between transfer agents and market participants, Computershare would suggest guidance requiring encryption (without specific levels identified due to the evolving nature of technology) or other secure file transfer protocols be used. A data loss prevention tool would also be recommended to ensure no unprotected data is being sent inadvertently.

F. Blockchain

The marketplace is at an early stage of exploring the potential applications of the emergent "blockchain," or distributed ledger, technology for the securities industry as a whole. We therefore welcome the Commission's interest in this topic. In view of the current status we consider that it is somewhat premature to recommend specific regulatory actions as of yet. We suggest that broader discussions between market stakeholders and the Commission should continue to take place as the development of applications of the distributed ledger progresses.

In the context of potential utility for transfer agents, we do not anticipate that the implementation of distributed ledger technology in securities markets will remove the need to maintain a central securities register. We believe that legal/regulatory and operational aspects will require the continuation of a master securityholder file administered by an agent on behalf of the issuer, which should integrate the distributed ledger of transactions rather than being replaced by it.

The distributed ledger is a data structure that records and authenticates transactions on a pseudonymous basis. The distributed ledger may be fully open (as in Bitcoin) or it may be a “permissioned ledger,” which we consider is most likely to be the case for securities markets. However, it will not record all of the data sets that are required under corporate and other laws in order to compile a securities register for regulatory and shareholder administrative purposes, e.g., identifiable shareholder data (name, address) and other relevant information required to be recorded for regulatory purposes (such as tax identifiers, nationality status, etc.). In addition, it is highly unlikely that all capital would be reflected on a single distributed ledger.

Certain of these data elements are personally identifiable information (“PII”). The PII data elements of the central register cannot be fully disclosed on the distributed ledger due to data protection concerns. We therefore anticipate that a role will need to be retained for an entity (issuer agent) to compile the central register from the relevant data sets; including the distributed ledger transaction record and the PII data to compile the full register data. It is our view that the issuer agent role will need to be an integral part of the distributed ledger, rather than a “data-taker” receiving transaction input from the distributed ledger but otherwise remaining distinct from it, given the highly dynamic transactional environment, with near-immediate settlement, anticipated under distributed ledgers.

We look forward to contributing our perspective and analysis on developments and their impact as the uses of distributed ledgers continue to develop in securities markets.

G. Definitions, Application, and Scope of Current Rules

Computershare supports the detailed recommended changes to the current rules made by the STA and STAC, including those set forth in the Exhibit to the STA Comment Letter, and would like to provide further detail on certain rules below.

Computershare suggests two changes to Rule 17Ad-17 relating to mailing of notices to unresponsive payees and searches for foreign lost securityholders.

- The unresponsive payee notice section of the rule requires notification not later than 210 days to unresponsive payees as defined. Our experience for the transfer agency business with such notifications since the rule was amended in 2013 is that they have not yielded a high level of response or check replacement requests. As a result, we would recommend extending this time to not later than 18 months. Computershare believes that

securityholders with small check amounts may be more likely to respond to notifications if they cover more than one check.

- The lost securityholder search section of the rule requires a search of a database regardless of the address of the lost securityholder. Although the rule provides an alternative to an automated data base service related to US address information, it has been our experience that it is not easy to find a comparable publicly available database for non-US addresses and non-US securityholders. Even if a database is available in another jurisdiction, it may not have comparable data and it is not always possible to verify the lost securityholder is the same person as in the database. As the requirement to perform such searches for non-US holders is burdensome, impractical, and unreliable, we would recommend that an exclusion be added to the rule for non-US lost securityholders.

In response to *Question Number 81*, Computershare agrees with the STA that Rule 17Ad-9 should be revised to include a definition of “securityholder detail” rather than “certificate detail” to address the fact that shares are now more commonly issued in uncertificated form. We would also recommend that the definition include e-mail addresses and telephone numbers, to the extent the securityholder provides such detail to the transfer agent. This information is important to allow agents to effectively communicate with holders. In addition, as more holders consent to electronic delivery of required communications such as statements, tax forms, and proxy materials, it is critical that the e-mail address be maintained by transfer agents and passed along to successor transfer agents so that their chosen method of delivery can continue to be honored. We would also recommend that any electronic delivery consents also be maintained. We note that the STA Conversion Guidelines include e-mail addresses and electronic delivery consents as items to be provided to the successor agent upon conversion.

VII. CONCEPT RELEASE QUESTIONS

A. Outsourcing Activities

As noted in the STA’s comment letter, many agents outsource or subcontract various services to vendors both domestically and abroad. This is not a new or unique practice. Outsourcing certain services, such as call center services and clerical back-office support, can be highly beneficial in that it allows extended operating hours, expedited response and turnaround to securityholders, and provides business continuity and disaster recovery solutions. In hiring third-party vendors to perform services, it is the obligation of the transfer agent to conduct appropriate initial and ongoing due diligence and enter into service agreements to ensure all requirements and service levels are met. To the extent any records maintained on behalf of the agent are required to be held or made accessible for specific time periods either by regulation or under client agreements, this should be a requirement set out in the service agreement. Computershare notes that service providers may not always have separate records they are keeping on behalf of the transfer agent, but rather may have secure and controlled access to systems allowing them to perform the contracted services. In such cases, there should be no concern about the availability of records

when using a third-party service provider. Computershare notes that Computershare Canada is already regulated by the Office of the Superintendent of Financial Institutions (OSFI) with respect to outsourcing arrangements³¹ and CTCNA is subject to OCC guidance.³² These provide a comprehensive risk management framework for engaging and monitoring third-party vendors. Finally, under agency law, the transfer agent will be ultimately responsible for the services it subcontracts to third parties.

Computershare does not believe outsourcing or subcontracting services should be required to be included on Form TA-2, as such vendors are not performing transfer agent functions. The Form TA-2 already requires transfer agents to report entities to which they subcontract transfer agent functions. Transfer agents' disclosure of outsourcing or subcontracting arrangements for non-regulated activity is a matter between transfer agents and their issuer clients and should be addressed in issuer client contracts.

In response to *Question Number 147*, at Computershare, call center personnel are trained on applicable laws and company policies and procedures upon being hired and on an ongoing basis as needed. This training applies to Computershare employees as well as any call center employees of third-party vendors. We do not believe call center services conducted offshore have any greater risk, as the call center representatives receive the same training, use the same systems, processes, and procedures, and are subject to management supervision. The offshore service providers are also subject to the same vendor due diligence and monitoring as US vendors, and subject to contractual terms to ensure services are performed in accordance with required standards.

In response to *Question Number 148*, Computershare does not believe the Commission should propose additional rules applicable to third-party vendors utilized by transfer agents. We do not believe it would be appropriate for the Commission to exercise regulatory authority over such entities to the extent they are not performing transfer agent functions. The transfer agent is ultimately responsible for activities it outsources. The Commission has adequate tools and authority to address any compliance deficiencies directly with the transfer agent.

B. Access to Beneficial Owner Information

The topic of disclosure of beneficial owner information has been the subject of substantial commentary for at least the past decade. Computershare, among many others, has provided detailed input on this, including via our submissions on the Proxy Concept Release in 2010. In particular, we would ask the Commission to reference the analysis of the management of

³¹ Office of the Superintendent of Financial Institutions, *Outsourcing of Business Activities, Functions and Processes*, Guideline B-10 (Revised March 2009).

³² See 12 C.F.R. § 30 – Appendix B to Part 30 – Interagency Guidelines Establishing Information Security Standards; and Office of the Comptroller of the Currency, *Third Party Relationships: Risk Management Guidance*, OCC 2013-29 (Oct. 30, 2013).

beneficial ownership information that we provided in a supplementary response to our broader input on the Proxy Concept Release, available [here](#).

The arguments in favor of issuers having access to information on their investors have been well-documented through this longstanding market debate, and accordingly we do not propose to revisit them here. In our view, the Commission first needs to establish its position on the underlying policy of issuers' right to access ownership data to facilitate resolution.

C. Proxy Tabulation Process

We consider the issues raised in *Question Numbers 163 and 164* to stem from the same underlying policy issues as those discussed above related to access to beneficial holder information. We reiterate our view that the policy arguments on the issues of regulation of the proxy process and the availability of beneficial ownership data for issuers, via their agents, have been debated broadly for well more than a decade now and require a regulatory policy decision to be established. Computershare's then detailed position was documented in our response to the 2010 Proxy Concept Release, available [here](#). We have not canvassed our issuer clients on this matter and have not actively considered this matter further in the absence of clear regulatory direction.

Computershare does not believe additional regulation concerning proxy tabulation in general is warranted. The procedural aspects of proxy tabulation and inspector of election obligations are already covered by state corporate law.³³

D. Crowdfunding

Computershare commends the Commission for its recent rulemaking requiring Tier 2 offerings under Regulation A+ to have a registered transfer agent,³⁴ and for providing a safe harbor to intermediaries under Rule 301 of Regulation Crowdfunding related to recordkeeping where the issuer is using the services of a registered transfer agent.³⁵ As set forth in Computershare's comment letter to the Commission dated February 3, 2014, available [here](#), concerning crowdfunding, we believe having a transfer agent maintaining the securityholder records in connection with crowdfunding will help ensure the accuracy and integrity of the records, thus protecting crowdfunding investors and the overall marketplace.

Computershare US would expect to provide the same types of services to crowdfunding issuers as it provides to other public and private equity issuers (e.g., recordkeeping, transfer processing, dividend paying, proxy tabulation, processing of restricted securities), although some crowdfunding issuers just as other issuer clients may not require all of these services. Computershare US would also expect to apply the same requirements and service levels

³³ See, e.g., Del. Code Ann. tit. 8 § 231 Voting procedures and inspectors of elections (2016).

³⁴ 17 C.F.R. § 240.12g5-1(a)(7)(iii).

³⁵ 17 C.F.R. § 240.12g-6.

concerning recordkeeping and safeguarding to crowdfunding issuers as to other issuers. We believe the entry of transfer agents into the crowdfunding space will bring a heightened level of care to recordkeeping and additional controls that will improve accuracy and investor protection. We do not believe utilizing a transfer agent will present any additional risks that need to be specifically addressed by the Commission.

As far as fees in connection with crowdfunding issuances, as is currently the case with other issuers, fees will be negotiated with the individual clients based on the types of services provided, service level requirements, and number of securityholders serviced. Computershare would expect there to be a combination of issuer and securityholder paid fees, including transaction based securityholder fees, all subject to open market forces. As shareholders are in fact owners of the company, charging the fees to the holders themselves versus the issuer are not mutually exclusive practices.

E. Plan Questions

Computershare agrees with the STA's position that the current plan administration system for dividend reinvestment plans, direct stock purchase plans, and employee stock purchase plans ("Plans")³⁶ and existing exemption from broker-dealer registration under Section 3(a)(4) of the Exchange Act to administer such Plans work well as intended and do not need to be changed. As a bank transfer agent and plan administrator, CTCNA is already subject to OCC regulations requiring transaction notifications for purchases and sales as well as recordkeeping for plan transactions it performs.³⁷ We believe this is one of the reasons the broker-dealer exemption was granted to bank plan agents, *i.e.*, they are already subject to banking regulations and bank regulatory oversight. We believe it would be appropriate for regulations consistent with banking regulations to be adopted for non-bank transfer agents with respect to plan transaction notifications and recordkeeping to the extent such transfer agents are providing plan services.

We do not believe there are risks that need to be addressed by additional rulemaking concerning Plans. The primary functions performed for Plans are enrollment, order taking, receipt and distribution of funds, and settlement through either account debits or credits. These functions are ministerial in nature and, at Computershare, are often handled online through automated processes with no interaction between the holder and a transfer agent employee. Transfer agents do not solicit transactions, provide investment advice, or execute trades, as these are prohibited in the broker-dealer exemption. A plan brochure (for a bank sponsored plan) or prospectus (for an issuer registered plan) disclose how the plan operates, including how purchases and sales will be handled and how pricing will be determined, as well as all other terms applicable to the plan

³⁶ Although the Concept Release defines Issuer Plans to also include odd lot programs and subscription rights programs, these types of plans are distinct from dividend reinvestment, direct stock purchase and employee stock purchase plans and subject to different requirements and processing. The comments provided in this letter only apply to Plans as defined herein.

³⁷ 12 C.F.R. §§ 12.3, 12.4, and 12.5.

services. Fees are disclosed with the plan brochure or prospectuses, at the time the transaction request is made, or in both instances.

In response to the Commission's questions concerning enrollment, automatic enrollment is not a practice at Computershare. Enrollment by negative consent is only done in the limited circumstance of a change in the plan administrator (for a bank sponsored plan) or where there is a corporate action event and the plan participant is enrolled in the surviving company's plan. In both cases, the participant previously affirmatively enrolled in the original plan. We believe the negative consent approach in these situations is actually preferred by Plan participants, as it avoids having to terminate them from the original plan (selling any fractional shares which cannot be held outside a plan) and requiring them to re-enroll. When a negative consent mailing is done advising of the new Plan, Plan participants are provided the opportunity to terminate participation in the Plan (which is always an available option) as well as obtain the terms and conditions of the new Plan.

Funds handled in connection with Plans are managed in the same manner as dividend funds. They are kept in bank accounts separate from the corporate assets of the plan administrator and registered "as agent for" or "as plan administrator," until such time as they are delivered to the executing broker-dealer for settlement of purchases or to the participants as sales proceeds. The funds are subject to the same controls, reconciliation, and safeguarding as dividend payments or other payments. In the Commission's proposed rulemaking, we would expect these funds to be subject to the safeguarding of funds and securities rule.

For the reasons stated above, we do not believe any additional rulemaking in this area is needed, except as noted above to the extent a non-bank transfer agent administers Plans. However, in connection with bank sponsored dividend reinvestment plans and direct stock purchase plans, we believe it would be appropriate for the Commission to consider providing bank transfer agents with additional opportunities to advise securityholders of the existence and features of these plans. Transfer agents currently operate within the very limited marketing parameters set forth in Commission No-Action Letters issued to the STA dated September 14, 1995 (the "1995 No-Action Letter") and October 24, 1997 (the "1997 No-Action Letter"). The 1995 No-Action Letter allows the plan brochure (printed at the issuer's expense) to be included in "periodic issuer-paid mailings to shareholders no more frequently than quarterly." It also allows issuers to provide brochures to employees when the plan is implemented as well as to new employees and to include a brief reference to the plan in quarterly or annual corporate reports. It prohibits agents from placing any "paid advertisements" relating to the plans. The 1997 No-Action Letter provides website relief, allowing agents to include a list of plans they administer on their website in addition to a general description of the plans and actual plan materials. It also allows the agents' issuer clients to include a notice of availability of a plan on its website, with a hypertext link to the agent's website.

These plans provide an attractive alternative to opening a brokerage account, especially for investors who want to invest small amounts and with only one or a few specific issuers, intend to

hold shares for a long time, want to build on their investment through dividend reinvestment, and prefer to be a registered holder with direct communication with the issuer rather than establishing a relationship with a broker-dealer. However, due to the marketing limitations (and out of date methods of communication) currently in place, many investors still are not aware that these plans exist and that they can purchase shares directly from the issuer without opening a brokerage account. We would welcome the opportunity to discuss with the Commission additional ways we would like to inform investors about these plans, while still ensuring that no solicitations are made, no specific issuers are highlighted, and no investment advice is offered.

F. Self-Regulatory Organization (“SRO”) for Transfer Agents

Computershare agrees with the position of the STA in opposing the creation of an SRO for transfer agents. Transfer agents are already subject to a significant number of federal and state laws and regulations (including extensive banking laws for those transfer agents that are banks or trust companies). An additional regulatory body with jurisdiction to regulate, examine, and with enforcement authority would put unnecessary regulatory, operational and compliance burdens on agents, and would result in significant financial costs. We also do not see any benefit to the creation of an SRO. SROs typically have been established in industries where there is a direct service provider relationship with individual consumers (such as broker-dealers, attorneys, and doctors) and an inability for the overseeing entity to adequately regulate and enforce requirements due to the number of industry participants and scope of industry activities. These conditions do not apply to the transfer agent industry, as there are a relatively small number of registered transfer agents, and the transfer agents’ clients are corporate issuers, not individuals whose interests may need additional protections. The Commission has the resources and expertise needed to effectively oversee transfer agents and their activities. We note that the STA and STAC, both of which are highly active organizations involved in industry issues and initiatives, already provide guidelines for transfer agents on various matters, set out best practices for transfer agents to follow, and provide educational information, webinars, and industry updates.

G. Corporate Actions

Computershare does not believe there are problems in the market place today with respect to services provided by transfer agents in connection with corporate actions, except as noted below with respect to its concerns regarding DTC requirements and communications. Any risks inherent in processing transactions for various events such as exchanges, tender offers, conversions, or subscriptions are mitigated by operational procedures and controls. As discussed previously, escrow activities are provided separately from transfer agent services and are already addressed by banking law.

We would oppose any additional rulemaking in this area. Transfer agents need flexibility in processing corporate action events to meet the specific terms of the transaction. Any additional rulemaking regarding processing could impede agents’ ability to provide the requested services

as agreed upon with clients or limit the manner in which services may be provided. We also believe additional rules would impose unnecessary costs on these services.

In response to the question concerning standardizing processing as a means to facilitate communications among market participants, Computershare understands that there has been ongoing market commentary particularly in relation to communication of corporate action data. In our view, the call for standardization and automation of corporate action information is largely driven by the current highly intermediated market structure, where the information must accordingly be passed through several “hands” (and/or procured from third-party vendors) before reaching the decision-maker for any particular securities position. This creates the need for streamlined and automated handling of data.

It is worth noting, however, that if action is initiated in a number of areas already contemplated by this Concept Release, in particular in relation to directly enfranchising accounts held by participants at DTC (see our comments in relation to Section VII(B) above), this could alleviate some of the pressure experienced by custodians and sub-custodians as corporate action communications would be received directly from the issuer by the top-level account holder. We also note that issuers already obtain various regulatory approvals and conduct mandatory filings prior to initiating corporate actions, and that the requisite information is disseminated in multiple forms, including via press releases, physical documentation mailings to registered shareholders, DTC notices to DTC participants, and notifications to brokers via their information agents.

We are aware of comments from custodians and other intermediaries discussing substantial costs to them from the current lack of standardized corporate actions data. However, there is a key asymmetry between the benefit that custodians and other intermediaries would obtain from standardized data compared to the new costs and risks imposed on issuers. In our view, this issue will therefore not be resolved without some level of Commission engagement. However, we urge the Commission to consider how it can encourage market-led solutions rather than establishing mandatory requirements, especially ones that may increase issuers’ costs.

However, in the event that the Commission considers it appropriate to establish further requirements to standardize corporate action announcements we urge consideration of the following aspects:

1. Corporate actions are often complex, and dynamic developments in the market result in frequent innovation in terms and structure of events. Any efforts towards standardization should not disrupt innovation in new forms of corporate actions, with potential detriment to issuers and shareholders.
2. As discussed in relation to the emergence of blockchain technology, any potential intervention should take the form of establishing principles for communication, not specifying technological solutions. For example, we consider it inappropriate to mandate a delivery mechanism such as XBRL. Regulation

should not inhibit the development of improved technological solutions for the benefit of the efficiency of the national market system.

3. Any mandatory communication of corporate action announcements should address the provision of appropriate compensatory fees, as compliance with any such requirements will create additional costs and risks for issuers and transfer agents while delivering potentially substantial cost benefits to intermediaries.

4. We would point out that per customary industry practice, both Computershare US and Computershare Canada currently provide corporate action event information to the respective market depositories, DTC and CDS, at their request. This process exemplifies the problems with trying to develop a template format as well as the risks involved with mandatory communications. For example, agents are requested by DTC to summarize the terms of the event, including all relevant information. Any standardized announcements should be created or, at a minimum, approved by issuers as they are better equipped to confirm the accuracy of the information and terms of their corporate action event and determine what information should be communicated to the industry. Strictly subject to such issuer engagement, we appreciate that this is an activity logically undertaken by transfer agents on behalf of issuers, but only in their agency capacity.

We continue to participate in industry dialogue, including with SIFMA, to coordinate on approaches to improve communication on the specific requirements of individual corporate actions, where concerns have from time to time been expressed regarding aspects such as the timing of events and the delivery requirements to participate in particular transactions, based on the terms of those events. In our view, any such concerns with discrete transactions do not merit regulatory action. These issues are best addressed through stakeholder dialogue between intermediaries and other market participants, and issuers and their advisors, to understand the respective concerns and needs.

H. Co-Transfer Agents

In our experience, the co-transfer agent structure continues to be used predominantly for issuers that are dual-listed between the United States and Canada. Generally, a single master securityholder file is maintained by the recordkeeping transfer agent and incorporates transfer updates provided by the co-transfer agent. This is largely a result of the close ties between the US and Canadian markets. In the co-agency structure, there is only one central register, the master securityholder file, controlled by the recordkeeping transfer agent, with the co-transfer agent providing transfer updates for the master securityholder file.

We note that the only existing rules that are specifically addressed to co-transfer agents are contained in Rule 17Ad-10, and primarily relate to the updating of the master securityholder file

by the recordkeeping transfer agent on receipt of transfer journals from the co-transfer agent. We do not believe that any additional rule-making is required to address the interaction between recordkeeping transfer agent and co-transfer agent. However, we do recommend that 17Ad-10(c)(1) be amended to take account of the following:

1. In most circumstances, the recordkeeping transfer agent is required to update the master securityholder file within five business days from receipt of the transfer journal from the co-transfer agent. The co-transfer agent must “dispatch or mail” the record of transfers to the recordkeeping transfer agent within two business days, or within one business day where the transfer occurs within five business days of a record date. With substantial improvements in communication processes and systems capabilities available to agents since these rules were introduced, we suggest a reduction in the standard turnaround time for co-transfer agents to provide updated records to the recordkeeping transfer agent to one business day to facilitate more current updating of the master securityholder file.
2. We also urge the Commission, in reviewing the rules, to ensure neutrality in language describing the process and mechanism for interaction between the recordkeeping transfer agent and co-transfer agent, and for the consequential update of the master securityholder file. For example, Rule 17Ad-10(c)(1) includes references to mailing “records of debits and credits for every security transferred or issued.” With advances in technology since these rules were drafted, there is potential for greater efficiencies to be obtained in the process and mechanism by which co-transfer agents communicate transfers to recordkeeping transfers agents, and for the master securityholder file to accordingly be updated. While it must continue to remain clear at all times that the recordkeeping transfer agent is the “gatekeeper” for the integrity of the master securityholder file, the rules should not prescribe the process or mechanism for interaction between recordkeeping and co-transfer agents.
3. As noted at Section II, the language of the rule should be updated to ensure that DRS holdings are equally contemplated along with certificates.

I. DRS Fees

Transfer agents charge fees to DTC participants for DRS Profile transactions, including participant initiated movements, shareholder initiated movements, and rejects. Transfer agents also charge DTC participants other fees for services requested. It is our view that such fees do not need to be regulated by the Commission. Agents charge fees they believe to be commercially reasonable. The DRS fees charged are necessary to cover the operational activities required to process a DRS Profile transaction including, without limitation, data entry, verification that the surety in place sufficiently covers the value of the transaction, reconciliation, providing cost basis information, handling rejects, and responding to DTC participant inquiries.

Computershare notes that certain DRS fees (securityholder initiated movements and reject fees) could be avoided by both better education of DTC participants as well as education by DTC participants to their customers concerning DRS. The DRS Profile system was not intended for securityholders to initiate movements to DTC participants, but rather for the participants to initiate the movement from the transfer agent to the participant. Securityholder initiated movements are done through a manual process, not the automated process intended, and can be deficient as the holder is not aware of all of the information needed. DTC participants need to be better educated on initiating movements to avoid securityholder initiated movements and further need to educate their customers on the information needed to avoid DRS movement rejects for providing incorrect information not matching the transfer agent's records.

Computershare also believes DTC participants should better educate investors when they buy a security of the options they have to hold their securities in DRS. For investors who intend to keep their shares long term, holding such shares through a brokerage account can be a more expensive method with account maintenance fees and minimum balance requirements. Investors also are not always aware that they can have more direct communications with the issuers by holding through DRS. Such investor education could be included as part of the FINRA compliance training for broker-dealers.

J. Alternatives to Central Securities Depository Model

Rather than establishing a new form of depository, either in parallel or replacement to the current structure of The Depository Trust & Clearing Corporation ("DTCC"), we consider that attention should be focused on improving the existing depository structure. The structure of DTCC can, in our view, be enhanced to remove inefficiencies and unnecessary complexities that it drives into the administration of shareholder records and shareholder rights.

Computershare addressed this issue in our response to the DTCC White Paper in 2012, "A Proposal to Fully Dematerialize Physical Securities, Eliminating the Costs and Risks they Incur." Our response is available [here](#). In our comments, we noted that:

"Due consideration should be given to making the DTCC records of its participants' securities accounts a legal subregister of the issuer's securities, providing direct registered ownership to the holders of accounts in DTCC. Establishing DTCC as a subregister of registered title, instead of having securities ownership immobilized through CEDE & Co., would enable DTCC to remove itself from an active role in the complexities of securities administration that are not core to its role in the market. For example, the administration of dividend payments, proxy voting or the exercise of other shareholder rights that currently flow through CEDE & Co.'s legal title.

.....
We could envision the law recognizing DTCC as the administrator of the securities accounts held on its systems, acting on the instructions of its participants (as now) to

debit and credit accounts. However, the participant accounts would be recognized by operation of the law as part of the issuer's register."

We continue to hold the view that this change could provide real benefits to investors, intermediaries and issuers. However, we appreciate that it would require a substantive industry dialogue and regulatory commitment. It is not clear to us that there is such commitment to drive change in this area at present.

K. DTC as De Facto Regulator

Computershare agrees with the positions set forth in the STA Comment Letter related to DTC, including the recommendation that a rule be adopted prohibiting DTC from imposing specific requirements for transfer agents relating to matters that should be addressed by the Commission. In addition to the concerns set forth in the STA Comment Letter, we also have concerns with the imposition of processing requirements,³⁸ deadlines, and fees established by DTC for transfer agents that are DTC limited participants or FAST agents. In obtaining these limited memberships with DTC, agents are required to contractually agree³⁹ to DTC's Operational Arrangements, which DTC may change at any time without agreement by agents and any meaningful opportunity for agents to comment or object. These changes become effective when published, so any ability to comment is ineffective as it is unlikely that the changes will be reversed; and agents are required to comply with the terms of such changes during the comment period without any time to modify their procedures or notify their clients. We would request that the Commission adopt a rule that would require DTC to give agents advance notice and an opportunity to comment on any proposed changes to the Operational Arrangements that may require operational and systems changes and may result in financial costs to agents or their issuer clients.

³⁸ One example of our concerns is, in connection with corporate action events. DTC has interpreted its Operational Arrangement to require transfer agents to create a spreadsheet with information it provides about the holdings of its DTC participants, and to calculate entitlements of the DTC participants based on proration rates. This process is expected to be performed on DTC's and its participants' behalf without the payment of any fees for the considerable amount of time spent, and without protection against the risks attendant to the manual nature of the services.

³⁹ In order to provide services to any DTC eligible issuers, transfer agents are required to sign a letter agreeing to DTC's Operational Arrangements, which state: "All issuers of securities deposited at DTC, Agents and Underwriters are required to adhere to the requirements stated in these Operational Arrangements and are obligated, among other things, to follow precisely the procedures outlined in the Agreements and provide DTC with complete and accurate information." The Depository Trust Company Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services) (January 2012), p. ii.

Brent J. Fields, Secretary
U.S. Securities and Exchange Commission
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Computershare truly appreciates the opportunity to comment on the Concept Release and hopes these comments are of value to the Commission in its proposed rulemaking. We would be glad to discuss our comments further.

Sincerely,



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