

July 22, 2013

Elizabeth M. Murphy
Secretary
U.S. Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549

Re: Security-Based Swap Data Repository Registration, Duties, and Core Principles (File Number S7-53-10); Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information (File Number S7-34-10)

Dear Ms. Murphy:

The Depository Trust & Clearing Corporation (“DTCC”)¹ appreciates the opportunity to provide supplemental comments to the U.S. Securities and Exchange Commission (“SEC” or “Commission”) related to certain provisions in the proposed rules regarding security-based (“SB”) swap data repository (“SDR”) registration, duties, and core principles (“Proposed SB SDR Rules”)² and proposed Regulation SBSR governing the reporting and dissemination of SB swap information.³

DTCC’s experience operating an SDR provisionally registered with the Commodity Futures Trading Commission (“CFTC”), a derivatives trade repository registered with the Financial Services Agency of Japan, and other trade repositories internationally as well as other financial market utility services provides useful insight regarding over-the-counter (“OTC”) swaps and SB swaps regulation, particularly for developments that took place subsequent to the original public comment period on many of the proposed Commission regulations.

DTCC will submit additional comments specific to the proposed rules and interpretive guidance to address cross-border SB swap activities. Those comments will address substituted compliance, exemption from the indemnification requirement, and certain reproposed provisions of Regulation SBSR.

¹ DTCC provides critical infrastructure to serve all participants in the financial industry, including investors, commercial end-users, broker-dealers, banks, insurance carriers, and mutual funds. DTCC operates as a cooperative that is owned collectively by its users and governed by a diverse Board of Directors. DTCC’s governance structure includes 344 shareholders.

² Security-Based Swap Data Repository Registration, Duties, and Core Principles, 75 Fed. Reg. 77,306 (Dec. 10, 2010).

³ Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information, 75 Fed. Reg. 75,208 (Dec. 2, 2010).

These comments provide (i) information about DTCC and its role in financial markets; (ii) general comments on the Commission’s approach to implementing provisions of the Securities Exchange Act of 1934, as amended (“Exchange Act”), that were added by Subtitle B of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”)⁴; (iii) specific comments on the Proposed SB SDR Rules; and (iv) specific comments on proposed Regulation SBSR.

I. About DTCC

DTCC is a user-owned cooperative that serves as the primary financial market infrastructure serving the United States capital markets across multiple asset classes, including equities, corporate and municipal bonds, government and mortgage-backed securities, money market instruments, mutual funds, insurance, alternative investment products and OTC derivatives.

Through its subsidiaries, operating facilities and data centers around the world, DTCC automates, centralizes, and standardizes the post-trade processing of financial transactions enabling thousands of institutions worldwide to issue securities and raise capital to build businesses.

DTCC’s subsidiary, the DTCC Data Repository (U.S.) LLC (“DDR”), is provisionally registered as an SDR with the CFTC for broad-based indices for credit and equity derivatives and also for interest rate, foreign exchange and other commodity derivatives in the United States.

DTCC has extensive experience operating as a trade repository and meeting regulator transparency needs. DTCC provides trade repository services through its established global infrastructure in the United States, Japan, Singapore and the Netherlands.

DDR began accepting trade data from market participants on October 12, 2012 – the first day that financial institutions began trade reporting under the Dodd-Frank Act. DTCC, though its subsidiary The Warehouse Trust Company, has been providing public aggregate information for the credit default swap market on a weekly basis, including both open positions and turnover data, since January 2009. This information is available, free of charge, on www.dtcc.com.

⁴ Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

II. General Comments on Commission Implementation of the Dodd-Frank Act

A. Need for Regulatory Certainty

The Commission's final rules must provide market participants with an appropriate level of regulatory certainty. Most importantly, the final rules should include implementation and compliance dates that are unambiguous, regulated activities must be easily discernible, and the regulations must clearly define and articulate the specific obligations and responsibilities of each segment of SB swaps markets.

Implementation dates must reflect not just the Commission's desire to promptly implement the Dodd-Frank Act, but also the recognition that final rules will necessitate technology development, implementation, testing, and user training that will require the investment of significant resources from all segments of the SB swaps market. The extent of the enhancements and changes that will be required will depend on the extent to which the final rules adopted by the Commission are consistent with regulations and rules with which market participants are currently complying. Appropriate time must be afforded to ensure that implementation can take place smoothly for all market participants.

DTCC provided comments to the Proposed SB SDR Rules⁵ and Proposed Regulation SBSR in January 2011.⁶ DTCC appreciates the opportunity to comment in this instance on concerns and issues that have been identified since DTCC's original comments either due to practical implications that have been identified while operating an SDR and trade repositories or those resulting from actions taken by other domestic and global regulators since the publication of the original proposals.

B. Promoting Competitive Markets

The Commission's final rules must serve to foster competition in the marketplace. In implementing the Exchange Act's core principle relating to market access to services and data, Proposed Rule 240.13n-4(c)(1) generally prohibits an SB SDR from adopting policies or procedures or taking any action that results in an unreasonable restraint of trade or imposes any material anticompetitive burden on the trading, clearing or reporting of transactions. To achieve this objective, the proposed rule would (i) require each SDR to ensure that any dues, fees, or other changes it imposes, and any discounts or rebates it offers, are fair and reasonable and not unreasonably discriminatory; (ii) require each SDR to permit market participants to access specific services offered by the SDR separately; (iii) require each SDR to establish, monitor, and enforce clearly stated objective criteria that would permit fair, open, and not unreasonably discriminatory access to the services offered and data maintained by the SDR, as well as fair, open, and not unreasonably

⁵ See Letter from Mr. Larry Thompson, DTCC, to Ms. Elizabeth Murphy, SEC (Jan. 24, 2011).

⁶ See Letter from Mr. Larry Thompson, DTCC, to Ms. Elizabeth Murphy, SEC (Jan. 18, 2011).

discriminatory participation by market participants, market infrastructures, venues from which data can be submitted, and third-party services providers; and (iv) require each SDR to establish, maintain, and enforce certain written policies and procedures for the purpose of reviewing any prohibition or limitation of any person with respect to access to services and the data maintained.

DTCC supports the Commission's stated goals of protecting market participants and maintaining a fair, orderly, and efficient SB swap market through the promotion of competition. DTCC urges the Commission to ensure the application of these principles across all SB swap market participants, including other registrants and third-party service providers.

Further, relying on the recommendations of the Committee on Payment and Settlement Systems ("CPSS")⁷ and the International Organization of Securities Commissions ("IOSCO"),⁸ the Commission correctly emphasizes that market participants offering potentially competing services should not be subject to anti-competitive practices, including product tying, overly restrictive terms of use, and anti-competitive price discrimination.⁹ In a global SB swap market, the anti-competitive practices of even a single market participant have potential ramifications for the entire marketplace. DTCC, therefore, urges the Commission to adopt rules that preserve a competitive marketplace and forbid such anti-competitive practices by all SB swap market participants.

C. Global Harmonization; Legal Entity Identifiers

DTCC strongly encourages the United States' continued participation in global efforts to promote harmonized rules governing OTC swaps markets. Given the global nature of OTC swaps and SB swaps markets, the United States should continue to promote an approach to the regulation of the swaps markets that adheres to international comity and mitigates the risk of regulatory arbitrage in market decisions.

Regulations among jurisdictions must be coordinated in a manner that promotes competition, transparency, and protects the safety and soundness of these global

⁷ The CPSS is a standard setting body for payment, clearing and securities settlement systems. It also serves as a forum for central banks to monitor and analyse developments in domestic payment, clearing and settlement systems as well as in cross-border and multicurrency settlement schemes.

⁸ IOSCO, established in 1983, is the acknowledged international body that brings together the world's securities regulators and is recognized as the global standard setter for the securities sector. IOSCO develops, implements, and promotes adherence to internationally recognized standards for securities regulation, and is working intensively with the G20 and the Financial Stability Board FSB on the global regulatory reform agenda. IOSCO's membership regulates more than 95% of the world's securities markets. Its members include over 120 securities regulators and 80 other securities markets participants (i.e. stock exchanges, financial regional and international organizations etc.). IOSCO is the only international financial regulatory organization which includes all the major emerging markets jurisdictions within its membership.

⁹ 75 Fed. Reg. at 77,321.

markets. At the same time, the Commission should remain vigilant that the international framework is efficient and does not unfairly disadvantage or concentrate systemic risk in the United States.

To that end, DTCC urges the Commission to support the use of a global legal entity identifier (“LEI”) to accurately identify market participants involved in SB swaps transactions. The LEI is an important global standard that can be relied upon to ensure a consistent approach for recordkeeping and aggregation of market activity across jurisdictions. With respect to the Commission’s proposed regulation, the LEI is an existing solution that can efficiently provide the information required by Proposed Rule 242.906(b) with respect to ultimate parent and affiliate information.

CPSS-IOSCO, in its Consultative Report on Data Reporting and Aggregation Requirements, identified the LEI as a method “to provide precise, standardised identification of a particular legal entity” and recognized that the utility “could be used by authorities to conduct various forms of legal entity aggregation.”¹⁰ The Financial Stability Board has issued principles and recommendations for the development and operation of a global LEI system and the Regulatory Oversight Committee has taken those principles and recommendations forward to gain global consensus around the use of LEIs in global regulatory reporting. The Commission should participate alongside its international and domestic counterparts by selecting an issuer of LEIs and mandate, through regulation, that SB swap participants register for LEIs, maintain the associated reference data, and utilize the LEI to identify themselves and their counterparties in reporting and recordkeeping.

D. Domestic Harmonization

At the same time, the Commission should work, to the extent possible, with the CFTC to minimize the number of regulatory inconsistencies between the two agencies. Given the significant number of registered entities (execution platforms, clearinghouses, SDRs, dealers, and major swap participants) that will face dual oversight, unnecessary distinctions in the registration and regulation of these entities risk jeopardizing regulatory compliance, add confusion to Dodd-Frank Act implementation, and ultimately impose unnecessary costs.

i. Real-time Dissemination of Swap and SB Swap Transaction Data

While DTCC identifies several areas for harmonization on real-time reporting and dissemination of swap and SB swap transaction data later in this letter, one example of the critical need for consistent regulations is the proposed regime for real-time public dissemination of executed swap transactions. DTCC is concerned that the differences in regulation, specifically as it relates to the Commission’s Proposed

¹⁰ Committee on Payment and Settlement Systems, Technical Committee of the International Organization of Securities Commissions, *Report on OTC Derivatives Data Reporting and Aggregation Requirements*, Aug. 2011, available at <http://www.bis.org/publ/cpss96.pdf>.

Rule 242.902(b), will dilute transparency and increase complexity to the consumer reviewing such data.

The DDR's post-trade public dissemination of swaps data is fully operational in the United States pursuant to CFTC regulations. As a testament to the value of this information, DTCC's website publishing real-time post-trade information receives over 10 million visits per day, providing market participants with accurate, timely information about OTC swaps activity.

When completing its real-time dissemination rules, DTCC urges the Commission to consider adopting an approach that would allow for use of the existing real time ticker used for CFTC reporting. The Commission's current approach would require the development of new technology to ensure dissemination upon receipt by the SDR pursuant to its rules. Such an approach would effectively require United States-registered SDRs to establish and maintain two different real-time dissemination systems without any identifiable benefit that could not be attained by one harmonized standard. If the Commission and the CFTC were to adopt harmonized regulations, it may be possible for dissemination of post-trade information for swaps and SB swaps to come from one consolidated service provider. More importantly, a consolidated ticker in compliance with CFTC and SEC rules will alleviate complexities the consumer might otherwise experience if they had to understand both regimes.

ii. Block Trade Thresholds, Time Delays for Dissemination

DTCC urges the Commission to align its block trade threshold formula in a manner consistent with the CFTC's final rules relating to the reporting and public dissemination of certain swap transaction and pricing data, including block trades.

Specifically, the Commission should consider a similar approach to block trade threshold calculations and time delays for public dissemination of SB swap transaction and pricing data. Bifurcated regulations impact swap and SB swap trading, reporting, and dissemination, and will only cause fragmentation of OTC swap markets and the associated transaction data, reducing transparency for regulators and market participants. Inconsistent regulations will also pose a greater burden on counterparties and other registered entities that have a role in post-trade reporting of transactions. DTCC submits that these obstructions can be minimized or avoided by promulgating harmonized regulations for swaps and SB swaps between the Commission and the CFTC.

iii. Audited Financial Reports

In an attempt to harmonize final SB SDR rules with the CFTC's final SDR rules, the Commission should consider removing Proposed Rule 240.13n-11(f)(2)'s requirement that each financial report filed with a compliance report is audited in accordance with the standards of the Public Company Accounting Oversight Board by a registered public accounting firm that is qualified and independent unless the SB SDR is under a separate obligation to provide financial statements.

This requirement imposes an additional burden for an SB SDR and is not justified in relation to the risks that an SB SDR would pose to its members. Unlike clearing agencies or other entities supervised by the Commission, an SB SDR does not have financial exposure to its users or participants that would justify the imposition of this requirement. Instead, the Commission should consider adopting the CFTC's approach in its final SDR rules, which require an SDR's financial statements be prepared in conformity with generally accepted accounting principles ("GAAP").

III. Specific Comments on the Proposed SB SDR Rules

The following comments are intended to provide the Commission with feedback on its proposed registration requirements and regulations related to SB SDRs given DTCC's extensive experience establishing and operating trade repositories in multiple jurisdictions.

A. Temporary Registration

Proposed Rule 240.13n-1(d) provides that "the Commission, upon the request of a security-based swap data repository, may grant temporary registration of the security-based swap data repository." DTCC recommends that the Commission establish clearly articulated standards and requirements for temporary registration so that existing trade repositories may quickly begin to provide similar transparency to the SB swaps markets that is currently provided to the rest of the swaps market, thus facilitating the Commission's oversight of these markets. Further clarity on the standards and process that will be utilized to grant temporary registration will also provide applicants to register as SB SDRs with a better understanding of the Commission's expectations with respect to their obligations and requirements prior to being granted full registration.

DTCC reiterates its comments from January 2011 that the registration process should not interrupt current operation of existing trade repositories who intend to register as SB SDRs. Whether done through a phasing-in of final SB SDR rules or the Commission's prompt issuance of temporary registration conditioned on implementation of enhancements to comply more fully with specified provisions, the Commission should ensure the continuation of counterparty reporting and the ability of the entities currently performing the functions of an SB SDR to receive and maintain current trade information on an ongoing basis. These activities are imperative for effective oversight of systemic risk and the availability of relevant trade information to the Commission, as well as the continuance of the operational services to market participants.

B. Direct Electronic Access

Proposed Rule 240.13n-4 (a)(5) defines the term "direct electronic access,"¹¹ which under Proposed Rule 240.13n-4 (b)(5) the SB SDR must provide "to the

¹¹ Pursuant to Commission Proposed Rule 240.13n-4 (a)(5), "direct electronic access" means access, which shall be in a form and manner acceptable to the Commission, to data stored by a security-

Commission (or any designee of the Commission, including another registered entity).” The Commission’s requirement that the data is “updated at the same time as the security-based swap data repository’s data is updated” may pose operational difficulties that do not outweigh the marginal benefits to the Commission.

The Commission’s proposed definition provides for no latency between the moment when an SB SDR’s records are updated and when the systems used by the Commission (or its designee with direct electronic access) are updated. The Commission should allow time for an SB SDR to validate, process, and store the data received prior to populating the data to the environment that will be utilized to provide such direct electronic access to the Commission.

The terms of Proposed Rule 240.13n-4(b)(9) require an SB SDR to “make available all data obtained by the security-based swap data repository” to the listed regulators and “any other person that the Commission determines to be appropriate.” This grant should be limited in line with the Proposed Rule 240.13n-4(d) to allow any such person to fulfill a regulatory mandate and/or legal responsibility which would be in line with proposed CPSS-IOSCO access guidelines.

C. Confirmation of Accuracy of the Data

Section 13(n)(5)(B) of the Exchange Act requires a registered SB SDR to “confirm with both counterparties to the security-based swap the accuracy of the data that was submitted.” In practice, the implementation of this requirement in Proposed Rule 240.13n-3 and Proposed Rule 240.907 presents logistical challenges for an SB SDR to confirm the information with the non-reporting side that does not have connectivity to or a relationship with an SB SDR. In these circumstances, the SB SDR is required to confirm the information with a counterparty with whom it has no relationship and limited information to conduct access control and authentication, while trying to prevent the inadvertent disclosure of confidential transaction data.

Due to these challenges, DTCC recommends that the Commission determine that an SB SDR has satisfied its obligation to confirm the accuracy of the data under the following circumstances: (i) the SB swap has been reported by a swap execution facility, clearing agency, designated contract market, or other regulated counterparty who has an independent obligation to maintain the accuracy of the transaction data; (ii) a confirmation has been submitted to the SB SDR to demonstrate that both counterparties have agreed to the accuracy of the swap information that was submitted to the SB SDR; or (iii) the SB swap is deemed verified and the SB SDR has developed and implemented policies and procedures reasonably designed to provide the non-reporting side of the SB SDR with an opportunity to confirm the information submitted by the reporting side.

based swap data repository in an electronic format and updated at the same time as the security-based swap data repository’s data is updated so as to provide the Commission or any of its designees with the ability to query or analyze the data in the same manner that the security-based swap data repository can query or analyze the data.

D. Objective Review of Automated Systems

DTCC supports the Commission's intent in requiring that SB SDRs establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, resiliency, and security.

Proposed Rule 240.13n–6(b)(1)(v) should be amended to reflect that an SB SDR's contingency and disaster recovery plan will likely be a part of or consistent with a parent or affiliate entity's disaster recovery operations. Currently, each of the CFTC-provisionally registered SDRs are affiliated with other companies that provide clearance, settlement, and other services. While the SB SDR's disaster recovery plan should certainly be "adequate," as required by the proposed rule, flexibility should be granted to reflect the SB SDR's relationship with other affiliated services.

Similarly, Proposed Rule 240.13n–6(b)(2)'s mandate that the SB SDR's annual review of its systems either be assessed by an external firm that issues a report or that the objectivity of the internal review be assessed by an external firm on an annual basis is burdensome and inconsistent with current industry standards. This obligation imposes more rigorous standards for SB SDRs than those requirements in place with regards to financial market infrastructures that pose greater systemic risk.

Additionally, the international standards published by the Institute of Internal Auditors require that an external Quality Assurance Review be conducted every five years. DTCC believes that (i) complying with this standard should be sufficient to satisfy the requirement that the internal auditor or other party meets the standards of objectivity and independence required in this provision, and (ii) this report should be provided to the Commission once every five years rather than on an annual basis. This approach would appropriately balance the costs and benefits of this requirement.

E. Notification of System Outages

Proposed Rule 240.13n–6(b)(3), which requires notification to the Commission of a material system outage, is too prescriptive in its time frames. The rule requires immediate notification of a material systems outage.

While such notification may be possible and appropriate in some instances, there will be times where it may be more efficient to conduct a preliminary investigation prior to notifying the Commission.

Similarly, there is a requirement for a written description and analysis including planned remediation within five days. The Commission also references its BCP Whitepaper,¹² which "requires clearing and settlement organizations to have a recovery time objective of 'within the business day on which the disruption occurs

¹² See Exchange Act Release No. 47638 (April 7, 2003), 68 Fed. Reg. 17809 (April 11, 2003).

with the overall goal of achieving recovery and resumption with two hours after an event.”¹³

The notification process for an SB SDR should allow for more flexibility for reporting outages and the recovery and resumption of its operations. An SB SDR, unlike an SB swap execution facility or a clearing agency, does not hold market participant funds, positions, or other assets. Similarly, as the role of the SB SDR is limited to collecting and maintaining accurate SB swap transaction data, a system outage will not impact financial systems, market operations, or the ability of market participants to engage in transactions. The SB SDR’s indirect role of risk reduction through increased transparency is such that its system outage notification process should be less stringent than those regulated entities that pose a more direct risk to the system in the case of an outage.

DTCC proposes the Commission revise the notification process to allow for more flexibility to report dependent upon the circumstances of the incident. DTCC suggests that “immediately” reporting be changed to “promptly” or “as soon as practicable.” While it may be appropriate in some instances, it may take more than five days to complete a full analysis and develop a remediation plan. The Commission should not impose an arbitrary deadline; rather, the Commission should consider the unique facts and circumstances of each event.

After Superstorm Sandy, DTCC remained in close and frequent contact with regulators and provided real-time information on the status of operations, including recovery efforts. Following a detailed business continuity management plan, DTCC’s systems and core processing capabilities remained fully functional and returned to “business as usual” status quickly.

F. Personally Identifiable Information

DTCC strongly supports the Commission’s public policy objectives of protecting the privacy of any and all SB swap transaction information that the SDR receives from an SB swap dealer, counterparty, or any registered entity.

However, DTCC has concerns about the inclusion of “personally identifiable information” under the definition of “nonpublic personal information” in Proposed Rule 240.13n–9. Because much of the information utilized to on-board participants or to identify counterparties to an SB swap will be publicly available through websites issuing legal entity identifiers or similar identifiers, this information should not be considered confidential simply because it is requested by an SB SDR. DTCC recommends that the first category of “personally identifiable information” in Proposed Rule 240.13n–9(a)(6)(i) be limited to information that is not otherwise disclosed or made available to the public.

¹³ 75 Fed. Reg. 77336, n.149.

IV. Specific Comments on Proposed Regulation SBSR

The following comments are intended to provide the Commission with feedback on proposed Regulation SBSR.

DTCC will address provisions of proposed Regulation SBSR reposed in the Commission's May 23, 2013 Federal Register publication prior to the August 21, 2013 comment period deadline.

A. Life Cycle Events

Proposed Rule 242.900(p) defines a life cycle event as “*any* event that would result in a change in information reported to the registered security-based swap data repository.”¹⁴ DTCC believes that such definition is too broad as it would seem to require the reporting of any change to the contract. DTCC believes the scope should be limited to those events that impact the counterparties to or the pricing of the SB swap. Accordingly, DTCC suggests that the definition be changed from “any” to “an” and seeks further clarification of the scope from the Commission as described above.

Under Proposed Rule 242.901(e), the Commission states the reporting side shall submit the lifecycle event promptly after such event occurs. DTCC suggests including additional language that will allow for the flexibility of either reporting event by event or multiple events through one daily submission.

Similarly, DTCC questions the necessity of including “for a security-based swap that is not cleared, any change to the collateral agreement” in the definition, particularly because collateral agreement terms are not among the data required to be reported upon execution.¹⁵

B. Reporting Obligations – Primary Trade Information

The Commission should consider the utility of requiring the reporting of the “terms of fixed or floating rate payments” in Proposed Rule 242.901(c)(8). Without clarity, DTCC believes this vague requirement risks being interpreted in varying manners by market participants, resulting in inconsistent reporting to SB SDRs. DTCC recommends limiting such reportable fields to tenor and frequency where applicable.

Similarly, the Commission should remove the requirement for an indication if both sides to an SB swap are SB swap dealers as contemplated by Proposed Rule 242.901(c)(10). Excluding this field from the information required to be provided to an SB SDR in real time will bring the scope of data required in line with existing dissemination functionality.

¹⁴ 78 Fed. Reg. 31211 (emphasis added).

¹⁵ *Id.*

C. Secondary Trade Information

DTCC requests additional clarity on what the Commission requires under Proposed Rule 242.901(d)(ii) (“contingencies of the payment streams of each direct counterparty to the other”), Proposed Rule 242.901(d)(iv) (“title of any master agreement, or any other agreement governing the transaction”), Proposed Rule 242.901(d)(v) (“data elements necessary for a person to determine the market value of the transaction”), and Proposed Rule 242.901(d)(viii) (“a description of the settlement terms, including whether the security-based swap is cash-settled or physically settled, and the method for determining the settlement value”). With respect to the last provision, DTCC believes that settlement terms can be derived from the other data fields reported to an SB SDR, and suggests that this requirement be removed.

D. Public Dissemination of Transaction Reports

DTCC suggests the following with respect to the harmonization of public dissemination of transaction reports, as contemplated by Proposed Rule 242.902.

First, the Commission should consider aligning its public dissemination rules to allow for use of the existing public reporting already in place under CFTC guidelines. For example, the Commission’s requirement to publicly disseminate block trade information in two steps – first without the notional size, and then on a delayed basis with the full notional size – seems to be an inefficient method to provide market participants with clear, concise information without risking duplicative reporting.

Second, Proposed Rule 242.902(b)’s requirement that a block trade’s initial report include an indicator of its block trade status could be more easily achieved simply by not reporting the trade size as evidence of a block trade. Such an approach would be more in line with current industry practice and would avoid the need for new technology to be developed to meet this new proposed requirement.

DTCC also urges that the Commission consider removing the dissemination of a transaction ID as contemplated by Proposed Rule 242.902(b). The “unique identification code assigned by a registered [SB SDR] to a specific [SB] swap”,¹⁶ should never be disseminated beyond the SB SDR. Instead, current practice would suggest that the SB SDR assign the SB swap a “dissemination ID” that, in addition to being distinct from the transaction ID, can be disseminated publicly and avoid any risk of identifying the counterparties to the transaction.

Finally, DTCC suggests the Commission reconsider its time-based delayed complete transaction dissemination regime as set forth in Proposed Rules 242.902(b)(1) – (3). Tying the time of trade execution with when its information will be publicly disseminated is a departure from current industry practices and the

¹⁶ Proposed Rule 242.900(jj).

imposition of such a regime will require new technology, testing, development, implementation, and training. DTCC does not believe that these associated costs are outweighed by the potential benefits to either the Commission or market participants, as a less onerous alternative exists in current practices. These options should be reviewed and incorporated into the Commission's regulations.

E. Correction of Errors in SB Swap Information

Proposed Rule 242.905(b) requires a registered SB SDR to, upon discovery and verification of an error in information previously reported, "correct the erroneous information regarding such security-based swap contained in its system."

DTCC believes that the counterparties to the trade shall be responsible for identifying any erroneous information through the verification review. For example, for swaps, DDR provides the reporting side and counterparty with reports that enable them to review such data and request the reporting side to make such a correction. Consequently, DTCC believes that the Commission should not require an SB SDR to amend records but rather require the reporting side to amend the record when advised of such errors by the counterparty to the trade. The Commission should amend this provision to reflect that an SB SDR should only correct a trade record and disseminate that information upon correction of the error and direction to correct the SB SDR's records by the reporting side.

F. Reporting by Non-Reporting Side

Proposed Rule 242.906(a) requires an SB SDR to identify any SB swap reported to it for which the SB SDR does not have the participant ID, broker ID, desk ID, or trader ID of each direct counterparty. Once a day, the SB SDR shall send a report to each participant identifying the data missing. The Proposed Rule requires each participant to provide the missing information within 24 hours.

Similar to the prior discussion of Proposed Rule 242.907 and the confirmation of data, this obligation imposes a duty on an SB SDR to request information from participants that may not have connectivity to or a relationship with an SB SDR. In these circumstances, the SB SDR is required to request information with a counterparty with whom it has no relationship and limited information to conduct access control and authentication, while trying to prevent the inadvertent disclosure of confidential transaction data.

For these reasons, as an alternative, DTCC believes that the SB SDR should not be required by regulation to send such reports to the non-reporting side of a transaction that are not on-boarded users of the SB SDR. Furthermore, an SB SDR should not police submissions for deficiencies or unpopulated data fields in any manner that requires the SB SDR to take affirmative actions to obtain that information.

G. Uniform Identification Codes

In Proposed Rule 242.907(a)(5)(ii), the Commission contemplates that an SB SDR will have written policies and procedures for assigning unique identification codes established by or on behalf of an internationally recognized standards-setting body that imposes fees and usage restrictions that are fair and reasonable and not unreasonably discriminatory. While global standards for identification codes are likely to exist for certain fields, such as the broker or participant (through the LEI system or otherwise), certain global identifiers will not exist. Having SB SDR's create such IDs will result in bespoke implementation among SB SDRs and, absent an industry standard, will provide diminished value. The Commission should consider postponing such requirement until an international taxonomy exists that can be applied consistently.

With respect to transaction IDs, Proposed Rule 242.900(jj) defines a transaction ID as a number that is assigned to an SB swap by an SB SDR and 242.901(g) requires the SB SDR to assign the transaction ID to each SB swap reported by a reporting party. DTCC believes the Commission should allow flexibility for an SB SDR to accept transaction IDs already generated by the reporting side and assign transaction IDs where such request is made.

H. Policies and Procedures of SB SDRs

DTCC raises concerns with imposing a duty on an SB SDR to calculating and publicizing block trade thresholds for SB swaps reported to the SB SDR as contemplated by Proposed Rule 242.907(b).

While the SB SDR can publish appropriate block trade thresholds, as determined by the Commission, the SB SDR should not be required to perform specific calculations. In this instance, the Commission should consider the approach of the CFTC, where the CFTC calculates and publishes block trade level thresholds, and SDRs make that information readily available for SDR participants.

Finally, Proposed Rule 242.907(e) requires an SB SDR to provide the Commission, upon request, information or reports related to the timeliness, accuracy, and completeness of data reported to it pursuant to Regulation SBSR.

While an SB SDR should be able to readily provide the Commission with any relevant information, the Commission should consider that an SB SDR, designed by the Dodd-Frank Act to receive and maintain current trade information on an ongoing basis, is not in the best position to confirm the accuracy of its information. The ultimate responsibility for the submission of accurate and complete information remains with the reporting side, and this provision should be revised to reflect that an SB SDR's information will only be as timely, accurate, and complete as provided to it by the parties to the trade.

Conclusion

Should the Commission wish to discuss these comments further, please contact me at 212-855-3240 or lthompson@dtcc.com.

Sincerely yours,

A handwritten signature in black ink that reads "Larry E. Thompson". The signature is fluid and cursive, with "Larry" on the first line and "E. Thompson" on the second line.

Larry E. Thompson
General Counsel