

April 4, 2019

Via Electronic Submission

The Honorable Jay Clayton,
Chairman Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Harmonization of Swap and Security-Based Swap Data Reporting Rules

Dear Chairman Clayton,

ICE Trade Vault, LLC ("ICE Trade Vault") submits this letter to the Securities and Exchange Commission ("SEC") to endorse and specifically request the use of time-limited exemptive relief from certain elements of the Security-Based Swap Data Repository Registration, Duties and Core Principles ("SBSDR Rule") and Regulation SBSR-Reporting and Dissemination of Security-Based Swap Information ("Regulation SBSR"). Specifically, on February 28, 2019, DTCC Data Repository (U.S.) LLC ("DDR") submitted a letter ("DDR Letter") to the SEC requesting exemptive relief from certain statutory requirements related to SBS trade reporting. ICE Trade Vault supports the DDR Letter and its proposals to harmonize the CFTC and SEC regulations through a time-limited alternative compliance framework. ICE Trade Vault has worked closely with SEC Staff and DDR during the SBSDR application process and, like DDR, believes that the Title VII reporting rules are an area where an alternative-compliance framework makes sense as an immediate short-term solution.

ICE Trade Vault specifically requests that, for those areas where the SEC and the Commodity Futures Exchange Commission ("CFTC") swap data reporting requirements overlap, the SEC use its exemptive authority to create a time-limited alternative-compliance framework that would allow market participants to use a single operational framework for swap and security-based swap ("SBS") data reporting and data repository oversight. The SEC's and CFTC's swap data reporting rules share much commonality and the agencies' efforts are already underway to harmonize the requirements. ICE Trade Vault supports these harmonization efforts and, in the near term, requests the SEC establish an alternative-compliance framework which would allow the SEC and market participants to leverage the infrastructure currently in place. The alternative-compliance structure would allow ICE Trade Vault to provide SBS data to the SEC relatively quickly utilizing one set of data standards processed under one operational framework. In addition, this approach would expedite SBS swaps data reporting to the SEC and provide the SEC and CFTC with time to harmonize their rules and implement any necessary internationally agreed standards.

Background

ICE Trade Vault, LLC (“ICE Trade Vault”) formally submitted its security-based swap data repository (“SBSDR”) application to the SEC on April 18, 2016 and additionally submitted an amended application on July 27, 2017. ICE Trade Vault worked closely with SEC Staff to formulate a complete application that would allow the SEC to approve its registration and thus to operate an SBSDR in conformance with the SBSDR regulations. During this registration process, ICE Trade Vault requested guidance on various matters and questions raised by the current SBSDR rules. On September 26, 2017, ICE Trade Vault submitted a letter to the SEC outlining its specific concerns with the SBSDR rules, including that the SEC could, at a future date, question whether the methods that ICE Trade Vault intends to use to satisfy certain aspects of the SBSDR Rule and Regulation SBSR are fully compliant. (“2017 Letter”)¹ In the 2017 Letter, ICE Trade Vault requested that the SEC issue limited exemptions or interpretive guidance to ICE Trade Vault regarding specific elements of the SBSDR Rule and Regulation SBSR. As a result of ICE Trade Vault’s continued concerns, and the absence of guidance or exemptive relief from the SEC on the points raised in the 2017 Letter, ICE Trade Vault withdrew its application to become an SBSDR on March 23, 2018.

Conclusion

ICE Trade Vault requests a time-limited alternative-compliance framework for Title VII reporting of swaps and security-based swaps that relies on the infrastructure already being used by market participants for CFTC swap data reporting. The use of the SEC’s authority to issue exemptions would provide the essential legal certainty, while providing time for the SEC and CFTC to harmonize in a manner that minimizes costs to market participants. ICE Trade Vault believes this approach could facilitate an immediate, standardized reporting framework and more quickly provide the transparency in the swaps and SBS markets envisioned by Title VII. Accordingly, ICE Trade Vault supports the practical path forward outlined by DDR in its February 28, 2019 letter for SBS reporting.

We appreciate your consideration of this request and would welcome any opportunity to further discuss.



Kara Dutta
General Counsel
ICE Trade Vault, LLC

¹ Letter from Kara Dutta, General Counsel, ICE Trade Vault, LLC to The Honorable Jay Clayton, Chairman, Securities & Exchange Commission, dated September 26, 2017 (copy attached hereto).

cc: Honorable Robert J. Jackson, Jr., Commissioner
Honorable Hester M. Peirce, Commissioner
Honorable Elad L. Roisman, Commissioner
Brett Redfearn, Director, Division of Trading and Markets
Michael Gaw, Assistant Director, Division of Trading and Markets