



December 13, 2012

Ms. Sauntia S. Warfield
Assistant Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Re: Chicago Mercantile Exchange, Inc.'s Amended Request to Adopt a New Chapter 10 and New Rule 1001 related to the Regulatory Reporting of Swap Data

Dear Ms. Warfield:

IntercontinentalExchange, Inc. appreciates the opportunity to comment on the Chicago Mercantile Exchange, Inc.'s ("CME") amended request to adopt a new chapter 10 ("Regulatory Reporting of Swap Data") and new Rule 1001 ("Regulatory Reporting of Swap Data") of CME's Rulebook. As background, IntercontinentalExchange, Inc. ("ICE") operates multiple regulated futures exchanges and clearinghouses in the United States, the United Kingdom and Canada, and also ICE Trade Vault, LLC, ("ICE Trade Vault") a provisionally registered Swap Data Repository ("SDR") for the credit, commodities and foreign exchange asset classes, is a wholly-owned subsidiary of ICE.

This letter adopts ICE's previously submitted comments that DCOs are integral to swap data reporting.¹ Congress intended for DCOs to serve as swap data repositories and ICE believes the Commission should clarify its rules that a DCO should be able to report to itself if registered as an SDR, or report to an SDR of its choosing. Further, ICE supports the CME's proposed rule amendment to provide DCOs with the right to choose the SDR of record for swaps cleared by those DCOs.²

Congress Recognized DCOs Should Serve as Swap Data Repositories and Unnecessarily Restricting the Ability of DCOs to Serve this Function Would Frustrate Congressional Intent

Congress passed the Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") to facilitate stability in the financial system of the United States by reducing risk, increasing transparency, and promoting market integrity. As the Commission recently stated, "[t]o accomplish these objectives, among other things, the Dodd-Frank Act provides for the

¹ ICE Comment to SDR Rules, submitted October 10, 2010; ICE Comment to SDR rules submitted February 7, 2011; ICE response to DTCC comment letter, submitted November 4, 2011; ICE response to DTCC letter, submitted November 15, 2012.

² See 17 C.F.R §45.10 which states, "All swap data for a given swap must be reported to a single swap data repository, which shall be the swap data repository to which the first report of required swap creation data is made pursuant to this part."



mandatory clearing of certain swaps by DCOs...”³ As Congress and the Commission recognize, clearing is one of the cornerstones of Dodd-Frank and is *already* a key source of transparency in derivatives markets. Currently, on a daily basis, DCOs process, value and report millions of futures and swaps transactions and serve as the current repositories for this important data. After implementation of Dodd-Frank, DCOs will continue to serve as the “golden record” for cleared swaps, even if the DCO is not a SDR.

Congress explicitly recognizes that DCOs can serve as swap data repositories in Section 728 of Dodd-Frank. Section 728 expressly provides that a “derivatives clearing organization may register as a swap data repository.”⁴ Given that DCOs currently provide transparency into derivatives markets, eliminating or restricting the ability of a DCO to serve as a swap data repository is both inefficient and subverts the intent of Dodd-Frank. In fact, Congress placed no restriction on the type of organization, domestic or foreign, that could become an SDR so long as SDR requirements were satisfied. Accordingly, it would have been unnecessary and redundant for Congress to affirm the right of any particular type of organization to become an SDR. Therefore, the fact that Congress explicitly highlighted the right of DCOs to register as SDRs must have added significance. The only explanation is that Congress recognized that the fundamental role of DCOs in validating and registering trades, tracking post-trade changes, converting trades to positions, aggregating and valuing positions, and providing regulatory access to data was virtually identical to the job of an SDR.

Dodd-Frank places a significant regulatory burden on users of the marketplace to report swap positions in order to permit the regulatory objectives of Dodd-Frank to be fulfilled. The fact that clearinghouses are the natural SDR for *cleared* swaps is not something that calls for even more regulation and restriction as DTCC suggests, but rather precisely what Congress recognized and promoted by expressly providing in Section 728 that DCOs could serve as SDRs. Attempting to restrict DCOs’ ability to offer these services ignores both a plain reading of the Dodd-Frank Statute and the interests of users of the marketplace who will bear the unnecessary regulatory burden imposed by the Commission’s current interpretation.

The Role of Competition among SDRs

The core argument is competition. DTCC would prefer to be the single SDR for all swap asset classes whereas CME seeks to capitalize on the existing connections between its SDR and clearinghouse. DTCC’s philosophy is contrary to the Commission’s beliefs that a competitive marketplace for SDR services will present an opportunity for significant reductions to the cost of swap data reporting for all market participants⁴ as well as Dodd-Frank’s goals concerning

³ Derivatives Clearing Organization General Provisions and Core Principles <http://www.Commission.gov/ucm/groups/public/@newsroom/documents/file/federalregister101811.pdf>

⁴ Dodd-Frank Act, Section 728(a)(1)(B)

⁵ *Id.*



competition. There is no Dodd-Frank provision or Commission rule requiring a Swap Execution Facility (“SEF”) to connect to every DCO, nor is there a prohibition on a SEF connecting to an affiliated or commonly owned DCO. In the end, customers will be free to choose among a number of execution and clearing configurations under commercial terms that meet their needs and lower their costs. There is no reason to view SDRs differently. In the end, the providers who offer the best service at the best value will earn their customer’s business.

Conclusion

ICE hopes that the Commission acts in a manner in line with Congressional intent and the principles of public rulemaking by approving the CME’s proposed rule amendment and amending Part 45 of the CFTC Regulations to allow DCOs to report to the SDR of their choice. By already providing transparency to derivatives markets, ICE believes that DCOs provide the most cost-effective and expeditious access to swap data to both the Commission and market participants. Accordingly, DCOs should be entitled to report cleared swap data to the SDR which best serves these objectives. By fostering cost-driven competition among SDRs, the transparency goals of the Dodd-Frank Act will be achieved in a cost-effective manner.

Sincerely,

A handwritten signature in black ink that reads "Trabue Bland". The signature is written in a cursive, flowing style.

R. Trabue Bland
VP, Regulation

cc: The Honorable Gary Gensler
The Honorable Jill Sommers
The Honorable Scott O’Malia
The Honorable Bart Chilton
The Honorable Mark Wetjen
Richard Shilts