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## BY ELECTRONIC SUBMISSION

September 29, 2017

Chris Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, D.C. 20581

Re: Project KISS, RIN 3038–AE55

Dear Mr. Kirkpatrick,

The Depository Trust & Clearing Corporation (“DTCC”)<sup>1</sup> in conjunction with its swap data repository (“SDR”), DTCC Data Repository (U.S.) LLC (“DDR”), appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (“Commission”) regarding Project KISS.

DTCC commends the Commission for undertaking this initiative to voluntarily comply with the Presidential Executive Order on Enforcing the Regulatory Reform Agenda (“Executive Order”).<sup>2</sup> DTCC believes that the Executive Order is an important step towards identifying and addressing unnecessary regulatory burdens while at the same time maintaining key policy objectives. Further, DTCC appreciates the difficulty of implementing important policy objectives in an effective and efficient manner, and respects the Commission’s iterative approach to regulation. To help further this important initiative, DTCC offers the following comments for your consideration.

### **Registration**

The Commission should adopt a shortened and streamlined process for granting registration for provisionally registered SDRs. All registered SDRs currently have provisional registration with the Commission, and DDR has been provisionally registered with the Commission since

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<sup>1</sup> DTCC provides services for a significant portion of the global other-the-counter derivatives market and has extensive experience operating repositories to support derivatives trade reporting and enhance market transparency. DTCC’s Global Trade Repository service supports reporting across all five major derivatives asset classes and exchange traded derivatives in nine jurisdictions across 33 countries.

<sup>2</sup> Executive Order 1377, 82 Fed. Reg. 12285 (Feb. 24, 2017).

September of 2012.<sup>3</sup> Section 49.3(a)(3) makes clear that “[i]n considering an application for registration as a swap data repository, the staff of the Commission shall include in its review, an applicant’s past relevant submissions and compliance history.” An SDR that is provisionally registered with the Commission is subject to the same requirements as a fully registered SDR.<sup>4</sup> As such, for the past five years, DDR has regularly communicated with Commission staff, submitted all requested and required reports and other materials to staff, and has undergone several examinations.<sup>5</sup> During this period, Commission staff has reviewed large quantities of complex information and spent a significant amount of time actively supervising DDR.<sup>6</sup> DTCC believes that the materials in the Commission’s possession should facilitate a shortened, streamlined process for registration. Such an approach would reduce the burdens on provisionally registered SDRs and Commission staff by, *inter alia*, avoiding the filing and review of unnecessarily duplicative information. Accordingly, DTCC believes that by relying on staff’s comprehensive experience with provisionally registered SDRs and the current Form SDR, the Commission could implement a shortened, streamlined process for registration. Such an approach would be both appropriate and consistent with the goals of Project Kiss, and granting registration to the provisionally registered SDRs, many of whom have been provisionally registered for years, would provide legal certainty as to their status with the Commission.

## Reporting

The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) requires an SDR to provide information to the Commission in such form and at such frequency as the Commission may require.<sup>7</sup> The Commission typically obtains information from SDRs through the regulatory reporting requirements and ad hoc requests. While such information may be valuable to Commission staff initially for supervisory or other purposes, as staff gains experience and the market evolves this information may no longer be necessary. In particular, where

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<sup>3</sup> Pursuant to Section 49.3(b) permits the Commission, upon the request, to grant provisional registration to an SDR if certain requirements are met. Specifically, to be provisionally registered, an SDR must demonstrate substantial compliance with the standards set forth in section 49.3(a)(4), including: (i) ensuring the prompt, accurate and reliable performance of its functions as an SDR; (ii) complying with any applicable CEA provisions and Commission regulations; (iii) carrying out its functions in a manner consistent with the purposes of CEA section 21 and the regulations thereunder; and (iv) operating in a fair and consistent manner; and is able to demonstrate operational capability, real-time processing, multiple redundancy and robust security controls pursuant to section 49.3(b).

<sup>4</sup> Indeed, DDR’s Order of Provision Registration makes clear that DDR must comply, on an on-going basis, with all applicable provisions of the CEA and Commission regulations, including, without limitation, parts 43, 45, 46, and 49, and all future regulations, amendments, guidance and interpretations by the Commission and its staff applicable to DDR as an SDR. See Order of Provisional Registration and accompanying letter, available at <http://www.cftc.gov/stellent/groups/public/@otherif/documents/ifdocs/dtccbodsonletter091912.pdf>.

<sup>5</sup> These materials include the documentation and information necessary for the Commission to review DDR’s application for registration, which is currently pending before the Commission.

<sup>6</sup> This comprehensive supervision provides the same level of information and knowledge about DDR that would exist if it were a registered SDR.

<sup>7</sup> See generally section 729 of Dodd-Frank and the applicable regulations.

Commission staff asks SDRs to regularly supply information that supplement reports required to be filed pursuant to Commission regulations, staff should periodically consider whether such requested information continues to be necessary. For example, DDR provides staff with a Weekly SDR Operational Report that may include information that is no longer valuable to Commission staff. This periodic stocktaking exercise could help minimize regulatory burdens and costs for market participants as well as for the Commission by streamlining information requests.<sup>8</sup> In addition, DTCC encourages continued coordination across departments to avoid redundant information requests, which would help avoid confusion among market participants regarding who and how SDR data is being used and further minimize regulatory burdens and costs on the industry.<sup>9</sup>

## **Miscellaneous**

### *Harmonization*

DTCC believes that harmonization is key to (i) advancing critical policy goals without interfering with other regulatory reform initiatives, and (ii) reducing unnecessary costs and burdens. Moreover, regulatory fragmentation risks creating serious inconsistencies within the legal framework, which could, among other things, create uncertainty in the markets, increase costs, and lead to regulatory arbitrage. In short, fragmentation could disadvantage American companies, frustrate a regulator's ability to surveil the U.S. financial markets and protect against systemic risk, and ultimately harm the American taxpayer.

For example, disharmony with respect to cybersecurity standards could impede a company's ability to effectively protect against cyber threats. Flexible and harmonized regulations are crucial to allowing companies to continuously adapt and manage evolving cybersecurity risks. Conflicting and overlapping regulations and standards that are inconsistent with, and potentially conflict with, other regulatory frameworks could negatively impact a jurisdiction's policy objectives surrounding market protection. Strategically aligning regulatory standards where such alignment is in the best interest of the U.S. financial system would allow for more comprehensive regulatory oversight and coordination to combat cyber threats and protect the broader market place. Such alignment can also facilitate information sharing within and across markets, which can be a critical component of protecting against cyber threats.<sup>10</sup> For entities with multiple supervisory authorities, harmonization in this regard is necessary and imperative.

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<sup>8</sup> This would permit the Commission to reduce the costs associated with reviewing and storing any unnecessary information and would reduce costs for SDRs associated with producing and tracking such information. In addition, this work could supplement the work of the Roadmap to Achieve High Quality Swaps Data initiative, and provide greater specificity with respect to the data SDRs are required to submit to the Commission.

<sup>9</sup> In the alternative, the Commission could consider making one department primarily responsible for requested information from SDRs to avoid redundant information requests.

<sup>10</sup> In addition, in order to gain efficiencies, many firms, like DTCC, are complex entities that provide shared services across its subsidiaries and business lines. In a shared-service support model, centralized control functions establish organizational-wide programs and the differing business lines are subject to the policies and procedures put in place by those functions. As the business model becomes increasing global, centralized functions look to apply

Fragmentation of SDR regulation may also limit the ability of regulators to monitor global systemic risk. SDRs are important tools for systemic risk oversight and regulatory disharmony among jurisdictions impedes SDRs from providing usable cross-jurisdictional data to regulators. For example, the imposition of different trade and product identifiers limits an SDR's ability to provide readily usable cross-jurisdictional information to a regulator, which, in turn, reduces comprehensive transparency into the swaps market and could impede a regulator's risk surveillance efforts.

A globally consistent set of critical data elements would allow for a more complete and harmonized view of the OTC derivatives market in addition to facilitating regulatory efforts to share and aggregate data in support of systemic risk monitoring. If one of the objectives of Dodd-Frank is to enhance transparency in the swap market, this can only be effectively achieved when SDRs are able to operate under a comprehensive, rational regulatory regime that takes into consideration existing operational and legal limitations.<sup>11</sup> Accordingly, DTCC encourages the Commission to promote harmonization in this regard to the extent the American financial markets would benefit from such efforts, and to work with its counterparts to create meaningful requirements that do not, in principle or in practice, contradict each other.

### *FinTech*

DTCC applauds the recent launch of LabCFTC to promote responsible financial technology ("FinTech") innovation and to accelerate engagement with FinTech and Regulatory technology solutions. We stand ready to assist LabCFTC as it undertakes the important role of improving the quality, resiliency and competitiveness of markets through potential application of emerging innovation.

DTCC continues to explore how FinTech can be adapted and integrated into the post-trade environment. These technologies are often developed to help streamline activity – such as recordkeeping and reporting processes – in a cost effective manner that is both safe and efficient.

DTCC does not expect that the regulatory framework for capital and derivatives markets globally will change significantly as it relates to the post trade sector, or need to be replaced due to FinTech advancements. In this context, it is important to note that financial technology itself does not require new regulation per se. DTCC believes that innovation has the potential to provide supervisors with enhanced oversight of the markets and a deeper understanding of risk. Accordingly, DTCC appreciates the continued openness to permitted uses of these technologies by the Commission, which could facilitate broader adoption of certain initiatives that could increase efficiencies and reduce costs for market participants.

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requirements across all business units. Jurisdictional differences could lead to confusion and conflicting requirements, which, in many instances leads to the imposition of unnecessary costs on market participants.

<sup>11</sup> Such an approach would, among other things, allow the Commission and other relevant regulators to receive swaps data while at the same time permitting trade repositories to use such data for other purposes in a manner consistent with trade repository regulations.

Where the use of certain technologies is not expressly prohibited by statute or regulation,<sup>12</sup> relevant supervisors must remain open to discussions regarding how compliance obligations and policy goals can be met through use of a particular FinTech. For example, regardless of where a cloud vendor's servers are located, the data kept there might be more secure than in an on-premises data center of a financial institution physically located in a supervisor's jurisdiction.

In addition, continued engagement with the industry and innovators would help provide transparency and legal certainty to market participants seeking to use FinTech in their businesses. This could, in turn, reduce costs associated with delays in implementation of new technologies, as well as facilitate public-private partnerships for different technological initiatives. LabCFTC can serve as a resource internally within the Commission to ensure market participants are receiving a consistent, cross-divisional view.

As a global leader, the Commission should continue to promote collaboration within and among jurisdictions to effectively implement emerging innovation. DTCC appreciates the Commission's efforts to harmonize technology standards and best practices and DTCC encourages the Commission to continue this important work. In addition, DTCC recommends the Commission consider the following initiatives:

- Promoting common global standards and interoperability for distributed ledger technology ("DLT"). A common set of global standards could promote wide spread implementation and facilitate interoperable systems, thereby helping to prevent the creation of siloed systems.
- Recognize the importance of and facilitate discussions concerning the establishment of a governance framework for FinTech initiatives. DTCC recommends that the Commission and policymakers globally partner with industry leaders to provide guidance in the establishment of a governance framework to support certain FinTech initiatives. Companies such as DTCC can play a leading role in providing governance, developing and enforcing standards necessary to deliver robust solutions that address industry needs, fosters innovation and protects market stability.<sup>13</sup>

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<sup>12</sup> DTCC is not aware that any such prohibition currently exists.

<sup>13</sup> DTCC benefits from significant regulatory supervision and has a different corporate-governance structure that aligns the interests of the overall market it serves with those of the company, which would permits it to provide a unique perspective. DTCC is committed to promoting and advancing innovation. DTCC is actively exploring how transformative technologies like distributed ledgers, cloud computing, robotics, machine learning and artificial intelligence can enhance the post-trade process by further reducing costs and mitigating risk, particularly with respect to the following areas:

- Cloud Computing: DTCC is further modernizing its core computing and database platforms, including through use of cloud vendors. Due to the technology's maturation as well as its significant security and operational benefits, DTCC has begun to leverage cloud computing, and more specifically the public cloud. The capabilities, resiliency and security of services provided by cloud vendors now exceed those of many on-premises data centers. Through the collaboration and coordination with the Commission and other supervisors, we intend to strategically expand the use of cloud technology across a range of services and applications over the next three to five years.
- DLT: As the Commission is aware, we are currently re-platforming DTCC's Trade Information Warehouse ("TIW"), a business set up 11 years ago, to build a distributed ledger solution for derivatives post-trade processing based on existing TIW capabilities and interface with technology providers and market participants.

## Conclusion

DTCC appreciates the opportunity to participate in this process and share its thoughts on ways to apply the Commission's existing rules, regulations, or practices in a simpler, less burdensome, and less costly manner. We welcome the opportunity to further discuss these comments and to provide additional information to assist in this endeavor.

Yours sincerely,

A handwritten signature in cursive script that reads "Larry E. Thompson". The signature is written in black ink and is positioned below the "Yours sincerely," text.

Larry E. Thompson  
Vice Chairman

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This will enable DTCC and its clients and relevant authorities to mitigate risks, further streamline, automate and reduce the cost of derivatives processing by eliminating the need for disjointed, redundant processing and the associated reconciliation costs. This solution will be deployed through a number of phases, with an end-state vision to establish a permissioned distributed ledger network for derivatives, governed by DTCC, with peer nodes at participating firms.