

May 22, 2020

Via Electronic Submission

Christopher Kirkpatrick
Secretary of the Commission
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Certain Swap Data Repository and Data Reporting Requirements (RIN 3038-AE32); Real-Time Public Reporting Requirements (RIN 3038-AE60); Swap Data Recordkeeping and Reporting Requirements (RIN 3038-AE31)

Dear Mr. Kirkpatrick:

ICE Trade Vault, LLC, (“ICE Trade Vault”) appreciates the opportunity to provide comments on the Proposed Amendments by the Commodity Futures Trading Commission (“CFTC” or “Commission”) to regulations relating to: (1) Certain Swap Data Repository and Data Reporting Requirements; (2) Real-Time Public Reporting Requirements; and (3) Swap Data Recordkeeping and Reporting Requirements.¹ As background, ICE Trade Vault is a wholly owned subsidiary of Intercontinental Exchange, Inc. (“ICE”) and operates as a Swap Data Repository (“SDR”) in the commodity, credit, foreign exchange and interest rate asset classes and has a global customer base of over 700 participants. As an operator of a U.S. and Canadian SDR and European Registered Reporting Mechanism and Trade Repository, ICE Trade Vault, together with its affiliates, has the practical experience in implementing regulations and a unique perspective on potential implications relating to rule modifications. ICE Trade Vault appreciates the opportunity to submit this letter, and we look forward to continued discussions of these issues with the Commission and CFTC Staff.

I. Executive Summary

ICE Trade Vault supports the Commission’s efforts to streamline and enhance the quality of swap data. Based on our review, ICE Trade Vault believes that the revised framework for reporting swap data under the Real-Time and SDR Reporting Proposals would improve the accuracy, reliability and utility of swap data. The Proposed Amendments respond to many of the industry concerns expressed and we appreciate that the Commission has taken these views into consideration. While ICE Trade Vault is generally supportive of the Proposed Amendments, there are several provisions that in our view warrant change and/or clarification before the Commission adopts final rules as we have set out below.

In particular, the Commission should consider not imposing further verification requirements pursuant to its Swap Data Reconciliation Proposal until it has finalized and implemented the amendments to streamline data fields and leverage SDR validation procedures under the Real-Time Reporting Proposal

¹ Certain Swap Data Repository and Data Reporting Requirements, 84 Fed. Reg. 21,044 (proposed May 13, 2019) (to be codified at 17 C.F.R. pts. 23, 43, 45, and 49) (hereinafter, the “**Swap Data Reconciliation Proposal**”); Real-Time Public Reporting Requirements, 85 Fed. Reg. 21,516 (proposed Apr. 17, 2020) (to be codified at 17 C.F.R. pt. 43) (hereinafter, the “**Real-Time Reporting Proposal**”); and Swap Data Recordkeeping and Reporting Requirements, 85 Fed. Reg. 21,578 (proposed Apr. 17, 2020) (to be codified at 17 C.F.R. pts. 45, 46, and 49) (hereinafter, the “**SDR Reporting Proposal**”).

and SDR Reporting Proposal. Only after it has fully assessed the impact of streamlined data fields and SDR validation procedures will the Commission be positioned to evaluate whether any additional verification requirements are necessary. We encourage the Commission to take a thoughtful and measured approach to these issues and hope that the resulting structure will continue to improve data quality and utility.

In addition, below we summarize ICE Trade Vault’s comments for ease of reference.

A. ICE Trade Vault Supports the Following Provisions of the Proposed Rule

- Streamlining of data fields and elements under both Part 43 and Part 45 reporting;
- Imposing validation requirements and procedures for data submissions.

B. ICE Trade Vault Urges the Commission to Adopt the Following Changes Prior to Completing a Final Rule

- Refrain from imposing verification requirements at this time;
- Harmonize the reporting timeframes under Parts 43 and 45;
- Allow voluntary early implementation of the amendments;
- Clarify certain aspects of the reporting party definition;
- Provide flexibility for implementation of communication and messaging standards by the SDR;
- Clarify submission deadlines in light of the SDR maintenance window;
- Clarify certain additional real-time reporting requirements, as to the scope of publicly reportable transactions, definitions of block sizes and the applicability of existing no-action relief.

II. The Commission Should Refrain from Imposing Verification Requirements Until After Implementation of Streamlined Data Fields and SDR Validations

In the SDR Reporting Proposal, the Commission proposed a new requirement that each SDR validate the data report submitted and notify the reporting counterparty, swap execution facility (“SEF”), designated contract market (“DCM”), or third party service provider whether the data report satisfied the data validation procedures of the SDR.² These proposed SDR validation amendments would require an SDR to reject swap data reports that have missing or invalid data and to ensure that derivatives data meets the requirements set out in the Proposed Rules. The Commission stated in the preamble that it believes that consistent SDR validations would help improve data quality. ICE Trade Vault supports the proposed validation requirements and procedures and agrees with the Commission that uniform specific validations across SDRs will improve swap data accuracy.

In addition, the Commission has proposed to streamline the required data fields. The SDR Reporting Proposal requires each reporting counterparty, SEF, DCM and derivatives clearing organization

² Rule 49.10(c)1 - -Real-Time Reporting Proposal at 21,653.

(“DCO”) to report to an SDR the swap creation and continuation data contained in appendix I to Part 45.³ Similarly, the Real-Time Reporting Proposal would require reporting counterparties, SEFs, and DCMs to report the swap transaction and pricing data elements in appendix C to part 43.⁴ ICE Trade Vault expects that streamlining the data fields would also enhance the accuracy and utility of reported swap data, while reducing the burden of reporting multiple data elements of a swap transaction. Streamlined data fields are also likely to reduce the opportunity for and likelihood of error.

ICE Trade Vault believes that these two proposed changes-- streamlining the required data fields and enhancing the SDRs’ validation procedures—are sufficient to achieve the Commission’s goal of improving swap data quality and resolve a large proportion of any existing data irregularities, without the need for further verification. Our experience operating a global repository has also shown that most gains in data accuracy come from mandating technical specifications, utilizing defined values and formats and imposing validations. At a minimum, we suggest the Commission implement the proposed changes which streamline swap data reported pursuant to Parts 43 and 45 along with its proposed enhancement of existing SDR validation requirements. By focusing on obtaining a critical set of data elements, utilizing existing and future upfront data validations, and leveraging existing requirements to correct errors and omissions, the Commission has crafted a reporting framework that should substantially enhance the accuracy, reliability and utility of swap data. Only after the Commission has fully assessed the impact of these measures will the Commission be positioned to evaluate whether the additional verification requirements outlined in the Swap Data Reconciliation Proposal are necessary.

To the extent the Commission nonetheless determines to impose verification requirements, ICE Trade Vault, as noted in its previous comment letter⁵, continues to have significant concerns with the proposed requirement for SDRs to receive from a reporting counterparty verification of data accuracy or a notice of discrepancy in order for the SDR to comply with its obligations under proposed §49.11(c).⁶ As was recognized by the Commission in the preamble, such a requirement places the SDR in a position where it is entirely dependent on the actions of the reporting counterparty to meet the SDR’s own regulatory requirements.⁷ While we are appreciative of the Commission clarifying that an SDR would not be responsible for failing to satisfy the requirements of §49.11 where an SDR made the effort but the reporting counterparty failed to respond, there remains a question as to what an SDR must do to meet the standard of a “full, good-faith effort”. Potentially, SDRs would have to expend significant resources chasing reporting counterparties who have not provided verification of data accuracy or a notice of discrepancy in order to establish the SDR made a “full, good-faith effort to comply.” In addition, the Proposed Amendments do not include a discussion of the additional costs on SDRs to make such an effort, nor an analysis of whether the costs of complying with §49.11(c) by both SDRs and reporting counterparties would result in increased levels of data accuracy sufficient to warrant imposing the obligations.

Accordingly, ICE recommends that the Commission not adopt the requirement for an SDR to receive (and a reporting counterparty to provide) verification of data accuracy or a notice of discrepancy.

³ SDR Reporting Proposal at 21,604.

⁴ Real-Time Reporting Proposal at 21,528.

⁵ Comment Letter of Chicago Mercantile Exchange, Inc., DTCC Data Repository (U.S.) LLC and ICE Trade Vault (Jan. 27, 2020), at 2.

⁶ As proposed, §49.11(c) states “[i]n order to satisfy the requirements of this section, the swap data repository shall receive from each reporting counterparty for each open swaps report (i) a verification of data accuracy...or (ii) a notice of discrepancy....”. Proposing Release, 84 FR at 21103.

⁷ Id. at 21054 (“The Commission also clarifies that, given the separate proposed companion requirements for reporting counterparties, an SDR would not be responsible for failing to satisfy the requirements of § 49.11 in the instance where an SDR made a full, good-faith effort to comply with proposed § 49.11, and followed its policies and procedures created pursuant to proposed § 49.11 in doing so, but was prevented from fulfilling the requirements because of a reporting counterparty failing to meet its responsibilities to respond to the open swaps report as required under proposed § 45.14(a).”).

Instead, SDRs would continue to rely on the availability of the open swaps report and the existing duty to correct data.

III. The Commission Should Harmonize the Reporting Time Frames in Parts 43 and 45

Under the SDR Reporting Proposal, the reporting counterparty would be required to report a set of swap data elements on a T+1 or T+2 basis, depending on the type of entity.⁸ The Commission has stated that it proposed this new reporting schedule to improve data quality because it would provide market participants with more time to verify the accuracy of the swap data they are reporting.⁹ ICE Trade Vault supports the Commission’s proposal to amend the reporting schedule for Part 45 data but believes that a T+1 deadline would more closely align with the reporting deadlines set by the Securities and Exchange Commission (“SEC”), European Securities and Markets Authority (“ESMA”) and the Canadian regulators.¹⁰ A T+1 deadline would also provide the Commission with more timely data reports.

ICE Trade Vault is concerned however that, under the Real-Time Reporting Proposal, a reporting counterparty still would be required to report a set of swap data elements as soon as technologically practicable.¹¹ ICE Trade Vault strongly recommends that the Commission harmonize the reporting deadlines for Part 43 and Part 45 by modifying the Real-Time Reporting Proposal to clarify that a reporting counterparty meets the requirement to report “as soon as technologically practicable” (“ASATP”) if the reporting counterparty submits swap data in accordance with a T+1 deadline set forth in Part 45. The majority of data fields are equivalent across both Part 43 and Part 45 and as such, there is limited benefit to reporting counterparties suppressing the Part 45 data submissions until a T+1 basis.¹² In addition, reporting parties prefer to utilize a single stream for reporting data elements under both Part 43 and Part 45. Based on feedback from our market participants, due to the similarity in the Part 43 and 45 fields, reporting parties typically report swap data according to the most immediate deadline and then provide updates to this initial submission to ensure reporting timelines are met. Furthermore, providing the same timeframe to report under Part 43 helps to improve data quality and further harmonize swap data reporting with the SEC and ESMA, which do not require ASATP reporting. If the CFTC does not align the Part 43 timing requirements with those in Part 45, reporting counterparties would still need to report Part 43 data elements on an expedited timeframe, which is unlikely to solve the reporting errors the Commission is trying to eliminate with the proposed changes to Part 45.

IV. The Commission should allow voluntary early implementation for compliance with the revised rules.

The Commission has proposed a compliance date of one year after publication of the final rules, with the exception for rules related to unique transaction identifiers (“UTIs”), which have an earlier compliance date of December 30, 2020.¹³ The SDR Reporting Proposal however is unclear whether an SDR can implement rule changes before the compliance effective date. As such, ICE Trade Vault recommends the Commission allow SDRs to implement certain rule changes at their discretion before the one year compliance date of the final rules. There are many benefits and synergies as a result of the

⁸ For exchange-cleared swaps, SEFs and DCMs would be required to report to an SDR on a T+1 basis (SDR Reporting Proposal at 21,584). For off-facility swaps, SD, MSP, and DCO reporting counterparties would be required to report to an SDR on a T+1 basis, while non-SD/MSP/DCO reporting counterparties would be required to report on a T+2 basis (SDR Reporting Proposal at 21,585).

⁹ SDR Reporting Proposal at 21,584.

¹⁰ SDR Reporting Proposal at 21,584.

¹¹ Real-Time Reporting Proposal at 21,521.

The proposed technical specifications contain 116 fields across Part 45 and Part 43. Part 43 is comprised of 64 fields of which 58 are publicly disseminated. When filtering out Clearing, Valuation and Collateral/Margin fields, there are approximately 83 fields applicable to Part 45 reporting. As such, there is minimal benefit for Part 45 being delayed from the Part 43 reporting time frames since approximately 77% (64 of the 83) fields overlap.

¹³ Real-Time Reporting Proposal at 21,544; SDR Reporting Proposal at 21,614.

Proposed Rules and allowing both SDRs and market participants to implement certain rule changes immediately after the publication of the final rules is advantageous to the market. For example, non-swap dealer/major swap participant reporting counterparties would no longer be required to report valuation data. In addition, the Commission has removed requirements related to international swap reporting and voluntary supplemental reports. Reporting counterparties may wish to take advantage of the lessened reporting requirements sooner than the one-year compliance date.

Furthermore, ICE Trade Vault suggests the Commission align implementation dates for UTI requirements with CPMI IOSCO.¹⁴ The goal of the CPMI IOSCO UTI proposal is to implement global standards around UTI's. As such, it makes sense for the CFTC to harmonize implementation dates with CPMI IOSCO.

V. The CFTC Should Remove the Requirement that SDRs Generate UTI's in Certain Cases and Align with the CPMI IOSCO Standards

The Commission has proposed that the SDR generate a Unique Transaction ID ("UTI") for a reporting counterparty that is a non-SD/MSP/DCO and that is not a financial entity.¹⁵ ICE Trade Vault recommends the Commission not require the SDR to generate the UTI and instead allow a non-SD/MSP/DCO reporting counterparty to have the flexibility to choose which entity generates the UTI. For example, the non-SD/MSP/DCO reporting party may have more flexibility with extended reporting timelines by electing to have a third-party service provider or confirmation platform generate the UTI. It also may be easier for the non-SD/MSP/DCO to elect to have the confirmation platform or third-party service provider assign the UTI. Moreover, allowing a confirmation platform to assign the UTI aligns with the CPMI IOSCO guidance.¹⁶ ICE recommends that the Commission align with the CPMI IOSCO guidance as this will allow market participants to better harmonize their swap data reporting obligations and processes from a global perspective.

ICE Trade Vault also recommends that the Commission revise Part 45.5(c) to remove the requirement that the SDR transmit the UTI to both counterparties to a swap. Proposed Part 45.5(c)(1) requires the SDR to generate, assign and transmit the USI electronically to the counterparties to the swap as soon as technologically practicable after receipt of the request from the reporting party.¹⁷ If the reporting counterparty chooses to have the SDR generate the UTI, the SDR should only be responsible for transmitting the UTI to the reporting party requesting the UTI generation. The SDR often has no relationship with the non-reporting counterparty and cannot communicate with non-reporting counterparties who are not participants of the SDR. As such, the reporting entity is best suited to provide the UTI information to the non-reporting party as the reporting party has the contractual relationship and capability to transmit the UTI information.

VI. Validation and Failure Message implementation

The Real-Time and SDR Reporting Proposals contain several provisions aimed at strengthening SDR validation procedures for swap transaction and pricing data, swap creation data and required swap continuation data. As proposed, Part 45.13(b)(2) provides that if the required reports do not satisfy the data validation procedures of the SDR, the reporting counterparty is not deemed to satisfy its obligation to report required swap creation or continuation data. The Commission would only consider the obligation

¹⁴ Committee on Payments and Market Infrastructures IOSCO Technical Guidance Harmonization of the UTI, February 2017. <https://www.bis.org/cpmi/publ/d158.pdf>

¹⁵ Part 45.5(c) at 21631.

¹⁶ Committee on Payments and Market Infrastructures IOSCO Technical Guidance Harmonization of the UTI, February 2017. <https://www.bis.org/cpmi/publ/d158.pdf>

¹⁷ Part 45.5(c)(1) requires the swap data repository shall to generate and assign a unique transaction identifier as soon as technologically practicable following receipt of the request from the reporting counterparty.

satisfied once the reporting counterparty submits the required report in the manner that satisfies the data validation procedures of the SDR.¹⁸

ICE Trade Vault supports the Commission's determination to leverage and enhance current SDR validation procedures, which are designed to reject swap data reports that have missing or invalid data. ICE Trade Vault also supports the Commission's approach of not considering an entity's reporting obligation satisfied until it has satisfied the SDR's validation procedures. Currently, ICE Trade Vault provides pass/fail validations in near real time which triggers the reporting counterparty to promptly respond and make corrections to reported data. ICE Trade Vault encourages reporting counterparties to submit trades with adequate time to review and correct errors. If the reporting parties choose to wait until near expiry of the reporting timeframe, they take the risk of late reporting if their submission fails validations. By requiring data to meet the SDR validations before being allowed into the SDR, the Commission is strengthening the data quality and standardization.

VII. The Commission Should Allow SDRs Flexibility to Implement the Validation Notification Requirements in 45.13(b)(1)

Under the SDR Reporting Proposal, an SDR must notify the reporting counterparty whether the swap data report submitted satisfied the SDR validation procedures.¹⁹ An SDR would satisfy these requirements by transmitting data validation acceptance messages as required by proposed Part 49.10.²⁰ Part 49.10 requires SDRs to send SEFs, DCMs, and reporting counterparties data validation acceptance and error messages that identify the validation errors".²¹ ICE Trade Vault agrees with the proposed requirements; however we suggest that the Commission provide flexibility to SDRs to determine how and in what format the reports are provided (and to set out such matters in the SDR's policies and procedures). SDRs need the flexibility to determine how to implement this requirement. For example, an SDR may choose to provide the notification via a GUI so that less sophisticated reporting entities are not forced to write to an API.

VIII. Determination of Which Counterparties Should Report

Revised Rule 45.8 sets out which counterparty to a swap is the reporting counterparty. ICE generally agrees with the Commission's approach but recommends the Commission's final rule allow swap counterparties to determine which entity is best suited to report swap data. where (1) both counterparties are non-SD/MSPs and only one counterparty is a financial entity and (2) both counterparties are non-SD/MSPs and only one counterparty is a U.S. Person.

Rule 45.8(c), provides that if both counterparties are non-SD/MSPs and only one counterparty is a financial entity, the financial entity should be designated as the reporting counterparty. Furthermore, §45.8(e) states that if both counterparties to a swap are non-SD/MSPs and only one counterparty is a U.S. Person, that counterparty should be designated as the reporting counterparty. When applying these proposed hierarchy principles, a foreign financial entity supersedes a U.S. entity. Nonetheless, in some cases, a U.S. entity may prefer to be the reporting party to better ensure that it meets its domestic regulatory obligations. For this reason, and based on its experience and feedback from market participants, ICE Trade Vault recommends the Commission provide a choice in these two scenarios and allow the swap counterparties to determine which entity is best suited to report swap data. As the Commission would still receive the same data in the same required format and timeframe, ICE recommends the Commission amend

¹⁸ SDR Reporting Proposal at 21,634.

¹⁹ 45.13(b)(1) SDR Reporting Proposal at 21,634

²⁰ SDR Reporting Proposal at 21,634.

²¹ Id.

Part 45.8 to allow for the swap counterparties to select the reporting party when both parties are non-SD/MSPs regardless of whether one of them is a financial entity or U.S. Person.

IX. Swap Data Reporting of Creation Data Impact on SDR Maintenance Window

The Commission is proposing to revise § 45.3(a) and (b) to extend the swap creation data reporting deadline to a T+1 or T + 2 timeframe following the execution date.²² The Commission has requested comments on whether moving to a T+1 or T +2 reporting timeline would be beneficial. The Commission stated that extending the reporting timeline could help improve data quality while encouraging alignment with reporting deadlines set by other regulators. ICE Trade Vault is supportive of the revised reporting timeframes and agrees that alignment with other regulatory reporting regimes is beneficial for the market. ICE Trade Vault notes however that including a set time, in this case not later than 11:59 PM on T+1 or T+2, could impede the SDRs ability to take the system offline during its maintenance window for necessary system updates. Currently, the SDR maintenance window begins at 9 PM EST and lasts until 11:59 PM on weekdays. The Commission should ensure that SDRs can continue to utilize this necessary evening maintenance window to take the system offline for routine maintenance and system updates.

X. Amendments to the Real-Time Public Reporting

A. Definition of Publicly Reportable Swap Transaction

In the Real-Time Reporting Proposal, the Commission is amending the definition of publicly reportable swap transaction.²³ ICE Trade Vault generally supports the amendments but requests that the Commission clarify which specific trades are exempted from dissemination requirements. For example, it is unclear whether cross border transactions would be exempted from the dissemination requirements. As such, ICE Trade Vault recommends the Commission include in its final rule a reportable field that indicates when a trade is exempt from the ticking requirements. This type of reportable field would enable an SDR to create standardized compliance reports to assess and verify whether trades were properly disseminated.

B. Part 43 No-Action Relief Letters

ICE Trade Vault appreciates the historical efforts of CFTC staff to provide interpretative and no-action relief, since such relief provides industry participants with regulatory clarity or time to develop the systems and processes to facilitate compliance with the various reporting rules. We ask that the CFTC consider whether codification or permanent relief of previously granted no-action relief is warranted, including for Staff No-Action Letter No.14-134. Staff No-Action Letter No.14-134 gave Southwest Airlines and its counterparties additional time to comply with the reporting obligation in §43.3(a), in the context of transactions in long-dated Brent and WTI crude oil swaps and swaptions.²⁴ ICE Trade needs further guidance from the Commission on whether the no-action relief is expected to sunset. If the no-

²² SDR Reporting Proposal at 21,630. Proposed § 45.3(a) would require that for each swap executed on or pursuant to the rules of a SEF or DCM, the SEF or DCM shall report swap creation data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the execution date. Proposed § 45.3(b)(1) would require that if the reporting counterparty is an SD, MSP, or DCO, the reporting counterparty shall report swap creation data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the next business day following the execution date. Proposed § 45.3(b)(2) would require that if the reporting counterparty is a non-SD/MSP/DCO counterparty, the reporting counterparty shall report required swap creation data electronically to an SDR in the manner provided in § 45.13(a) not later than 11:59 p.m. eastern time on the second business day following the execution date.

²³ The Real-Time Reporting Proposal at 21558.

²⁴ CFTC Letter No. 14-134 No-Action November 6, 2014.

action relief will still be effective, ICE Trade Vault suggests the Commission add a field to indicate whether a specific no-action relief is applicable and what delay the user expects on the dissemination.

C. Block Sizes

In the Real-Time Reporting Proposal, the Commission provides a table outlining block sizes in the Other Commodity asset class.²⁵ ICE Trade Vault recommends the Commission provide additional clarity and guidance on the table. For example, electricity and natural gas references do not specify whether they apply to North America only or apply to all global gas and electricity products. We note that Commodity Index trades are not referenced. Oil should also be clarified as to whether it only applies to crude oil only or other refined products. As currently proposed, the table does not provide enough guidance to SDRs and market participants in order to properly implement block sizes.

XI. Conclusion

Transparency of the swaps market is a key goal of the Dodd-Frank Act. The Commission has made great strides towards creating a reporting system for increasing transparency through the proposed amendments. ICE Trade Vault looks forward to working with the Commission on implementing these revisions and appreciates the opportunity to comment on the foregoing rulemakings. Please do not hesitate to contact Kara Dutta (770.906.7812 or kara.dutta@theice.com) if you have any questions regarding our comments.

Sincerely,



Kara Dutta
General Counsel
ICE Trade Vault, LLC

Cc: Honorable Heath P. Tarbert, Chairman
Honorable Brian D. Quintenz, Commissioner
Honorable Rostin Behnam, Commissioner
Honorable Dawn DeBerry Stump, Commissioner
Honorable Dan M. Berkovitz, Commissioner
Meghan Tente, Acting Associate Director, DMO
Benjamin DeMaria, Special Counsel, DMO
David E. Aron, Special Counsel, DMO
Richard Mo, Special Counsel, DMO
Thomas Guerin, Special Counsel, DMO

²⁵ Proposed changes to 17 C.F.R. 43.6 at <https://www.cftc.gov/media/3631/DraftBlockSize031820/download>.

Matthew Jones, Special Counsel, DMO
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Owen J. Kopon, Special Counsel, DSIO
Nancy Doyle, Senior Special Counsel, Office of International Affairs
Gloria Clement, Senior Special Counsel, Office of the Chief Economist
John Roberts, Senior Research Analyst, Office of the Chief Economist
John Coughlan, Research Economist, Office of the Chief Economist

APPENDIX I

Reporting Technical Standards (45.13)

- Question (13) - Even with technical standards published by the Commission, there is a risk of inconsistent data across SDRs if the Commission allows the SDRs to specify the facilities, methods or data standards for reporting. In order to ensure data quality, should the Commission mandate a certain standard for reporting to the SDRs?
 - ICE Trade Vault is supportive of the Commission prescribing common data standards across SDRs. We agree that consistent data standards will assist with ensuring data quality across SDRs. ICE Trade Vault does not however support the Commission prescribing the facilities and methods for SDRs to communicate with and take in data from participants. The Commission should not be prescribing methods for messaging between the reporting entities and SDRs. Customers have varying levels of technological sophistication and SDRs may cater to a range of participants. As such, SDRs will naturally apply different approaches for facilities and methods of communication based on its customer base. The rules should also be flexible enough to accommodate innovation by SDRs and other market participants in communication facilities and methods. Specifically, the Commission should not consider mandating the ISO 20022 message scheme for reporting to SDRs as discussed in the preamble to Proposal. Non-SD/MSP reporting entities often are not as sophisticated as SD/MSPs and do not have the technical capabilities to follow such a standard. ICE Trade Vault instead recommends the Commission allow SDRs to determine the appropriate reporting standards based on its participant base.

APPENDIX II – Comments to the Technical Specifications for Parts 43 and 45 Swap Reporting and Public Dissemination Requirements

The follow are general comments to the proposed technical specifications. ICE Trade Vault supports the Commission’s proposed technical specifications and looks forward to working with staff on a successful implementation. ICE Trade Vault suggests the Commission publish a guidebook to assist with the technical specifications implementation and ensure allowable values and examples are covered.

1. Implementation of Changes to the Technical Specifications

ICE Trade Vault supports the Commission’s efforts to define validations and accepted field values. ICE Trade Vault however recommends that Commission outline the process for updates and changes to the validations and data enumerations. For instance, if a Participant has a trade to submit that does not meet the current values/validations allowed, how should those trades be reported?

2. Comments on Proposed Fields

- **#13, 14 18, 19, 22 - “Identifier Fields”**

Reportable fields currently exist for company identifiers such as Buyer Identifier, Seller Identifier and Counterparty Identifier. As only fields for IDs are reported, it would be assumed that SDRs are no longer required to display any company names on reports or within the UI to regulators. Should that not be the case, ICE Trade Vault suggests adding fields as needed to reflect the identifier names.

- **#95 - “Jurisdiction Indicator”**

The Commission expects this field to contain the jurisdiction(s) that is requiring the reporting of the transaction. ICE Trade Vault recommends the Commission expand the list of allowable values to include all available reporting regimes around the world. For example, ICE Trade Vault notes that the following jurisdictions are missing from the list: ACER, Other Canadian provinces and Swiss.

- **#26 - “Event Identifier”**

The Commission has proposed to use a single field for the Event Identifier. ICE Trade Vault believes the Commission should instead provide two separate fields for the Event Identifier as a single field does not allow for subsequent compression of a trade. If the Commission does choose to utilize a single field for the Event Identifier, ICE Trade Vault suggests the Commission provide additional examples to address how the event Identifier would be handled in the case of compressions.

- **#83 - “Block Trade Election Indicator”**

The technical specifications propose to define the Block trade Election Indicator field as whether an election has been made to report the swap as a block swap either by the reporting counterparty or as calculated by the SDR acting as a third party. ICE Trade Vault requests the Commission clarify the SDRs responsibilities to ensure data is correctly publicly disseminated.

3. Recommended Field Additions to the Technical Specifications

ICE Trade Vault requests the Commission add to the following fields to the Technical Specifications.

1. Regulatory Designation

ICE Trade Vault recommends the Commission add a regulatory designation field as the proposed technical specifications does not include a field for reporting counterparties to indicate their regulatory designation (i.e. SD/SMP/Financial Entity or non-SD/MSP reporting counterparty). The SDR however does have obligations to monitor compliance for reporting counterparties based off of their regulatory designation. In order for SDRs to discharge their compliance obligations, the CFTC must add a field for reporting parties to indicate their regulatory designation.

2. Anonymous Trade Indicator

ICE Trade Vault requests the Commission add a field which indicates when a trade is deemed anonymous. The technical specifications do not require reporting counterparties to provide information on anonymous trades however the Real-Time Reporting Proposal requires SDRs to mask a counterparty to anonymously executed swaps.²⁶ In order to align the technical specifications with the Real-Time Reporting Proposal, ICE Trade Vault recommends the Commission add a field which indicates when a trade is anonymous.

3. Timestamps

ICE Trade Vault recommends the CFTC add an SDR receipt timestamp, an SDR public dissemination timestamp and a post allocation timestamp. SDRs are required to timestamp publicly disseminated swap transaction and pricing data relating to a publicly reportable swap transaction with the date and time.²⁷ In addition, in the Real-Time Reporting Proposal, the Commission is proposing updates to certain swap transaction and pricing data and timestamps.²⁸ In order to align the technical specifications with the SDR obligations imposed by the Commission, ICE Trade Vault recommends the Commission add a field which indicates an SDR receipt timestamp.

4. Tick Exemption Indicator

As further discussed above in Section XI(A), the CFTC provides examples of swaps which do not fall within the Rule 43.2 definition of “publicly reportable swap transaction” and are therefore excluded from the requirement of being publicly disseminated. The technical specifications however do not provide a field which allows a reporting counterparty to indicate that their trades are exempt from public dissemination requirements. As a result, ICE Trade Vault requests the Commission add a field which indicates that a trade not be publicly disseminated.

5. Tick Submission Indicator

The CFTC rules require the reporting and subsequent real-time dissemination of trade updates when it is a price forming event.²⁹ As such, the CFTC needs to add to the technical specifications an indicator to show when the trade is considered a price forming event and thus publicly disseminated.

6. Late Trade Submission Reason

The proposed technical specifications do not allow the reporting party to provide information regarding trades not reported within the required timeframe. ICE Trade Vault suggests the

²⁶ Rule 49.17 states that “However, the SDR data and SDR information maintained by the swap data repository that may be accessed by either counterparty to a particular swap shall not include the identity or the legal entity identifier (as such term is used in part 45 of this chapter) of the other counterparty to the swap, or the other counterparty’s clearing member for the swap, if the swap is executed anonymously on a swap execution facility or designated contract market, and cleared in accordance with §§ 1.74, 23.610, and 39.12(b)(7) of this chapter) requires SDR to mask counterparties on anonymously executed swaps.”

²⁷ 43.3(h)(2) requires SDRs must timestamp swap transaction and pricing data relating to a publicly reportable swap transaction with the date and time, to the nearest second.

²⁸ In the Real-Time Reporting Proposal, the Commission is proposing an updated list of swap transaction and pricing data elements in Appendix C where the timestamps described in § 43.3(h) would be covered and remove the requirements in 43.3(h)(1)-(3) for SEFs, DCMs, SDs, MSPs, and SDRs to timestamp swap transaction and pricing data.

²⁹ 43.2 defines a publicly reportable swap transaction.

Commission add an optional field where the reporting party can provide a justification as to why a trade is reported late. This additional information will allow a reporting party to provide this information directly to the SDR and in turn the CFTC can pull this information directly from the SDR.

7. Termination date

ICE Trade Vault suggests the Commission add a technical specification for the termination date of a trade. Providing the termination date allows the SDR to identify which trades are open and provide the Commission with accurate reports.

8. Option Exercised Date

ICE Trade Vault recommends using the option exercised date for option exercises.

9. EFRP Indication

Currently, the list of events on the technical specifications does not include Exchange for Related Position (“EFRP”). We request that the Commission clarify that EFRPs are not reportable, or if they are intended to be reported, indicate how they must be reported in the technical specification examples. In an EFRP, futures contracts are exchanged for economically offsetting positions in a related cash commodity or OTC derivative. EFRPs are short-lived transactions which are brought to an exchange. EFRPs have futures reporting requirements once they are given up to the exchange thereby providing the Commission with the necessary information to regulate the transactions. In addition, due to the fact that the swap is so short lived and then exchanged for a futures position, the benefit obtained by the Commission is minimal, if any. The Commission should re-examine the benefit, if any, to EFRP reporting, specifically compared to the cost and effort to report the swap leg.