

February 3, 2016

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Re: **Proposed Amendments to Regulation 91-507 Trade Repositories and Derivatives Data Reporting and the Related Companion Policy 91-507CP**

Dear Sir/Madam:

ICE Trade Vault, LLC (“ICE Trade Vault”) appreciates the opportunity to provide comments related to the Proposed Amendments to Regulation 91-507 *Trade Repositories and Derivatives Data Reporting* and the Related Companion Policy 91-507CP (collectively referred to as the “Proposed Amendment”). As background, ICE Trade Vault is a designated Trade Repository (“TR”) in the provinces of Ontario, Quebec and Manitoba and is a provisionally registered Swap Data Repository with the Commodity Futures Trading Commission (“CFTC”). ICE Trade Vault is organized as a U.S. limited liability company and is a wholly-owned subsidiary of Intercontinental Exchange, Inc. (“ICE”). This comment letter is in response to request for comment by the Ontario Securities Commission (“OSC”), the Autorité des marchés financiers (“AMF”) and the Manitoba Securities Commission (“MSC”) with respect to the proposed further amendments to the existing Regulation 91-507 and the related Companion Policy.

**Part 4(a): Subsection 26(5) “duty to report; exemption for reporting derivatives data for transactions with foreign affiliates”**

Regulation 91-507 provides Reporting Counterparties with substituted compliance in the circumstance where the transaction is reported to a designated Trade Repository in a foreign jurisdiction listed in Appendix B. Reporting Counterparties are required to instruct the designated Trade Repository that a substituted transaction report has been submitted and to provide access to the appropriate authority to such transaction report.

Currently, the substituted compliance requirements in Regulation 91-507 cannot be fulfilled by Reporting Counterparties because U.S. and EU repositories do not employ a mechanism that denotes substituted reporting for certain transactions under Regulation 91-507. Under European regulations, adding data fields for trade reporting would require a rewrite of the Regulatory Technical Standards (RTS). Furthermore, SDR and TR core principles prohibit these SDRs and TRs from sharing data with non-prudential regulators. Therefore, ICE Trade Vault recommends this provision be removed and Regulation 91-507 be amended to require Reporting Counterparties to submit the necessary Transaction Data to its selected TR.

**Part 4(c): Section 28 “Legal entity identifiers; entity ineligible to receive a legal entity identifier”**

Under the Proposed Amendment to Section 28, the Reporting Counterparty shall assign an identifier to the non-Reporting Counterparty if the non-Reporting Counterparty did not obtain a Legal Entity Identifier (“LEI”). This Proposed Amendment burdens Reporting Counterparties with the obligation to assign entity identifiers. TRs already employ a process that generates identifiers for “non-LEI-eligible” counterparties. ICE Trade Vault proposes that TRs should continue to uniformly generate an entity identifier in absence of an LEI or for non-LEI-eligible counterparties. By obligating the Reporting Counterparty to generate entity identifiers, a counterparty may be assigned multiple entity identifiers. This outcome will prohibit TRs ability to validate data to correctly aggregate transactions and perform position calculations impairing the regulatory oversight of systematic market risk. Therefore, ICE Trade Vault requests that the Proposed Amendments be revised to require or allow TRs to issue a unique alternate identifier for non-LEI-eligible counterparties.

**Part 4(e): Subsection 39(3) & Appendix C “Data available to public; public dissemination of transaction-level data”**

Under the current Regulation 91-507, public dissemination of transactional-level data is effective on July 29, 2016. Combined with the Proposed Amendments enhancing the anonymity of counterparty identifications, this new requirement would require market participants and TRs to plan, configure, and build an effective system mechanism to begin real-time reporting in July 2016. While ICE Trade Vault supports the public dissemination of data and the Commissions’ efforts to further enhance the protection of the counterparty identifications, ICE Trade Vault suggests that an ample time window (e.g., 180-day implementation period after the approval of the rule amendment) be provided to all affected parties.

**Part 6: Annexes, Appendix C, 2. “Exclusions”**

Proposed Appendix C, “Exclusions,” provides that the public dissemination requirement does not apply to: a) a transaction in a derivative that requires exchange of more than one currency; b) a transaction resulting from a multilateral portfolio compression exercise; and c) a transaction resulting from novation by a recognized or exempt clearing agency. ICE Trade Vault requests that “firm trades” (or “forced trades”) that Clearing Agencies execute be added to list of “Exclusions.” These types of transactions are processed by the Clearing Agencies for the purpose of determining the price of certain derivative transactions for which public market prices are not available and as a means to obtain end-of-day pricing information for those transactions (positions).

**Part 6: Annexes, Appendix C, 7. “Timing”**

In the proposed Appendix C under “Timing”, a designated TR must disseminate transaction-level information after it receives the data from the Reporting Counterparty. Such TR is allowed to publicly disseminate the data within a window of time that begins after receiving the data on a T+1<sup>1</sup> Day or up to T+2 Day basis. Currently, the Reporting Counterparty is required to submit Creation Data to a TR, upon execution of a transaction, in real-time and If it is not technologically practicable to report Creation Data in real-time, a Reporting Counterparty must report creation data as soon as technologically practicable and in no event later than the end of the business day following the day on which the data would otherwise be required to be reported.

<sup>1</sup> “T+1” is a term that means “Transaction Day plus 1 Day,” which is a commonly used term in trading and settlement.

Given the timing requirements proposed in Appendix C, ICE Trade Vault believes there are two areas of concern. First, a TR may receive transaction information as late as 11:59:59 p.m. the on T+1 Day. Subsequently, the TR would have an additional day or two to publicly disseminate the data. In such instance, the disseminated information would become available to the public more than two or three days after execution. Second, the Proposed Amendment does not uniformly require the TRs to suppress the transaction data from being disseminated. TRs are instead given a 24 to 48 hour time period during which the TR can choose to publicly disseminate the transaction data. TRs that choose to immediately disseminate data create an incentive for Reporting Counterparties to delay reporting Creation Data.

As such, ICE Trade Vault suggests that the public dissemination timelines be based on the trade execution time rather than the receipt time and include a hold or delay period. TRs should be required to uniformly hold or delay the data a certain timeframe so as to not incentivize Report Counterparties to delay Creation Data reporting. For example, a transaction should be submitted to a TR by the Reporting Counterparty as prescribed in Regulation 91-507, but the TR should be required to publically disseminate within 15 minutes after a "hold" period (such as 24 hours) that starts from the execution time of the transaction.

Thank you for your consideration for ICE Trade Vault's comments above. Please do not hesitate to contact the undersigned (+1.770.857.4735 or [tara.manuel@theice.com](mailto:tara.manuel@theice.com)) if you have any questions regarding its comments.

Sincerely,



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ICE Trade Vault, LLC



Kara Dutta  
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ICE Trade Vault, LLC

Cc: Bruce Tupper, President, ICE Trade Vault, LLC  
Takako Okada, Chief Compliance Officer, ICE Trade Vault, LLC