

13.4 Trade Repositories

13.4.1 OSC Notice and Request for Comment – Chicago Mercantile Exchange Inc., DTCC Data Repository (U.S.) LLC, ICE Trade Vault, LLC – Application for Designation as a Trade Repository

OSC NOTICE AND REQUEST FOR COMMENT

CHICAGO MERCANTILE EXCHANGE INC. DTCC DATA REPOSITORY (U.S.) LLC ICE TRADE VAULT, LLC

APPLICATION FOR DESIGNATION AS A TRADE RESPOITORY

A. Introduction

Chicago Mercantile Exchange Inc. (CME), DTCC Data Repository (U.S.) LLC (DDR) and ICE Trade Vault, LLC (ICE TV) have each applied to the Commission for an order pursuant to subsection 21.2.2(1) of the *Securities Act* (Ontario) to be designated as a trade repository.

CME is a corporation organized under the laws of the State of Delaware in the U.S. and is a wholly owned subsidiary of CME Group Inc., a publicly traded for-profit corporation listed for trading in the U.S. CME operates under the jurisdiction of the Commodity Futures Trading Commission (CFTC). It received provisional registration with the CFTC in 2012 as a swap data repository (SDR) to provide trade repository services supporting credit, interest rates, commodities and foreign exchange (FX) asset classes. CME's global repository service currently includes services in the U.S. and Europe. It proposes to offer similar trade repository service in Ontario with respect to the credit, interest rates, commodities and FX asset classes. Other than being registered as a SDR, CME is also registered with the CFTC as a designated contract market and derivatives clearing organization, and is temporarily registered as a swap execution facility. CME is currently exempted from the requirement to be recognized as an exchange and a clearing agency by the Commission.

DDR is a company incorporated in the State of New York in the U.S. Its ultimate parent is The Depository Trust & Clearing Corporation (DTCC). DTCC provides various clearing, settlement and related services through its subsidiaries, some of which are registered with the SEC as clearing agencies. DDR is provisionally registered as a SDR with the CFTC since 2012 for five asset classes, including credit, interest rates, commodities, equities and FX. DTCC's Global Trade Repository services currently offer services in the U.S. (through DDR), Europe and Asia. DDR proposes to offer similar trade repository service in Ontario in all five asset classes. DDR has also applied for recognition by the Autorité des marchés financiers (AMF) and designation by the Manitoba Securities Commission (MSC) as a trade repository in those jurisdictions.

ICE TV is a limited liability company organized under the laws of the State of Delaware in the U.S. and is a wholly owned subsidiary of Intercontinental Exchange Holdings, Inc. (ICE), which itself is owned by Intercontinental Exchange, Inc. (ICE Inc.). ICE Inc. is a publicly listed company on the New York Stock Exchange. ICE Inc. is an operator of regulated global markets and clearing houses, including futures exchanges, over-the-counter markets, derivatives, clearing houses and post-trade services. ICE TV is a provisionally registered SDR regulated by the CFTC for commodity and credit asset classes. ICE TV intends to provide trade repository services to Ontario for the commodity, credit and FX asset classes. It has also applied for recognition by the AMF and designation by the MSC for as a trade repository in those jurisdictions.

B. Background

At the 2009 G20 Pittsburgh Summit, the Canadian Government joined other jurisdictions in committing to substantial reforms to practices in over-the-counter (OTC) derivative markets. One of the key G20 commitments to OTC derivatives regulatory reform was increased market transparency through the reporting of OTC derivative transactions to trade repositories. On November 14, 2013, in accordance with Canada's G20 commitments, the Ontario Securities Commission published OSC Rule 91-506 *Derivatives: Product Determination* (OSC Rule 91-506) and OSC Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (OSC Rule 91-507). OSC Rule 91-506 and OSC Rule 91-507 became effective on December 31, 2013 as subsequently amended by the Commission (see http://www.osc.gov.on.ca/en/SecuritiesLaw_91-507.htm for further information). Amendments to OSC Rule 91-507 were published on April 17, 2014 to delay the effective date of reporting obligations under the rule as a consequence of the unavailability of the necessary market infrastructure (see http://www.osc.gov.on.ca/en/SecuritiesLaw_rule_20140626_91-507_derivatives-data-reporting.htm for further information).

The purpose of OSC Rule 91-507 is to improve transparency in the OTC derivatives market and to ensure that designated trade repositories operate in a manner that promotes the public interest. OTC derivatives data is essential for effective regulatory oversight of the derivatives market, including the ability to identify and address systemic risk and the risk of market abuse. OTC derivatives data reported to designated trade repositories will also support policy-making by providing regulators with information on the nature and characteristics of the Canadian derivatives market.

Under OSC Rule 91-507, OTC derivatives transactions involving Ontario counterparties are required to be reported to a trade repository designated by the Commission. The first phase of OTC derivatives counterparty reporting obligations under the rule commences on October 31, 2014. To date, four trade repositories have applied for designation in Ontario: CME, DDR, ICE TV, UnaVista Limited. We are informed that the on-boarding process for new users and participants of a trade repository varies depending on the circumstances, ranging from approximately two to four weeks. Accordingly, Ontario OTC derivatives market participants should contact and join an Ontario-designated trade repository in a timely manner in order to ensure that they comply with their obligations under OSC Rule 91-507.

C. Proposed regulatory approach and draft order

CME, DDR and ICE TV each, in their applications for designation as a trade repository, explain how they comply or will comply with OSC Rule 91-507. In reviewing the applications, staff also considered the regulatory and oversight regime of the CFTC with respect to SDRs in determining an appropriate scope for the Commission's oversight going forward. The proposed designation orders for each of CME, DDR and ICE TV is based on the regulatory regime in their home jurisdiction, and will not duplicate requirements to which the CME, DDR and ICE TV are already subject. The proposed orders contain various terms and conditions, including relating to:

1. Regulation by the CFTC
2. Access and participation
3. Data collection and reporting
4. Fees
5. Commercialization of data
6. Reporting requirements
7. Information sharing

D. Public comments

The Commission is publishing for public comment each of CME, DDR and ICE TV's application and draft order for designation as a trade repository. We are seeking comment on all aspects of the applications and draft orders.

You are asked to provide your comments in writing, via e-mail and delivered on or before August 30, 2014, addressed to the attention of the Secretary of the Commission, Ontario Securities Commission, 20 Queen Street West, 22nd Floor, Toronto, Ontario, M5H 3S8, e-mail: comment@osc.gov.on.ca.

The confidentiality of submissions cannot be maintained as comments received during the comment period will be published.

Questions may be referred to:

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