

change extends the due date for these SRs to October 31, 2017, which allows these SRs to be performed during the first refueling outage for WBN, Unit 2.

*Date of issuance:* July 11, 2017.

*Effective date:* As of the date of issuance and shall be implemented within 7 days of issuance.

*Amendment No.:* 13. A publicly-available version is in ADAMS under Accession No. ML17180A024; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Facility Operating License No NPF-96:* Amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in Federal Register:* January 17, 2017 (82 FR 4932). The supplemental letters dated February 16, 2017, and June 9, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 11, 2017.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 21st day of July 2017.

For the Nuclear Regulatory Commission.

**Anne T. Boland,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81223; File No. SBSDR-2017-01]

### Security-Based Swap Data Repositories; ICE Trade Vault, LLC; Notice of Filing of Amended Application for Registration as a Security-Based Swap Data Repository

July 27, 2017.

#### I. Introduction

On May 1, 2017, ICE Trade Vault, LLC ("ICE Trade Vault") amended its Form SDR ("Initial Form SDR")<sup>1</sup> seeking

<sup>1</sup> See Exchange Act Release No. 77699 (Apr. 22, 2016), 81 FR 25475 (Apr. 28, 2016) ("ICE Trade Vault Notice Release"). As noted in the ICE Trade Vault Notice Release, ICE Trade Vault's Form SDR was submitted to the Commission on March 29, 2016 and amended on April 18, 2016.

registration with the Securities and Exchange Commission ("Commission" or "SEC") as a security-based swap data repository ("SDR") ("Amended Form SDR").<sup>2</sup> In its Amended Form SDR, ICE Trade Vault proposes to operate as a registered SDR for security-based swap ("SBS") transactions in the credit derivatives asset class.<sup>3</sup> The Commission previously published notice of ICE Trade Vault's Initial Form SDR on April 22, 2016, to solicit comments from interested persons. The comment period closed on May 31, 2016. To date, the Commission has received six comment letters on the ICE Trade Vault application.<sup>4</sup> After the close of the comment period, ICE Trade Vault submitted its Amended Form SDR with revisions to several policies and procedures.<sup>5</sup> ICE Trade Vault's proposed revisions described herein reflect substantive changes from what was reflected in ICE Trade Vault's Initial Form SDR, including amendments to the process to confirm data accuracy and completeness with a non-reporting side; fee schedule; policies and procedures regarding access; policies

<sup>2</sup> ICE Trade Vault filed its Amended Form SDR, including the exhibits thereto, electronically with the Commission. The descriptions set forth in this notice regarding the structure and operations of ICE Trade Vault have been derived, excerpted, and/or summarized from information in ICE Trade Vault's Amended Form SDR application, and principally from ICE Trade Vault's Guidebook (Exhibit GG.2), which outlines the applicant's policies and procedures designed to address its statutory and regulatory obligations as an SDR registered with the Commission. ICE Trade Vault's Amended Form SDR and non-confidential exhibits thereto are available on <https://www.sec.gov/Archives/edgar/data/1658496/000165849617000009/0001658496-17-000009-index.htm>. In addition, the public may access copies of these materials on the Commission's Web site at: <https://www.sec.gov/rules/other/2017/34-81223.pdf>.

<sup>3</sup> ICE Trade Vault's Form SDR application also constitutes an application for registration as a securities information processor. See Exchange Act Release No. 74246 (Feb. 11, 2015), 80 FR 14438, 14458 (Mar. 19, 2015) ("SDR Adopting Release").

<sup>4</sup> See letters from Tara Kruse, Director, Co-Head of Data, Reporting and FpML, International Swaps and Derivatives Association, Inc. (May 24, 2016); Tara Kruse, Director, Co-Head of Data, Reporting and FpML, International Swaps and Derivatives Association, Inc. (May 31, 2016); Jennifer S. Choi, Associate General Counsel, Investment Company Institute (May 31, 2016); Timothy W. Cameron, Asset Management Group—Head, and Laura Martin, Asset Management Group—Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (May 31, 2016); Tod Skarecky, Vice President, Clarus Financial Technology (May 31, 2016); Andrew Rogers, Director and Global Head of Reference Data, IHS Markit (Aug. 8, 2016). Additionally, on July 1, 2016, ICE Trade Vault submitted its own letter, responding to comments received. See letter from Kara Dutta, General Counsel, and Tara Manuel, Director, ICE Trade Vault, LLC (July 1, 2016). Copies of all comment letters are available at <https://www.sec.gov/comments/sbsdr-2016-01/sbsdr201601.htm>.

<sup>5</sup> See *supra* note 2.

and procedures on regulator access; policies and procedures related to the correction of errors; policies and procedures related to satisfying the requirements of Regulation SBSR; and certain key terms and definitions. The Commission seeks comment from interested parties on these changes and is publishing ICE Trade Vault's revisions in its Amended Form SDR with a 21-day comment period.<sup>6</sup>

#### II. Background

##### A. SDR Registration, Duties and Core Principles, and Regulation SBSR

Section 763(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 added Section 13(n) to the Securities Exchange Act of 1934 ("Exchange Act"), which makes it "unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a security-based SDR." To be registered and maintain registration, each SDR must comply with certain requirements and "core principles" described in Section 13(n) as well as any requirements that the Commission may impose by rule or regulation.<sup>7</sup>

Exchange Act Rules 13n-1 through 13n-12 ("SDR rules") establish the procedures and Form SDR by which an SDR shall register with the Commission and certain "duties and core principles" to which an SDR must adhere.<sup>8</sup> Among other requirements, the SDR rules require an SDR to collect and maintain accurate SBS data and make such data available to the Commission and other authorities so that relevant authorities will be better able to monitor the buildup and concentration of risk exposure in the SBS market.<sup>9</sup>

Concurrent with the Commission's adoption of the SDR rules, the Commission adopted,<sup>10</sup> and later amended,<sup>11</sup> Exchange Act Rules 900 to 909 ("Regulation SBSR"),<sup>12</sup> which, among other things, provide for the reporting of SBS trade data to registered

<sup>6</sup> The Commission intends to address any comments received for this notice, as well as those comments previously submitted regarding the Initial Form SDR, when the Commission makes a determination of whether to register ICE Trade Vault as an SDR pursuant to Rule 13n-1(c).

<sup>7</sup> 15 U.S.C. 78m(n).

<sup>8</sup> See SDR Adopting Release, 80 FR 14438.

<sup>9</sup> See *id.* at 14450.

<sup>10</sup> See Securities Exchange Act Release No. 74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015).

<sup>11</sup> See Securities Exchange Act Release No. 78321 (July 14, 2016), 81 FR 53546 (Aug. 12, 2016).

<sup>12</sup> See 17 CFR 242.900 to 242.909; see also Exchange Act Release No. 74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015) ("Regulation SBSR Adopting Release").

SDRs, and the public dissemination of SBS transaction, volume, and pricing information by registered SDRs. In addition, Regulation SBSR requires each registered SDR to register with the Commission as a securities information processor (“SIP”).<sup>13</sup>

### B. Standard for Granting SDR Registration

To be registered with the Commission as an SDR and maintain such registration, an SDR is required (absent an exemption) to comply with the requirements and core principles described in Exchange Act Section 13(n), as well as with any requirements that the Commission adopts by rule or regulation.<sup>14</sup> Exchange Act Rule 13n–1(c)(3) provides that the Commission shall grant the registration of an SDR if it finds that the SDR is so organized, and has the capacity, to be able to (i) assure the prompt, accurate, and reliable performance of its functions as an SDR, (ii) comply with any applicable provisions of the securities laws and the rules and regulations thereunder, and (iii) carry out its functions in a manner consistent with the purposes of Section 13(n) of the Exchange Act and the rules and regulations thereunder.<sup>15</sup> The Commission shall deny registration of an SDR if it does not make any such finding.<sup>16</sup>

In determining whether an applicant meets the criteria set forth in Exchange Act Rule 13n–1(c), the Commission will consider the information reflected by the applicant on its Form SDR, as well as any additional information obtained from the applicant. For example, Form SDR requires an applicant to provide a list of the asset class(es) for which the applicant is collecting and maintaining data or for which it proposes to collect and maintain data, a description of the functions that it performs or proposes to perform, general information regarding its business organization, and contact information.<sup>17</sup> This, and other information reflected on the Form SDR, will assist the Commission in understanding the basis for registration as well as the SDR applicant’s overall business structure, financial condition, track record in providing access to its services and data, technological reliability, and policies and procedures to comply with its statutory and regulatory obligations.<sup>18</sup> Furthermore,

the information requested in Form SDR will enable the Commission to assess whether the SDR applicant would be so organized, and have the capacity to comply with the federal securities laws and the rules and regulations thereunder, and ultimately whether to grant or deny an application for registration.<sup>19</sup>

### III. ICE Trade Vault’s Amended Form SDR

As noted above, in its Amended Form SDR, ICE Trade Vault proposes amendments to the following:

- Process to confirm data accuracy and completeness with a non-reporting side;
- Its fee schedule;
- Policies and procedures regarding access to ICE Trade Vault’s system and services;
- Policies and procedures related to the correction of errors;
- Policies and procedures on regulator access;
- Certain policies and procedures related to satisfying the requirements of Regulation SBSR; and
- Certain key terms and definitions.

#### A. Process To Confirm Data Accuracy and Completeness With a Non-Reporting Side

Section 13(n)(5)(B) of the Exchange Act requires that an SDR confirm the accuracy of the data that was submitted with both counterparties to the SBS.<sup>20</sup> Exchange Act Rule 13n–5(b)(1)(iii) requires every SDR to establish, maintain, and enforce written policies and procedures reasonably designed to satisfy itself that the transaction data that has been submitted to the SDR is complete and accurate.<sup>21</sup> Exchange Act Rule 13n–4(b)(3) requires every SDR to confirm, as prescribed in Exchange Act Rule 13n–5, with both counterparties the accuracy of the information submitted to the SDRs.<sup>22</sup>

In its Initial Form SDR, ICE Trade Vault did not propose a process to reach out to a non-reporting side to confirm data accuracy and completeness. ICE Trade Vault proposed to have policies and procedures requiring Users<sup>23</sup> to report complete and accurate trade information (and make representations to that effect) and to review and resolve all error messages generated by the ICE Trade Vault system. If any trade

information was found to be incorrect or incomplete, ICE Trade Vault proposed that it would require Users to correct and resubmit such information to the ICE Trade Vault system. For SBS that were not executed on a platform, ICE Trade Vault proposed that it would require the reporting side to provide the method used to confirm the trade information (e.g., electronic confirmation service or paper confirmation). If the counterparties to an SBS used a paper confirmation to confirm the trade, ICE Trade Vault proposed that it would require the reporting side to upload to the ICE Vault Trade system a copy of the confirmation that was agreed upon by the counterparties. Additionally, with regard to any missing unique identification codes (“UICs”), in its Initial Form SDR, ICE Trade Vault proposed to (i) allow (but not require) the reporting side to submit the non-reporting side’s UIC information (other than counterparty ID), and (ii) otherwise require the reporting side to inform the non-reporting side that its trade information was reported without required UIC information, in which case if the non-reporting side was not a User, ICE Trade Vault directed the non-reporting side to contact ICE Trade Vault to onboard to provide such UIC information.<sup>24</sup>

In its Amended Form SDR, in Section 4.10.1 of the revised Guidebook, ICE Trade Vault proposes to reach out to non-reporting sides to confirm data accuracy and completeness. If the non-reporting side is a “participant” under the Regulation SBSR rules<sup>25</sup> but is not

<sup>24</sup> As discussed below, Rule 903 of Regulation SBSR requires a registered SDR to use UICs to specifically identify a variety of persons and things. See *infra* Section III.F.3

<sup>25</sup> Regulation SBSR states that the term “Participant” as with respect to a registered security-based swap data repository, means: (1) A counterparty, that meets the criteria of § 242.908(b), of a security-based swap that is reported to that registered security-based swap data repository to satisfy an obligation under § 242.901(a); (2) A platform that reports a security-based swap to that registered security-based swap data repository to satisfy an obligation under § 242.901(a); (3) A registered clearing agency that is required to report to that registered security-based swap data repository whether or not it has accepted a security-based swap for clearing pursuant to § 242.901(e)(1)(ii); or (4) A registered broker-dealer (including a registered security-based swap execution facility) that is required to report a security-based swap to that registered security-based swap data repository by § 242.901(a). See 17 CFR 240.900(u). It should be noted that someone who is a “participant” as that term is defined in Regulation SBSR would not automatically be a “User” as defined in ICE Trade Vault’s policies and procedures. For example, if a reporting side were to report a SBS transaction to ICE Trade Vault, the non-reporting side counterparty would be a “participant” of ICE Trade Vault under Regulation

Continued

<sup>13</sup> See Regulation SBSR Adopting Release, 80 FR at 14567; see *supra* note 3.

<sup>14</sup> See Exchange Act Section 13(n)(3), 15 U.S.C. 78m(n)(3).

<sup>15</sup> See 17 CFR 240.13n–1(c)(3).

<sup>16</sup> See *id.*

<sup>17</sup> See SDR Adopting Release, 80 FR at 14459.

<sup>18</sup> See *id.* at 14458.

<sup>19</sup> See *id.* at 14458–59.

<sup>20</sup> See 15 U.S.C. 78m(n)(5)(B).

<sup>21</sup> See 17 CFR 240.13n–5(b)(1)(iii); see also SDR Adopting Release, 80 FR at 14491.

<sup>22</sup> See 17 CFR 240.13n–4(b)(3).

<sup>23</sup> As discussed below, a “User” is an entity that has validly enrolled with ICE Trade Vault. See *infra* Section III.F.2.

a User of ICE Trade Vault and has not designated a Third Party Reporter<sup>26</sup> or Execution Agent<sup>27</sup> to report on its behalf, ICE Trade Vault proposes that:

. . . ICE Trade Vault will attempt to notify the non-Reporting Side of the missing UIC information using the email address for the non-Reporting Side that was reported by the Reporting Side. Such email notice to the non-Reporting Side will indicate that ICE Trade Vault has received trade information to which the non-Reporting Side is indicated as a party to the trade. The email notice will further indicate the non-Reporting Side's trade information was reported to ICE Trade Vault without the required UIC information and that the non-Reporting Side should contact ICE Trade Vault (*TradeVaultSupport@theice.com*) to register for access to the SBSDR Service in order to provide any missing UICs. If the Reporting Side provided the non-Reporting Side's LEI but elected not to provide an email address for the non-Reporting Side, ICE Trade Vault will attempt to so notify the non-Reporting Side using available email contact information contained in the static data maintained by ICE Trade Vault with respect to market participants, to the extent Trade Vault is permitted by Applicable Law to utilize such data (without contravening, for example, local privacy laws or contractual obligations of ICE Trade Vault).

ICE Trade Vault will not verify the validity of any email address and will not confirm whether any of its email notices were duly received or take further action if an email notice is rejected.

### B. Fee Schedule

Section 13(n)(7)(A) of the Exchange Act provides that an SDR shall not (i) adopt any rule or take any action that results in any unreasonable restraint of trade; or (ii) impose any material anti-competitive burden on the trading, clearing or reporting of transactions.<sup>28</sup> Exchange Act Rule 13n-4(c)(1)(i) requires each SDR to ensure that any dues, fees, or other charges that it imposes, and any discounts or rebates that it offers, are fair and reasonable and

SBSR simply by virtue of the reporting side's actions, but would not be an on-boarded "User" of the SDR unless it actively registered with ICE Trade Vault by signing a User Agreement. In its Form SDR, ICE Trade Vault uses the term "SEC Participant" to refer to a "participant" as defined in Regulation SBSR. See *infra* Section III.F.2.

<sup>26</sup> In its Amended Form SDR, ICE Trade Vault proposes to define "Third Party Reporter" as "[a] person that has been authorized by a Counterparty or a Platform to report SBSDR Information to ICE Trade Vault on behalf of such Counterparty or Platform." See also Exhibits N.7 (Third-Party Reporter Onboarding Guide) and U.2 (ICE Trade Vault Security-Based SDR User Agreement).

<sup>27</sup> In its Amended Form SDR, ICE Trade Vault proposes to define "Execution Agent" as "[a]ny person other than a broker or trader that facilitates the execution of a Security-based swap on behalf of a direct Counterparty." See also Exhibits N.8 (Execution Agent Onboarding Guide) and U.2.

<sup>28</sup> See 7 U.S.C. 24a(f)(1)(A), (B).

not unreasonably discriminatory.<sup>29</sup> Rule 13n-4(c)(1)(i) also requires such dues, fees, other charges, discounts, or rebates to be applied consistently across all similarly-situated users of the SDR's services.<sup>30</sup>

In its Initial Form SDR, ICE Trade Vault proposed charging fees based upon the outstanding notional value of an SBS.<sup>31</sup> As part of its Amended Form SDR, in revised Exhibit M.2, ICE Trade Vault proposes a different fee framework. ICE Trade Vault now proposes to charge fees based upon message traffic for an SBS instead of upon outstanding notional value. In addition, ICE Trade Vault proposes to impose fees on a "Third Party Reporter" (such as a registered SBS dealer) when it reports UICs as agent on behalf of a client/non-User. ICE Trade Vault also proposes to impose different fee structures for counterparties that connect using Execution Agents and Third Party Reporters. Specifically, and in pertinent part, ICE Trade Vault proposes that:

Repository Fees<sup>32</sup> will be assessed upon the ICE Trade Vault Service's acceptance of any trade message<sup>33</sup> for a Security-based swap will be charged as follows:

- Cleared Security-based swap User<sup>34</sup>—A Repository Fee will be charged to the Clearing Agency ("CA") that cleared the Security-based swap; and
- Uncleared/Bilateral Security-based swap User—A Repository Fee will be charged to the User which submitted the record as a counterparty or execution agent to the Trade.

A User will obtain access to all onboarding documentation and UAT<sup>35</sup> environments, without incurring any charges, once the User Agreement has been executed. Fees will only be charged once the User has been granted access to the Production system upon their request. Termination and rejection messages submitted for an Original<sup>36</sup> Security-based swap will not have any fee applied. Where a Reporting Side submits Unique Identification Code ("UIC") information on

<sup>29</sup> See 17 CFR 240.13n-4(c)(1)(i).

<sup>30</sup> See *id.*

<sup>31</sup> See Exhibit M.2

<sup>32</sup> For additional information regarding ICE Trade Vault's proposed fees, please see chart contained in Exhibit M.2.

<sup>33</sup> A trade message is defined as any submittal of trade data whether the initial report, creating a new Unique Trade Identifier ("UTI"), or a subsequent report on an existing UTI including lifecycle events, disputes, and UIC updates.

<sup>34</sup> ICE Trade Vault notes that a "User," as defined in Section 1.48 of the revised Guidebook, is an entity that has validly enrolled with ICE Trade Vault through a duly executed User Agreement. See Exhibit M.2.

<sup>35</sup> The term "UAT" refers to user acceptance testing.

<sup>36</sup> ICE Trade Vault notes that an "Original Security-based swap" means "a swap that has been accepted for clearing by a derivatives clearing organization, also known as an 'alpha' swap." See Exhibit M.2.

behalf of a Non-Reporting Side, that Reporting Side will not be charged an additional reporting fee.

Specifically, ICE Trade Vault proposes the following pricing schedule:

**Direct Reporting by Counterparty Users:**  
The minimum monthly invoice per User will be \$375. In a given month, each User represented as a counterparty shall be invoiced the greater of (i) the total of all Repository Fees incurred by User or (ii) \$375. If the User does not have any submittals in a given month but does have open positions on Security-based swaps in the ICE Trade Vault Service, the \$375 will be charged as a minimum maintenance fee in the place of any Repository Fees. If the User does not have any submittals in a given month and does not have any open positions then no fees will be charged.

**Direct Reporting by Clearing Agency Users:**  
The minimum monthly invoice per User which is a Clearing Agency will be \$375. In a given month, each Clearing Agency User represented as a counterparty shall be invoiced the greater of (i) the total of all Repository Fees incurred by User or (ii) \$375. If the User does not have any submittals in a given month but does have open positions on Security-based swaps in the ICE Trade Vault Service, the \$375 will be charged as a minimum maintenance fee in the place of any Repository Fees. If the User does not have any submittals in a given month and does not have any open positions then no fees will be charged.

**Reporting by Execution Agent Users:** All Security-based swaps reported to ICE Trade Vault by an Execution Agent will be charged the Repository Fee in the following manner:

- For all Security-based swaps reported by an Execution Agent where they are acting on behalf of the counterparty and listed as the Execution Agent, the Execution Agent will be charged the Repository Fee. The underlying funds, accounts or other principals will not be charged a fee.

- For all Security-based swaps reported by an Execution Agent where they are acting as the counterparty, the Execution Agent will be charged the Repository Fee.

- The Minimum Monthly Amount per Execution Agent will be a total of \$375 inclusive of all transactions in which the Execution Agent is acting in its capacity as such and any proprietary transactions.

**Reporting by Third Party Reporters:** For all transactions reported to ICE Trade Vault for Security-based swaps by a Third Party Reporter, the Third Party Service Reporter will only be charged a Repository Fee for those transactions it reports on behalf of non-Users of ICE Trade Vault and will be charged in the following manner:

- Each non-User that the Third Party Reporter reports on behalf of will have an invoice created as if they were a User, meaning that in a given month, each non-User represented as a counterparty for which the Third Party Reporter reported on behalf of shall be invoiced the greater of (i) the total of all Repository Fees incurred by non-User or (ii) \$200. If the non-User does not have any submittals by the Third Party Reporter in

a given month but does have open positions on Security-based swaps in the ICE Trade Vault Service, \$200 will be charged as a minimum maintenance fee in the place of any Repository Fees. If the non-User does not have any submittals by the Third Party Reporter in a given month and does not have any open positions then no fees will be charged.

- Details of the Repository Fees incurred or the Minimum Monthly Amount for each non-User will be detailed on the Third-Party Service Provider's invoice and summed across all non-Users to determine the total amount charged to any one Third Party Reporter.

### C. Policies and Procedures Regarding Access to ICE Trade Vault's System and Services

As part of its Amended Form SDR, ICE Trade Vault proposes changes to Section 3 of its revised Guidebook to address the issue of a User's access rights to data contained in ICE Trade Vault.<sup>37</sup> In Section 3.1, ICE Trade Vault notes that "Users shall only have access to (i) data they reported; (ii) data that pertains to a Security-based swap to which they are a Counterparty; (iii) data that pertains to a Security-based swap for which the User is an Execution Agent, Platform, registered broker-dealer or a Third Party Reporter; and (iv) data that ICE Trade Vault is required to disseminate publicly (*i.e.*, Public Data)."

#### 1. Denial of User Enrollment and Access Determination

In its Initial Form SDR, ICE Trade Vault proposed some policies and procedures relating to access restrictions to its system. In its Amended Form SDR, ICE Trade Vault provides more information by proposing new Section 3.1.2 to its Guidebook, which provides that:

ICE Trade Vault may decline the request of an applicant to become a User of the ICE SBSDR Service if such denial is required in order to comply with Applicable Law (*e.g.*, to comply with sanctions administered and enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC")). ICE Trade Vault shall notify the SEC of any such denial.

If an applicant is denied by ICE Trade Vault for any other reason, the denial shall be treated as an "Access Determination" (as defined below), and the applicant will be

<sup>37</sup> ICE Trade Vault has deleted the definition of "Ancillary Services" in its Guidebook (Exhibit GG.2). In this context, Section 3.1 of the Guidebook on Fair and Open Access Policy now provides that "[e]xcept for ancillary services that ICE Trade Vault is required to provide under SEC rules, access to, and use of, the ICE SBSDR Service does not require the use of any ancillary service offered by ICE Trade Vault." In addition, "Ancillary Services" is no longer described or captured in the context of Section 2.4 in the Guidebook, which discusses ICE Trade Vault service pricing.

entitled to notice and an opportunity to contest such determination in accordance with Section 3.4 of this Guidebook. If the denial of an application is reversed, the applicant will be granted access to the ICE SBSDR Service promptly following completion of onboarding requirements.

#### 2. Violations of Guidebook/Applicable Law

In its Amended Form SDR, ICE Trade Vault proposes new Sections 3.2 to 3.6 to its Guidebook to address policies and procedures that govern in circumstances in which the User has violated the Guidebook and/or applicable law.<sup>38</sup> In Section 3.2 of the revised Guidebook, ICE Trade Vault proposes that it "shall have the authority to conduct inquiries into, and impose access restrictions in response to, any violation of this Guidebook and/or Applicable Law ('Violations') committed by Users as provided in this Section 3.2."

Additionally, in Section 3.2, ICE Trade Vault provides a description of the powers and duties of the CCO:

- The CCO is responsible for enforcing this Section 3.2 and shall have the authority to inspect the books and records of all Users that are reasonably relevant to any inquiry carried out pursuant to this Section 3.2. The CCO shall also have the authority to require any User to appear before him or her to answer questions regarding possible Violations. The CCO may also delegate such authority to ICE Trade Vault employees, including officers, and such other individuals (who possess the requisite independence from ICE Trade Vault and the relevant User) as ICE Trade Vault may hire on a contractual basis.

- The CCO shall conduct inquiries of possible Violations, prepare written reports with respect to such inquiries, furnish such reports to the Board of Directors and conduct the examinations with respect to such Violations.

If, in any case, the CCO (or another ICE Trade Vault employee designated for this purpose by ICE Trade Vault) concludes that a Violation may have occurred, he or she may:

- issue a warning letter to the User informing it that there may have been a Violation and that such continued activity may result in access restrictions and notice to the SEC; and/or
- negotiate a written settlement agreement with the User, whereby the User, with or without admitting responsibility, may agree to (i) comply with a cease and desist order; and/or (ii) a limitation of access to the ICE SBSDR Services and the System.

Any settlement recommended by the CCO shall be subject to the approval of the Board of Directors and shall become final and effective pursuant to Rule 3.2.3.

<sup>38</sup> The Commission notes that SDRs are not self-regulatory organizations as defined in Section 3(a)(26) of the Exchange Act. *See* 15 U.S.C. 78c(a)(26).

ICE Trade Vault also describes the disciplinary authority of the Board of Directors:

- The Board of Directors shall have the power to direct that an inquiry of any possible Violation be conducted by the CCO and shall hear any matter referred to it by the CCO regarding a possible Violation.

- In any case where the Board of Directors concludes that a Violation has occurred, the Board of Directors may: (i) Refer or return the matter to the CCO with instructions for further investigation; (ii) approve a settlement agreement negotiated pursuant to Section 3.2.2 with such User (which may provide for consequences other than those recommended by the CCO); and/or (iii) take, or instruct the CCO to take, any further action it deems necessary including, but not limited to, issuing:

- A cease and desist order or a written warning; and/or
- a limitation of access to the ICE SBSDR Services and the System.

#### 3. Revocation of Access

In its Amended Form SDR, in Section 3.3 of the revised Guidebook, ICE Trade Vault provides more information about the procedures for revocation of a User's access:

ICE Trade Vault may revoke a User's access to the System, the ICE SBSDR Service or SBSDR Information<sup>39</sup> in accordance with this Section 3.3 following a determination that (i) the User has violated any provision of the User Agreement (including by failing to pay any fees when due), this Guidebook, Applicable Law or any ICE Trade Vault policies and procedures related to the ICE SBSDR Service or (ii) such action is necessary or appropriate in light of ICE Trade Vault's regulatory responsibilities or for the protection of the integrity of the System (each, an "Access Determination"). Access Determinations shall be made by the CCO based on the information gathered during the inquiry, if any, conducted in accordance with Section 3.2.2 and reviewed by the President and General Counsel of ICE Trade Vault within 5 business days of such determination prior to implementing any revocation of access. Notwithstanding the foregoing, the CCO's Access Determination may be implemented immediately without prior review by the President or General Counsel ("Immediate Revocation") where the CCO determines such revocation is necessary for the protection of the integrity of the System or to fulfill ICE Trade Vault's regulatory responsibilities.

If (i) an Immediate Revocation occurs or (ii) the President and General Counsel conclude that an Access Determination is appropriate and in compliance with Applicable Law, the CCO shall, within 1 business day, provide notice by email to the User to which the Access Determination applies, including in such notice the specific reasons for the determination. If the President and General

<sup>39</sup> ICE Trade Vault defines "SBSDR Information" in its Guidebook as "[a]ny information that ICE Trade Vault receives from Users or maintains on their behalf as part of the ICE SBSDR Service."

Counsel conclude that limitation or revocation of access pursuant to an Access Determination made by the CCO would constitute unreasonable discrimination, the President and General Counsel shall take such actions as are necessary to maintain or restore access to the System, the ICE SBSDR Service or SBSDR Information, as applicable.

#### 4. Review and Dispute of Revocation of Access

In its Amended Form SDR, in Section 3.4 of the revised Guidebook, ICE Trade Vault provides more procedures about the review and dispute of revocation of access:

- Following notice of an Access Determination to a User that does not involve an Immediate Revocation, revocation of such User's access shall occur only after User has been given an opportunity to contest the determination before the Board of Directors within 10 business days of such notice. In the event of an Immediate Revocation, a User shall be entitled to notice and opportunity to contest within 10 business days of such revocation.

- In order to contest an Access Determination, the User must notify ICE Trade Vault within 1 business day of notice of such determination. A meeting to address the determination shall occur as promptly as possible within the timeframes specified in this Section 3.4 and may be held by telephone, in person or via such other means as are acceptable to ICE Trade Vault. ICE Trade Vault and User will each be responsible for their own expenses in participating in the meeting.

- The User shall be notified of the time, place and date of the hearing not less than 2 business days in advance of such date.

- At the meeting, the User will have an opportunity to present evidence before the Board of Directors. The User is not required to, but may be if it wishes, represented by counsel at User's sole expense except as provided below.

- Within 5 business days after the meeting, a majority of the Board of Directors will either affirm or reverse the Access Determination. The User shall be notified in writing of the Board of Directors' decision. If the Board of Directors decides to affirm the Access Determination, the notification shall include the grounds for such decision. The Board of Director's decision shall become final and effective once notified to the User.

A record shall be kept of any meeting held in accordance with this Section 3.4. The cost of the transcript may be charged in whole or in part to the User in the event that the Access Determination is affirmed.

#### 5. Notification of the SEC

Rule 909 of Regulation SBSR requires each registered SDR to register as a SIP. As such, Exchange Act Section 11A(b)(5)—which requires a SIP to promptly notify the Commission if it prohibits or limits any person in respect of access to services offered, directly or indirectly by the SIP—also applies to an

SDR.<sup>40</sup> Accordingly, an SDR must promptly notify the Commission if it prohibits or limits access to any of its services to any person.<sup>41</sup>

In its Amended Form SDR, in Section 3.5 of the revised Guidebook, ICE Trade Vault provides the following information about its procedures for notifying the Commission:<sup>42</sup>

If the Board of Directors affirms an Access Determination, ICE Trade Vault shall promptly file notice thereof with the SEC in such form and with such information as the SEC may prescribe. ICE Trade Vault will also notify the SEC of all final Access Determinations by ICE Trade Vault in its annual amendment to its Form SDR. Any notice to the SEC of an Access Determination shall be subject to review by the SEC on its own motion, or upon application to the SEC by the User whose access has been limited or revoked (the "Suspended User"), within thirty days after notice of the Access Determination has been filed with the SEC and received by the Suspended User. Application to the SEC for review, or the initiation of review by the SEC on its own motion, will not operate as a stay of the Access Determination unless the SEC so orders. If the SEC deems it appropriate, it will establish an expedited procedure to determine whether a stay is warranted.

After a hearing on the merits of an Access Determination, the SEC may determine that the Suspended User has not been discriminated against unfairly and dismiss the proceedings or, determine that the Access Determination imposes a burden on competition which is not justified under Applicable Law and set aside the Access Determination and require ICE Trade Vault to restore access to the Suspended User. If ICE Trade Vault is required to restore access to the Suspended User, it shall do so within 1 business day of receipt of such order from the SEC.

#### 6. Implementation of a Revocation of Access

In its Amended Form SDR, in Section 3.6 of the revised Guidebook, ICE Trade Vault provides procedural information about the implementation of a revocation of access:

Upon an Access Determination becoming effective (whether due to an Immediate Revocation or because the User has not requested a hearing within five business days of receipt of its notice of Access Determination or the Board of Directors affirmed an Access Determination), ICE Trade Vault will notify the User (the "Terminated User") of the effective date of revocation of access. The notice provided to the Terminated User will also specify how any pending submissions will be handled. ICE Trade Vault will take all necessary steps to terminate the Terminated User's license to

access and use the System in accordance with the Access Determination, including by cancelling such User's ID and password(s).

Upon the termination of a Terminated User's access, ICE Trade Vault will, as soon as possible, notify all other Users of the revocation of access. ICE Trade Vault's notice to other Users will provide, to the extent relevant, information on how pending transaction submissions and other pending matters will be impacted by the Access Determination and what steps are to be taken by all affected parties.

ICE Trade Vault shall not accept any submission from a Terminated User that was effected after the time at which the Access Determination became effective. If a Terminated User has satisfied all outstanding obligations to ICE Trade Vault, ICE Trade Vault will consider allowing a Terminated User to submit data via a Third Party Reporter on a case-by-case basis.

#### D. Policies and Procedures on Regulator Access

Exchange Act Sections 13(n)(5)(G) and (H) conditionally require SDRs to make SBS data available to certain named authorities and other persons that the Commission has deemed to be appropriate. The Commission adopted Exchange Act Rules 13n-4(b)(9), (b)(10) and (d) to implement this data access requirement.

In its Amended Form SDR, in Section 3.1.3 of the revised Guidebook, ICE Trade Vault proposes that any regulator requiring or requesting access to SBS data should contact the Chief Compliance Officer and "certify that it is acting within the scope of its jurisdiction and a Memorandum of Understanding between such Regulator and the SEC that is in full force an effect (an 'MOU')." ICE Trade Vault further proposes to notify the SEC of any initial request from a regulator for data access, and states that afterward, following execution of necessary documentation, ICE Trade Vault would provide the Regulator with access to SBS data to the extent consistent and compliant with confidentiality conditions imposed by applicable law and any relevant MOU. In Section 3.1.3, ICE Trade Vault also states that access may include, when permitted by applicable law and a relevant MOU, tools for monitoring, screening and analyzing SBS trade information.

#### E. Policies and Procedures Related to the Correction of Errors

Exchange Act Rule 13n-5(b)(6) requires that each SDR establish procedures and provide facilities reasonably designed to effectively resolve disputes over the accuracy of transaction data and positions that are

<sup>40</sup> See SDR Adopting Release, 80 FR at 14482.

<sup>41</sup> See *id.*

<sup>42</sup> Section 3.5 mirrors the provisions of Exchange Act Section 11A(b)(5).

maintained and recorded in the SDR.<sup>43</sup> If a reporting side discovers that information previously submitted to an SDR contains errors, Rule 905(a) of Regulation SBSR requires any counterparty or other person having a duty to report an SBS transaction that discovers an error in information previously reported pursuant to Regulation SBSR to correct such errors in accordance with the procedures specified in Rules 905(a)(1)–(2).<sup>44</sup> Rule 905(b) of Regulation SBSR then requires the SDR to correct such information in its system and, if applicable, to correct the publicly disseminated data.<sup>45</sup>

As part of its Amended Form SDR, ICE Trade Vault proposes changes to its revised Guidebook in relevant sections. In Section 4.2.3, ICE Trade Vault proposes that:

Users that are non-Reporting Sides may (but are not obligated to) verify or dispute the accuracy of trade information that has been submitted by a Reporting Side to ICE Trade Vault where the non-Reporting Side is identified as the Counterparty by sending a verification message indicating that it verifies or disputes such trade information. . . . If the non-Reporting Side is not a User, the non-Reporting Side should contact ICE Trade Vault (*TradeVaultSupport@theice.com*) to register for access to the SBSDR Service and its trade information.

In Section 4.6, ICE Trade Vault proposes the following clarifying information with regard to its error correction processes:

In accordance with Exchange Act Rule 905(a), Users are responsible for the timely resolution of errors contained in trade information that they submit to ICE Trade Vault. ICE Trade Vault provides Users electronic methods to extract SBSDR Information for reconciliation purposes. If the Reporting Side discovers an error contained in the trade information that it previously submitted to the System, or receives notification from a Counterparty of

an error, the Reporting Side shall promptly submit to the System amended trade information that remediates such error. If the non-Reporting Side discovers an error contained in the trade information submitted to the System on its behalf, that Counterparty shall promptly notify the Reporting Side of such error. Both Platforms and Clearing Agencies are similarly required to promptly notify ICE Trade Vault of any trade information submitted in error to the System. In accordance with Exchange Act Rule 905(b), the SBSDR, upon discovery of an error or receipt of notice of an error, will verify the accuracy of the terms of the Security-based swap and, following such verification, promptly correct the erroneous information regarding such Security-based swap contained in its system. ICE Trade Vault will disseminate a corrected transaction report in instances where the initial report included erroneous primary trade information.

In Section 4.6.1, ICE Trade Vault provides more information about the applicable dispute resolution process which varies depending on whether the data for a reported transaction was submitted by a clearing agency or a platform, or for transactions that were neither cleared nor executed on a platform (and were thus reported by a designated counterparty):

Disputes involving clearing transactions shall be resolved in accordance with the Clearing Agency's rules and Applicable Law. For an alpha Security-based swap executed on a Platform and reported by a Platform User, disputes must be resolved in accordance with the Platform's rules and Applicable Law. For Security-based swaps that are reported by a User that is neither a Platform nor a Clearing Agency, Counterparties shall resolve disputes with respect to SBSDR Information in accordance with the Counterparties' master trading agreement and Applicable Law.

Users are required to promptly notify ICE Trade Vault of trade Information that is disputed. Users shall utilize the "Dispute" functionality contained in the ICE SBSDR Service to do so. A User can identify disputed SBSDR Information stored in the System by submitting a dispute message via a delimited file upload and populating a "Y" value in the "Dispute Status" field and the Counterparty ID of the party that initiated the dispute in the "Disputing Party" field. The SBSDR Information associated with the Security-based swap will be deemed "Disputed" until such time that the Counterparty that initiated the dispute process submits a message to the System indicating that the SBSDR Information is no longer in dispute by submitting a dispute message via a delimited file upload and populating a "N" value in the "Dispute Status". ICE SBSDR Service will provide Regulators with reports identifying the SBSDR Information that is deemed disputed.

In Section 4.7 of the revised Guidebook, ICE Trade Vault also clarifies that "Error Correction" will be

an available flag that "[i]ndicates that the data reflects a correction to previously submitted information on a Security-based swap and that the report does not represent a new transaction, but merely a revision of a previous transaction."

#### *F. Certain Policies and Procedures Related to Compliance With Regulation SBSR*

As part of its Amended Form SDR, ICE Trade Vault revises several aspects of its application that relate to compliance with Regulation SBSR. As discussed below, ICE Trade Vault provides additional detail to clarify how it intends to support the reporting of SBS information and the manner in which it will publicly disseminate SBS transaction, volume and pricing information.

#### 1. Policies and Procedures for Reporting SBS Transactions

Rule 907 of Regulation SBSR requires an SDR to establish and make publicly available certain policies and procedures, which include the specific data elements that must be reported, acceptable data formats, and the procedures for reporting life cycle events and error corrections.<sup>46</sup> As discussed below, ICE Trade Vault expands the discussion in its Guidebook related to the reporting of a number of categories of SBS transactions, including historical SBS, exotic SBS, package transactions, SBS that have been submitted to clearing and the reporting of life cycle events. In addition to the revisions in the Guidebook, ICE Trade Vault also revises Exhibit N.5 ("Fields and Validations"), which contains the data fields, required formats and validations for the data Users must submit. In its revised Exhibit N.5, ICE Trade Vault provides additional information on the required data fields and which fields are subject to public dissemination. For more information on the content of Exhibit N.5, interested persons may review that exhibit.

#### a. Policies and Procedures for Reporting Historical SBS

In its Amended Form SDR, ICE Trade Vault expands the discussion in its revised Guidebook related to the reporting of historical SBS to clarify how Users must report such transactions. Section 4.2.5.4 of the revised Guidebook now states that "[i]n accordance with Exchange Act Rule 901(i), Users must report all of the information required by Exchange Act

<sup>43</sup> See 17 CFR 240.13n–5(b)(6); see also SDR Adopting Release, 80 FR at 14497.

<sup>44</sup> See 17 CFR 240.905(a). Rule 905(a)(1) provides that if a person that was not the reporting side for a SBS transaction discovers an error in the information reported with respect to such SBS, that person shall promptly notify the person having the duty to report the SBS of the error. See 17 CFR 240.905(a)(1). Rule 905(a)(2) provides that if the person having the duty to report a SBS transaction discovers an error in the information reported with respect to a SBS, or receives notification from a counterparty of an error, such person shall promptly submit to the entity to which the SBS was originally reported an amended report pertaining to the original transaction report. If the person having the duty to report reported the initial transaction to a registered security-based swap data repository, such person shall submit an amended report to the registered security-based swap data repository in a manner consistent with the policies and procedures contemplated by § 242.907(a)(3). See 17 CFR 240.905(a)(2).

<sup>45</sup> See 17 CFR 240.905(b).

<sup>46</sup> See 17 CFR 240.907.

Rule 901(c) and 901(d) that is available for the Historical Security-Based Swaps they are reporting and must indicate whether the swap is open at the time of the report.” Revised Section 4.2.5.4 also provides additional clarity on how Users must submit historical SBS transactions to ICE Trade Vault:

The System will accept Historical Security-based swaps via API submissions in the Extensible Markup Language (“XML”) format. For the avoidance of doubt, only Users may submit trade information to the System. Where a field is not applicable for a historical submission, a “Not Applicable” indicator should be submitted.

#### b. Policies and Procedures for Reporting Exotic SBS

As part of its revised Guidebook, ICE Trade Vault provides additional clarity related to the reporting of transactions in exotic SBS by further explaining the process in Section 4.2.5.5:

ICE Trade Vault supports the reporting of highly customized and bespoke Security-based swaps which are commonly referred to as “exotic swaps”. A Security-based swap will be considered exotic when the information reported pursuant to Exchange Act Rule 901(c)(1)(i)–(iv) does not provide all of the material information necessary to identify the Security-based swap or does not contain the data elements necessary to calculate the price. Users shall report the terms of any fixed or floating rate payments, or otherwise customized or non-standard payment streams, including the frequency and contingencies of any such payments with respect to exotic Security-based swaps. Users should submit exotics under the exotic product identifier, and, where a field is not applicable for an exotic submission, a “Not Applicable” indicator should be submitted. To ensure that users of public reports of “exotic swaps” do not get a distorted view of the market, Users shall submit a value of “Y” for the flag indicating that the Security-based swap is customized and does not provide all of the material information necessary to identify such customized Security-based swap or does not contain the data elements necessary to calculate the price.

In revised Section 6.5 of its revised Guidebook, ICE Trade Vault also clarifies that Product IDs for “[e]xotic and basket products will be created upon request when there is need to execute a trade that does not conform to the current product structure.”

#### c. Policies and Procedures for Reporting Package Transactions

The revised Guidebook includes additional clarity related to the reporting of package transactions. Specifically, in Section 4.2.5.6 of its revised Guidebook, ICE Trade Vault proposes the following:

ICE Trade Vault supports the reporting of package Security-based swaps. For Security-

based swaps that were executed as ad-hoc spread or package transactions, Users should submit trade information in accordance with the appropriate product identifiers with a Transaction ID per leg of the package transaction with each indicating it is part of a package trade with a Package ID included on each to link the Security-based swaps. To ensure that users of public reports of “package swaps” do not get a distorted view of the market, Users shall submit a value of “Y” for the flag indicating that the Security-based swap is part of a package.

#### d. Policies and Procedures for Reporting SBS Submitted to Clearing

For SBS transactions that are submitted to clearing, ICE Trade Vault includes in its revised Guidebook greater detail on how such transactions must be reported, including how it will process a clearing message that is received prior to the initial SBS transaction message (an “alpha” transaction message).<sup>47</sup> Specifically, Section 4.2.5.7 of the revised Guidebook states:

The Clearing Agency must submit the Cleared Novation Termination or Rejection message for the alpha Security-based swap to the SBSDR where the alpha was reported. The Cleared Novation message to terminate an alpha must be submitted by a Clearing Agency User and include the alpha Transaction ID, alpha SBSDR, alpha’s buyer and seller IDs, beta and gamma Transaction IDs, action type, Life Cycle Event, and clearing acceptance timestamps. Upon receiving a cleared novation termination message, ICE Trade Vault will validate that it currently has the related alpha trade to be terminated; if it does not have the alpha trade, the Cleared Novation message will fail. If the Cleared Novation message fails on the first attempt to report, the Clearing Agency should attempt to report it again at the end of the following business day. If the Cleared Novation message still fails, the Clearing Agency should contact the counterparties to confirm the accuracy of the alpha trade’s Transaction ID and the SBSDR to which it was to be reported.

#### e. Policies and Procedures for Reporting Life Cycle Events

In its revised Guidebook, ICE Trade Vault also provides additional detail on

<sup>47</sup> In the agency model for clearing of swap transactions, which predominates in the United States, a swap that is submitted to clearing—typically referred to in the industry as an “alpha”—is, if accepted by the clearing agency, terminated and replaced with two new swaps, known as the “beta” and “gamma.” One of the direct counterparties to the alpha becomes a direct counterparty to the beta, the other direct counterparty to the alpha becomes a direct counterparty to the gamma, and the clearing agency becomes a direct counterparty to each of the beta and the gamma. To facilitate linking together the alpha, beta, and gamma transaction reports, Rule 901(d)(10) requires that the transaction ID of the alpha be included in transaction reports of the beta and gamma.

the reporting of life cycle events, stating in Section 4.2.5.10:

In accordance with Exchange Act Rule 901(e) and 901(j), Users must report Life Cycle Events for previously submitted trade information to the System within 24 hours of the occurrence of a Life Cycle Event, or if 24 hours falls on a day that is not a business day, by the same time on the next business day. Users shall include the “Previous Transaction ID” for the original trade in association with Life Cycle Events. Users will submit the full updated or new trade terms which resulted from the Life Cycle Event and include the “Life Cycle Event Status” to indicate the event which occurred. The System will accept Life Cycle Events via API submissions in the Extensible Markup Language (“XML”) format. For the avoidance of doubt, only Users may submit trade information to the System.

In addition, in Section 4.4 of its revised Guidebook ICE Trade Vault added the life cycle event status of “Cleared Novation” and made adjustments to other Life Cycle Event Status titles and descriptions.

#### f. Policies and Procedures for Agent and Other Reporting Entity Reporting

In its Amended Form SDR, ICE Trade Vault clarifies how execution agents, registered broker-dealers, and third party reporters may report on behalf of counterparties. These revisions have implications relating to the application of fees by ICE Trade Vault, the reporting of parent and affiliate information, and the reporting of missing UIC information.

As discussed above, the revisions ICE Trade Vault made to its Guidebook provide for execution agents, registered broker-dealers and third party reporters becoming Users.<sup>48</sup> In addition, ICE Trade Vault includes a separate section on “Other Reporting Entities” in Section 4.2.4 of its Guidebook that provides:

A Platform on which a Security-based swap was executed and submitted for clearing to a Clearing Agency shall report to an SBSDR certain information as required under Applicable SEC Regulations and promptly provide that Clearing Agency with the Transaction ID of the submitted Security-based swap and the identity of the SBSDR to which the transaction will be reported.

In accordance with Exchange Act Rule 906(c), each User that is a Platform, or a registered broker-dealer (including a registered SBSEF) shall establish, maintain, and enforce written policies and procedures that are reasonably designed to ensure that it complies with any obligations to report information to the ICE SBSDR Service in a

<sup>48</sup> ICE Trade Vault has also included in its revised application Exhibit U.2 (ICE Trade Vault Security-Based SDR User Agreement). This user agreement sets out the terms on which ICE Trade Vault will provide Users with access to the ICE Trade Vault Platform.

manner consistent with Applicable SEC Regulations. Each such User shall review and update its policies and procedures at least once annually in accordance with Exchange Act Rule 906(c).

In addition, ICE Trade Vault updates Section 4.10 of its Guidebook concerning the reporting of missing UIC information to reflect how participants that connect via execution agents or third party reporters may receive missing UIC reports, stating that it “will make available a report on missing UIC information for each User . . . listed as the Execution Agent or Third Party Reporter” of a counterparty. Finally, ICE Trade Vault notes in Section 6.2 of its revised Guidebook that all Users must register for an LEI. As a result, execution agents, registered broker-dealers, and third party reporters—as Users—would be required to register for an LEI.

ICE Trade Vault submits new Exhibits N.7 (“Security-Based Swap Data Repository Third Party Reporter Onboarding Process”) and N.8 (“Security-Based Swap Data Repository Execution Agent Onboarding Process”) outlining the onboarding procedures for those entities.<sup>49</sup> ICE Trade Vault revises its fee schedule (Exhibit M.2) to include execution agents and third party reporters.<sup>50</sup> In addition, ICE Trade Vault updates Section 6.3 of its Guidebook to provide that Execution Agent Users and Third Party Reporter Users “must execute [Exhibit U.5—ICE Trade Vault—Ultimate Parent Affiliate Form] for any parties for which they report who are not Users themselves.”

## 2. Applying, Identifying and Establishing Flags

Exchange Act Rule 907(a)(4) requires an SDR to have policies and procedures for identifying and establishing flags to denote characteristics or circumstances associated with the execution or reporting of an SBS that could, in the SDR’s reasonable estimation, cause a person without knowledge of these characteristic(s) or circumstance(s), to receive a distorted view of the market, and for applying and directing users to apply such flags, as applicable.<sup>51</sup> ICE Trade Vault expands its discussion of the use of flags in its revised Guidebook. In particular, Section 4.7.2 of the revised Guidebook provides detail on the process ICE Trade Vault intends to

adopt to determine if additional flags need to be established:

In accordance with Exchange Act Rule 907(a)(4), ICE Trade Vault will consult with its Users regarding the adequacy of the flags listed above to determine whether additional flags are needed. In particular, ICE Trade Vault will formally request, no less than twice per calendar year, that Users identify characteristics of a Security-based swap, or circumstances associated with the execution or reporting of the Security-based swap, that could cause a person without knowledge of these characteristics or circumstances to receive a distorted view of the market. If at any time a User or a recognized industry trade association notifies ICE Trade Vault of the existence of such characteristics and circumstances, and ICE Trade Vault concludes, in its fair and reasonable estimation, that a new flag is needed to prevent a person without knowledge of these characteristics or circumstances from receiving a distorted view of the market, ICE Trade Vault will create such new flags and record them in the Guidebook.

ICE Trade Vault also includes additional updates to the discussion of flags in Section 4.7 of the revised Guidebook by (i) delineating the names and descriptions of its current set of flags, (ii) explaining which flags will prevent public dissemination and how those flags operate, and (iii) clarifying the duty of Users to apply flags.

## 3. UICs

Rule 903 of Regulation SBSR requires a registered SDR to use UICs.<sup>52</sup> Rule 903(b) further requires the information necessary to interpret any codes used for reporting or public dissemination to be widely available to users of the information on a non-fee basis and without usage restrictions.<sup>53</sup> The following UICs are specifically required by Regulation SBSR: Counterparty ID, product ID, transaction ID, broker ID, execution agent ID, branch ID, trading desk ID, trader ID, platform ID, and ultimate parent ID.<sup>54</sup> In Section 6 of its revised Guidebook, ICE Trade Vault provides additional detail and, in some instances, changes its requirements, with respect to the assignment and reporting of certain UICs. The introduction to Section 6 of the revised Guidebook now provides:

Users reporting on behalf of a Reporting Side must report Reporting Side UIC information as well as the Counterparty ID and Execution Agent ID of the non-Reporting Side and, where applicable, the Clearing Agency ID and Platform ID. Users reporting

on behalf of a Platform must report the Counterparty ID or the Execution Agent ID of each Counterparty, as applicable, and the Platform ID. When there is no applicable UIC code for a field, a “Not Applicable” value must be submitted in order for the field to be considered reported. Users reporting on behalf of a Reporting Side may submit the non-Reporting Side UIC information, but they are not required to do so. Users reporting on behalf of Reporting Sides and Users reporting on behalf of a Platform can submit all UIC information in the standard Trade Vault SECXML submission message. If the Reporting Side User does not supply the non-Reporting Side’s UIC information and the non-Reporting Side is an SEC Participant, then the non-Reporting Side or its Execution Agent or Third Party Reporter (if any) must submit this information to ICE Trade Vault. UICs for the non-Reporting side can be provided using a UIC csv upload containing a minimal number of fields including:

- (a) Submitter ID
- (b) Submitter ID Source
- (c) USI (Transaction ID)
- (d) Counterparty 1/Counterparty 2 Branch ID
- (e) Counterparty 1/Counterparty 2 Broker ID
- (f) Counterparty 1/Counterparty 2 Trading Desk ID
- (g) Counterparty 1/Counterparty 2 Trader ID

With respect to the reporting of counterparty, execution agent and broker IDs, ICE Trade Vault states in Section 6.2 of its revised Guidebook:

The SEC has recognized the Global LEI System administered by the Regulatory Oversight Committee (“ROC”) as a standards-setting system with respect to the assignment of IDs to different types of entities, and ICE Trade Vault shall accept LEIs as Counterparty IDs. All Users are required to register for an LEI for themselves. If a Counterparty does not have an LEI at time of reporting, or is not eligible to obtain an LEI, the User reporting the trade must complete a document describing why the Counterparty is reporting without an LEI a minimum of two business days prior to reporting. Please reference Exhibit U.4, ICE Trade Vault Non-Legal Entity Identifier Counterparty Setup Notification Request. Users are expected to inform ICE Trade Vault of the identity of the Counterparties that intend to trade before executing and reporting such Security-based swaps. For entities with an LEI, ICE Trade Vault will verify the entity name and LEI in GLEIF and then make the entity eligible for submission for Users using an LEI. For entities which submit the ICE Trade Vault Non-Legal Entity Identifier Counterparty Setup Notification, ICE Trade Vault will create an Internal ID. Users may then report Security-based swaps using that ID for such entity. If an invalid Counterparty ID, Execution Agent ID or Broker ID is entered, the System will send an error message to the Reporting Side indicating such information and the submission will receive an “Invalid” status.

For the reporting of parent and affiliate information, ICE Trade Vault updated Section 6.3 of its revised Guidebook to exempt externally

<sup>49</sup> ICE Trade Vault’s Amended Form SDR also includes new Exhibit N.6 (“Security-Based Swap Data Repository User (Counterparty, Platform or Clearing Agency) Onboarding Process”), outlining the onboarding procedures for the entities included therein.

<sup>50</sup> See *supra* Section III.B for a discussion of amended Exhibit M.2.

<sup>51</sup> See 17 CFR 240.907(a)(4).

<sup>52</sup> See 17 CFR 240.903.

<sup>53</sup> See 17 CFR 240.903(b).

<sup>54</sup> See 17 CFR 240.900 (defining UIC as “a unique identification code assigned to a person, unit of a person, product, or transaction” and further defining those items for which a UIC is to be assigned).

managed investment vehicles from providing such information and explain in more detail how Users should submit parent and affiliate information using a form provided by ICE Trade Vault, stating that:

Execution Agent Users and Third Party Reporter Users must execute this form for any parties for which they report who are not Users themselves. Users (including Execution Agents and Third Party Reporters) shall promptly notify ICE Trade Vault of any changes to such information. Please refer to “U.5—ICE Trade Vault—Ultimate Parent Affiliate Form” for further details. This information will be submitted via the U.5 form and not on a trade-by-trade basis itself and should be submitted a minimum of 2 business days prior to reporting. If the non-Reporting Side is not a User, and needs to report this form, the non-Reporting Side should contact ICE Trade Vault ([TradeVaultSupport@theice.com](mailto:TradeVaultSupport@theice.com)) to register for access to the SBSDR Service and to submit the Ultimate Parent/Affiliate form.

ICE Trade Vault also updated Section 6.4 of its revised Guidebook pertaining to the reporting of branch, trader and trading desk IDs as follows:

Until an internationally recognized standard-setting system emerges for assigning UICs that meets the SEC’s criteria, Users must generate their own Branch IDs, Trader IDs or Trading Desk IDs before reporting a Security-based swap. Users will be required to supply these IDs in a format that is acceptable to ICE Trade Vault. These IDs must consist of alphanumeric characters and be less than 54 characters long that have been concatenated with their LEI to ensure uniqueness across Users. All letters will be upper-cased to prevent duplicate reporting.

Lastly, ICE Trade Vault clarifies the procedures for creating product IDs in Section 6.5 of its revised Guidebook. First, as discussed above, Section 6.5 of the revised Guidebook now states that “[e]xotic and basket products will be created upon request when there is need to execute a trade that does not conform to the current product structure. Users may submit Product IDs or the underlying taxonomy fields.” In addition, Section 6.5.1 of the revised Guidebook explains that “Users shall notify the ICE SBSDR Service of any new Security-based swap products they intend to report a minimum of 2 business days prior to executing and reporting Security-based swaps for that product to ICE Trade Vault by submitting the relevant product information to: [TradeVaultSupport@theice.com](mailto:TradeVaultSupport@theice.com)” and that “[t]he request should include the data for the prescribed taxonomy fields.” Finally, ICE Trade Vault also clarifies that “[i]f a Product ID is not yet established, the trade information submission will fail the validations performed by the System

and the Security-based swap will be placed in an ‘Invalid’ status.” Nevertheless, when Users submit underlying taxonomy fields rather than a Product ID, ICE Trade Vault continues to direct its Users to provide a Committee on Uniform Security Identification Procedures (CUSIP) number<sup>55</sup> or International Securities Identification Numbering (ISIN) code<sup>56</sup> to report the underlying reference obligation.<sup>57</sup> As with its Initial Form SDR, ICE Trade Vault’s Amended Form SDR does not address how it intends to require and accept information regarding the specific underlying asset, including the use of these codes, in a manner that comports with the requirements of Rule 903(b).

#### 4. Reporting Missing UIC Information and Missing UIC Reports

Rule 906(a) of Regulation SBSR requires SDRs to identify any SBS reported to it for which the SDR does not have the counterparty ID and (if applicable) the broker ID, branch ID, execution agent ID, trading desk ID, and trader ID of each direct counterparty.<sup>58</sup> Once a day, SDRs are required to send a report to each participant of the SDR or, if applicable, an execution agent, identifying, for each SBS to which that participant is a counterparty, the SBS for which the SDR is missing UIC information.<sup>59</sup> ICE Trade Vault revised Section 4.10 of its Guidebook to state the following process for communicating to participants that an SBS is missing UIC information:

In accordance with Exchange Act Rule 906(a), a User reporting on behalf of a Reporting Side is required to report its UIC information to the SBSDR. Such a User may also report the non-Reporting Side’s UIC information but is not required to do so. A User that is a non-Reporting Side must submit to the System any missing UIC information not provided by the Reporting Side in accordance with Exchange Act Rule 906(a).

ICE Trade Vault will identify in its records any Security-based swap reported to it for which ICE Trade Vault does not have required UIC information. In addition, once a day, the ICE SBSDR Service will make available a report on missing UIC information for each User that is either a Counterparty to

a Security-based swap that lacks required UIC information for their side of the Security-based swap or is listed as the Execution Agent or Third Party Reporter of such a Counterparty. It is the duty of each User to login to the System on all business days and verify whether any of its trades have been specified in a missing UIC information report. A User that has trades specified in such a report shall provide the missing information with respect to the relevant side of each Security-based swap referenced in the report to ICE Trade Vault within 24 hours in accordance with Exchange Act Rule 906(a). Failures to provide missing UIC information in a timely manner may be reported to the SEC. For the avoidance of doubt, UIC fields with a “Not Applicable” value will not be included in these reports.

ICE Trade Vault also includes revisions to its policies and procedures for reaching out to non-reporting sides that have SBS with missing UIC information in Section 4.10.1 in its revised Guidebook:

If the non-Reporting Side’s UIC information is not reported and the non-Reporting Side is an SEC Participant but is not a User of ICE Trade Vault and has not designated a Third Party Reporter or Execution Agent to report on its behalf, ICE Trade Vault will attempt to notify the non-Reporting Side of the missing UIC information using the email address for the non-Reporting Side that was reported by the Reporting Side. Such email notice to the non-Reporting Side will indicate that ICE Trade Vault has received trade information to which the non-Reporting Side is indicated as a party to the trade. The email notice will further indicate the non-Reporting Side’s trade information was reported to ICE Trade Vault without the required UIC information and that the non-Reporting Side should contact ICE Trade Vault ([TradeVaultSupport@theice.com](mailto:TradeVaultSupport@theice.com)) to register for access to the SBSDR Service in order to provide any missing UICs. If the Reporting Side provided the non-Reporting Side’s LEI but elected not to provide an email address for the non-Reporting Side, ICE Trade Vault will attempt to so notify the non-Reporting Side using available email contact information contained in the static data maintained by ICE Trade Vault with respect to market participants, to the extent Trade Vault is permitted by Applicable Law to utilize such data (without contravening, for example, local privacy laws or contractual obligations of ICE Trade Vault).

ICE Trade Vault will not verify the validity of any email address and will not confirm whether any of its email notices were duly received or take further action if an email notice is rejected.

In addition, as outlined in *supra* Section III.B, ICE Trade Vault clarified in its fee schedule that when “a Reporting Side submits UIC information on behalf of a Non-Reporting Side, that Reporting Side will not be charged an additional reporting fee.”<sup>60</sup>

<sup>55</sup> CUSIP numbers are nine character alphanumeric codes that uniquely identify securities. The CUSIP system is owned by the American Bankers Association and managed by Standard & Poor’s. See <https://www.cusip.com/cusip/about-cgs-identifiers.htm>.

<sup>56</sup> ISIN codes are twelve character alphanumeric codes that uniquely identify securities. In the U.S., ISIN codes are extended versions of CUSIP numbers. See <http://www.isin.org/about/>.

<sup>57</sup> See Exhibit N.5.

<sup>58</sup> See 17 CFR 240.906(a).

<sup>59</sup> See *id.*

<sup>60</sup> See Exhibit M.2.

## 5. Policies and Procedures for Conducting Public Dissemination of SBS Data

ICE Trade Vault updated the description of how it intends to conduct public dissemination in accordance with Rule 902 of Regulation SBSR in its revised Guidebook. In Section 5, ICE Trade Vault clarifies that reports of publicly disseminated data “will be available at [www.ICETradeVault.com](http://www.ICETradeVault.com) and will be widely accessible as defined under Exchange Act Rule 900(tt).” Furthermore, in Section 5.1, ICE Trade Vault adjusts the prohibition on advance disclosure of SBS transaction information to reflect the requirements of Exchange Act Rule 902(d) by banning Users from disclosing any trade information required to be submitted to ICE Trade Vault prior to submission of such information to ICE Trade Vault. ICE Trade Vault also updates Section 5.3 to (i) clarify the items of information that it will not disseminate<sup>61</sup> and (ii) explain that “Users of the public dissemination service will be able to use the ticker ID for a particular trade report to link it to subsequent reports of actions and lifecycle events in relation to the subject transaction.”

ICE Trade Vault also amends its Public Dissemination Regulatory Guide (Exhibit N.4), which outlines its policies and procedures for publicly disseminating SBS transaction data. This guide was a confidential exhibit in the Initial Form SDR but is a public exhibit in its Amended Form SDR. The revisions to this guide generally mirror the changes made in Section 5 of the Guidebook described above and serve to provide additional clarity on the manner in which ICE Trade Vault intends to publicly disseminate SBS transaction data and how the public can access disseminated data.

### G. Replace Certain Key Terms and Definitions

As part of its Amended Form SDR, ICE Trade Vault proposes changes to certain defined terms in Section 1 of its revised Guidebook.

#### 1. “Verified” Definition

Exchange Act Rule 905(b) sets forth the duties of a registered SDR relating to corrections. If the registered SDR either discovers an error in a transaction on its system or receives notice of an error from a reporting side, the registered SDR must verify the accuracy of the terms of

the SBS and, following such verification, promptly correct the erroneous information contained in its system.

In its Amended Form SDR, ICE Trade Vault proposes to replace the term “Confirmed” with the term “Verified.” In its Initial Form SDR, ICE Trade Vault had proposed to “deem[] the trade information it receives in respect of a Security-based swap to be Confirmed” if the Security-based swap has been: Accepted by a Clearing Agency, executed on a Platform, deemed confirmed by an electronic confirmation service, or documented in a confirmation that has been submitted to the System to evidence the terms that were agreed upon by the Counterparties.”

ICE Trade Vault now proposes to define the term “Verified” as: “ICE Trade Vault considers the trade information it receives in respect of a Security-based swap to be “Verified” if (i) the Security-based swap has been: Submitted by a Clearing Agency User, submitted by a Platform User, or submitted by an electronic confirmation service or affirmation platform User, (ii) the Security-based swap is an inter-affiliate swap or (iii) the non-Reporting Side User has submitted a verification message with respect to the Security-based swap.”

#### 2. “User” Definition

ICE Trade Vault proposes to replace the term “Participant” with the term “User” and clarify which categories of entities may qualify as Users. In its Initial Form SDR, ICE Trade Vault had proposed to use the term “Participant” to describe entities that had validly enrolled to use the ICE SBSDR Service, and specified the types of entities eligible for this status would be SBS counterparties, and platforms and clearing agencies that report SBS transactions. In its Amended Form SDR, ICE Trade Vault now proposes to use the term “User” instead of “Participant” to describe an entity that has validly enrolled to use the ICE SBSDR Service, which distinguishes this term from references to a “participant” under Regulation SBSR rules.<sup>62</sup> Furthermore, ICE Trade Vault proposes to expand the types of entities that may be Users to include not only counterparties, platforms and clearing agencies, but also “Execution Agents,”<sup>63</sup> “Third Party Reporters,”<sup>64</sup> and registered broker-

dealers (including registered Security-based swap execution facilities).<sup>65</sup>

### H. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning ICE Trade Vault’s Amended Form SDR, including whether ICE Trade Vault has satisfied the requirements for registration as an SDR. Commenters are requested, to the extent possible, to provide empirical data and other factual support for their views. As detailed below, the Commission seeks comment on a number of issues, including whether certain policies and procedures are “reasonably designed,” which may involve, among other things, being sufficiently detailed. In addition, the Commission seeks comment on the following issues:

1. Exchange Act Section 13(n)(5)(B) requires that all SDRs confirm with both counterparties to the SBS the accuracy of the data that was submitted. Exchange Act Rule 13n-4(b)(3) states that an SDR shall confirm with both counterparties to the SBS the accuracy of the data that was submitted. Exchange Act Rule 13n-5(b)(1)(iii) requires every SDR to establish, maintain, and enforce written policies and procedures reasonably designed to satisfy itself that the transaction data that has been submitted to the SDR is complete and accurate. In this regard, please provide your views as to whether ICE Trade Vault’s Amended Form SDR regarding the proposed approach to confirm data accuracy and completeness with non-reporting parties is reasonably designed to allow ICE Trade Vault to meet the requirements of the Exchange Act and the rules thereunder.

2. Exchange Act Rule 13n-4(c)(1)(i) requires that each SDR ensure that any dues, fees, or other charges imposed by, and any discounts or rebates offered by, a SDR are fair and reasonable and not unreasonably discriminatory. The rule also requires such dues, fees, other charges, discounts, or rebates to be applied consistently across all similarly-situated users of the SDR’s services. Please provide your views as to whether ICE Trade Vault’s Amended Form SDR with regard to its fee schedule is fair and reasonable and not unreasonably discriminatory. Specifically, please provide your views as to whether ICE Trade Vault’s Amended Form SDR with regard to its revised approach of a differentiated fee structure for counterparties using Third Party Reporters as compared to those using

<sup>61</sup> ICE Trade Vault removes Non-Mandatory Reports from the list of items that are not subject to dissemination. Revised Section 4.2.5.9 of the Guidebook provides that “ICE Trade Vault has chosen not to accept Non-Mandatory Reports.”

<sup>62</sup> See *supra* note 24.

<sup>63</sup> “Execution Agent” is a newly defined term in ICE’s Amended Form SDR. See *supra* note 27.

<sup>64</sup> “Third Party Reporter” is a newly defined term in ICE’s Amended Form SDR. See *supra* note 26.

<sup>65</sup> The ICE Trade Vault Security-Based SDR User Agreement (Exhibit U.2) has been revised to reflect these proposed changes.

Execution Agents is fair, reasonable and not unreasonably discriminatory and whether those categories of Users represent similarly-situated users of the SDR's services. Further, do commenters believe that the structure and level of the proposed fees will impact market participants' ability to comply with the reporting requirements of Regulation SBSR? In particular, do commenters believe the proposed fees will adversely impact those participants that are not Security-Based Swap Dealers or Major Security-Based Swap Participants (as defined in Exchange Act Section 3)? Considering that SDR fees constitute a potential cost of trading SBS, please also provide your views as to whether the proposed fees (including the differentiated fee structure for Third Party Reporters and Execution Agents described above) will affect market participants' incentives to engage in SBS transactions, given that fees incurred by Users of ICE Trade Vault could be passed on to non-Users. Please also provide your views as to whether the structure and level of the proposed fees will influence current market practice and structure in the SBS market, particularly in respect of mode of execution (*i.e.*, platform-based versus over-the-counter) and post-trade processing (*i.e.*, clearance and settlement).

3. Exchange Act Rule 13n-4(c)(1)(iv) requires that each SDR establish, maintain, and enforce written policies and procedures reasonably designed to review any prohibition or limitation of any person with respect to access to services offered, directly or indirectly, or data maintained by the SDR and to grant such person access to such services or data if such person has been discriminated against unfairly. Please provide your views as to whether ICE Trade Vault's Amended Form SDR with regard to its revised policies and procedures is reasonably designed to provide a mechanism for Users to effectively address ICE Trade Vault's access restrictions.

4. Exchange Act Sections 13(n)(5)(G) and (H) and Exchange Act Rules 13n-4(b)(9), (b)(10) and (d) conditionally require SDRs to make SBS data available to certain authorities. Please provide your views regarding the proposed approach of ICE Trade Vault's Amended Form SDR to that data access requirement. Among other matters, commenters may wish to address the part of the proposal that would condition access on authorities certifying that they are acting within the scope of their jurisdiction (as well as certifying consistency with an

applicable memorandum of understanding).

5. Exchange Act Rule 13n-5(b)(6) requires every SDR to establish procedures and to provide facilities reasonably designed to effectively resolve disputes over the accuracy of the transaction data and positions that are recorded in the SDR. Please provide your views as to whether ICE Trade Vault's revised policies and procedures are reasonably designed to provide a mechanism for Users and their counterparties to effectively resolve disputes over the accuracy of SBS data that it maintains. Should the policies and procedures specify timeframes in the dispute resolution process to facilitate timely and conclusive resolution of disputes? Why or why not? Please provide your views as to whether it would be helpful to Users if ICE Trade Vault's revised policies and procedures in Section 3.6 of the Guidebook provided more information with regard to how pending transaction submissions and other pending matters will be impacted where ICE Trade Vault chooses not to accept any submission from a Terminated User with respect to a transaction that was effected after the time at which the Access Determination became effective.

6. Rule 905(b) of Regulation SBSR requires an SDR, upon discovery or receipt of notice of an error, to correct such information in its system and, if applicable, to correct the publicly disseminated data. Please provide your views on ICE Trade Vault's approach to correction of errors in light of Rule 905(b).

7. Exchange Act Rule 13n-5(b)(3) requires every SDR to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that the transaction data and positions that it maintains are complete and accurate. Please provide your views as to whether ICE Trade Vault's revised policies and procedures are reasonably designed to ensure that the transaction data and positions that it maintains are complete and accurate, as required by Rule 13n-5(b)(3).

8. Regulation SBSR imposes duties on various market participants to report SBS transaction information to a registered SDR. Please provide your views as to whether the revised ICE Trade Vault application and the associated policies and procedures provide sufficient information to participants, as defined by Rule 900(u) of Regulation SBSR, about how they would discharge these regulatory duties when reporting to ICE Trade Vault. If applicable, please describe in detail what additional information you believe

is necessary to allow a participant to satisfy any reporting obligation that it might incur under Regulation SBSR.

9. Rule 903(b) of Regulation SBSR in part provides that an SDR may permit required data elements to be reported using codes if the information necessary to interpret such codes is widely available to users on a non-fee basis. Notwithstanding this requirement, ICE Trade Vault has proposed to rely on proprietary classification systems such as CUSIP numbers and/or ISIN codes to identify the underlying reference obligation in certain situations, which may subject market participants to fees and usage restrictions in contravention of Rule 903(b). Please provide your views as to whether the approach proposed by ICE Trade Vault would be an appropriate means of reporting that information, or whether use of those proprietary classification systems would unduly increase the cost of compliance with reporting information pursuant to Regulation SBSR or impair access to publicly disseminated data.

10. Rule 901(d)(5) of Regulation SBSR requires reporting sides to report any additional data elements included in the agreement between the counterparties that are necessary for a person to determine the market value of the transaction, to the extent not already provided. Please provide your views as to whether ICE Trade Vault has sufficiently explained how Users can satisfy this requirement and whether ICE Trade Vault's policies and procedures should include specific data categories necessary to determine the market value of a custom basket of securities that underlies a SBS (*e.g.* components and risk weights of the basket).

11. Rule 901(e) of Regulation SBSR requires reporting sides to report life cycle events, and any adjustments due to life cycle events, that results in a change to previously reported primary or secondary trade information. Please provide your views as to whether ICE Trade Vault has provided sufficient information in its Amended Form SDR to explain how a User would report life cycle events under Rule 901(e) of Regulation SBSR. Please describe any additional information that you feel is necessary.

12. Rule 907(a)(4) of Regulation SBSR requires an SDR to have policies and procedures for identifying and establishing flags to denote characteristics or circumstances associated with the execution or reporting of an SBS that could, in the SDR's reasonable estimation, cause a person without knowledge of these characteristic(s) or circumstance(s), to

receive a distorted view of the market, and for applying and directing users to apply such flags, as applicable. Please provide your views as to whether ICE Trade Vault's revised policies and procedures for developing condition flags as required by Rule 907(a)(4) of Regulation SBSR would prevent market participants from receiving a distorted view of the market. Are there additional condition flags that you believe ICE Trade Vault should establish to prevent market participants from receiving a distorted view of the market? If so, please describe such condition flags and explain why you believe that they are appropriate under Rule 907(a)(4).

13. Rule 903(a) of Regulation SBSR provides, in relevant part, that if no system has been recognized by the Commission, or a recognized system has not assigned a UIC to a particular person, unit of a person, or product, the registered SDR shall assign a UIC to that person, unit of person, or product using its own methodology. Please provide your views as to whether the revised approach regarding UICs as described in ICE Trade Vault's Amended Form SDR is appropriate in light of the requirements of Rule 903(a) of Regulation SBSR. Why or why not?

14. Rule 906(a) of Regulation SBSR requires an SDR to send a daily report to each participant of that SDR (or the participant's execution agent), identifying, for each SBS to which that participant is a counterparty, any SBS for which the SDR lacks required UIC information. Please provide your views as to whether ICE Trade Vault's approach to satisfying the requirements of Rule 906(a) are appropriate. Why or why not?

15. Rule 907 of Regulation SBSR generally requires that an SDR have policies and procedures with respect to the reporting and dissemination of data. Please provide your views as to whether ICE Trade Vault has provided sufficient information in its Amended Form SDR (including through the publication of its previously confidential Exhibit N.4) to explain the manner in which ICE Trade Vault intends to publicly disseminate SBS transaction information under Rule 902 of Regulation SBSR. If not, what additional information do you think that ICE Trade Vault should provide about how it intends to effect public dissemination of SBS transactions?

16. Please provide your views as to whether ICE Trade Vault's Amended Form SDR includes sufficient information about how an agent could report SBS transaction information to ICE Trade Vault on behalf of a principal (*i.e.*, a person who has a duty under Regulation SBSR to report). If

applicable, please describe any additional information that you believe is necessary.

17. Rule 906(b) of Regulation SBSR imposes a duty on certain participants, as defined by Rule 900(u) of Regulation SBSR, of an SDR to provide such SDR with information sufficient to identify their ultimate parent(s) and any affiliate(s) that are also participants of the SDR using ultimate parent and counterparty IDs, and Rule 907(a)(6) requires an SDR to have policies and procedures in place to obtain such information from its participants. Please provide your views as to whether ICE Trade Vault's policies and procedures for satisfying the requirements of Rule 907(a)(6) are appropriate and provide sufficient information to participants about how they would discharge their regulatory duties under Rule 906(b). If applicable, please describe in detail what additional information you believe is necessary to allow a participant to satisfy its Rule 906(b) obligation.

18. Please provide your views as to whether the replacement of the terms "confirmed" with "verified" and "Participant" with "User" in ICE Trade Vault's Guidebook is clear and appropriate. Additionally, please provide your views as to whether the definitions of the terms "Execution Agent" and "Third Party Reporter" are clear and appropriate.

Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/proposed.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SBSDR-2017-01 on the subject line.

#### *Paper Comments*

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SBSDR-2017-01.

To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/other.shtml>).

Copies of the Form SDR, all subsequent amendments, all written statements with respect to the Form SDR that are filed with the Commission, and all written communications relating to the Form SDR between the Commission and any person, other than those that may be withheld from the

public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SBSDR-2017-01 and should be submitted on or before August 22, 2017.

By the Commission.

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-81213; File No. SR-ISE-2017-73]

### Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees

July 26, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 13, 2017, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Schedule of Fees, as described further below.

The text of the proposed rule change is available on the Exchange's Web site at [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.