

August 5, 2016

Via Email (rule-comments@sec.gov)
Mr. Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: Security-Based Swap Data Repositories; DTCC Data Repository (U.S.) LLC; Notice of Filing of Application for Registration as a Security-Based Swap Data Repository Release No. 34-78216; File No. SBSDR—2016-02; 81 Fed. Reg. 44379 (June 30, 2016)¹

Dear Mr. Fields:

The Asset Management Group of the Securities Industry and Financial Markets Association (“SIFMA AMG” or “AMG”)² appreciates the opportunity to comment on the Application for Registration of DTCC Data Repository (U.S.) LLC (“DTCC”) as a Security-Based Swap Data Repository (“SBS DR”) with the Securities and Exchange Commission (“SEC” or “Commission”).

Security-based swaps (“SBS”) are important investment and risk management tools for asset managers, whose clients include registered investment companies, endowments, public and private pension funds, unit investment trusts and private funds.³ Given this importance, AMG previously expressed its support for robust segregation standards for cleared SBS, voluntary clearing of single-name credit default swaps to improve market structure, and increased transparency through SBS reporting.⁴ AMG also previously commented on the registration application of ICE Trade Vault, LLC and makes similar comments with respect to DTCC’s application.⁵

¹ Application, available at: <https://www.federalregister.gov/articles/2016/07/07/2016-16112/security-based-swap-data-repositories-dtcc-data-repository-us-llc-notice-of-filing-of-application>; Exhibits, available at: <https://www.sec.gov/rules/other/2016/dtcc-data-repository-form-sdr.htm>.

² SIFMA AMG members represent U.S. asset management firms whose combined assets under management exceed \$34 trillion. The clients of AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, unit investment trusts and private funds such as hedge funds and private equity funds.

³ While SIFMA AMG is providing comments from the perspective of asset managers and their clients, AMG also agrees with the comments of the Investment Company Institute who has submitted a separate comment letter on behalf of registered investment companies.

⁴ See 25 Investment Management Firms Commit to Single-Name CDS Clearing, available at: http://www.sifma.org/newsroom/2015/25_investment_management_firms_commit_to_single-name_cds_clearing/, SIFMA AMG and ICI Submits Comments to the SEC on Standards for Covered

While AMG continues to support SBS reporting and believes that DTCC is well-equipped to serve the role of SBS DR, AMG believes that DTCC should revise its on-boarding requirements to provide a mechanism for asset managers on behalf of non-reporting clients to fulfill the limited obligations imposed by Regulation SBSR (17 C.F.R. § 242.900 *et seq.*) without having to fully on-board.

Further, AMG asks that the Commission impose a cap on the reporting of notional amounts for block trades. As the market moves closer to the implementation of SBS reporting, this crucial protection should be addressed to avoid disruptions.

I. DTCC Should Permit Asset Managers on Behalf of Their Non-Reporting Clients to Provide the Limited Information Required by Regulation SBSR Without Fully On-Boarding or Incurring Direct Reporting Costs

Asset managers, as execution agents for non-reporting parties, have a limited and passive role in SBS reporting. Asset managers do not control where the reporting party reports the asset manager's client trades and the information that an asset manager must provide to an SDR is limited to parent/affiliate information for certain clients.

The Commission's intent for the non-reporting side to have this limited role was recently confirmed in the Commission's most recent release regarding Regulation SBSR,⁶ in which the Commission confirmed that Unique Identification Codes, specifically Trader ID and Trading Desk ID, are not applicable for trades executed by execution agents and excluded externally managed investment vehicles from the requirement to provide ultimate parent and affiliate information.⁷ To the extent parent/affiliate information must be provided for the remaining clients of asset managers, the information need only be submitted once (not trade-by-trade) absent changes.

(continued...)

Clearing Agencies, *available at*: <http://www.sifma.org/issues/item.aspx?id=8589960399> and SIFMA AMG Submits Comments to the SEC on Regulation SBSR, *available at*: <http://www.sifma.org/issues/item.aspx?id=8589957770>.

⁵ See SIFMA AMG Submits Comments to SEC on the Application for Registration of ICE Trade Vault LLC as a Security-Based Swap Data Repository (May 31, 2016), *available at*: <http://www.sifma.org/issues/item.aspx?id=8589960657>.

⁶ Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information; Final Rule, *available at*: <https://www.sec.gov/rules/final/2016/34-78321.pdf>.

⁷ See *id.* at n. 312 (stating that “one commenter requested clarification ‘that trading desk ID and trader ID fields are not applicable (or ‘N/A’) for trades entered into by an execution agent.’ SIFMA-AMG II at 2. Based on the rule text, the Commission believes that this is a reasonable interpretation of Rule 906(a).”) and 120-21 (“Accordingly, the Commission is amending Rule 906(b) to exclude externally managed investment vehicles from the requirement to provide ultimate parent and affiliate information to any registered SDR of which it is a participant.”).

DTCC should provide a mechanism for asset managers to submit this limited information without having to fully on-board. On-boarding, as set forth in DTCC's application for registration, means becoming subject to the operating procedures, rule book and fee schedule, and signing a user agreement. With this on-boarding, an asset manager would be required to agree to broad indemnities (including, in certain cases, indemnifying the SBS DR for the SBS DR's own negligence), disclaim representations and warranties and pay fees that include monthly minimum charges for which it is not clear whether they will be multiplied by the number of clients permissioned for the asset manager. While DTCC has provided the ability for an entity to become a "view only" user, these same obligations and the requirements (including monthly minimum charges) are imposed upon all users, whether "view only" or "full."

For these reasons, we request that DTCC provide a mechanism for asset managers acting on behalf of non-reporting parties to submit the minimal information required pursuant to Regulation SBSR without having to fully onboard and incur direct costs from the SBS DR.

II. The Commission Should Cap Notional Amounts Reported for Block Trades Prior to the Compliance Date

AMG believes that the Commission should cap the notional amount for block trades prior to the reporting compliance date. Under Regulation SBSR's Section 902, an SB SDR must, immediately upon receiving a transaction report of a security-based swap, publicly disseminate the primary trade information of that transaction including the notional amount of the trade.⁸ Although Section 13(m)(1)(E) of the Security Exchange Act of 1934 ("Exchange Act") requires the Commission rules to specify criteria and time delays for block trades, the Commission adopted final Rule SBSR without providing an exclusion for block trades during the interim period during which no block trading rules have been proposed or finalized.⁹

AMG is concerned that requiring reporting by the SB SDR without capping notional amounts—with or without a reporting delay—will have negative consequences for asset managers' clients and the SBS market. Trades and related positions that should be anonymous may be easily identified by other market participants. For example, only a small number of single-name CDS market participants trade in larger size. With no masking of notional amounts, asset managers' positions and direction in trading may be revealed in a manner contrary to the intentions of the Exchange Act. Disclosing this information creates market risks, which may inhibit a dealer's ability to hedge or increase the dealer's costs, which in turn will increase prices for asset managers' clients.

In recognition of similar concerns, the Commodity Futures Trading Commission ("CFTC") promulgated a final block trade reporting rule with "measures to protect the identities of swap

⁸ Participants have a day to report trades to the SBS DR, after which the SBS DR immediately disseminates the information; however, the reporting party, which usually is the dealer in the case of block trades, controls when trades are reported and may rely on systems that promptly report all trades to the SB SDR.

⁹ 80 Fed. Reg. 14568.

counterparties and to maintain the anonymity of their business transactions and market positions in connection with the public dissemination of publicly reportable swap transactions,” including “cap sizes for notional and principal amounts that mask the total size of a swap transaction based upon a 75-percent notional amount calculation for a given swap category” and “limits on the public dissemination of certain publicly reportable swap transactions in the other commodity asset class, which have specific delivery or pricing points.”¹⁰ The CFTC took this approach notwithstanding the absence of a notional cap on public dissemination of futures block trades.¹¹

Given that anonymity concerns arise regardless of whether block transactions are reported to the public under CFTC rules for swaps of ten or more securities or Commission rules for swaps of fewer than ten securities, AMG requests that the Commission cap notional amounts for block trades that SBS DRs report to the public pursuant to Regulation SBSR. The capping of notional amounts on public reports should be applied consistently across the entirety of the SBS market, whether it falls under the Commission’s jurisdiction or the CFTC’s. AMG recommends that the Commission employ disclosure thresholds that are specific to each class or subclass of SBS, and are set at levels or ranges that do not threaten to reduce market liquidity. We support a “size-plus” approach, similar to TRACE reporting in the cash bond market—whereby transactions greater than \$1 million notional on high yield issuers are reported as “1+” transactions and greater than \$5 million on investment grade issuers are reported as “5+”—¹²effectively balances the need for post-trade price transparency with the need to protect liquidity.

AMG requests that the Commission consider interim relief until the Commission’s block trading rules are proposed and become effective.

¹⁰ Commodity Futures Trading Commission, Fact Sheet: Final Rulemaking on Procedures to Establish Appropriate Minimum Block Sizes for Large Notional Off-Facility Swaps and Block Trades; Further Measures to Protect the Identities of Parties to Swap Transactions, *available at*: http://www.cftc.gov/idc/groups/public/@newsroom/documents/file/block_factsheet_final.pdf.

¹¹ *See, e.g.*, CME Group, Market Regulation Advisory Notice re: Block Trades (Oct. 26, 2015) at 9 (“Dissemination of Block Trade Information,” stating that “The date, execution time, contract month, price and quantity of block trades are reported upon receipt of the block information”), *available at*: <http://www.cmegroup.com/rulebook/files/RA1515-5.pdf>.

¹² *See* TRACESM Trade Reporting and Compliance EngineSM User Guide Version 2.0, The Financial Industry Regulatory Authority, (July 8, 2008), at 49, *available at* <http://www.finra.org/web/groups/industry/@ip/@comp/@mt/documents/appsupportdocs/p014513.pdf>.

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For these reasons, AMG requests that the DTCC Application be revised to permit asset managers on behalf of non-reporting parties to submit the limited information required without fully onboarding and incurring direct costs from the SBS DR. Further, AMG requests that the Commission cap notional amounts reported for block trades before the compliance date.

Should you have any questions or wish to discuss these matters further, please do not hesitate to contact Tim Cameron (202-962-7447 or tcameron@sifma.org) or Laura Martin (212-313-1176 or lmartin@sifma.org).

Respectfully submitted,



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