



asset management group

October 20, 2017

Brent J. Fields, Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: **(1)** Letter dated September 22, 2017 to Honorable Jay Clayton re DTCC Data Repository, LLC's ("**DDR**") Request for Exemptive or Interpretive Relief from Certain Provisions of Section 13(n)(1) of the Securities Exchange Act of 1934 and the Rules and Regulations Thereunder (the "**DDR Letter**") related to the Amended Application of DDR for Registration as a Security-Based Swap Data Repository (File No. SBSDR-2016-02) (the "**DDR Amended Application**").¹

(2) Letter dated September 26, 2017 to Honorable Jay Clayton re ICE Trade Vault, LLC's ("**ICE Trade Vault**") Request for Exemptive or Interpretive Relief from Certain Provisions of Section 13(n)(1) of the Securities Exchange Act of 1934 and the Rules and Regulations Thereunder (the "**ICE Trade Vault Letter**") related to the Amended Application of ICE Trade Vault for Registration as a Security-Based Swap Data Repository (File No. SBSDR-2017-01) (the "**ICE Trade Vault Amended Application**").²

Dear Mr. Fields:

The Asset Management Group of the Securities Industry and Financial Markets Association ("**AMG**")³ writes in response to the above-listed recent requests for relief filed in relation to the amended applications of DDR and ICE Trade Vault to register as security-based swap data repositories ("**SDR**") for security-based swaps ("**SBS**"). The DDR Letter requests, among other things, that the Securities and Exchange Commission (the "**Commission**") confirm that DDR's Amended Application complies with its obligations regarding accuracy and completeness for certain policies involving non-reporting counterparties.⁴ The ICE Trade Vault Letter, among other things, requests that the Commission require non-reporting SBS counterparties to onboard as full users in

¹ The DDR Letter is available at: <https://www.sec.gov/comments/sbsdr-2016-02/sbsdr201602-2590214-161092.pdf>.

² The ICE Trade Vault Letter is available at: <https://www.sec.gov/comments/sbsdr-2017-01/sbsdr201701-2597993-161125.pdf>.

³ AMG brings the asset management community together to provide views on policy matters and to create industry best practices. AMG's members represent U.S. and multinational asset management firms whose combined global assets under management exceed \$39 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, UCITS and private funds such as hedge funds and private equity funds.

⁴ DDR Letter at 2-5.

order to submit any information to the SDR.⁵ For the reasons stated below, AMG supports DDR's request (subject to AMG's prior comments,⁶ discussed below) and objects to ICE Trade Vault's request to mandate onboarding of non-reporting counterparties.

Throughout the evolution of Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information (“**Regulation SBSR**”)⁷ and the SBS SDR registration process, AMG has consistently demonstrated that imposing full user on-boarding requirements upon non-reporting counterparties is unnecessary, counterproductive and unduly burdensome. AMG's members execute SBS transactions as executing agents on behalf of pension funds, registered funds (*e.g.*, mutual funds, UCITS) and institutional clients who do not have the responsibility to report transactions to the SDR. Although AMG supports SBS reporting and believes that both ICE Trade Vault and DDR are well-equipped to serve as SBS DRs, AMG believes that non-reporting parties should be permitted to fulfill their limited obligations without having to fully on-board as users of the SDR. The non-reporting counterparty plays a limited and passive role in SBS reporting. The non-reporting party does not control where the reporting party reports the trades and only interacts with the SBS DR to correct errors pursuant to Rule 905 and, to the extent applicable under Rule 906, identify missing UIC information and parent/affiliate information. Given the existing, robust trade confirmation process and obligations imposed squarely upon the reporting side, the statutory aim of accurate reporting is satisfied by lesser means than onboarding of the non-reporting counterparty that allow the non-reporting counterparty to provide any minimal information that may need to be submitted.

To impose full SDR user requirements upon the non-reporting counterparty would cause AMG members' clients to incur material costs charged by the SDRs and to agree to a number of SDR obligations and indemnities, none of which is justified by the limited role of the non-reporting counterparty.⁸ It would also require unnecessary technology builds and testing for full user interfacing with the SDRs.

AMG believes that the current approach taken by the Commission and Staff appropriately balances the burdens imposed upon the non-reporting counterparty. The initial registration applications of DDR and ICE Trade Vault proposed requiring non-reporting counterparties to become full users of the SDR in order to submit any required information. After receiving comments on these applications from AMG and others, and after feedback from Commission Staff,

⁵ ICE Trade Vault Letter at 2-3.

⁶ See SIFMA AMG Comment Letter dated August 30, 2017 re DDR Amended Application, *available at*: <https://www.sifma.org/resources/submissions/sifma-amg-comments-on-amended-application-of-dtcc-data-repository/>

⁷ 17 C.F.R. § 242.900 *et seq.*

⁸ See SIFMA AMG's May 31, 2016 Comment Letter re ICE Trade Vault's Application for Registration as an SDR, *available at*: <https://www.sifma.org/wp-content/uploads/2017/05/sifma-amg-submits-comments-to-sec-on-the-application-for-registration-of-ice-trade-vault-llc-as-a-security-based-swap-data-repository.pdf>; SIFMA AMG's August 5, 2016 Comment Letter re DDR's Application for Registration as an SDR, *available at*: <https://www.sifma.org/wp-content/uploads/2016/08/SIFMA-AMG-Submits-Comments-to-the-SEC-on-Security-Based-Swap-Data-Repositories.pdf>.

both the DDR Amended Application and ICE Trade Vault Amended Application changed the approach to allow non-reporting counterparties to submit information by email without onboarding as an SDR user.⁹ This outcome is consistent with the Commission's prior confirmation that Unique Identification Codes ("UICs"), specifically Trader ID and Trading Desk ID, are not applicable for trades executed by execution agents and that externally managed investment vehicles are excluded from the requirement to provide ultimate parent and affiliate information.¹⁰ 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) unless changes require submission of an update. As such, the non-reporting side has a very limited and likely static data points to provide to SBS SDRs, making submission without becoming a user the most appropriate way to address the requirement.

While AMG agrees that full users (including non-reporting counterparties) should be required to comply with the SDRs' data verification policies and procedures, AMG believes that the SDR policies and procedures should differentiate the primary responsibility of the reporting side from the secondary responsibility of the non-reporting side and that view-only access (*i.e.*, access to view data passively on the SDR) should not result in a non-reporting side becoming subject to verification obligations.¹¹

AMG strongly disagrees with the position taken in the ICE Trade Vault Letter that a non-reporting side must become a user subject to full user requirements in order to fulfill obligations to provide minimal information to the SDR. For the reasons stated above and in our numerous letters and discussions on this topic with the SDRs and Commission Staff, AMG does not believe that the minimal submissions required for some non-reporting counterparties justifies mandating that clients pay ICE Trade Vault fees and incur other costs and obligations. ICE Trade Vault, in arguing for full user status to be required for any counterparty providing information, attempts to draw an analogy to other reporting regimes, such as the U.S. Commodity Futures Trading Commission and other jurisdictions, where submitters must become users. However, these comparisons are not apt because they are examples of reporting regimes where either the non-reporting side has no active

⁹ The DDR Amended Application provides a mechanism for the non-reporting side to provide parent/affiliate information required, without fully onboarding. 82 Fed. Reg. at 37,280. The ICE Trade Vault Letter states that, "SEC Staff has specifically directed and required SBSDR applicants to accept [missing uniform identification codes] from non-onboarded and non-reporting side participants via email. Staff has also directed the SBSDRs to house the parent/affiliate information and provide the emailed parent/affiliate information to Staff upon request."

¹⁰ See Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information; Final Rule, 81 Fed. Reg. 53,546, 53,579 n.312 (Aug. 12, 2016) (stating that "one commenter [SIFMA-AMG] requested clarification 'that trading desk ID and trader ID fields are not applicable (or 'N/A') for trades entered into by an execution agent.' . . . Based on the rule text, the Commission believes that this is a reasonable interpretation of Rule 906(a).") "Accordingly, the Commission . . . amend[ed] 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." *Id.* at 53,579.

¹¹ See SIFMA AMG Comment Letter dated August 30, 2017 re DDR Amended Application, *available at*: <https://www.sifma.org/resources/submissions/sifma-amg-comments-on-amended-application-of-dtcc-data-repository/>

responsibility to provide information to the SDR or the both counterparties have duplicative, full reporting responsibility (requirements currently under review in the European Union through the EMIR Refit proposal).

While we understand ICE Trade Vault's concern that submission by email is not secure, we do not believe that this concern means that a non-reporting side should fully onboard as a user. Asset managers securely submit high volumes of data to dealers, custodians, and clients on a daily basis through industry-standard protocols. If ICE Trade Vault would be more comfortable with receiving data through means other than email, such as a more limited portal, AMG's members can explore alternative approaches. However, we do not agree that these concerns support ICE Trade Vault's conclusion that AMG's members or their clients must onboard as a full user to the SDR.

For these reasons, AMG believes that the Commission should confirm that DDR's application provides appropriate means of accepting non-reporting counterparty information (subject to AMG's prior comments) and reject ICE Trade Vault's request to require non-reporting counterparties to fully onboard as users. AMG believes that the Commission and its Staff should continue to support having non-reporting parties fulfill their limited obligations without requiring full on-boarding as SDR users. We are available to discuss these recommendations whenever would be helpful to your review. Should you have any questions, contact Tim Cameron at 202-962-7447 or tcameron@sifma.org, or Laura Martin at 212-313-1176 or lmartin@sifma.org.

Respectfully submitted,



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