

this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: June 16, 2021.

Elizabeth Voyatzis,
Committee Management Officer.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92189; File No. SBSDR-2021-01]

Security-Based Swap Data Repositories; ICE Trade Vault, LLC; Order Approving Application for Registration as a Security-Based Swap Data Repository

June 16, 2021.

I. Introduction

On February 11, 2021, ICE Trade Vault, LLC ("ICE Trade Vault") filed with the Securities and Exchange Commission ("Commission") an application on Form SDR to register as a security-based swap data repository ("SDR") pursuant to Section 13(n)(1) of the Securities Exchange Act of 1934 ("Exchange Act") and 17 CFR 240.13n-1 ("Rule 13n-1") thereunder,¹ and as a securities information processor ("SIP") under Section 11A(b) of the Exchange Act.² ICE Trade Vault amended its application on March 10, March 11, and April 14, 2021 (collectively, the "ITV Application"). ICE Trade Vault intends to operate as a registered SDR for security-based swap ("SBS") transactions in the credit derivatives asset class.

The Commission published notice of the ITV Application in the **Federal Register** for public comment on March 19, 2021,³ and the Commission received in response one comment letter from the International Swaps and Derivatives

Association, Inc. ("ISDA").⁴ While generally supportive of the ITV Application, the ISDA Letter includes several requests related to regulatory reporting and public dissemination, which are addressed in Part III.G. As discussed in Parts III and IV below, the Commission has carefully reviewed the ITV Application and the comment received. This order grants ICE Trade Vault's application to register as an SDR in the asset classes noted above, and as a SIP.

II. Background

A. SDR Registration, Duties, and Core Principles

Section 13(n) of the Exchange Act 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 functions of an SDR.⁵ To be registered and maintain registration, an 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.⁶ In 2015, the Commission adopted 17 CFR 240.13n-1 to 13n-12 under the Exchange Act to establish Form SDR, the procedures for registration as an SDR, and the duties and core principles applicable to an SDR ("SDR Rules").⁷ The Commission provided a temporary exemption from compliance with the SDR Rules and also extended exemptions from the provisions of the Dodd-Frank Act set forth in a Commission order providing temporary exemptions and other temporary relief from compliance with certain provisions of the Exchange Act concerning security-based swaps, and these temporary exemptions expired in 2017.⁸

The Commission also has adopted 17 CFR 242.900 to 909 under the Exchange Act (collectively, "Regulation SBSR"), which governs regulatory reporting and public dissemination of security-based swap transactions.⁹ Among other things,

Regulation SBSR requires each registered SDR to register with the Commission as a SIP,¹⁰ and the Form SDR constitutes an application for registration as a SIP, as well as an SDR.¹¹

In 2019, the Commission stated that implementation of the SBS Reporting Rules can and should be done in a manner that carries out the fundamental policy goals of the SBS Reporting Rules while minimizing burdens as much as practicable.¹² Noting ongoing concerns among market participants about incurring unnecessary burdens and the Commission's efforts to promote harmonization between the SBS Reporting Rules and swap reporting rules, the Commission took the position that, for four years following Regulation SBSR's Compliance Date 1 in each asset class,¹³ certain actions with respect to the SBS Reporting Rules would not provide a basis for a Commission enforcement action.¹⁴ The no-action statement's relevance to ICE Trade Vault's application for registration as an SDR and SIP is discussed further below.

B. Standard for Registration

As noted above, to be registered with the Commission as an SDR and maintain such registration, an SDR is required to comply with the requirements and core principles described in Section 13(n) of the Exchange Act, as well as with any requirement that the Commission may impose by rule or regulation.¹⁵ In addition, Rule 13n-1(c)(3) under the Exchange Act 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

SBSR Adopting Release"). Regulation SBSR and the SDR Rules are referred to collectively as the "SBS Reporting Rules."

¹⁰ See 17 CFR 242.909.

¹¹ See Form SDR, Instruction 2.

¹² Release No. 34-87780 (Dec. 18, 2019), 85 FR 6270, 6347 (Feb. 4, 2020) ("ANE Adopting Release").

¹³ See *id.* Under Regulation SBSR, the first compliance date ("Compliance Date 1") for affected persons with respect to an SBS asset class is the first Monday that is the later of: (i) Six months after the date on which the first SDR that can accept transaction reports in that asset class registers with the Commission; or (ii) one month after the compliance date for registration of SBS dealers and major SBS participants ("SBS entities"). *Id.* at 6346. The compliance date for registration of SBS entities is October 6, 2021. See *id.* at 6270, 6345.

¹⁴ See *id.* The specific rule provisions of the SBS Reporting Rules affected by the no-action statement are discussed in Part II.B.

¹⁵ See 15 U.S.C. 78m(n)(3).

¹ 15 U.S.C. 78m(n)(1); 17 CFR 240.13n-1. A copy of ICE Trade Vault's application on Form SDR and all non-confidential exhibits and amendments thereto are available for public viewing on the Commission's website. In 2016, ICE Trade Vault submitted a prior application for registration as an SDR. See Release No. 77699 (Apr. 22, 2016), 81 FR 25475 (Apr. 28, 2016); Release No. 34-81223 (July 27, 2017), 82 FR 35844 (Aug. 1, 2017). ICE Trade Vault withdrew this prior application in 2018. See Letter from Kara Dutta, General Counsel, ICE Trade Vault, Mar. 23, 2018, <https://www.sec.gov/divisions/marketreg/sdr/ice-trade-vault-sdr-application-withdrawal-letter-032318.pdf>.

² 15 U.S.C. 78k-1(b).

³ Release No. 34-91331 (Mar. 16, 2021), 86 FR 14968 (Mar. 19, 2021) ("ICE Trade Vault Notice").

⁴ Letter from Eleanor Hsu, Director, Data and Reporting, ISDA, dated Apr. 9, 2021 ("ISDA Letter").

⁵ 15 U.S.C. 78m(n).

⁶ *Id.*

⁷ See Release No. 34-74246 (Feb. 11, 2015), 80 FR 14438, 14438 (Mar. 19, 2015) ("SDR Adopting Release"). In 2016, the Commission subsequently amended 17 CFR 240.13n-4 to address third-party regulatory access to SBS data obtained by an SDR. See Release No. 34-78716 (Aug. 29, 2016), 81 FR 60585 (Sep. 2, 2016).

⁸ See Release No. 34-80359 (Mar. 31, 2017), 82 FR 16867 (Apr. 6, 2017).

⁹ Release No. 34-74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015); Release No. 34-78321 (July 14, 2016), 81 FR 53546 (Aug. 12, 2016) ("Regulation

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.¹⁶ The Commission shall deny the registration of an SDR if it does not make any such finding.¹⁷ Similarly, to be registered with the Commission as a SIP, the Commission must find that such applicant is so organized, and has the capacity, to be able to assure the prompt, accurate, and reliable performance of its functions as a SIP, comply with the provisions of the Exchange Act and the rules and regulations thereunder, carry out its functions in a manner consistent with the purposes of the Exchange Act, and, insofar as it is acting as an exclusive processor, operate fairly and efficiently.¹⁸

In determining whether an applicant meets the criteria set forth in 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 classes 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.¹⁹ Obtaining this information and other information reflected on Form SDR and the exhibits thereto—including the 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—will enable the Commission to determine whether to grant or deny an application for registration.²⁰ Furthermore, the information requested in Form SDR will enable the Commission to assess whether the applicant is so organized and has the capacity to comply and carry out its functions in a manner consistent with the federal securities laws and the rules and regulations thereunder, including the SBS Reporting Rules.²¹

Consistent with the Commission's no-action statement in the ANE Adopting

Release,²² an entity wishing to register with the Commission as an SDR must still submit an application on Form SDR, but can address the rule provisions included in the no-action statement by discussing how the SDR complies with comparable Commodity Futures Trading Commission ("CFTC") requirements.²³ Accordingly, in such instances the Commission will not assess an SDR application for consistency or compliance with the rule provisions included in the Commission's no-action statement. Specifically, the Commission identified the following provisions as not providing a basis for an enforcement action against a registered SDR for the duration of the relief provided in the Commission statement: Under Regulation SBSR, aspects of 17 CFR 242.901(a), 901(c)(2) through (7), 901(d), 901(e), 902, 903(b), 906(a) and (b), and 907(a)(1), (a)(3), and (a)(4) through (6); under the SDR Rules, aspects of Section 13(n)(5)(B) of the Exchange Act and 17 CFR 240.13n-4(b)(3) thereunder, and aspects of 17 CFR 240.13n-5(b)(1)(iii); and under Section 11A(b) of the Exchange Act, any provision pertaining to SIPs.²⁴ Thus, an SDR applicant will not need to include materials in its application explaining how it would comply with the provisions noted above, and could instead rely on its discussion about how it complies with comparable CFTC requirements.²⁵ The applicant may instead represent in its application that it: (i) Is registered with the CFTC as a swap data repository; (ii) is in compliance with applicable requirements under the swap reporting rules; (iii) satisfies the standard for Commission registration of an SDR under Rule 13n-1(c); and (iv) intends to rely on the no-action statement included in the ANE Adopting Release for the period set forth in the ANE Adopting Release with respect to any SBS asset class or classes for which it intends to accept transaction reports.²⁶

III. Review of ICE Trade Vault's Application Under SBS Reporting Rules

As noted above, ICE Trade Vault intends to operate as a registered SDR for the credit derivatives asset class.²⁷

ICE Trade Vault states that its core duties are: (i) Acceptance and confirmation of data; (ii) recordkeeping; (iii) public reporting; (iv) maintaining data privacy and integrity; and (v) permitting access to regulators.²⁸ It notes that its fundamental purpose is to provide transparency to the SBS market and publicly disseminate trade information.²⁹ In its application, ICE Trade Vault represents that it is provisionally registered with the CFTC as a swap data repository, is in compliance with applicable requirements under the CFTC reporting rules applicable to a registered swap data repository, and intends to rely on the Commission's position outlined in the ANE Adopting Release for applicable reporting rules and SBSDR duties for the period set forth therein.³⁰ Below is a review of the representations made in the application materials against the SBS Reporting Rules, taking into account ICE Trade Vault's reliance on the Commission's position outlined in the ANE Adopting Release.

A. Organization and Governance

1. Summary of ICE Trade Vault's Application

ICE Trade Vault is a Delaware limited liability company, and is a wholly owned subsidiary of Intercontinental Exchange Holdings, Inc., which, in turn, is a wholly owned subsidiary of Intercontinental Exchange, Inc. ("ICE"), a publicly traded company.³¹ As a general matter, the number of directors and composition of the Board of Directors ("ITV Board") shall be determined by ICE, as the sole member of ICE Trade Vault.³² Currently, the ITV Board consists of at least three directors, all of whom are appointed by ICE.³³ The ITV Board is composed of individuals selected from the following groups:

Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.1.

²⁸ See *id.*

²⁹ See *id.*

³⁰ See Form SDR, Application Letter from Trabue Bland, President, ICE Trade Vault, dated Mar. 10, 2021, at 1, 2.

³¹ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9. ICE is a holding company whose subsidiaries operate exchanges, clearing houses, and data services for financial and commodity markets. ICE operates global marketplaces for trading and clearing a broad array of securities and derivatives contracts across major asset classes, including energy and agricultural commodities, interest rates, equities, equity derivatives, credit derivatives, bonds, and currencies.

³² See Board of Directors Governance Principles, Ex. D.3.

³³ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.1; Board of Directors Governance Principles, Ex. D.3.

¹⁶ 17 CFR 240.13n-1(c)(3).

¹⁷ *Id.*

¹⁸ See 15 U.S.C. 78k-1(b)(3).

¹⁹ See SDR Adopting Release, *supra* note 7, at 14459.

²⁰ See *id.* at 14458.

²¹ See *id.* at 14458-59.

²² See *supra* notes 12-14 and accompanying text.

²³ See *supra* note 14.

²⁴ The ANE Adopting Release provides additional discussion of the particular aspects of the affected rules that would not provide a basis for an enforcement action. See ANE Adopting Release, *supra* note 12, at 6347-48.

²⁵ *Id.* at 6348.

²⁶ *Id.* For example, an applicant need not describe in Exhibit S its functions as a SIP.

²⁷ See Security-Based SDR Service Disclosure Document, Ex. V.2; see also Swap Data Repository

Members of senior management or the Board of Directors of ICE, independents and employees of ICE Trade Vault's users with derivatives industry experience.³⁴ ICE considers several factors in determining the composition of the ITV Board, including whether directors, both individually and collectively, possess the required integrity, experience, judgment, commitment, skills and expertise to exercise their obligations of oversight and guidance over an SDR and a swap data repository regulated by the CFTC.³⁵ Additionally, in accordance with Exchange Act Rule 13n-4(c)(2), ICE Trade Vault provides users with the opportunity to participate in the process for nominating the ICE Trade Vault independent director and with the right to petition for alternative candidates.³⁶ At least one director will at all times be "independent" in accordance with applicable provisions of the New York Stock Exchange Listed Company Manual.³⁷ Two officers of ICE Trade Vault's parent, ICE, currently serve as the non-independent directors.³⁸ ICE shall periodically review the composition of the ITV Board to assure that the level of representation of directors is appropriate for the interests of these constituencies in ICE Trade Vault.³⁹

The ITV Board oversees all risks relating to ICE Trade Vault.⁴⁰ The powers and authority of the ITV Board include the ability to: (i) Designate and authorize specific appointed officers to act on behalf of the ITV Board; (ii) fix, determine and levy all fees, when necessary; (iii) prepare and amend the Rulebook; (iv) act in emergencies; and (v) delegate any such power to the appropriate party.⁴¹ The ITV Board oversees ICE Trade Vault's SDR functions as well as other regulated services that ICE Trade Vault provides, such as the swap data repository registered with the CFTC.⁴²

ICE Trade Vault's Chief Compliance Officer ("CCO") is appointed by the ITV

Board and reports directly to the President of ICE Trade Vault.⁴³ The compensation, appointment, and removal of the CCO requires the approval of a majority of the ITV Board.⁴⁴ The CCO also works directly with the ITV Board in certain instances, for example, when resolving conflicts of interest.⁴⁵ The CCO has supervisory authority over all staff acting at the direction of the CCO and his or her responsibilities include, but are not limited to: (i) Preparing and signing a compliance report with a financial report that conforms to the requirements of Exchange Act Rule 13n-11(f), which shall be provided to the SEC annually in accordance with Exchange Act Rule 13n-11(d); (ii) reviewing the compliance of ICE Trade Vault with respect to the requirements and core principles described in Section 13(n) of the Exchange Act and the applicable SEC regulations; and (iii) establishing and administering written policies and procedures reasonably designed to prevent violations of the Exchange Act, the core principles applicable to SDRs and applicable law.⁴⁶

ICE Trade Vault directors, officers and employees must comply with the ICE Global Code of Business Conduct, which describes policies for, among other things, handling conflicts of interest, prohibiting insider trading, complying with the law and document management and retention requirements.⁴⁷ In addition, ICE Trade Vault prohibits any member of the ITV Board or of any board committee which has authority to take action for and in the name of ICE Trade Vault from knowingly participating in such body's deliberations or voting in any matter involving a named party in interest (a person or entity that is identified by name as a subject of any matter being considered by the ITV Board or a board committee) where such member (i) is a named party in interest, (ii) is an employer, employee, or guarantor of a named party in interest or an affiliate thereof, (iii) has a family relationship (the person's spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law) with a named party in interest or (iv) has any other significant, ongoing business

relationship with a named party in interest or an affiliate thereof.⁴⁸ The CCO shall determine whether any member of the deliberating body is subject to a prohibition under its conflicts of interest policies.⁴⁹

2. Discussion

Section 13(n)(7)(B) of the Exchange Act and Rule 13n-4(c)(2) thereunder require an SDR to establish governance arrangements that are transparent to fulfill public interest requirements and to support the objectives of the Federal Government, owners, and participants.⁵⁰ In addition, Rule 13n-4(c)(2) requires an SDR to (i) establish well-defined governance arrangements that include a clear organizational structure with effective internal controls; (ii) establish governance arrangements that provide for fair representation of market participants; (iii) provide representatives of market participants, including end-users, with the opportunity to participate in the process for nominating directors and with the right to petition for alternative candidates; and (iv) establish, maintain, and enforce written policies and procedures reasonably designed to ensure that senior management and each member of the board or committee that has authority to act on behalf of the board possess requisite skills and expertise to fulfill their responsibilities in the management and governance of the SDR, have a clear understanding of their responsibilities, and exercise sound judgment about the SDR's affairs.⁵¹

Furthermore, Rule 13n-4(b)(11) requires an SDR to designate an individual to serve as CCO, and Rule 13n-11(a) requires the SDR to identify on Form SDR the person so designated.⁵² Rule 13n-11(a) also requires that the compensation, appointment, and removal of the CCO shall require approval of a majority of the SDR's board of directors.⁵³ Rule 13n-11(c) requires the CCO to: (i) Report directly to the board of directors or to the senior officer; (ii) review compliance with Section 13(n) of the Exchange Act and the rules thereunder; (iii) in consultation with the board or the senior officer, take reasonable steps to resolve any material conflicts of

³⁴ See Board of Directors Governance Principles, Ex. D.3.

³⁵ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.1; Board of Directors Governance Principles, Ex. D.3.

³⁶ See *id.*

³⁷ See *id.*

³⁸ See *id.*

³⁹ See Board of Directors Governance Principles, Ex. D.3.

⁴⁰ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.1; Board of Directors Governance Principles, Ex. D.3.

⁴¹ See *id.*

⁴² See *id.*

⁴³ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.1.1.

⁴⁴ See *id.*

⁴⁵ See *id.*

⁴⁶ See *id.*

⁴⁷ See ICE Global Code of Business Conduct, Ex. D.4.

⁴⁸ See Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.1, sec. 2.10.2.

⁴⁹ See Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.10.4.

⁵⁰ 15 U.S.C 78m(n)(7)(B); 17 CFR 240.13n-4(c)(2).

⁵¹ 17 CFR 240.13n-4(c)(2)(i)-(iv).

⁵² 17 CFR 240.13n-4(b), 13n-11(a).

⁵³ 17 CFR 240.13n-11(a).

interest; (iv) be responsible for administering the policies and procedures required by Section 13(n) of the Exchange Act and the rules thereunder; (v) take reasonable steps to ensure compliance with the Exchange Act and the SDR Rules thereunder; (vi) establish procedures for the remediation of noncompliance; and (vii) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.⁵⁴

Additionally, Section 13(n)(7)(C) of the Exchange Act requires an SDR to establish and enforce rules to minimize conflicts of interest in the decision-making process of the SDR and establish a process for resolving any such conflicts of interest.⁵⁵ Rule 13n-4(c)(3) under the Exchange Act provides that an SDR must: (i) Establish, maintain, and enforce written policies and procedures reasonably designed to identify and mitigate potential and existing conflicts of interest in the SDR's decision-making process on an ongoing basis; (ii) with respect to the decision-making process for resolving any conflicts of interest, require the recusal of any person involved in such conflict from such decision-making; and (iii) establish, maintain, and enforce written policies and procedures regarding the SDR's non-commercial and/or commercial use of the SBS transaction information that it receives.⁵⁶

The Commission received no comments applicable to these requirements. As described above, the ITV Application includes provisions for the representation of market participants in the governance arrangements, as well as procedures providing an opportunity to participate in the process for nominating directors and the right to petition for alternative candidates. In addition, the ITV Application includes policies and procedures that set standards for the skills and expertise possessed by the ITV Board.

More generally, the ITV Application sets forth an organizational structure that is clear and includes provisions for internal controls. The ITV Application includes provisions for a CCO that has been designated by the ITV Board and whose compensation, appointment, and removal is set by the majority of the ITV Board. In addition, the ITV Application includes policies and procedures that require the CCO to report to the ITV Board and be responsible for maintaining compliance with applicable

Commission rules, investigating any suspected violations thereof, and overseeing any necessary remediation. The ITV Application includes policies and procedures that identify and mitigate conflicts of interest, require the recusal from decision-making of members of the ITV Board when involved in a conflict, and delineate the commercial and non-commercial use of SBS transaction information received.

B. Access and Information Security

1. Summary of ICE Trade Vault's Application

ICE Trade Vault represents that it provides access to its SDR service on a fair, open and not unreasonably discriminatory basis.⁵⁷ According to ICE Trade Vault, access to and usage of its service is available to all market participants that validly engage in SBS transactions and to all market venues from which data can be submitted to ICE Trade Vault, and do not require the use of any other ancillary service offered by ICE Trade Vault.⁵⁸ ICE Trade Vault represents that for security reasons, access to the ICE Trade Vault system is strictly limited to users (entities with valid permissions and security access).⁵⁹ Users will only have access to (i) data they reported, (ii) data that pertains to a SBS to which they are a counterparty; (iii) data that pertains to a SBS 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 make publicly available.⁶⁰

According to ICE Trade Vault, access to its system is provided to parties that have a duly executed User Agreement in effect with ICE Trade Vault.⁶¹ When

enrolling with ICE Trade Vault, users must designate an administrator with respect to the user's use of ICE Trade Vault to ensure ICE Trade Vault access is granted by a trusted individual at the user's firm who is closest to and has the most knowledge of those in the firm who require access; the administrator will create, permission and maintain all user names and passwords for the user.⁶² According to ICE Trade Vault, passwords must meet technical and procedural processes for information security and must include at least three of the following elements: Uppercase letters, lowercase letters, numbers, and special characters.⁶³

ICE Trade Vault may decline the request of an applicant to become a user of its system 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).⁶⁴ If an applicant is denied by ICE Trade Vault for any other reason, the applicant will be entitled to notice and an opportunity to contest such determination in accordance with the Rulebook.⁶⁵ If the denial of an application is reversed, the applicant will be granted access to ICE Trade Vault promptly following completion of onboarding requirements.⁶⁶ In addition, ICE Trade Vault may revoke a user's access to ICE Trade Vault following a determination that (i) the user has violated any provision of the User Agreement (including by failing to pay any fees when due), the Rulebook, applicable law or any ICE Trade Vault policies and procedures related to its SDR 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 its system (each, an "Access Determination").⁶⁷ Access Determinations shall be made by the CCO based on the information gathered during the inquiry, if any, and reviewed by the President and General Counsel of ICE Trade Vault within 5

Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.1.1; *see also* ICE Trade Vault User Agreement, Ex. U.2.

⁶² *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.1.1.

⁶³ *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1.

⁶⁴ *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.1.2.

⁶⁵ *See id.*

⁶⁶ *See id.*

⁶⁷ *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.3.

⁵⁴ 17 CFR 240.13n-11(c)(1)-(7).

⁵⁵ 15 U.S.C. 78m(n)(7)(C)(i), (ii).

⁵⁶ 17 CFR 240.13n-4(c)(3)(i)-(iii).

⁵⁷ *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.1.

⁵⁸ *See id.*; *see also* SDR Adopting Release, 80 FR at 14451-52 (Commission noting that confirmation and dispute resolution services or functions "are ancillary . . . [and are] not 'core' SDR services, which would cause a person providing such core services to meet the definition of an SDR, and thus, require the person to register with the Commission as an SDR. However, SDRs are required to perform these two services or functions, and thus, they are required ancillary services[.] . . . An SDR may delegate some of these required ancillary services to third party service providers, who do not need to register as SDRs to provide such services. The SDR will remain legally responsible for the third party service providers' activities relating to the required ancillary services and their compliance with applicable rules under the Exchange Act.").

⁵⁹ *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; *see also* ICE Trade Vault User Agreement, Ex. U.2.

⁶⁰ *See id.*; *see also* Security-Based Swap Data Repository User Onboarding Process Guide, Ex. N.6.

⁶¹ *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; Swap Data Repository

business days of such determination prior to implementing any revocation of access.⁶⁸ 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 ICE Trade Vault system or to fulfill ICE Trade Vault's regulatory responsibilities.⁶⁹ 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.⁷⁰ If the President and General 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 ICE Trade Vault, its services or SDR information, as applicable.⁷¹

ICE Trade Vault states that it recognizes its responsibility to ensure data confidentiality and dedicates significant resources to information security to prevent the misappropriation or misuse of confidential information and any other SDR information not subject to public dissemination (*i.e.*, the information identified in Exchange Act Rule 902(c)) and that it does not, as a condition of accepting SBS data from users, require the waiver of any privacy rights by such users.⁷² ICE Trade Vault states that it maintains a security policy that sets forth technical and procedural processes for information security and contains an extensive list of policies and means of implementation and that it uses a multi-tiered firewall deployment to provide network segmentation and access control to its services.⁷³ ICE Trade Vault states that its application servers are housed in a demilitarized network zone behind external firewalls and that a second set of internal

firewalls further isolate ICE Trade Vault database systems, while an intrusion system provides added security to detect any threats and network sensors analyze all internet and private line traffic for malicious patterns.⁷⁴

ICE Trade Vault states that tactical controls are regularly examined and tested by multiple tiers of internal and external test groups, auditors and independently contracted third-party security testing firms.⁷⁵ According to ICE Trade Vault, in addition, the security policy imposes an accountable and standard set of best practices to protect the confidentiality of users' SDR information, including confidential information and other SDR information not subject to public dissemination.⁷⁶ ICE Trade Vault states that it completes an audit for adherence to the data security policies on at least an annual basis; the audit tests the following applicable controls, among others, to ICE Trade Vault systems: (i) Logical access controls; (ii) logical access to databases; (iii) physical and environmental controls; (iv) backup procedures; and (v) change management.⁷⁷ ICE Trade Vault states that it has a robust information security program and maintains effective and current policies and procedures to ensure employee compliance; ICE Trade Vault's information security program includes: Asset management; physical and environmental security; authorization, authentication and access control management; internet, email and data policy management, record retention management; and accountability, compliance and auditability.⁷⁸ ICE Trade Vault states that it performs network scans and penetration tests regularly to ensure the information security systems are performing as designed.⁷⁹

ICE Trade Vault maintains and will continue to maintain a robust emergency and business-continuity and disaster recovery plan ("Business Continuity Plan") that allows for timely resumption of key business processes and operations following unplanned interruptions, unavailability of staff, inaccessibility of facilities, and disruption or disastrous loss to one or more of ICE Trade Vault's facilities or services.⁸⁰ In accordance with the Business Continuity Plan, all production system hardware and

software is replicated in near real-time at a geographical- and vendor-diverse disaster recovery site to avoid any loss of data.⁸¹ ICE Trade Vault shall notify the SEC as soon as it is reasonably practicable of ICE Trade Vault's invocation of its emergency authority, any material business disruption, or any threat that actually or potentially jeopardizes automated system capacity, integrity, resiliency, availability or security.⁸²

2. Discussion

Rule 13n-4(c)(1)(ii) under the Exchange Act requires an SDR to permit market participants to access specific services offered by the SDR separately.⁸³ Rule 13n-4(c)(1)(iii) requires an SDR to establish, monitor on an ongoing basis, and enforce clearly stated objective criteria that would permit fair, open, and not unreasonably discriminatory access to services offered and data maintained by the SDR.⁸⁴ Rule 13n-4(c)(1)(iv) requires an SDR to 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.⁸⁵ In addition, Rule 13n-6 requires an SDR, with respect to those systems that support or are integrally related to the performance of its activities, to establish, maintain, and enforce written policies and procedures reasonably designed to ensure that its systems provide adequate levels of capacity, integrity, resiliency, availability, and security.⁸⁶

The Commission received no comments applicable to these requirements. As described above, the ITV Application includes procedures for onboarding and maintaining ongoing access to users that are fair, open, reasonable and not unreasonably discriminatory. These procedures include user agreements that reflect

⁶⁸ See *id.*

⁶⁹ See *id.*

⁷⁰ See *id.*

⁷¹ See *id.*; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.4 (review and dispute of revocation of access), 3.5 (final access determinations), 3.6 (implementation of a revocation of access).

⁷² See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 4.

⁷³ See *id.*

⁷⁴ See *id.*

⁷⁵ See *id.*

⁷⁶ See *id.*

⁷⁷ See *id.*

⁷⁸ See *id.*

⁷⁹ See *id.*

⁸⁰ See *id.*

⁸¹ See *id.*

⁸² See *id.*; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.8.3 ("ICE Trade Vault will notify the SEC as soon as practicable of any action taken, or proposed to be taken (time permitting), pursuant to this Rule 2.8.3. The decision-making process with respect to, and the reasons for, any such action will be recorded in writing. ICE Trade Vault will also notify Users via email as soon as practicable of any action taken (time permitting), or proposed to be taken, pursuant to this Rule 2.8.3.").

⁸³ 17 CFR 240.13n-4(c)(1)(ii).

⁸⁴ 17 CFR 240.13n-4(c)(1)(iii).

⁸⁵ 17 CFR 240.13n-4(c)(1)(iv).

⁸⁶ 17 CFR 240.13n-6.

clear and specific minimum standards for users to follow in seeking to access SBS data held at the SDR. The ITV Application also includes reasonable provisions for limiting, denying, and revoking access to SDR systems that include procedures for review and reconsideration of any determination related to limiting, denying, or revoking a user's access. The Commission believes that the procedures described above further help ensure that the access requirements are fair, open, and not unreasonably discriminatory. In addition, the ITV Application includes policies and procedures designed to ensure that the SDR's automated systems maintain adequate levels of capacity, integrity, resiliency, availability, and security that protect against loss of data, employ geographic diversity in their site selection, and account for service disruptions.

C. Acceptance and Use of SBS Data

1. Summary of ICE Trade Vault's Application

ICE Trade Vault states that it will accept data in respect of all SBS trades in the credit derivatives asset class and promptly records such data upon receipt.⁸⁷ ICE Trade Vault requires all users to report complete and accurate trade information and to review and resolve all error messages generated by the ICE Trade Vault system with respect to the data they have submitted.⁸⁸ According to ICE Trade Vault, access to SDR information by ICE Trade Vault employees and others performing functions on behalf of ICE Trade Vault is strictly limited to those with the direct responsibility for supporting the ICE Trade Vault system, users and regulators.⁸⁹ ICE Trade Vault employees and others performing functions on behalf of ICE Trade Vault are prohibited from using SDR information other than in the performance of their job responsibilities.⁹⁰ In accordance with applicable SEC regulations, ICE Trade Vault may disclose, for commercial purposes, certain SDR information; any such disclosures shall be made solely on an aggregated basis in a manner that ensures that the disclosed SDR information cannot reasonably be

attributed to individual transactions or users.⁹¹

ICE Trade Vault states that, in accordance with Exchange Act Rule 13n-5(b)(5), it maintains internal policies and procedures in place to ensure its recording process and operation does not invalidate or modify the terms of trade information, and that it regularly audits these controls to ensure the prevention of unauthorized and unsolicited changes to SDR information maintained in the ICE Trade Vault system through protections related to the processing of SBS.⁹²

Additionally, ICE Trade Vault states that it reasonably relies on the accuracy of trade data submitted by users and that all users must complete a conformance test to validate data submission integrity prior to ICE Trade Vault's acceptance of actual SBS data and must immediately inform ICE Trade Vault of any system or technical issues that may affect the accuracy of SBS data transmissions.⁹³ ICE Trade Vault states that users are responsible for the timely resolution of trade record errors and disputes.⁹⁴ ICE Trade Vault provides users electronic methods to extract SDR information for trade data reconciliation.⁹⁵ Disputes involving clearing transactions shall be resolved in accordance with the clearing agency's rules and applicable law.⁹⁶ For an alpha SBS executed on a platform and reported by a platform user, disputes must be resolved in accordance with the platform's rules and applicable law.⁹⁷ For SBS that are reported by a user that is neither a platform nor a clearing agency, counterparties shall resolve disputes with respect to SDR information in accordance with the counterparties' master trading agreement and applicable law.⁹⁸ Users that are non-reporting sides may 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.⁹⁹ If the reporting side for a SBS transaction discovers an error in the information reported with respect to a SBS, or receives notification from a counterparty of an error, the reporting side shall promptly submit to ICE Trade Vault an amended report that corrects such error.¹⁰⁰ ICE Trade Vault will disseminate a corrected transaction report in instances where the initial report included erroneous primary trade information.¹⁰¹ Users are required to notify ICE Trade Vault promptly of disputed trade data by utilizing the "Dispute" functionality; when a User "disputes" a trade, the status of the trade will be recorded as "Disputed," and notice of the dispute will be sent promptly to the other party to the trade; the trade record may then be amended or canceled upon mutual agreement of the parties; the status of the trade will remain "Disputed" until either party to the trade provides evidence satisfactory to ICE Trade Vault that the dispute has been resolved.¹⁰² ICE Trade Vault will provide regulators with reports identifying the SDR information that is deemed disputed.¹⁰³

2. Discussion

Rule 13n-5(b)(1)(i) under the Exchange Act requires an SDR to establish, maintain, and enforce written policies and procedures reasonably designed for the reporting of complete and accurate transaction data to the SDR and to accept all transaction data that is reported in accordance with such policies and procedures.¹⁰⁴ Additionally, Rule 13n-5(b)(1)(ii) requires that if an SDR accepts any SBS transaction in a particular asset class, the SDR must accept all SBS transactions in that asset class that are reported to it in accordance with its policies and procedures.¹⁰⁵ In addition,

⁸⁷ See Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.1.

⁸⁸ See Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.2.1.

⁸⁹ See Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.8; Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 5.

⁹⁰ See *id.*

⁹¹ See *id.*

⁹² See Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.5.

⁹³ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6.

⁹⁴ See *id.*; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.6 and 4.7.

⁹⁵ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.6.

⁹⁶ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.2.4 and 4.7.

⁹⁷ See *id.*

⁹⁸ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.7.

⁹⁹ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.2.3.

¹⁰⁰ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.2.2.

¹⁰¹ See *id.*

¹⁰² See *id.*; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.7.

¹⁰³ See Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.7; see also Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6.

¹⁰⁴ 17 CFR 240.13n-5(b)(1)(i).

¹⁰⁵ 17 CFR 240.13n-5(b)(1)(ii).

Rule 13n-5(b)(3) requires an 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.¹⁰⁶ Rule 13n-5(b)(5) requires an SDR to establish, maintain, and enforce written policies and procedures reasonably designed to prevent any provision in a valid SBS transaction from being invalidated or modified through the procedures or operations of the SDR.¹⁰⁷ Rule 13n-5(b)(6) requires an SDR to establish procedures and provide facilities reasonably designed to effectively resolve disputes over the accuracy of the transaction data and positions that are recorded in the SDR.¹⁰⁸

Furthermore, Section 13(n)(5)(F) of the Exchange Act and Rule 13n-4(b)(8) thereunder each require an SDR to maintain the privacy of any and all SBS transaction information that the SDR receives.¹⁰⁹ In addition, Rule 13n-9(b)(1) requires an SDR to establish, maintain, and enforce written policies and procedures reasonably designed to protect the privacy of any and all SBS transaction information that the SDR receives and that include policies and procedures to protect the privacy of any and all SBS transaction information that the SDR shares with affiliates and non-affiliated third parties.¹¹⁰ Rule 13n-9(b)(2) also requires an SDR to establish, and maintain safeguards, policies, and procedures reasonably designed to prevent the misappropriation or misuse, directly or indirectly, of any confidential information received by the SDR, material non-public information, or intellectual property, such as trading strategies or portfolio positions, by: (i) Limiting access to such information and intellectual property; (ii) having standards for trading by persons associated with the SDR for their personal benefit or the benefit of others; and (iii) having adequate oversight to ensure compliance with these safeguards, policies, and procedures.¹¹¹

The Commission received no comments applicable to these requirements. As described above, the ITV Application includes policies and procedures designed to protect transaction data and its systems by restricting access to users, who are obligated to comport with ICE Trade Vault's rules in a manner that facilitates

ICE Trade Vault's compliance with its obligations under Commission rules. The Commission views this approach as reasonable. Access to ICE Trade Vault's systems to view trade data or verify information should be conditioned such that ICE Trade Vault retains the ability to protect the data, its systems, and its users. The Commission notes that ICE Trade Vault retains the responsibility, among other things, to ensure that its policies and procedures are reasonably designed to: (i) Ensure trade data reported to it is complete and accurate, as required under Rule 13n-5(b)(1); (ii) ensure that its systems provide adequate levels of capacity, integrity, resiliency, availability and security, as required under Rule 13n-6; and (iii) ensure that it protects the privacy and confidentiality of transaction information, as required under Rule 13n-9(b). Additionally, the ITV Application includes procedures designed to ensure that any valid provisions of trade information are not modified or invalidated, and these procedures include controls that are regularly audited and processing systems designed to prevent unauthorized changes to SBS information. The Commission also believes that ICE Trade Vault provides procedures and facilities reasonably designed to effectively resolve disputes over the accuracy of the transaction data and positions that are recorded in the SDR.

Furthermore, the ITV Application contains policies and procedures regarding both data security and the privacy of SBS data, the latter of which includes in each case procedures limiting access to SBS data to employees with either direct or support responsibilities related to systems that maintain the data, and that limit the use of such data in all cases to the performance of job responsibilities. The Commission believes that such policies and procedures also establish a standard for the trading practices of personnel that prevents the use of the data for personal benefit or the benefit of others. In addition, ICE Trade Vault has policies and procedures that, when taken together with policies and procedures regarding the duties of the CCO,¹¹² are reasonably designed to protect the privacy of SBS transaction information, including information shared with affiliates and third parties, through adequate oversight to ensure

compliance with the policies and procedures described above.

D. Fees

1. Summary of ICE Trade Vault's Application

According to ICE Trade Vault, all fees imposed by ICE Trade Vault in connection with the reporting of swap data shall be equitable and established in a uniform and non-discriminatory manner as determined from time-to-time by ICE Trade Vault.¹¹³ In addition, ICE Trade Vault represents that all fees will be commensurate to ICE Trade Vault's costs for providing its SDR service. ICE Trade Vault states it will only assess fees as noted in its fee schedule, and there will be no "hidden fees" associated with ICE Trade Vault Service.¹¹⁴

The most current pricing schedule is made available via the ICE Trade Vault website. ICE Trade Vault applies fees according to the type of SDR user accessing ICE Trade Vault: Counterparty, clearing agency, execution agent and third party reporter.¹¹⁵ According to ICE Trade Vault, in the case of the execution agent versus the third party reporter, the application of fees is differentiated based upon the type of service provided in each case.¹¹⁶ According to ICE Trade Vault, an execution agent is directly involved with trade execution; as such, it is charged directly for the fees associated with the SDR just as a counterparty, whereas the underlying funds are not charged a fee.¹¹⁷ However, the third party reporter is not involved with the trade execution and simply provides a service to counterparties who have an obligation to report; therefore, according to ICE Trade Vault, they are assessed a fee for each of those reporting parties on behalf of whom they are reporting the trades.¹¹⁸ According to ICE Trade Vault, as a result, the third party reporter is able to pass the cost of its service to each of its counterparties utilizing third party reporting; this

¹¹³ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 8; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.7 ("In accordance with Exchange Act Rule 13n-4(c), any dues, fees or other charges imposed by, and any discounts or rebates offered by, ICE Trade Vault in connection with the ICE SBSDR Service shall be fair and reasonable and not unreasonably discriminatory. ICE Trade Vault dues, fees, other charges, discounts, or rebates shall be applied consistently across all similarly situated Users.")

¹¹⁴ See ICE Trade Vault Security-Based Swap Data Repository Service and Pricing Schedule, Ex. M.2.

¹¹⁵ See Dues, Fees and Charges, Ex. M.1.

¹¹⁶ See id.

¹¹⁷ See id.

¹¹⁸ See id.

¹⁰⁶ 17 CFR 240.13n-5(b)(3).

¹⁰⁷ 17 CFR 240.13n-5(b)(5).

¹⁰⁸ 17 CFR 240.13n-5(b)(6).

¹⁰⁹ See 15 U.S.C. 78m(n)(5)(F); 17 CFR 240.13n-4(b)(8), 240.13n-9.

¹¹⁰ 17 CFR 240.13n-9.

¹¹¹ See 17 CFR 240.13n-9(b)(2).

¹¹² See *supra* Part III.A (describing policies and procedures regarding the CCO and conflicts of interest).

allows for the cost of ICE Trade Vault to be fair and equal for reporting parties whether they choose to report directly to ICE Trade Vault or via a third party reporter.¹¹⁹ Additionally, according to ICE Trade Vault, clearing agency fees vary from other users due to the unique requirements necessary to support this type of customer; ICE Trade Vault must build out a separate custom interface(s) and purchase and maintain additional hardware necessary to support the high volume of trades submitted to the SDR by the clearing agency; as a result, the minimum fee outlined in the ICE Trade Vault pricing schedule reflects the costs incurred by ICE Trade Vault to purchase the necessary hardware and software and the cost to build out the SDR system; in addition, the clearing agency fees also reflect the additional ongoing support and maintenance costs for this type of high volume user.¹²⁰ According to ICE Trade Vault, all fees within the schedule, including the monthly per \$1MM notional, are cost based to ensure ICE Trade Vault may operate with a minimum margin while allowing for a reasonable cost to its customers, given the expected volume of trades it expects to receive as an SDR.¹²¹

ICE Trade Vault will assess a Repository Fee upon its acceptance of any trade message for an SBS transaction.¹²² For both cleared and uncleared/bilateral transactions, the Repository Fee rates will be \$1.35 per \$1/MM Notional. For cleared SBS, the Repository Fee will be charged to the clearing agency that cleared the SBS and, for uncleared or bilateral SBS transactions, the fee will be charged to the user which submitted the record as a counterparty or execution agent.

For transactions submitted directly by a clearing agency user, clearing agency users will have a minimum monthly invoice per user of \$10,000, and the invoice will be the greater of (i) the total of all Repository Fees incurred by user or (ii) \$10,000.¹²³ If a clearing agency user does not have any submittals in a given month but does have open positions, the \$10,000 will be charged as a minimum maintenance fee in the place of any Repository Fees. If a clearing agency user does not have any submittals in a given month and does not have any open positions then no fees will be charged.

For transactions submitted directly by a counterparty user, the minimum

monthly invoice per user will be \$375.¹²⁴ 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 SBS 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.

When an execution agent submits an SBS transaction on behalf of the counterparty and is listed as the execution agent, the execution agent will be charged the Repository Fee (not the underlying funds, accounts or other principals).¹²⁵ When an execution agent submits an SBS transaction where the execution agent is acting as the counterparty, it will be charged the Repository Fee. The minimum monthly invoice for an execution agent will be a total of \$375, including all transactions in which the executing agent is acting on behalf of a counterparty or acting as its own counterparty.

For transactions submitted by third party reporters, third party reporters will only be charged a Repository Fee for those transactions they report on behalf of non-users of ICE Trade Vault.¹²⁶ Each non-user on whose behalf the third party reporter submits the transaction will have an invoice created as if it were a user, and will 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, \$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. The details regarding the Repository Fees incurred or the minimum monthly amount for each non-user will be detailed on the third-party reporter's invoice and summed across all non-users to determine the total amount charged to any one third party reporter. ICE Trade Vault will solely provide invoices to the third party reporter for trades reported on behalf of the non-user and will not issue an invoice directly to any non-users.

2. Discussion

Section 13(n)(7)(A) of the Exchange Act prohibits an SDR (unless necessary or appropriate to achieve the purposes of the Exchange Act) from: (i) Adopting any rule or taking any action that results in any unreasonable restraint of trade; or (ii) imposing any material anti-competitive burden on the trading, clearing, or reporting of transactions.¹²⁷ Rule 13n-4(c)(1)(i) under the Exchange Act also requires an 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 not unreasonably discriminatory.¹²⁸ It also requires that such dues, fees, other charges, discounts, or rebates be applied consistently across all similarly situated users of the SDR's services.¹²⁹ In discussing the fee provisions of the SDR Rules, the Commission stated that it would take a flexible approach in evaluating the fairness and reasonableness of an SDR's fees and charges on a case-by-case basis, recognizing that there may be instances in which an SDR could charge different users different prices for the same or similar services.¹³⁰

The Commission received no comments applicable to these requirements. ICE Trade Vault states that all of the fees it charges, including the Repository Fee, are cost based to ensure ICE Trade Vault may operate with a minimum margin while allowing for a reasonable cost to its customers, given the expected volume of trades ICE Trade Vault expects to receive as an SDR. The fees include a fixed component and a variable component that increases with the usage of SDR services. Such a fee structure is generally in line with the economics of recordkeeping services for security-based swaps, which involve a fixed cost investment and marginal costs of operation.¹³¹ In addition, ICE Trade Vault's approach to fees would be consistent across CFTC and Commission reporting requirements, and, as a general matter, the Commission believes it is reasonable for ICE Trade Vault to establish similar fees where its

¹²⁷ 15 U.S.C. 78m(n)(7)(A).

¹²⁸ 17 CFR 240.13n-3(c)(1)(i).

¹²⁹ *Id.*

¹³⁰ See SDR Adopting Release, *supra* note 7, at 14479. In making this statement, however, the Commission also noted that charging different users different prices for the same or similar services cannot be unreasonably discriminatory.

¹³¹ See generally Regulation SBSR Adopting Release, 81 FR at 53551 (stating that the provision of recordkeeping services for security-based swaps involves a predominantly fixed cost investment with low marginal costs of operation).

¹¹⁹ See *id.*

¹²⁰ See *id.*

¹²¹ See *id.*

¹²² See ICE Trade Vault Security-Based Swap Data Repository Service and Pricing Schedule, Ex. M.2.

¹²³ See *id.*

¹²⁴ See *id.*

¹²⁵ See *id.*

¹²⁶ See *id.*

obligations require similar levels of services and infrastructure.

With respect to the specific elements of ICE Trade Vault's fee structure, the Commission notes the following. First, the fixed component of ICE Trade Vault's fees would be consistent with the applicant recovering the fixed costs investment associated with setting up and maintaining a user account, while the variable component would be consistent with the applicant recovering marginal costs of operation, *i.e.*, costs that increase with the provision of SDR services to the user. Second, the Commission believes that the lower minimum maintenance fee that ICE Trade Vault imposes on third party reporters is consistent with third party reporters and their non-user clients placing a lower burden on ICE Trade Vault's staff, resources, and systems. Non-users would not require ICE Trade Vault to incur onboarding costs and costs associated with the maintenance of user accounts. To the extent that third party reporters are more efficient users of ICE Trade Vault's reporting infrastructure than other categories of users, ICE Trade Vault could anticipate lower costs associated with trade messages reported by third party reporters on behalf of their non-User clients.

Third, the Commission believes the differentiation in fees between third party reporters and execution agents is consistent with ICE Trade Vault's approach of attributing fees to entities that are directly involved in trade execution and is fair, reasonable, and not unreasonably discriminatory.¹³² In the case of an execution agent, ICE Trade Vault states that such an entity is directly involved in the execution of the transaction reported to ICE Trade Vault. As such, the execution agent is directly assessed fees as any other entity that is directly involved in the execution of a transaction, whereas the underlying funds are not charged a fee. In contrast, a third party reporter is not directly involved with the execution of the reported transaction and simply provides a service to counterparties that are directly involved with execution of the reported transaction and also have an obligation to report. Therefore, ICE Trade Vault assesses a fee to a third party reporter for each of the underlying reporting parties on whose behalf the third party reporter reports the trades to ICE Trade Vault. ICE Trade Vault further states that it will create an invoice for

each of underlying reporting party as if the underlying reporting party were a user. The Commission understands that such an arrangement allows ICE Trade Vault to collect fees from the underlying reporting parties.¹³³

Fourth, the Commission believes that the fees that ICE Trade Vault charges a clearing agency, while different than those imposed on other types of users, are fair, reasonable, and not unreasonably discriminatory. Because of their central role in many security-based swap transactions and their provision of netting and compression services to members clearing agency users are directly involved in, and report a significant number of security-based swaps.¹³⁴ To support this category of users, ICE Trade Vault has to incur additional costs to handle large volumes of transactions generated over a short period of time.

Taking into account the above, the Commission believes that the ITV Application sets fees at levels that are fair and reasonable and not unreasonably discriminatory.

E. Recordkeeping

1. Summary of ICE Trade Vault's Application

According to ICE Trade Vault, users access ICE Trade Vault through a web-based front-end that requires user systems to (a) satisfy the minimum computing system and web browser requirements specified in the ICE Trade Vault Technical Guides; (b) support HTTP 1.1 and 128-bit or stronger SSL data encryption; and (c) the most recent version of Chrome.¹³⁵ Trade information submitted to ICE Trade Vault is saved in a non-rewriteable, non-erasable format, to a redundant, local database and a remote disaster recovery database in near real-time; the database of trade information submitted to ICE Trade Vault is backed-up to tape daily with tapes moved offsite weekly.¹³⁶ Counterparties' individual trade data records remain available to users at no charge for online access through ICE Trade Vault from the date of submission until five years after expiration of the trade (last day of delivery or settlement

as defined for each product).¹³⁷ After the initial five-year period, counterparties' trade data will be stored off-line and remain available upon a three-day advance request to ICE Trade Vault, until ten years from the termination date.¹³⁸ According to ICE Trade Vault, users will retain unimpaired access to their online and archived trade data.¹³⁹ However, if a user or its regulator requests or requires archived trade information from ICE Trade Vault to be delivered other than via the web-based front-end or the application programming interface ("API") or in a non-standard format, such user may be required, in accordance with the ICE Trade Vault schedule of fees and charges, to reimburse ICE Trade Vault for its reasonable expenses in producing data in response to such request or requirement as such expenses are incurred.¹⁴⁰ Similarly, ICE Trade Vault may require a user to pay all reasonable expenses associated with producing records relating to its transactions pursuant to a court order or other legal process, as those expenses are incurred by ICE Trade Vault, whether such production is required at the instance of such user or at the instance of another party with authority to compel ICE Trade Vault to produce such records.¹⁴¹

2. Discussion

Rule 13n-5(b)(4) of the Exchange Act requires an SDR to maintain transaction data and related identifying information for not less than five years after the SBS expires and historical positions for not less than five years in a place and format that is readily accessible and usable to the Commission and other persons with authority to access or view such information and in an electronic format that is non-rewriteable and non-erasable.¹⁴² Rule 13n-7 requires an SDR to make and keep current books and records relating to its business for at least five years, and for the first two years, keep such records in a place that is immediately available to representatives of the Commission for inspection and examination.¹⁴³ In addition, Rule 13n-5(b)(8) requires an SDR to make and keep current a plan to ensure that the transaction data and

¹³³ See ITV Pricing Schedule, Ex. M.1.

¹³⁴ See Regulation SBSR Adopting Release, 81 FR at 53630 (the Commission estimating that there will be approximately 760,000 reportable events per year that are clearing transactions or life cycle events associated with clearing transactions).

¹³⁵ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 2; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.7.

¹³⁶ See Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 7.1; see also Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 3.

¹³⁷ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 3.

¹³⁸ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 3.

¹³⁹ See *id.*

¹⁴⁰ See *id.*; see also Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 7.1.

¹⁴¹ See *id.*

¹⁴² 17 CFR 240.13n-5(b)(4).

¹⁴³ 17 CFR 240.13n-7.

¹³² For example, the minimum monthly fee due from a third party reporter submitting data for two accounts would be \$400, while the minimum due from an execution agent submitting data for two accounts would be \$375.

positions that are recorded in the SDR continue to be maintained in accordance with Rule 13n-5(b)(7),¹⁴⁴ including procedures for transferring the transaction data and positions to the Commission or its designee.¹⁴⁵

The Commission received no comments applicable to these requirements. As described above, the ITV Application provides for the recordkeeping of SBS transaction data for at least five years following the termination of the transaction,¹⁴⁶ and will be readily accessible throughout the life of a security-based swap in an electronic format that is non-rewriteable and non-erasable.¹⁴⁷ In addition, ICE Trade Vault provides for the transferring of transaction data and positions to the Commission via reports designed to provide visibility into positions and the status of submitted trades and also provides for direct electronic access to data reported to ICE Trade Vault in satisfaction of the Commission's regulatory requirements both for the Commission and, where such access is permitted by applicable law and any relevant Memorandum of Understanding or other arrangement, the Commission's designee.

F. Disclosure

1. Summary of ICE Trade Vault's Application

ICE Trade Vault publishes a disclosure document to provide a summary of information regarding its service offerings and the SBS data it maintains.¹⁴⁸ Specifically, the disclosure document sets forth a description of the following: (i) Criteria for access to the ICE Trade Vault service and SBS data; (ii) criteria for connection and linking to ICE Trade Vault; (iii) policies and procedures to safeguard SBS data and operational reliability; (iv) policies and procedures to protect the privacy of SBS data; (v) policies and procedures on ICE Trade Vault commercial and non-commercial use of SBS data; (vi) ICE Trade Vault data accuracy and dispute resolution procedures; (vii) ICE Trade Vault

services; (viii) ICE Trade Vault pricing; and (ix) ICE Trade Vault governance arrangements.¹⁴⁹

2. Discussion

Rule 13n-10 under the Exchange Act requires that, before accepting any SBS data from a market participant or upon a market participant's request, an SDR shall furnish to the market participant a disclosure document that contains certain written information, which must reasonably enable the market participant to identify and evaluate accurately the risks and costs associated with using the SDR's services.¹⁵⁰ This written information must contain the following: (i) The SDR's criteria for providing others with access to the services offered and data it maintains; (ii) its criteria for those seeking to connect to or link with the SDR; (iii) a description of its policies and procedures regarding its safeguarding of data and operational reliability, as described in Rule 13n-6; (iv) a description of its policies and procedures reasonably designed to protect the privacy of SBS transaction information that it receives, as described in Rule 13n-9(b)(1); (v) a description of its policies and procedures regarding its noncommercial and commercial use of SBS transaction information that it receives, as described in Rule 13n-5(b)(6); (vi) a description of its dispute resolution procedures, as described in Rule 13n-5(b)(6); (vii) a description of all the SDR's services, including any ancillary services; and (viii) the SDR's updated schedule of any dues; unbundled prices, rates or other fees for all of its services, including ancillary services; any discounts or rebates offered; and the criteria to benefit from such discounts or rebates; and (ix) a description of its governance arrangements.¹⁵¹

The Commission received no comments applicable to these requirements. As described throughout this order, the ITV Application includes extensive discussion of ICE Trade Vault's policies and procedures with respect to access,¹⁵² the use of SBS transaction information,¹⁵³ service offerings, including ancillary services,¹⁵⁴ and governance

arrangements.¹⁵⁵ The Commission believes that ICE Trade Vault's Disclosure Document presents a reasonably comprehensive view of the applicant's overall service offering, from which a potential user could identify and evaluate accurately the risks and costs associated with using the SDR's services.¹⁵⁶ In addition, regarding the requirement to furnish the document to market participants, the Commission understands that ICE Trade Vault publishes similar disclosure documents on its website,¹⁵⁷ and anticipates the same for ICE Trade Vault's Disclosure Document relevant to this application.

G. Regulatory Reporting and Public Dissemination

As a registered SDR, ICE Trade Vault would carry out an important role in the regulatory reporting and public dissemination of SBS transactions. As noted above, ICE Trade Vault has stated that it intends to rely on the no-action statement included in the ANE Adopting Release for the period set forth in the ANE Adopting Release with respect to the credit derivatives asset class.¹⁵⁸ Therefore, ICE Trade Vault does not need to include materials in its application explaining how it would comply with the provisions of the SBS Reporting Rules noted in the no-action statement.¹⁵⁹ Instead, ICE Trade Vault may rely on its discussion about how it complies with comparable CFTC requirements pertaining to regulatory reporting and public dissemination of swap transactions.

In the no-action statement, the Commission stated that an applicant "will not need to include materials in its application explaining how it would comply with the provisions [specifically noted as not providing a basis for a Commission enforcement action during

¹⁴⁴ See *supra* Part III.A (describing policies and procedures with respect to governance arrangements, the duties of the CCO, and conflicts of interest).

¹⁴⁵ See Security-Based SDR Service Disclosure Document, Ex. V.2.

¹⁴⁶ See, e.g., https://www.theice.com/publicdocs/ICE_Trade_Vault_Disclosure_Document.pdf (publishing a disclosure document pursuant to CFTC requirements).

¹⁴⁷ See *supra* note 30 and accompanying text.

¹⁴⁸ However, the ITV Application includes provisions explaining how it would require users to identify SBS, as required by Rule 901(c)(1) of Regulation SBSR. See Security-Based SDR Service Disclosure Document, Ex. N.5 (fields 146-148). The ITV Application also includes a provision explaining how it would comply with a condition to the no-action statement included in the ANE Adopting Release. See Security-Based SDR Service Disclosure Document, Ex. N.4, sec. 3.5 (providing, in the case of a credit security-based swap, for dissemination of a capped notional size of \$5 million if the true notional size of the transaction is \$5 million or greater).

¹⁴⁴ Rule 13n-5(b)(7) states that, if an SDR ceases doing business or ceases to be registered pursuant to Section 13(n) of the Exchange Act, the SDR must continue to preserve, maintain, and make accessible the transaction data and historical positions required to be collected, maintained, and preserved by this section in the manner required by the Exchange Act and the rules and regulations thereunder and for the remainder of the period required by this section. 17 CFR 240.13n-5(b)(7).

¹⁴⁵ 17 CFR 240.13n-8.

¹⁴⁶ See Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 3.

¹⁴⁷ See *id.*

¹⁴⁸ See Security-Based SDR Service Disclosure Document, Ex. V.2.

¹⁴⁹ See *id.*

¹⁵⁰ 17 CFR 240.13n-10.

¹⁵¹ See *id.*

¹⁵² See *supra* Part III.B (describing policies and procedures with respect to access and information security).

¹⁵³ See *supra* Part III.C (describing policies and procedures with respect to acceptance and use of SBS data).

¹⁵⁴ See *supra* Part III.D (describing policies and procedures with respect to fees).

the pendency of the statement].”¹⁶⁰ The applicant “could instead rely on its discussion about how it complies with comparable CFTC requirements.”¹⁶¹ In its application, ICE Trade Vault provided exhibits that adapted its policies and procedures for regulatory reporting and public dissemination of swaps for use in the SBS market. The Commission believes that, with respect to its role in the regulatory reporting and public dissemination of SBS transactions, ICE Trade Vault has satisfied the approach described by the Commission in the no-action statement regarding the information and representations sufficient to support its approval for registration as an SDR and SIP.¹⁶²

ISDA Letter II raised several issues with respect to the ITV Application. First, ISDA stated that there are challenges associated with ICE TV’s requirements for reporting a counterparty identity when the counterparty does not have a legal entity identifier (“LEI”) and suggested that ICE Trade Vault instead follow the approach set out in the DDR Rulebook.¹⁶³ In addition, ISDA recommended that ICE Trade Vault make a minor adjustment to the boolean indicator for the “Package Trade Flag.”¹⁶⁴ These scenarios can arise in the reporting of a swap transaction under the CFTC reporting rules currently, and ICE Trade Vault has represented that it is in compliance with applicable CFTC requirements and intends to rely on the Commission’s position outlined in the ANE Adopting Release for applicable reporting rules and SBSDR duties for the period set forth therein. Therefore, these comments do not preclude the Commission’s approval of ICE Trade Vault’s application to register as an SDR and as a SIP.

In addition, ISDA stated that the ITV Rulebook should “discuss ‘Counterparty 2’ identifiers that will be permitted under the new [CFTC] swap data reporting rules.”¹⁶⁵ To the extent that

this suggestion involves changes to ICE Trade Vault’s systems, policies, and procedures for complying with future CFTC requirements, they are not part of ICE Trade Vault’s existing systems, policies, and procedures and thus are not germane to the application being considered by the Commission. However, the Commission expects that ICE Trade Vault will, in the future, explain to its participants how changes made to the systems, policies, and procedures for complying with CFTC swap data reporting requirements will impact the reporting of security-based swap transactions.

ISDA also recommended that unique identification codes generated by ICE Trade Vault be 52 rather than 54 characters in length, to align with the global standard for unique transaction identifiers (“UTIs”), which are 52 characters in length.¹⁶⁶ Although the Commission anticipates that ICE Trade Vault will utilize the global UTI system when implemented, implementation has not yet occurred. Therefore, this comment does not preclude the Commission’s approval of ICE Trade Vault’s application to register as an SDR and as a SIP.

Furthermore, ISDA recommended that, until the global standard for unique product identifiers (“UPIs”) comes into effect, ICE Trade Vault utilize the ISDA Taxonomy for product identifiers rather than ICE Trade Vault’s own product taxonomy.¹⁶⁷ The UPI system, like the UTI system, is not yet in effect. In the absence of an internationally recognized system, ICE Trade Vault may assign product identifiers using its own policies and procedures. Therefore, this comment does not preclude the Commission’s approval of ICE Trade Vault’s application to register as an SDR and as a SIP.

ISDA also contested the requirement in ITV Rulebook to report “Not Applicable” where a data field is not applicable for a historical security-based swap transaction or “an exotic SBS submission.”¹⁶⁸ Nothing in Regulation SBSR prohibits a registered SDR from requiring a reporting person to submit an affirmative response of “Not Available” instead of leaving a data field blank. This approach allows the registered SDR and the Commission to differentiate between a circumstance where the data element is truly “Not Available” from a circumstance where

the reporting person has inappropriately failed to report the data element.

Finally, ISDA noted that, although the specifications in the ITV Rulebook “technically align” with the SEC requirement that an SDR publicly disseminate immediately upon receipt, SDRs are also built to delay public dissemination under CFTC requirements. ISDA suggested that complying with the SEC requirement would require SDRs to incur the cost of adding functionality to disseminate immediately under Regulation SBSR, and ISDA therefore requests that the SEC align its requirement with the CFTC requirement.¹⁶⁹ To the extent that ISDA is requesting that the Commission modify the no-action statement in response to ISDA’s comment, the Commission declines to do so. Furthermore, because this comment pertains to a Commission position and not to the ICE Trade Vault Application, it does not affect the Commission’s review of the ICE Trade Vault Application under the relevant statutory standards for registration as an SDR and as a SIP.¹⁷⁰

IV. Evaluation of ICE Trade Vault’s Application and Commission Findings

Consistent with the standard for registration previously described in Part II.B,¹⁷¹ the Commission has considered whether ICE Trade Vault is so organized, and has the capacity, to be

¹⁶⁹ See *id.* at 5.

¹⁷⁰ Under the CFTC’s reporting rules, an SDR must publicly disseminate swap transaction and pricing data as soon as technologically practicable after such data is received, unless such swap transaction and pricing data is subject to a time delay described in § 43.5, in which case the swap transaction and pricing data shall be publicly disseminated in the manner described in § 43.5. See 17 CFR 43.3(b)(1). In addition, Appendix C to Part 43 provides clarification of the time delays for public dissemination set forth in § 43.5. An SDR subject to the CFTC’s Part 43 rules must disseminate transaction and pricing data with a time delay if the transaction falls within § 43.5, and must disseminate transaction and pricing data “as soon as technologically practicable” if it does not. The Commission’s no-action statement recognized that security-based swap transactions do not fall within § 43.5 or Appendix C of Part 43. See ANE Adopting Release, *supra* note 12, at 6347. Accordingly, an SDR, when utilizing CFTC rather than SEC protocols for dissemination of a security-based swap transaction, would not impose the time delay required for a swap transaction that falls within § 43.5. Nevertheless, to offer some accommodation for certain large-sized security-based swaps based on a single credit instrument or a narrow-based index of credit instruments, the Commission established a size cap of “\$5MM+” for any transaction having a true notional size of \$5 million or greater. As explained in the Commission’s no-action statement, this cap is also applied by the Financial Industry Regulatory Authority when disseminating transaction reports of economically similar cash debt securities. See *id.* at 6347, n.768.

¹⁷¹ See *supra* notes 15–17 and accompanying text.

¹⁶⁰ ANE Adopting Release, *supra* note 12, at 6348.

¹⁶¹ *Id.*

¹⁶² Because ICE Trade Vault has elected to rely on the no-action statement, see *supra* note 30, the Commission has not evaluated the ITV Application against any provisions of Regulation SBSR specifically noted as not providing a basis for a Commission enforcement action during the pendency of the statement.

¹⁶³ See ISDA Letter II at 2–3.

¹⁶⁴ See *id.* at 4.

¹⁶⁵ *Id.* at 3. The comment refers to revisions to Parts 43 and 45 adopted by the CFTC in September 2020, which include requirements for reporting new data elements as well as changes to how existing data elements should be reported. See Part 43 revisions, available at: www.cftc.gov/sites/default/files/2020/11/2020-21568a.pdf; Part 45

revisions, available at: www.cftc.gov/sites/default/files/2020/11/2020-21569a.pdf.

¹⁶⁶ See ISDA Letter II at 3.

¹⁶⁷ See *id.* at 3–4.

¹⁶⁸ See *id.* at 4.

able to assure the prompt, accurate, and reliable performance of its functions as an SDR, comply with any applicable provisions of the securities laws and the rules and regulations thereunder, and 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. The Commission finds that ICE Trade Vault meets these criteria for registration as an SDR for the reasons described throughout this order.

To evaluate ICE Trade Vault's application to register as a SIP, and consistent with the standard for registration previously described in Part II.B,¹⁷² the Commission has considered whether ICE Trade Vault is so organized, and has the capacity, to be able to assure the prompt, accurate, and reliable performance of its functions as a SIP, comply with the provisions of the Exchange Act and the rules and regulations thereunder, carry out its functions in a manner consistent with the purposes of the Exchange Act, and, insofar as it is acting as an exclusive processor, operate fairly and efficiently. The Commission finds that ICE Trade Vault meets these criteria for registration as a SIP for the reasons described throughout this order.

V. Conclusion

For the reasons discussed above, the Commission finds that ICE Trade Vault meets the applicable requirements for registration as an SDR, including those standards set forth in Section 13(n) of the Exchange Act and Commission rules and regulations thereunder, and the applicable requirements for registration as a SIP under Section 11A(b) of the Exchange Act.

It is hereby ordered that the application for registration as a security-based swap data repository and a securities information processor filed by ICE Trade Vault, LLC (File No. SBSDR-2021-01) pursuant to Sections 13(n) and 11A(b) of the Exchange Act be, and hereby is, *approved*.

By the Commission.

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-13140 Filed 6-21-21; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See Supplementary Information section for effective date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Andrea Gacki, Director, tel.: 202-622-2490; Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (www.treasury.gov/ofac).

Notice of OFAC Actions

On June 9, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. ORTEGA MURILLO, Camila Antonia, Nicaragua; DOB 04 Nov 1987; POB Managua, Nicaragua; nationality Nicaragua; Gender Female; Passport A00000114 (Nicaragua) issued 28 Jun 2012 expires 28 Jun 2022; National ID No. 0010411870001B (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of Executive Order 13851 of November 27, 2018, "Blocking Property of Certain Persons Contributing to the Situation in Nicaragua" ("E.O. 13851"), for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

2. REYES RAMIREZ, Leonardo Ovidio, Villa Fontana, Club Terraza 2 C, Oeste, 1 C,

Sur 25 VRS, Oeste Casa 137, Managua, Nicaragua; DOB 03 Apr 1965; POB Chinandega, Nicaragua; nationality Nicaragua; Gender Male; Passport A00000794 (Nicaragua) issued 28 Mar 2014 expires 28 Mar 2024; National ID No. 0810304650001P (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851 for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

3. RODRIGUEZ BALLADARES, Julio Modesto, Nicaragua; DOB 22 Jan 1963; POB Nicaragua; nationality Nicaragua; Gender Male; Passport C01659683 (Nicaragua) issued 14 Apr 2014 expires 14 Apr 2024; National ID No. 0012201630050J (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851 for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

4. CASTRO RIVERA, Edwin Ramon, Nicaragua; DOB 05 Jan 1957; POB Leon, Nicaragua; nationality Nicaragua; Gender Male; Passport A0008826 (Nicaragua) issued 02 Feb 2012 expires 02 Feb 2022; National ID No. 2810501570012H (Nicaragua) (individual) [NICARAGUA].

Designated pursuant to section 1(a)(iii) of E.O. 13851 for being an official of the Government of Nicaragua or having served as an official of the Government of Nicaragua at any time on or after January 10, 2007.

Dated: June 9, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021-13083 Filed 6-21-21; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing an update to the identifying information of persons currently included in OFAC's Non-SDN Chinese Military-Industrial Complex Companies List. Any purchase or sale of any publicly traded securities, or any publicly traded securities that are derivative of such securities or are designed to provide investment exposure to such securities, of any of these persons, by any United States person in violation of Executive Order 13959 ("E.O. 13959"), as amended by Executive Order 14032 ("E.O. 14032"), is prohibited.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

¹⁷² See *supra* note 19 and accompanying text.