

13.4.4 ICE Trade Vault, LLC – Application for Designation as a Trade Repository and Draft Order



July 18, 2014

Sent By E-mail

Ontario Securities Commission
20 Queen Street West, 19th Floor
Toronto, Ontario M5H 3S8

Attention: Franklin Lacroce, Shaun Olson and Cosmin Cazan

Re: ICE Trade Vault, LLC

Application for Designation as a Trade Repository in Ontario

Dear Sirs,

ICE Trade Vault, LLC (the “Applicant”) hereby files this application with the Ontario Securities Commission (the “Commission”) pursuant to subsection 21.2.2(1) of the Securities Act (Ontario) to be designated as a foreign trade repository in the province.

For convenience, this application is divided into Parts I to III, Part II of which describes how the Applicant satisfies Commission staff’s criteria for recognition as a foreign trade repository (“TR”).

Part I Introduction

Part II Application of Approval Criteria to the Applicant

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PART I INTRODUCTION

1.1 The Applicant is a limited liability company organized under the laws of the State of Delaware in the United States and is a provisionally registered swap data repository (“SDR”) regulated by the Commodity Futures Trading Commission (“CFTC”). The Applicant has been accepting derivatives data for the commodity and credit asset classes in the United States since April 2013 and is in good standing with the CFTC.

- 1.2 The Applicant is a wholly owned subsidiary of Intercontinental Exchange Holdings, Inc. (“ICE”), which itself is owned by Intercontinental Exchange, Inc. (“ICE Inc.”). ICE Inc. is listed on the NYSE under the symbol “ICE”. ICE is a leading operator of regulated global markets and clearing houses, including futures exchanges, over-the-counter markets, derivatives clearing houses and post-trade services. ICE operates these global marketplaces for trading and clearing in a broad array of energy, environmental and agricultural commodities, credit default swaps, equity indices and currency contracts.
- 1.3 ICE has a subsidiary operating as a TR in Europe and is regulated by the European Securities and Markets Authority.
- 1.4 Subject to obtaining the necessary regulatory approvals, the Applicant is seeking to operate a trade repository in each province of Canada that will require the reporting of derivatives transactions (that are not excluded from the definition by reason of any other rule or order of the Commission) (“Derivatives transactions”) involving local counterparties. The Applicant currently anticipates (subject to the Commission designating the Applicant’s foreign TR) that it will accept Derivatives transaction data for the commodity, credit and foreign exchange asset classes in the Province.

PART II APPLICATION OF APPROVAL CRITERIA TO THE APPLICANT

The following is a discussion of how the Applicant meets the Commission staff’s criteria for designation as a TR. Text boxes in this Part II set out the applicable requirements in OSC Rule 91-507 – Trade Repositories and Derivatives Data Reporting and Companion Policy 91-507CP – Trade Repositories and Derivatives Data Reporting (the “Applicable Provincial Rules and Policies”).

1. Legal Basis

1.1 Legal Framework

<p>7. (1) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures reasonably designed to ensure a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities.</p> <p>(2) Without limiting the generality of subsection (1), a designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures that are not contrary to the public interest and that are reasonably designed to ensure that</p> <ul style="list-style-type: none">(a) such rules, policies and procedures and the contractual arrangements are supported by the laws applicable to those rules, policies, procedures and contractual arrangements,(b) the rights and obligations of a user, owner and regulator with respect to the use of the designated trade repository’s information are clear and transparent,(c) the contractual arrangements that it enters into and supporting documentation clearly state service levels, rights of access, protection of confidential information, intellectual property rights and operational reliability, and(d) the status of records of contracts in its repository and whether those records of contracts are the legal contracts of record are clearly established.
<p>17. (1) The rules, policies and procedures of a designated trade repository must</p> <ul style="list-style-type: none">(a) be clear and comprehensive and provide sufficient information to enable a participant to have an accurate understanding of its rights and obligations in accessing the services of the designated trade repository and the risks, fees, and other material costs they incur by using the services of the designated trade repository,(b) be reasonably designed to govern all aspects of the services offered by the designated trade repository with respect to the collection and maintenance of derivatives data and other information on a completed transaction, and(c) not be inconsistent with securities legislation. <p>(2) A designated trade repository must monitor compliance with its rules, policies and procedures on an ongoing basis.</p>

- (3) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures for sanctioning non-compliance with its rules, policies and procedures.
- (4) A designated trade repository must publicly disclose on its website
 - (a) its rules, policies and procedures referred to in this section, and
 - (b) its procedures for adopting new rules, policies and procedures or amending existing rules, policies and procedures.
- (5) A designated trade repository must file its proposed new or amended rules, policies and procedures for approval in accordance with the terms and conditions of its designation order, unless the order explicitly exempts the designated trade repository from this requirement.

- 1.1.1 The Applicant maintains written policies, procedures and rules that will be posted on the Applicant’s website upon designation as a TR. These written policies, procedures and rules are designed to assist and inform validly enrolled participants (“Participants”) about the TR service offered by the Applicant utilized for the collection, storage and regulatory reporting of derivatives transaction data (“Trade Vault”). These written materials include: (i) the Applicant’s rulebook (the “Rulebook”) which sets out detailed rules and standards relating to Trade Vault; and (ii) a Service and Pricing Schedule. As further discussed in Section 2.4 of this application, the Applicant’s Chief Compliance Officer (“CCO”) and General Counsel (“GC”) are responsible for monitoring compliance with, and enforcing any violations of, the Rulebook and Applicable Law.¹
- 1.1.2 The Applicant maintains user agreements (“User Agreements”) for the two classes of users that utilize Trade Vault, namely (i) Participants and (ii) clearing agencies or trading venues that have a duly executed trusted sources agreement in effect with the Applicant (“Trusted Sources”). Participants and Trusted Sources are collectively referred to as “Reporting Entities”. The User Agreements set out the rights and obligations for Reporting Entities and requires that Reporting Entities utilize Trade Vault in accordance with Applicable Law. In addition, the Rulebook governs certain aspects of the Applicant’s relationship with Participants and Trusted Sources, including service levels, rights of access, protection of confidential information and operational reliability. As further discussed in Section 8.1 of this application, Reporting Entities will also be subject to certain fees, which will be described in a fee schedule to be posted on the Applicant’s website.
- 1.1.3 The Applicant maintains a number of internal policies and procedures designed to govern the Applicant’s operations, including: (i) governance standards and procedures; (ii) codes of conduct for directors, committee members and employees; (iii) policies for identifying and resolving conflicts of interest; (iv) qualification methodology; (v) security procedures; (vi) a business continuity plan; and (vii) a corporate information security policy. The Applicant has senior managers in charge of oversight of internal policies and procedures. “Senior Management”, from time to time, includes the president and the GC.
- 1.1.4 The Rulebook, User Agreements and internal policies and procedures may be amended from time to time. Amendments may occur as a result of changes in Applicable Law, developments in the derivatives industry or feedback from Reporting Entities. In general, Senior Management of the Applicant is responsible for approving amendments to the Rulebook, User Agreements and internal policies and procedures. Amendments may be subject to regulatory approval, if required by Applicable Law. ICE policies and procedures are amended by the senior management or the board of directors of ICE.

2. Governance

- 8. (1) A designated trade repository must establish, implement and maintain written governance arrangements that
 - (a) are well-defined, clear and transparent,
 - (b) set out a clear organizational structure with consistent lines of responsibility,
 - (c) provide for effective internal controls,

¹ “Applicable Law” includes any and all laws and regulations governing or applicable to Trade Vault (including but not limited to applicable CFTC regulations and Applicable Provincial Rules and Policies) as amended from time to time, including the requirements of all applicable federal, provincial, and foreign governmental statute, law, ordinance, regulation, rule, directive, technical standard, code, guidance, published practice, judicial order or decision, concession, interpretation and protocol, as amended from time to time.

- (d) promote the safety and efficiency of the designated trade repository,
- (e) ensure effective oversight of the designated trade repository,
- (f) support the stability of the broader financial system and other relevant public interest considerations, and
- (g) properly balance the interests of relevant stakeholders.

(...)

(3) A designated trade repository must publicly disclose on its website

- (a) the governance arrangements established in accordance with subsection (1),

(...)

2.1.1 The Applicant has established robust governance arrangements which provide clear and direct lines of responsibility and accountability. The Applicant is managed by a Board of Directors that is responsible for overseeing the operations of the Applicant. In addition, the Applicant has established an advisory committee which includes representatives from its various stakeholders. The discussion in Sections 2.2, 2.3, 2.4, 2.5 and 2.7 below provide additional details concerning the Applicant's governance arrangements. The Applicant's governance arrangements will be publicly available on the Applicant's website.

2.2 Board of Directors

9. (1) A designated trade repository must have a board of directors.

(2) The board of directors of a designated trade repository must include

- (a) individuals who have an appropriate level of skill and experience to effectively and efficiently oversee the management of its operations in accordance with all relevant laws, and
- (b) appropriate representation by individuals who are independent of the designated trade repository.

(...)

2.2.1 The Board of Directors plays an active and important role in the oversight of all risks relating to Trade Vault. The powers and authority of the Board of Directors include the ability to: (i) designate and authorize specific appointed officers to act on behalf of the Board of Directors; (ii) fix, determine and levy all TR fees, when necessary; (iii) prepare and amend the Rulebook; (iv) act in emergencies; (v) delegate any such power to the appropriate party; and (vi) direct that an investigation of any suspected Violation be conducted by the CCO and shall hear any matter referred to it by the CCO regarding a suspected Violation.

2.2.2 The Board of Directors has a minimum of three members. Because the Applicant is a wholly-owned subsidiary of ICE, ICE retains the sole right to appoint the members of the Board of Directors. The Applicant has two types of directors – public and non-public. The Applicant's "Public directors" are "independent", as that concept is defined in the *Commodity Exchange Act* (US) ("CEA").² The Applicant's "Non-public directors" are not independent. As a governance matter, the Applicant requires at least one of its directors to be a "Public director".

2.2.3 ICE considers several factors in determining the composition of the Board of Directors, 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 a TR. Members of the Board of Directors must have the following attributes:

- (a) sufficiently good reputation;
- (b) requisite skills and expertise to fulfill their responsibilities in the management and governance of a TR;
- (c) a clear understanding of such responsibilities; and

² Please refer to the CFTC Release: 5652-09 dated April 27, 2009.

(d) the ability to exercise sound judgment regarding TR affairs.

2.2.4 The Applicant does not currently have any board committees or subcommittees.

2.3 Management

10. (1) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures that

- (a) specify the roles and responsibilities of management, and
- (b) ensure that management has the experience, competencies, integrity and mix of skills necessary to discharge its roles and responsibilities.

(2) A designated trade repository must notify the Commission no later than the 5th business day after appointing or replacing its chief compliance officer, chief executive officer or chief risk officer.

2.3.1 The Applicant has written policies and procedures which specify the roles and responsibilities of the Applicant's management team. Members of the Applicant's management team were identified and recruited for their particular position based upon their skills and expertise in the industry in which the Applicant operates, according to personnel qualifications required for their particular position, as set forth in the Applicant's internal policies and procedures. Their individual goals and performance are regularly assessed by their direct supervisor/manager as part of the Applicant's, as well as ICE's, performance management process. The Applicant does not currently have a chief risk officer because risk management functions are performed by the Applicant's CCO and GC.

2.4 Chief compliance officer

8. (3) The board of directors of a designated trade repository must, in consultation with the chief compliance officer of the designated trade repository, resolve conflicts of interest identified by the chief compliance officer.

(4) The board of directors of a designated trade repository must meet with the chief compliance officer of the designated trade repository on a regular basis.

11. (1) The board of directors of a designated trade repository must appoint a chief compliance officer with the appropriate experience, competencies, integrity and mix of skills necessary to serve in that capacity.

(2) The chief compliance officer of a designated trade repository must report directly to the board of directors of the designated trade repository or, if so directed by the board of directors, to the chief executive officer of the designated trade repository.

(3) The chief compliance officer of a designated trade repository must

- (a) establish, implement, maintain and enforce written rules, policies and procedures to identify and resolve conflicts of interest,
- (b) establish, implement, maintain and enforce written rules, policies and procedures to ensure that the designated trade repository complies with securities legislation,
- (c) monitor compliance with the rules, policies and procedures required under paragraphs (a) and (b) on an ongoing basis,
- (d) report to the board of directors of the designated trade repository as soon as practicable upon becoming aware of a circumstance indicating that the designated trade repository, or an individual acting on its behalf, is not in compliance with the securities laws of a jurisdiction in which it operates and one or more of the following apply:
 - (i) the non-compliance creates a risk of harm to a user;
 - (ii) the non-compliance creates a risk of harm to the capital markets;
 - (iii) the non-compliance is part of a pattern of non-compliance;

- (iv) the non-compliance may have an impact on the ability of the designated trade repository to carry on business as a trade repository in compliance with securities legislation,
 - (e) report to the designated trade repository's board of directors as soon as practicable upon becoming aware of a conflict of interest that creates a risk of harm to a user or to the capital markets, and
 - (f) prepare and certify an annual report assessing compliance by the designated trade repository, and individuals acting on its behalf, with securities legislation and submit the report to the board of directors
- (4) Concurrently with submitting a report under paragraph (3)(d), (3)(e) or (3)(f), the chief compliance officer must file a copy of the report with the Commission.

2.4.1 The CCO of the Applicant is appointed by the Board of Directors, and reports directly to the President. The CCO also has direct communication with the Board of Directors. The Board of Directors shall meet with the CCO semi-annually, or more frequently if required to address any specific issues or concerns.

2.4.2 The CCO works directly with the Board of Directors in certain instances, for example, when resolving conflicts of interest. 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:

- (a) preparing and signing a compliance report which shall be provided to the Board of Directors and the Commission at least annually and certify that Trade Vault are in compliance with Applicable Law;
- (b) in consultation with the GC, overseeing and reviewing the Applicant's compliance with Applicable Law;
- (c) in consultation with the GC, establishing and administering written policies and procedures reasonably designed to prevent violations of Applicable Law;
- (d) in consultation with the Board of Directors, resolving any conflicts of interest that may arise including (a) conflicts between business considerations and compliance requirements; (b) conflicts between business considerations and the requirement that the Applicant provide fair and open access; and (c) conflicts between the Applicant's management and members of the Board of Directors;
- (e) establishing and implementing procedures for the remediation of non-compliance issues;
- (f) establishing procedures for the remediation of non-compliance issues identified by the CCO through a compliance office review, look-back, internal or external audit finding, self-reported error, or validated complaint;
- (g) in consultation with the GC, establishing and following appropriate procedures for the handling, management response, remediation, retesting, and closing of non-compliance issues; and
- (h) in consultation with the GC, establishing and administering a written code of ethics designed to prevent ethical violations and to promote honesty and ethical conduct.

2.4.3 The CCO has the authority to inspect the books and records of all Participants and Trusted Sources that are reasonably relevant to any investigation. The CCO also has the authority to require any Participant or Trusted Source to appear before him or her to answer questions regarding alleged Violations (as defined below). The CCO may also delegate such authority to employees of the Applicant, including officers, and such other individuals (who possess the requisite independence) as the Applicant may hire on a contract basis.

2.4.4 The CCO conducts investigations of possible violations of the Rulebook, Participant Agreement and Trusted Sources Agreement ("Violations") committed by Reporting Entities, prepares written reports with respect to such investigations, furnishes such reports to the Board of Directors and the Commission and conducts the prosecution of such Violations.

2.5 **Advisory Committee**

2.5.1 The Applicant has established an advisory committee which provides non-binding guidance to the Board of Directors with respect to Trade Vault (the "Advisory Committee").

2.6 **Conflicts of interest**

8 (2) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures reasonably designed to identify and manage existing and potential conflicts of interest.

(3) A designated trade repository must publicly disclose on its website

(b) the rules, policies and procedures established in accordance with subsection (2).

2.6.1 The Applicant, through its conflict of interest rules, policies and procedures, has established a robust set of safeguards designed to reasonably identify and manage existing and potential conflicts of interest arising from its operation or the services it provides. As discussed above, the CCO is primarily responsible for identifying and managing conflicts of interest. If a real or potential conflict of interest is identified, the CCO will work with the Board of Directors to resolve the matter. Rules relating to conflicts of interest will be maintained on the Applicant's website.

2.7 **Communication with Reporting Entities**

2.7.1 The Applicant considers effective communication with Reporting Entities to be an important part of its overall governance strategy. Participants will receive detailed system and user guides and regular updates from the Applicant concerning system enhancements, new products/data values and Participant enrollments. The Applicant also expects to convene Participant working groups from time to time, in particular during the implementation period(s) for Applicable Provincial Rules and Policies. If Reporting Entities have any feedback or questions, they will be able to contact the Applicant through a dedicated email inbox.

3. **Comprehensive Risk Management Framework**

19. A designated trade repository must establish, implement and maintain a written risk-management framework for comprehensively managing risks including business, legal, and operational risks.

3.1 **Introduction**

3.1.1 The Applicant maintains a risk management framework for the management of business, legal and operational risk, which is described in the Applicant's Operational Risk Policy. All of the entities in the ICE Inc., including the Applicant, have adopted an approach to enterprise risk management with a goal of ensuring that each key risk is identified and properly managed. Risk tolerances have been developed for consistency at both the subsidiary and group level, and the risk management framework operates both from a bottom-up perspective and on a top-down basis. The discussion in Sections 3.2, 3.3, 3.4 and 3.5 below provide additional details concerning the Applicant's risk management framework.

3.2 **General business risk**

20. (1) A designated trade repository must establish, implement and maintain appropriate systems, controls and procedures to identify, monitor, and manage its general business risk.

(2) Without limiting the generality of subsection (1), a designated trade repository must hold sufficient insurance coverage and liquid net assets funded by equity to cover potential general business losses in order that it can continue operations and services as a going concern in order to achieve a recovery or an orderly wind down if those losses materialize.

(3) For the purposes of subsection (2), a designated trade repository must hold, at a minimum, liquid net assets funded by equity equal to six months of current operating expenses.

(4) A designated trade repository must identify scenarios that may potentially prevent it from being able to provide its critical operations and services as a going concern and assess the effectiveness of a full range of options for an orderly wind-down.

(5) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures reasonably designed to facilitate its orderly wind-down based on the results of the assessment required by subsection (4).

(6) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures to ensure that it or a successor entity, insolvency administrator or other legal representative, will continue to comply with the requirements of subsection 6(2) and section 37 in the event of the bankruptcy or insolvency of the designated trade repository or the wind-down of the designated trade repository's operations.

- 3.2.1 The Applicant maintains, and will continue to maintain in force, business liability coverage in the amount of US\$1 million for each claim and an aggregate of US\$25 million, to protect itself from a claim due to negligence on its part relating to Trade Vault. This amount of coverage is consistent with Applicant's assessment of its general business liability. The Applicant will provide, upon request by a Participant or Trusted Source, a certificate of insurance evidencing the insurance requirements have been satisfied and will provide Participants or Trusted Sources 30 days' advance notice of any cancellation or material reduction in coverage. The Applicant will hold at a minimum, liquid net assets funded by equity equal to six months of current operating expenses.
- 3.2.2 The Applicant has: (i) identified scenarios that may prevent it from being able to provide critical operations, (ii) established and maintains rules, policies and procedures to facilitate an orderly wind-down and (iii) established and maintains rules, policies and procedures to ensure that successors comply with Applicable Provincial Rules and Policies in the event of the bankruptcy of the Applicant.
- 3.3 **Operational Risk**

System and other operational risk requirements

21. (1) A designated trade repository must establish, implement, maintain and enforce appropriate systems, controls and procedures to identify and minimize the impact of all plausible sources of operational risk, both internal and external, including risks to data integrity, data security, business continuity and capacity and performance management.

(2) The systems, controls and procedures established pursuant to subsection (1) must be approved by the board of directors of the designated trade repository.

(3) Without limiting the generality of subsection (1), a designated trade repository must

(a) develop and maintain

(i) an adequate system of internal controls over its systems, and

(ii) adequate information technology general controls, including without limitation, controls relating to information systems operations, information security and integrity, change management, problem management, network support and system software support,

(b) in accordance with prudent business practice, on a reasonably frequent basis and, in any event, at least annually

(i) make reasonable current and future capacity estimates, and

(ii) conduct capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner, and

(c) promptly notify the Commission of a material systems failure, malfunction, delay or other disruptive incident, or a breach of data security, integrity or confidentiality, and provide a post-incident report that includes a root cause analysis as soon as practicable.

(4) Without limiting the generality of subsection (1), a designated trade repository must establish, implement, maintain and enforce business continuity plans, including disaster recovery plans reasonably designed to

(a) achieve prompt recovery of its operations following a disruption,

(b) allow for the timely recovery of information, including derivatives data, in the event of a disruption, and

(c) provide for the exercise of authority in the event of an emergency.

(5) A designated trade repository must test its business continuity plans, including disaster recovery plans, at least annually.

(6) For each of its systems for collecting and maintaining reports of derivatives data, a designated trade repository must annually engage a qualified party to conduct an independent review and prepare a report in accordance with established audit standards to ensure that it is in compliance with paragraphs (3)(a) and (b) and subsections (4) and (5).

(7) A designated trade repository must provide the report prepared in accordance with subsection (6) to

- (a) its board of directors or audit committee promptly upon the completion of the report, and
- (b) the Commission not later than the 30th day after providing the report to its board of directors or audit committee.

(8) A designated trade repository must publicly disclose on its website all technology requirements regarding interfacing with or accessing the services provided by the designated trade repository,

- (a) if operations have not begun, sufficiently in advance of operations to allow a reasonable period for testing and system modification by participants, and
- (b) if operations have begun, sufficiently in advance of implementing a material change to technology requirements to allow a reasonable period for testing and system modification by participants.

(9) A designated trade repository must make available testing facilities for interfacing with or accessing the services provided by the designated trade repository,

- (a) if operations have not begun, sufficiently in advance of operations to allow a reasonable period for testing and system modification by participants, and
- (b) if operations have begun, sufficiently in advance of implementing a material change to technology requirements to allow a reasonable period for testing and system modification by participants.

(10) A designated trade repository must not begin operations in Ontario unless it has complied with paragraphs (8)(a) and (9)(a).

(11) Paragraphs (8)(b) and (9)(b) do not apply to a designated trade repository if

- (a) the change to its technology requirements must be made immediately to address a failure, malfunction or material delay of its systems or equipment,
- (b) the designated trade repository immediately notifies the Commission of its intention to make the change to its technology requirements, and
- (c) the designated trade repository publicly discloses on its website the changed technology requirements as soon as practicable.

- 3.3.1 Trade Vault data is saved to a redundant, co-located production database and a remote disaster recovery database in near real-time. The Trade Vault database is backed up to tape daily with tapes moved offsite weekly.
- 3.3.2 The Applicant maintains robust policies and procedures to ensure system security, confidentiality and capacity. See sections 3.43 and 5.1 below for additional details. The Applicant's systems are tested regularly on a quarterly basis. Tests include functional testing, business cycle testing, user interface testing, performance testing and security and access control testing. The ICE quality assurance group bears the overall responsibility of ensuring that the system functions the way that it was intended and the requirements have been implemented as specified.
- 3.3.3 The Applicant maintains a robust emergency and business continuity and disaster recovery plan (the "BC-DR Plan") that prescribes the disaster recovery strategy. The BC-DR Plan is primarily managed by the ICE Director of Business Continuity and is executed by the ICE operations, configuration management and system engineering staff. The operations department maintains detailed procedures and other necessary documentation to implement disaster recovery steps such as: restoration of databases at the recovery site using the replicated transaction logs; system and network testing and verification; rerouting data traffic to the alternate site and making the system available to customers.

- 3.3.4 The BC-DR Plan 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 the Applicant's facilities or services. In accordance with the BC-DR Plan, all production system hardware and software is replicated in near real-time at an alternative location disaster recovery site that is operated by an alternative vendor to avoid any loss of data. The disaster recovery plan is tested quarterly and the business continuity plan is tested annually.
- 3.3.5 The Applicant maintains technical guides relating to interfacing with or accessing the services provided by Trade Vault. Testing facilities will be made available to Reporting Entities sufficiently in advance of beginning operations in the Province.
- 3.3.6 The Applicant also maintains systems and Security Procedures that ensure that Canadian Derivatives transaction data is not commingled with Derivatives transactions data reportable in other jurisdictions. Derivatives transaction data from different jurisdictions is physical separated at the database level.

3.4 Risk management framework for business, legal and operational risk

Data Security and Confidentiality

22. (1) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures reasonably designed to ensure the safety, privacy and confidentiality of the derivatives data.

(2) A designated trade repository must not release derivatives data for commercial or business purposes unless

- (a) the derivatives data has otherwise been disclosed pursuant to section 39, or
- (b) the counterparties to the transaction have provided the designated trade repository with their express written consent to use or release the derivatives data.

- 3.4.1 The Applicant recognizes its responsibility to ensure data confidentiality and dedicates significant resources to information security. The Applicant maintains a Corporate Security Policy that sets forth technical and procedural processes for information security and contains an extensive list of policies and means of implementation.
- 3.4.2 The Applicant uses a multi-tiered firewall scheme to provide network segmentation and access control to its services. Firewalls are deployed in redundant pairs and employ stateful inspection technology. The Applicant's application servers are housed in a demilitarized network zone behind external firewalls. A second set of internal firewalls further isolate the Applicant 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.
- 3.4.3 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. In addition, the security policy imposes an accountable and standard set of best practices to protect the confidentiality of Participants' sensitive data. ICE annually completes a SSAE 16 audit for adherence to the security policy. The SSAE 16 audit tests the following applicable controls, among others, to the Applicant systems: (i) logical access controls, (ii) logical access to databases, (iii) physical and environmental controls, (iv) backup procedures, and (v) change management.
- 3.4.4 The Applicant has rules in place which prohibit the use of, for commercial or business purposes, Derivatives transaction data accepted and maintained by Trade Vault without the express written consent of the Participant submitting trade data. The Applicant's staff's access to Trade Vault data is strictly limited to those with the direct responsibility for supporting Participants, Trusted Sources and any regulator acting within the scope of its jurisdiction (a "Regulator"), and the Applicant's staff are prohibited from using Trade Vault data other than in the performance of their job responsibilities.

3.5 Outsourcing

24. If a designated trade repository outsources a material service or system to a service provider, including to an associate or affiliate of the designated trade repository, the designated trade repository must

- (a) establish, implement, maintain and enforce written rules, policies and procedures for the selection of a service provider to which a material service or system may be outsourced and for the evaluation and approval of such an outsourcing arrangement,

- (b) identify any conflicts of interest between the designated trade repository and a service provider to which a material service or system is outsourced, and establish, implement, maintain and enforce written rules, policies and procedures to mitigate and manage those conflicts of interest,
- (c) enter into a written contract with the service provider that is appropriate for the materiality and nature of the outsourced activity and that provides for adequate termination procedures,
- (d) maintain access to the books and records of the service provider relating to the outsourced activity,
- (e) ensure that the Commission has the same access to all data, information and systems maintained by the service provider on behalf of the designated trade repository that it would have absent the outsourcing arrangement,
- (f) ensure that all persons conducting audits or independent reviews of the designated trade repository under this Rule have appropriate access to all data, information and systems maintained by the service provider on behalf of the designated trade repository that such persons would have absent the outsourcing arrangement,
- (g) take appropriate measures to determine that a service provider to which a material service or system is outsourced establishes, maintains and periodically tests an appropriate business continuity plan, including a disaster recovery plan in accordance with the requirements under section 21,
- (h) take appropriate measures to ensure that the service provider protects the safety, privacy and confidentiality of Derivatives data and of users' confidential information in accordance with the requirements under section 22, and
- (i) establish, implement, maintain and enforce written rules, policies and procedures to regularly review the performance of the service provider under the outsourcing arrangement.

3.5.1 The Applicant obtains from ICE, in accordance with Applicable Law, certain services relating to the operation of the Applicant's business. This outsourcing arrangement is consistent and in the same manner as all other regulated ICE entities and is documented in a written services agreement. This outsourcing arrangement allows ICE to leverage its resources and provide the highest level of support to its subsidiaries. The Applicant's agreement with ICE codifies this outsourcing relationship and outlines the services to be performed, service levels and changes and the fees to be charged. Services to be outsourced include legal, accounting, tax, IT services and human resources.

3.5.2 Additionally, the Applicant licenses software from ICE. ICE has developed certain proprietary software that is used in connection with providing electronic confirmation of over-the-counter bilateral trades. The software agreement with ICE codifies this licensing relationship and outlines the software and intellectual proprietary to be provided by ICE. The Applicant uses this software in connection with its business. This agreement allows the Applicant to leverage the resources of its parent that develops cutting edge and world class software for use in the derivatives markets. ICE provides the highest level of technology and support to its subsidiaries.

4. Access and Participation Requirements

4.1 Access

13. (1) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures that establish objective, risk-based criteria for participation that permit fair and open access to the services it provides.

(2) A designated trade repository must publicly disclose on its website the rules, policies and procedures referred to in subsection (1).

(3) A designated trade repository must not do any of the following:

- (a) unreasonably prohibit, condition or limit access by a person or company to the services offered by the designated trade repository;
- (b) permit unreasonable discrimination among the participants of the designated trade repository;
- (c) impose a burden on competition that is not reasonably necessary and appropriate;

- (d) require the use or purchase of another service for a person or company to utilize the trade reporting service offered by the designated trade repository.

Fair, Open and Equal Access

- 4.1.1 The Applicant provides access to Trade Vault on a fair, open and equal basis. Access to, and usage of, Trade Vault is available to all market participants that validly engage in Derivatives transactions and does not require the use of any other ancillary service offered by the Applicant. The Applicant does not unreasonably prohibit, condition or limit access nor does it permit unreasonable discrimination among market participants. The Applicant's access standards are publicly disclosed in the Rulebook.
- 4.1.2 Access to Trade Vault is provided to parties that have a duly executed User Agreement in effect with the Applicant. When enrolling, the Reporting Entity must designate a master user ("Administrator"). The Administrator will create, permission and maintain all user IDs for their firm.
- 4.1.3 The enrollment process for Reporting Entities can be organized into two phases. Phase I focuses on enrollment and Phase II on system integration. It is important that the transition from Phase I to Phase II be managed in seamless manner for the Reporting Entity.

Revocation of Access

- 4.1.4 Prior to implementing a limitation or revocation of a Participant's or Trusted Source's access to Trade Vault or data maintained by the Applicant, the CCO shall review the basis for the limitation or revocation for compliance with Applicable Law and the Rulebook. The Rulebook contains procedures relating to a reinstatement, revocation or modification of such revocation or limitation. Revocation of a Reporting Entity's access is addressed in the Participant and Trusted Sources Agreements.

4.2 **Due Process**

16. For a decision made by a designated trade repository that directly adversely affects a participant or an applicant that applies to become a participant, the designated trade repository must ensure that
- (a) the participant or applicant is given an opportunity to be heard or make representations, and
 - (b) it keeps records of, gives reasons for, and provides for reviews of its decisions, including, for each applicant, the reasons for granting, denying or limiting access.

Notice of Charge; Right to Hearing

- 4.2.1 The CCO has the power to initiate an investigation of any suspected Violation, conduct investigations of possible Violations, prepare written reports with respect to such investigations and undertake action in response to such Violations in accordance with the Rulebook. If the CCO (or another employee of the Applicant designated for this purpose by the Applicant) concludes that a Violation may have occurred, he or she may:
- (a) in consultation with the GC, issue a warning letter to the Participant or Trusted Source informing it that there may have been a Violation and that such continued activity may result in further action by the Applicant; or
 - (b) in consultation with the GC, negotiate a written settlement agreement with the Participant or Trusted Source, whereby the Participant or Trusted Source, with or without admitting guilt, may agree to (i) a cease and desist order or a reprimand; (ii) a fine for each Violation plus the monetary value of any benefit received as a result of the Violation; and/or (iii) a suspension or a termination of Participant or Trusted Source status or other remedial action to address the Violation.
- 4.2.2 The CCO shall serve a notice of action (a "Notice") on the Reporting Entity responsible for a Violation (the "Respondent"). Such Notice shall state: (i) the acts, practices or conduct of the Respondent that are considered to be a Violation; (ii) how such acts, practices or conduct constitute a Violation; (iii) that the Respondent is entitled, upon written request filed with the Applicant within twenty days of service of the Notice, to a formal hearing on the alleged Violation; (iv) that the failure of the Respondent to request a hearing within twenty days of service of the Notice, except for good cause shown, shall be deemed a waiver of its right to a hearing; (v) that the failure of the Respondent to file a written answer to the Notice with the CCO within twenty days of service of the Notice shall be deemed an admission of all of the acts, practices or conduct contained in the Notice; and (vi) that the failure of the Respondent to expressly deny a particular allegation contained in the Notice shall be deemed an admission of such act, practice or conduct.

4.2.3 Any hearing requested by Respondent shall be presented to a panel (the "Hearing Panel"). The Hearing Panel shall be comprised of three individuals: two members of ICE Senior Management and one independent member. The Hearing Panel shall be selected unanimously by the President of the Applicant and the CCO. No member of the Hearing Panel shall hear a matter in which that member, in the determination of the CCO, has a direct financial, personal or other interest in the matter under consideration. The hearing shall be conducted pursuant to rules and procedures adopted by said Hearing Panel, which, in their judgment, are sufficient to give such Respondent an opportunity to fully and fairly present the Respondent's case.

4.3 **Acceptance of reporting**

14. A designated trade repository must accept derivatives data from a participant for a transaction in a derivative of the asset class or classes set out in the designated trade repository's designation order.

4.3.1 The Applicant currently anticipates (subject to the Commission designating the Applicant's foreign TR) that Trade Vault will accept Derivatives transaction data for the commodity, credit and foreign exchange asset classes.

5. **Communication policies, procedures and standards**

15. A designated trade repository must use or accommodate relevant internationally accepted communication procedures and standards in order to facilitate the efficient exchange of data between its systems and those of

- (a) its participants,
- (b) other trade repositories,
- (c) exchanges, clearing agencies, alternative trading systems, and other marketplaces, and
- (d) other service providers.

5.1 The Applicant uses internationally accepted communication procedures and standards in order to facilitate the efficient exchange of Derivative transaction data with Participants, Trusted Sources and Regulators. The Applicant does not exchange data between its systems and other trade repositories. Access to Trade Vault is available through a web-based front-end that requires a Participant's systems to: (a) satisfy the Applicant minimum computing system and web browser requirements, and (b) support HTTP 1.1 and 128-bit or stronger SSL data encryption. The Applicant also provides system access via an Application Program Interface ("API"). The API provides Participants with automated and scalable access solution.

6. **Disclosure of Market Data by TRs**

6.1 **Data available to regulators**

37. (1) A designated trade repository must, at no cost

- (a) provide to the Commission direct, continuous and timely electronic access to such data in the designated trade repository's possession as is required by the Commission in order to carry out the Commission's mandate,
- (b) accept and promptly fulfil any data requests from the Commission in order to carry out the Commission's mandate,
- (c) create and make available to the Commission aggregate data derived from data in the designated trade repository's possession as required by the Commission in order to carry out the Commission's mandate, and
- (d) disclose to the Commission the manner in which the derivatives data provided under paragraph (c) has been aggregated.

(2) A designated trade repository must conform to internationally accepted regulatory access standards applicable to trade repositories.

(3) A reporting counterparty must use its best efforts to provide the Commission with access to all derivatives data that it is required to report pursuant to this Rule, including instructing a trade repository to provide the Commission with access to such data.

6.1.1 The Applicant conforms to internationally accepted regulatory access standards applicable to TRs, including, but not limited to, the access standards set by the Commission. The Applicant will provide the Commission with direct, continuous and timely electronic access to data maintained by Trade Vault in respect of trades reported by Reporting Entities pursuant to the requirements of Applicable Provincial Rules and Policies, as is required by the Commission in order to carry out the Commission's mandate. Aggregate Derivatives transaction data, as required by the Commission, will also be made available to the Commission. Any Regulator requiring or requesting access to Trade Vault (for example, a securities regulator in another province of Canada) should contact the CCO (via email: TradeVaultChiefComplianceOfficer@theice.com) to request access and the necessary documentation and certify that it is acting within the scope of its jurisdiction.

6.1.2 The Applicant shall provide access to the requested Derivative transaction data as permitted by and consistent with Applicable Law. Such access may include, where applicable, proper tools for the monitoring, screening and analyzing of Derivative transaction data, including, but not limited to, web-based services and services that provide downloadable data to Regulators. The Commission shall have access to TR Information as permitted by Applicable Law and as required under Applicable Provincial Rules and Policies. In addition, as a result of the Applicant being registered as an SDR in the United States, the CFTC has access to TR Information as required under applicable CFTC regulations including the CEA.

6.2 **Data available to counterparties**

38. (1) A designated trade repository must provide counterparties to a transaction with timely access to all derivatives data relevant to that transaction which is submitted to the designated trade repository.

(2) A designated trade repository must have appropriate verification and authorization procedures in place to deal with access pursuant to subsection (1) by non-reporting counterparties or a party acting on behalf of a non-reporting counterparty.

(3) Each counterparty to a transaction is deemed to have consented to the release of all derivatives data required to be reported or disclosed under this Rule.

(4) Subsection (3) applies despite any agreement to the contrary between the counterparties to a transaction.

6.2.1 Access to the Applicant is strictly limited to Participants and Trusted Sources with valid permissions and security access. Participants and Trusted Sources shall only have access to their own data and data that the Applicant is required to make publicly available under Applicable Provincial Rules and Policies ("Public Data").

6.3 **Data available to public**

39. (1) A designated trade repository must, on a periodic basis, create and make available to the public, at no cost, aggregate data on open positions, volume, number and price, relating to the transactions reported to it pursuant to this Rule.

(2) The periodic aggregate data made available to the public pursuant to subsection (1) must be complemented at a minimum by breakdowns, where applicable, by currency of denomination, geographic location of reference entity or asset, asset class, contract type, maturity and whether the transaction is cleared.

(3) A designated trade repository must make transaction level reports of the data indicated in the column entitled "Required for Public Dissemination" in Appendix A for each transaction reported pursuant to this Rule available to the public at no cost not later than

(a) the end of the day following the day on which it receives the data from the reporting counterparty to the transaction, if one of the counterparties to the transaction is a derivatives dealer, or

(b) the end of the second day following the day on which it receives the data from the reporting counterparty to the transaction in all other circumstances.

(4) In disclosing transaction level reports required by subsection (3), a designated trade repository must not disclose the identity of either counterparty to the transaction.

(5) A designated trade repository must make the data required to be made available to the public under this section available in a usable form through a publicly accessible website or other publicly accessible technology or medium.

(6) Despite subsections (1) to (5), a designated trade repository is not required to make public any derivatives data for transactions entered into between affiliated companies as defined under subsection 1(2) of the Act.

6.4 Public users will have the ability to access the Applicant's website and view Public Data at no cost in accordance with Applicable Law at www.icetradevault.com.

7. **Recordkeeping and Confirmation of Data**

7.1 **Records of Data Reporting**

18. (1) A designated trade repository must design its recordkeeping procedures to ensure that it records derivatives data accurately, completely and on a timely basis.

(2) A designated trade repository must keep, in a safe location and in a durable form, records of derivatives data in relation to a transaction for the life of the transaction and for a further 7 years after the date on which the transaction expires or terminates.

(3) Throughout the period described in subsection (2), a designated trade repository must create and maintain at least one copy of each record of derivatives data required to be kept under subsection (2), in a safe location and in a durable form, separate from the location of the original record.

7.1.1 Participants' and, Trusted Sources' individual Derivative transaction data records remain available to these parties and Regulators at no charge for online access through Trade Vault from the date of submission until seven years after the date on which the Derivative transaction expires or terminates. During this time period, Trade Vault data will provide to the Commission direct, continuous and timely electronic access to such data in Trade Vault as is required by the Commission in order to carry out its mandate. After the initial seven year period, Participants' and Trusted Sources' Derivative transaction data will be stored off-line and remain available to these parties and Regulators, upon a three-day advance request to the Applicant, until ten years from the last date on which the Derivative transaction expired or terminated.

7.1.2 In accordance with the Applicant's Business Continuity and Disaster Recovery Plan, Trade Vault data is saved to a redundant, local database and a remote disaster recovery database in near real-time. Trade Vault database is backed-up to tape daily with tapes moved offsite weekly.

7.2 **Confirmation of Data and Information**

23. (1) A designated trade repository must establish, implement, maintain and enforce written rules, policies and procedures to confirm with each counterparty to a transaction, or agent acting on behalf of such counterparty, that the derivatives data that the designated trade repository receives from a reporting counterparty, or from a party to whom a reporting counterparty has delegated its reporting obligation under this Rule, is accurate.

(2) Despite subsection (1), a designated trade repository need only confirm the accuracy of the derivatives data it receives with those counterparties that are participants of the designated trade repository.

7.2.1 The Applicant reasonably relies on the accuracy of Derivatives transaction data submitted from Trusted Sources where: (i) the Trusted Source has executed an ICE Trade Vault Trusted Sources Agreement; and (ii) the data submitted by the Trusted Source indicates that both counterparties agreed to the data. All Trusted Sources connecting to the Applicant must complete a conformance test to validate data submission integrity prior to the Applicant's acceptance of actual Derivatives data and must immediately inform the Applicant of any system or technical issues that may affect the accuracy of Derivatives data transmissions.

7.2.2 In accordance with Applicable Provincial Rules and Policies, Trade Vault shall confirm with the other party to a transaction, provided such party is a Participant or Trusted Source, the Derivative transaction data that Trade Vault has received from a Reporting Entity. The Applicant will have fulfilled its obligation under Applicable Provincial Rules and

Policies by providing notice to each counterparty that is a Participant that a report has been made naming such entity as a counterparty and providing the means to access the report. If Trade Vault does not receive a response from the Non-Reporting Counterparty within two business days, the data is deemed confirmed. Trade Vault shall have no obligation to obtain confirmation of Derivative transaction data from a counterparty who is not a Participant

7.2.3 The Applicant has policies and procedures in place to ensure that the production environment in which the recording process of Trade Vault operates does not invalidate or modify the terms of a valid Derivative transaction. These controls are regularly audited and prevent any unauthorized, unsolicited changes to Derivative transaction data submitted to the Applicant through system-wide protections related to the processing of data associated with Trade Vault.

8. Fees

12. All fees and other material costs imposed by a designated trade repository on its participants must be
- (a) fairly and equitably allocated among participants, and
 - (b) publicly disclosed on its website for each service it offers with respect to the collection and maintenance of derivatives data.

8.1 Any fees or charges imposed by the Applicant in connection with Trade Vault and any other supplemental or ancillary services are equitable and established in a uniform and non-discriminatory manner. The Applicant's fees and charges are designed not to have the effect of creating an artificial barrier to access to Trade Vault. The Applicant does not offer preferential pricing arrangements for Trade Vault to any market participant on any basis, including volume discounts or reductions unless such discounts or reductions apply to all market participants uniformly and are not otherwise established in a manner that would effectively limit the application of such discount or reduction to a select number of market participants. As noted in Section 2.21 above, the Applicant's Senior Management has the power and authority to fix, determine and levy all TR fees. The Applicant's fee schedule for Reporting Entities will be publicly available on the Applicant's website.

PART III OTHER MATTERS

1. Submissions

1.1 The Applicant satisfies all the criteria for designation as a foreign TR, as described under Part II of this application. Ontario market participants that engage in Derivative transactions would benefit from the ability to report trades to the Applicant's foreign TR, given the Applicant's user-friendly and advanced trade reporting tools and industry experience, particularly in relation to commodity Derivatives. Stringent oversight of the Applicant's foreign TR as well as the sophisticated information systems, regulations and compliance functions that have been adopted by the Applicant will ensure that Ontario users of the Applicant's foreign TR are adequately protected in accordance with Applicable Law and consistent with international standards.

1.2 Based on the foregoing it would not be prejudicial to the public interest to designate the Applicant as a foreign TR in Ontario.

2. Enclosures

2.1 In support of this application, under separate cover, the Applicant delivered to the Commission a completed Form 91-507F1 – Information Statement and exhibits thereto along with financial statements of the Applicant. We have requested confidential treatment of such materials.

If you have any questions or require anything further, please do not hesitate to contact us.

Yours very truly,

Bruce Tupper
BT:

cc: Kara Dutta, *ICE Trade Vault, LLC*
Jake Sadikman, Blair Wiley and Patrick Lupa, *Osler, Hoskin & Harcourt LLP*

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED
(THE ACT)

AND

IN THE MATTER OF
ICE TRADE VAULT, LLC

DRAFT ORDER
(Section 21.2.2 of the Act)

WHEREAS ICE Trade Vault, LLC (ICE Trade Vault) has filed an application (Application) with the Ontario Securities Commission (Commission) requesting an order pursuant to section 21.2.2 of the Act designating ICE Trade Vault as a trade repository;

AND WHEREAS ICE Trade Vault has represented to the Commission that:

1. ICE Trade Vault is a limited liability company organized under the provisions of The Delaware Limited Liability Company Act and situated in Atlanta, Georgia;
- 1
2. ICE Trade Vault is an indirect and wholly-owned subsidiary of Intercontinental Exchange, Inc. (ICE), a public company governed by the laws of the State of Delaware and listed on the New York Stock Exchange;
3. ICE Trade Vault does not have any offices or maintain other physical installations in Ontario or any other Canadian province or territory;
4. ICE Trade Vault is subject to the oversight of the Commodity Futures Trading Commission (CFTC) as a Swap Data Repository;
5. ICE Trade Vault will offer a trade repository solution that enables Ontario participants to fulfil their reporting obligation under OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, as amended from time to time (OSC Rule 91-507);
6. ICE Trade Vault will accept derivatives transaction data for the commodity, credit and foreign exchange asset classes;
7. ICE Trade Vault will meet and comply with all applicable requirements for a designated trade repository under Ontario securities laws;

AND WHEREAS ICE Trade Vault is currently subject to the oversight of the Commodity Futures Trading Commission (CFTC) as a Swap Data Repository;

AND WHEREAS ICE Trade Vault will be subject to the requirements in OSC Rule 91-507 *Trade Repositories and Derivatives Data Reporting*, as amended from time to time (OSC Rule 91-507);

AND WHEREAS the Director has granted exemptions from certain requirements under subsections 4(1), 5(1) and 17(5) of OSC Rule 91-507, as set out in Schedule "B" of this order;

AND WHEREAS based on the Application and the representations ICE Trade Vault has made to the Commission, the Commission has determined that it is in the public interest to designate ICE Trade Vault as a trade repository pursuant to section 21.2.2 of the Act, subject to the terms and conditions that are set out in Schedule "A" of this order;

AND WHEREAS ICE Trade Vault has agreed to the respective terms and conditions that are set out in Schedule "A" of this order;

AND WHEREAS ICE Trade Vault has demonstrated that it is or will be compliant with the applicable requirements in OSC Rule 91-507 by October 31, 2014 and the respective terms and conditions that are set out in Schedule "A" of this order;

AND WHEREAS the Commission will monitor developments in international and domestic capital markets and ICE Trade Vault's activities on an ongoing basis to determine whether it is appropriate that ICE Trade Vault continues to be designated subject to the terms and conditions in this order and whether it is appropriate to amend this order and the terms and conditions thereunder pursuant to section 144 of the Act;

IT IS ORDERED by the Commission that ICE Trade Vault be designated as a trade repository pursuant to section 21.2.2 of the Act;

PROVIDED THAT ICE Trade Vault complies with the applicable requirements in OSC Rule 91-507 and the terms and conditions attached hereto as Schedule "A" of this order.

DATED _____, 2014.

SCHEDULE "A"

TERMS and CONDITIONS

DEFINITIONS

For the purposes of this Schedule:

"Ontario-based participant" means a participant that (a) is a person or company organized under the laws of Ontario or that has its head office or principal place of business in Ontario, (b) is registered under Ontario securities law as a derivatives dealer or in an alternative category as a consequence of trading in derivatives, or (c) is an affiliate of a person or company described in (a) and such person or company is responsible for the liabilities of that affiliated party.

"Ontario securities law" has the meaning ascribed to it in subsection 1(1) of the Act.

"Rule" means a proposed new, amendment to, or deletion of, any provision or other requirement in ICE Trade Vault's rulebook, policies, operating procedures or manuals, user guides, or similar documents governing the rights and obligations between ICE Trade Vault and its participants.

"Rule Subject to Approval" has the meaning ascribed to it in the Rule and Approval Protocol at Appendix "B" to this Schedule.

Unless the context otherwise requires, other terms used in this Schedule "A" and its Appendices have the meanings ascribed to them in Ontario securities law (including terms defined elsewhere in this designation order).

REGULATION IN HOME JURISDICTION

1. ICE Trade Vault shall maintain its status as a Swap Data Repository in the United States and will continue to be subject to the regulatory oversight of the CFTC.
2. ICE Trade Vault shall continue to comply with its ongoing regulatory requirements as a Swap Data Repository in the United States.
3. ICE Trade Vault shall provide prompt written notice to the Commission of any material change or proposed material change to its status as a Swap Data Repository in the United States or the regulatory oversight of the CFTC.

OWNERSHIP OF PARENT

4. ICE Trade Vault shall provide to the Commission 90 days prior written notice and a detailed description and assessment of impact of a change in control of Intercontinental Exchange, Inc.

SERVICES OFFERED

5. ICE Trade Vault shall not act as a trade repository designated in Ontario to which reporting counterparties report trades in an asset class other than commodity, credit and foreign exchange, to meet the reporting requirements under OSC Rule 91-507 without prior written approval of the Commission.

ACCESS AND PARTICIPATION

6. ICE Trade Vault shall, on a semi-annual basis, filed 30 days after the end of each period, provide the Commission with a list that specifies each Ontario-based participant that has been granted access to ICE Trade Vault's services.
7. ICE Trade Vault shall promptly notify the Commission when an applicant who has been denied access to ICE Trade Vault's services and who would otherwise be an Ontario-based participant.

DATA REPORTING

(a) Collection of Data

8. For greater clarity with respect to subsection 3(1) of OSC Rule 91-507, ICE Trade Vault shall not implement any material changes to the specifications of the methods (including templates and systems) used to collect data reported to it under OSC Rule 91-507 from participants, or to the definition, structure and format of the data, unless it has filed an amendment to Form 91-507F1 in the manner set out in that Form at least 45 days before implementing the changes. For other changes to the

specifications of the methods used to collect data from participants, or to the definition, structure and format of the data, ICE Trade Vault shall provide the Commission with at least one week prior notice.

9. ICE Trade Vault shall amend, create, remove, define or otherwise modify any data fields (including format) required to be reported by participants who are reporting, or who are reporting on behalf of reporting counterparties, under OSC Rule 91-507, in a manner and within a time frame required by the Commission from time to time after consultation with ICE Trade Vault and taking into consideration any practical implication of such modification on ICE Trade Vault.

10. ICE Trade Vault shall use best efforts to adapt to relevant internationally accepted communication procedures and standards for the collection and reporting of data for each required data field under OSC Rule 91-507 as requested by the Commission, in a manner and within a time frame acceptable to the Commission.

11. For life-cycle event data that is required to be reported under OSC Rule 91-507, ICE Trade Vault shall sequence and link life-cycle events to the creation data relating to the original transaction.

12. For any data fields that are specific to a particular asset class or product required to be reported under OSC Rule 91-507 for each transaction, ICE Trade Vault shall provide Ontario-based participants with the option to populate a value indicating that a field is not applicable to a transaction.

13. ICE Trade Vault shall not accept transactions that are required to be reported under OSC Rule 91-507 if any mandatory data fields under OSC Rule 91-507 have been left blank.

(b) Public Dissemination of Data

13. ICE Trade Vault shall ensure that data that is required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507 is in a format, and is disseminated in a manner, that is acceptable to the Commission. Without limiting the generality of the foregoing, ICE Trade Vault shall ensure that such data is readily available and easily accessible to the public through the homepage of its website.

14. ICE Trade Vault shall ensure that aggregate data that is required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507 is only made publicly available in accordance with Appendix "A" to this Schedule, as amended from time to time. ICE Trade Vault shall ensure that all other data required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507 is not made publicly available until the Commission has approved of the method and format of the dissemination.

15. ICE Trade Vault shall (a) anonymize, or (b) make any other modifications based on thresholds or other criteria to, data that is required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507, in a manner prescribed by the Commission.

16. ICE Trade Vault shall exclude inter-affiliate transactions from data that is required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507.

18. ICE Trade Vault shall amend, create, remove, define or otherwise modify data (including format) required to be publicly disseminated pursuant to section 39 of OSC Rule 91-507 in a manner and within a timeframe required by the Commission from time to time after consultation with ICE Trade Vault and taking into consideration any practical implication of such modification to ICE Trade Vault.

19. Upon the Commission's request, ICE Trade Vault shall delay, and subsequently resume, the public dissemination of data that is required to be disseminated pursuant to section 39 of OSC Rule 91-507 in a manner and within a time frame acceptable to the Commission.

(c) Provision of Data to the Commission

20. For greater clarity with respect to section 37 of OSC Rule 91-507, ICE Trade Vault shall at a minimum, on a daily basis, provide the Commission with creation data that reflects life-cycle events up to and including the most current life-cycle event and valuation data through secured portal access with respect to data reported to it under OSC Rule 91-507; as well as work with the Commission to provide data reported to it under OSC Rule 91-507 that is in ICE Trade Vault's possession as is required by the Commission to fulfill its mandate, including but not limited to creation, life-cycle event, and valuation data, through both secured portal and SFTP access, in a manner and within a timeframe acceptable to the Commission.

21. ICE Trade Vault shall work with the Commission to provide such reports as may be required by the Commission, including but not limited to life-cycle event and transaction level reports relating to data reported to it under OSC Rule 91-507, in a manner and within a timeframe acceptable to the Commission.

22. ICE Trade Vault shall ensure that a version number, including a date stamp, clearly identifies changes to the processes used to extract and load data that is required to be reported to the Commission pursuant to OSC Rule 91-507 using industry best practices. A summary of the changes should be provided to the Commission one week in advance of these changes.

23. When a transaction is subdivided into a series of units (known as strips) with multiple settlement dates, ICE Trade Vault shall provide the settlement price value of each strip based on its product terms. The aggregate value of all individual strips in a product's position must equal the market value of the equivalent aggregate open transactions for each participant.

RULES

24. ICE Trade Vault shall provide to the Commission, no later than 10 business days prior to the intended effective date, a Rule Subject to Approval in accordance with Appendix "B" to this Schedule.

25. ICE Trade Vault shall provide to the Commission, concurrently with filing with the CFTC and no later than 10 business days prior to the intended effective date, a Rule that is not a Rule Subject to Approval but that is applicable to Ontario based participants.

26. ICE Trade Vault shall file with the Commission on a quarterly basis, within 30 days after the end of each quarter, a copy of its Rules showing all cumulative changes to the Rules made during the quarter.

SYSTEMS

27. ICE Trade Vault shall provide at least 30 days prior notice to the Commission before finalizing the scope of the review required under subsection 21(6) of OSC Rule 91-507, and after consultation with the Commission, ICE Trade Vault shall make any reasonable amendments to the scope as requested by the Commission.

FEES

28. ICE Trade Vault shall not act as a designated trade repository for transactions in the foreign exchange asset class without obtaining prior written approval of the Commission of the related fee schedule.

29. ICE Trade Vault shall, by October 31, 2016 and at other times thereafter as requested by the Commission, conduct a review of its fee schedule for its trade repository services in Ontario. ICE Trade Vault shall provide a written report on the outcome of such review to the Commission within 30 days after the completion of the review.

COMMERCIALIZATION OF DATA

30. ICE Trade Vault shall not unreasonably restrict the access to and use of data reported to it under OSC Rule 91-507 that is required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507.

31. ICE Trade Vault shall not restrict the access to and use of data reported to it under OSC Rule 91-507 that is required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507 without prior written approval of the Commission.

32. ICE Trade Vault shall provide the Commission with 30 days prior written notice of any intended changes to the terms of access or use as they pertain to data reported to it under OSC Rule 91-507 that is required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507, which will include a detailed description of any such changes.

33. ICE Trade Vault shall not, as a term or condition of becoming a participant or as a term or condition of reporting data reported to it under OSC Rule 91-507 by a participant, require the consent of the participant to the release of any or all reported data for commercial or business purposes.

34. ICE Trade Vault shall be responsible for securing any and all necessary consents from third parties whose proprietary information is contained in the data reported to it under OSC Rule 91-507 before releasing it for commercial or business purposes.

35. ICE Trade Vault shall not release data that is required to be reported pursuant to OSC Rule 91-507 for commercial or business purposes in relation to a product or service line without the Commission's prior written approval of the type and nature of the commercial or business product or service line, in the following manner:

- a) ICE Trade Vault shall provide the Commission with written notification of the type and nature of the commercial or business product or service line at least 10 business days prior to launching the product or service line;

- b) If Commission staff within 10 business days of receipt of the notification do not object to such product or service line, then the product or service line shall be deemed to be approved by the Commission;
- c) If Commission staff within 10 business days of receipt of the notification object to such product or service line, then the Commission will review and make a decision regarding approval of such product or service line within 30 days of ICE Trade Vault providing notification to the Commission pursuant to paragraph (a) above.

36. ICE Trade Vault shall not release data reported to it under OSC Rule 91-507 that is required to be disseminated to the public pursuant to section 39 of OSC Rule 91-507 for commercial or business purposes until after its public dissemination.

TRANSITION REQUIREMENTS

37. ICE Trade Vault shall achieve the milestones set out in in Appendix "C" to this Schedule with respect to the development and implementation of its services.

38. Following its designation, ICE Trade Vault shall facilitate to the satisfaction of the Commission the testing of access and connectivity to its systems by the Commission.

39. Following its designation in Ontario, ICE Trade Vault shall conduct testing with respect to Ontario based participants under OSC Rule 91-507 and achieve results satisfactory to the Commission to gain assurance that data and reports that are required to be reported to the Commission reflect accurately and completely all data that is required to be reported by Ontario-based participants under OSC Rule 91-507. ICE Trade Vault shall provide summary results of such testing to the Commission promptly after the completion of such testing.

40. For a period of 2 years from the date of this order, filed 30 days after the end of each quarter, ICE Trade Vault shall provide a report summarizing (a) the number of applications in Ontario for access outstanding at the end of each quarter, and (b) any material issues encountered during each quarter relating to the onboarding of new participants or reporting from Ontario-based participants as well as ICE Trade Vault's plans to address them.

41. Following its designation in Ontario, and on an ongoing basis, ICE Trade Vault shall (a) ensure that appropriate access, including direct access, data feeds, browser and internet-based interfaces, reports or any other relevant form of access, is provided to the Commission, (b) monitor the development by any service provider it engages of all systems (including applications) supporting its trade repository functions, and (c) ensure that its systems are secure and that any security vulnerabilities are monitored and promptly corrected once identified.

42. Following its designation in Ontario, ICE Trade Vault shall ensure that any necessary maintenance and enhancement of its trade repository services and systems is being appropriately prioritized and staffed, and that any issues are appropriately escalated to senior management.

REPORTING REQUIREMENTS

43. ICE Trade Vault shall promptly notify the Commission of any event, circumstance, or situation that could materially prevent ICE Trade Vault's ability to continue to comply with the terms and conditions of the order.

44. ICE Trade Vault, as soon as reasonably possible, notify the Commission of any intended emergency response which would modify, limit, suspend or interrupt its services.

45. ICE Trade Vault shall promptly provide to the Commission information regarding any material known investigations or legal proceedings instituted against it, to the extent that it is not prohibited from doing so under applicable law.

46. ICE Trade Vault shall promptly provide to the Commission the details of any appointment of a receiver or the making of any voluntary arrangement with its creditors.

INFORMATION SHARING AND REGULATORY COOPERATION

47. ICE Trade Vault shall provide to the Commission any information related to its business as a designated trade repository as may be requested from time to time, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

48. ICE Trade Vault shall provide regulators other than the Commission with access to data that is required to be reported pursuant to Ontario securities law in compliance with the relevant laws and regulations governing such access.

APPENDIX "A"

CANADIAN PUBLIC AGGREGATE DATA REPORTING TEMPLATE

A trade repository designated in Ontario (an "Ontario-designated TR") is required to publically disseminate the range and type of aggregate metrics set out in this Appendix A in order to satisfy its obligations under section 39 of OSC Rule 91-507.

Part I. Current Notional and Number of Positions Outstanding

1. For each reporting period, an Ontario-designated TR must publish on the Report Date:
 - a) the gross notional amount of all open positions, and
 - b) the total number of positions outstanding.
2. At a minimum, an Ontario-designated TR must publish the data described in section 1 for the following reporting periods:
 - a) current week,
 - b) previous week, and
 - c) four weeks prior to the current week.
3. An Ontario-designated TR must publish the data required by section 1 according to the following breakdowns:
 - a) Asset Class: Commodity, Interest Rate, Credit, Foreign Exchange and Equity;
 - b) Asset Classes in (a) by Tenor: 0-3 month, 3-6 month, 6-12 months, 12-24 months, 24-60 months, and greater than 60 months; and
 - c) Asset Classes in (a) by cleared/uncleared.
4. An Ontario-designated TR must publish the data required by section 1 according to the following Product Categories for each Asset Class:

Commodities	Interest Rate	Credit	Foreign Exchange	Equity
Metals	IR Swap	Single Name-Sovereign	Non-deliverable forwards	Single Name Swap
Power	FRA	Single Name-Non-Sovereign	Non-deliverable options	Portfolio Swap
Natural Gas	Cross Currency	Index (including Index tranche)	Forward	Contract For Difference
Oil	Option (Including cap/floor)	Total Return Swap	Vanilla Option	Option
Coal	Exotic	Swaptions	Exotic	Forward
Index	Other	Exotic	Other	Exotic
Agriculture		Other		Other
Environment				
Freight				
Exotic				
Other				

5. Despite section 4, an Ontario-designated TR must publish the data required by section 1 for a particular Product Category specified in section 4 under the category of “Other” where

- a) there is less than 30 open positions in that Product Category for a given period; or there are no new transactions in that Product Category for four consecutive weeks.

6. Despite sections 3 and 4, an Ontario-designated TR is not required to report the gross notional amount of all open positions for the “Commodity” Asset Class.

7. An Ontario-designated TR must commence publication of the data required under this Part I Section 2.a beginning the week ending November 28th. An Ontario-designated TR must commence publication of the data required under this Part I Section 2.a and 2.b beginning the week ending December 5th. An Ontario-designated TR must commence publication of the data required under this Part I Section 2.a, 2.b, 2c beginning the week ending December 19th.

Part II. Turnover Notional and Number of Transactions

1. For each reporting period, an Ontario-designated TR must publish on the Report Date:

- a) the gross notional turnover (i.e. the gross notional amount of all new transactions entered into for that period), and
- b) the total number of transactions.

2. At a minimum, an Ontario-designated TR must publish the data described in section 1 for the following reporting periods:

- a) current week,
- b) previous week, and
- c) the trailing 4-week period.

3. An Ontario-designated TR must publish the data required by section 1 according to the following breakdowns:

- a) Asset Class: Commodity, Interest Rate, Credit, Foreign Exchange and Equity;
- b) Asset Classes in (a) by Tenor: 0-3 month, 3-6 month, 6-12 months, 12-24 months, 24-60 months, and greater than 60 months; and
- c) Asset Classes in (a) by cleared/uncleared.

4. An Ontario-designated TR must publish the data required by section 1 according to the following Product Categories for each Asset Class:

Commodities	Interest Rate	Credit	Foreign Exchange	Equity
Metals	IR Swap	Single Name-Sovereign	Non-deliverable forwards	Single Name Swap
Power	FRA	Single Name-Non-Sovereign	Non-deliverable options	Portfolio Swap
Natural Gas	Cross Currency	Index (including Index tranche)	Forward	Contract For Difference
Oil	Option (Including cap/floor)	Total Return Swap	Vanilla Option	Option
Coal	Exotic	Swaptions	Exotic	Forward
Index	Other	Exotic	Other	Exotic
Agriculture		Other		Other
Environment				

Commodities	Interest Rate	Credit	Foreign Exchange	Equity
Freight				
Exotic				
Other				

5. Despite section 4, an Ontario-designated TR must publish the data required by section 1 for a particular Product Category specified in section 4 under the category of "Other" where there are fewer than five new transactions a week in that Product Category during the previous four-week period.

6. Despite sections 3 and 4, an Ontario-designated TR is not required to report the turnover notional amount for the "Commodity" Asset Class.

7. An Ontario-designated TR must commence publication of the data required under this Part II beginning the week ending December 12th.

Explanatory Notes

Currency	The denomination currency of the reports is Canadian dollars . TRs are free to choose the conversion rate, but need to include the source in the reports. If the denomination currency of a transaction is non-Canadian dollar, the Canadian dollar equivalent notional amount should be calculated with report run date conversion rate.
Number of transactions	Represents the number of new unique transactions that are reported to a TR during the one-week period. Each transaction is recorded once, and netting arrangements and offsets (including compression) are ignored.
Pre-existing transactions	Pre-existing transactions should be included in calculating total outstanding notional and number of outstanding positions, while it should be excluded in calculating turnover notional and number of new positions.
Position Outstanding	It refers to a snapshot view of open transactions as of the end of the reporting period.
Report Date	TRs are expected to publish aggregation data by the following Wednesday after the report week
Tenor	For Current Notional and/or Positions Outstanding, use remaining contract maturity which is determined by the difference between the weekly end date of the reporting period and the expiry date for the position. For Turnover Notional and/or Number of Transactions, use original maturity which is determined by the difference between the end date and the effective date. The tenor should be rounded into month. The upper bound of a bucket is included in the bucket (i.e. the 0-3M bucket includes 0, 1, 2 and 3M. and the 3-6 bucket does not include 3M.).
Week	A week is defined as having an execution timestamp between Saturday 12:00:00 AM UTC – Friday 11:59:59PM UTC. Transactions with an execution timestamp in the above period but reported in the following two days at the end of the week should be included in the weekly report. Transactions with an execution timestamp in the above period but reported after the following two days at the end of the week should not be included in the weekly report.
Criteria of assessing usability of public data	<ul style="list-style-type: none"> • Data could be downloaded. • Data in "analysis-friendly" format (e.g. csv) instead of pdf format. • Part 1 and 2 Section 2 period data could be viewed without signing up, making request or any other condition.
Counterparty identity	A designated trade repository must not disclose the identity of either counterparty to the transaction.

APPENDIX "B"

RULE REVIEW and APPROVAL PROTOCOL

1. PURPOSE

On [DATE] the Commission issued a designation order with terms and conditions governing the designation of ICE Trade Vault pursuant to subsection 21.2.2 of the Securities Act (Ontario). To comply with OSC Rule 91-507 and the terms and conditions of the designation order, ICE Trade Vault shall file with the Commission documents outlining any Rule Subject to Approval. This protocol sets out the process for the filing, review and approval by the Commission of a Rule Subject to Approval.

2. DEFINITIONS

For the purposes of this Appendix:

"Canada-Based Participant" means a participant that (a) is a person or company organized under the laws of an Applicable Canadian Province or that has its head office or principal place of business in an Applicable Canadian Province, (b) is registered under the securities legislation of an Applicable Canadian Province as a derivatives dealer or in an alternative category as a consequence of trading in derivatives, or (c) is an affiliate of a person or company described in (a) and such person or company is responsible for the liabilities of that affiliated party.

"Applicable Canadian Province" means Manitoba, Ontario, Quebec or any other province or territory in Canada in which ICE Trade Vault is designated or recognized as a trade repository;

"Rule Subject to Approval" means a Rule that applies exclusively to Canada-based participants, excluding any amendments that are intended to effect:

- (i) changes to the routine internal processes, practice or administration of ICE Trade Vault;
- (ii) changes to correct spelling, punctuation, typographical or grammatical mistakes, or inaccurate cross-referencing; or
- (iii) stylistic or formatting changes, including changes to headings or paragraph numbers.

Unless the context otherwise requires, other terms used in this Appendix B have the meanings ascribed to them in Ontario securities law (including terms defined elsewhere in this designation order).

3. PROCEDURES FOR REVIEW AND APPROVAL OF RULES

(a) Documents

For a Rule Subject to Approval, ICE Trade Vault will provide to the Commission, where applicable, the following documents in electronic format, or by other means as agreed to by Commission staff and ICE Trade Vault, from time to time:

- (i) a cover letter that describes the Rule Subject to Approval and its nature and purpose; and
- (ii) the existing Rule Subject to Approval and a blacklined version of the Rule Subject to Approval indicating its proposed changes.

(b) Confirmation of Receipt

Commission staff will promptly send to ICE Trade Vault confirmation of receipt of documents submitted by ICE Trade Vault under subsection (a).

(c) Deemed Approval of Rules Subject to Approval

If Commission staff do not object to a Rule Subject to Approval within 10 business days of receipt, the Rule shall be deemed approved. Otherwise, the Rule Subject to Approval will be reviewed and approved by the Commission in accordance with the procedures set out in paragraphs (d) to (g) of section 3 of this protocol.

(d) Publication of a Rule by the Commission

If Commission staff objects to a Rule Subject to Approval within 10 business days of receipt and it has an impact on current and possible future participants or the capital markets in general, Commission staff may require that a notice of change to a Rule Subject to Approval and, where applicable, a blacklined version of the Rule Subject to Approval, be published in the OSC Bulletin or the OSC website for a comment period of 30 days. The notice and accompanying Rule Subject to Approval will be published as soon as reasonably practicable.

(e) Review by Commission Staff

Commission staff will use their best efforts to conduct their review of the Rule Subject to Approval and provide comments to ICE Trade Vault within 30 days of ICE Trade Vault filing materials with the Commission. However, there will be no restriction on the amount of time necessary to complete the review of the Rule Subject to Approval in such instances.

(f) ICE Trade Vault Canada's Responses to Commission Staff's Comments

ICE Trade Vault will respond to any comments received to Commission staff in writing.

(g) Approval of Rules by the Commission

Commission staff will use their best efforts to prepare the Rule Subject to Approval for approval by the Commission by the later of:

- (i) 45 days from receipt of the filing of the Rule Subject to Approval by ICE Trade Vault, including the filing of all relevant documents in subsection (a) above; or
- (ii) 30 days after receipt of written responses from ICE Trade Vault to Commission staff comments or requests for additional information, and a summary of participant comments and ICE Trade Vault's response to those comments (and upon the request of Commission staff, copies of the original comments), or confirmation from ICE Trade Vault that there were no comments received.

(h) Effective Date of a Rule

A Rule Subject to Approval will be effective as of the date 10 business days after receipt of such Rule by the Commission absent object thereto, or on a date determined by ICE Trade Vault, if such date is later.

4. IMMEDIATE IMPLEMENTATION OF A RULE

(a) Criteria for Immediate Implementation

ICE Trade Vault may make a Rule Subject to Approval effective immediately where ICE Trade Vault determines that there is an urgent need to implement the Rule Subject to Approval because of a substantial and imminent risk of significant harm to ICE Trade Vault, participants, other market participants, or the capital markets.

(b) Prior Notification

Where ICE Trade Vault determines that immediate implementation is appropriate, ICE Trade Vault will advise Commission staff in writing as soon as possible. Such written notice will include an analysis to support the need for immediate implementation.

(c) Disagreement on Need for Immediate Implementation

If Commission staff do not agree that immediate implementation is necessary, the process for resolving the disagreement will be as follows:

- (i) Commission staff will notify ICE Trade Vault of the disagreement in writing, or request more time to consider the immediate implementation within 3 business days of being advised by ICE Trade Vault under subsection (b); and
- (ii) Commission staff and ICE Trade Vault will discuss and resolve any concerns raised by Commission staff in order to proceed with the immediate implementation.

(d) Review of Rule Implemented Immediately

A Rule Subject to Approval that has been implemented immediately will be reviewed and approved by the Commission in accordance with the procedures set out in section 3, with the necessary modifications. If the Commission subsequently disapproves the Rule Subject to Approval, ICE Trade Vault will immediately repeal the Rule Subject to Approval and inform its participants of the disapproval.

5. MISCELLANEOUS

(a) Waiving Provisions of the Protocol

Commission staff may exercise its discretion to waive any part of this protocol upon request from ICE Trade Vault, or at any time it deems it appropriate. A waiver granted upon request by ICE Trade Vault must be granted in writing by Commission staff.

(b) Amendments

This protocol and any provision hereof may, at any time, be amended by mutual agreement of the Commission and ICE Trade Vault.

APPENDIX "C"

IMPLEMENTATION MILESTONES

1. PURPOSE

On [DATE] the Commission issued a designation order with terms and conditions governing the designation of ICE Trade Vault pursuant to subsection 21.2.2 of the Securities Act (Ontario). To comply with OSC Rule 91-507 and the terms and conditions of the designation order, ICE Trade Vault shall achieve the milestones set out in this Appendix with respect to the development and implementation of its services.

2. MILESTONES

ICE Trade Vault shall:

- (a) facilitate the testing of access and connectivity to its systems by the Commission by [September 1, 2014] for commodities, to be completed by September 12, 2014;
- (b) facilitate the testing of access and connectivity to its systems by the Commission by [September 30, 2014] for credit and foreign exchange, to be completed by October 17, 2014; and
- (c) provide user acceptance testing for participants and users for the foreign exchange, credit and commodity asset classes by September 12, 2014.

SCHEDULE "B"

DIRECTOR'S EXEMPTION

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED
(THE ACT)**

AND

**IN THE MATTER OF
ICE TRADE VAULT, LLC**

DECISION

(Section 42 of OSC Rule 91-507 *Trade Repositories and Derivatives Data Reporting*)

WHEREAS ICE Trade Vault, LLC (ICE Trade Vault) has applied to the Commission for designation as a trade repository under section 21.2.2 of the Act, and will be subject to OSC Rule 91-507 and the terms and conditions of its designation order;

AND WHEREAS the Director may, pursuant to section 42 of OSC Rule 91-507, exempt ICE Trade Vault, in whole or in part, from a requirement in OSC Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (OSC Rule 91-507);

AND WHEREAS OSC Rule 91-507 would require ICE Trade Vault to file:

- (a) to file audited financial statements for its most recently completed financial year with the Commission as part of its application for designation pursuant to subsection 4(1),
- (b) annual audited financial statements with the Commission no later than the 90th day after the end of its financial year pursuant to subsection 5(1), and
- (c) its proposed new or amended rules, policies and procedures (collectively, rules) for approval pursuant to subsection 17(5);

AND WHEREAS ICE Trade Vault has applied for an exemption from the requirements under each of subsections 4(1), 5(1) and 17(5) of OSC Rule 91-507;

AND WHEREAS ICE Trade Vault is provisionally registered as a Swap Data Repository (SDR) with the Commodity Futures Trading Commission (CFTC) in the United States and is subject to CFTC's requirements;

AND WHEREAS ICE Trade Vault does not have audited financial statements for its most recently completed financial year, and ICE Trade Vault has provided to the Commission its unaudited financial statements and audited financial statements of its ultimate parent, Intercontinental Exchange, Inc., for the most recent financial year;

AND WHEREAS ICE Trade Vault is not required to file annual audited financial statements with the CFTC, but is required to file annual unaudited financial statements and to maintain liquid net assets equal to a minimum of six months of operating expenses pursuant to CFTC requirements; and ICE Trade Vault has represented that it will provide annually unaudited financial statements to the Commission concurrently with filing with the CFTC and will maintain the required liquid net assets;

AND WHEREAS ICE Trade Vault is required to file with the CFTC proposed new or amended rules pursuant to CFTC's requirements, and application of subsection 17(5) of OSC Rule 91-507 to ICE Trade Vault may result in regulatory duplication, to the extent that proposed new or amended rules are subject to prior approval by the CFTC;

AND WHEREAS the Director is satisfied that an exemption from:

- (a) Subsection 4(1) of OSC Rule 91-507,
- (b) subsection 5(1) of OSC Rule 91-507, and
- (c) subsection 17(5) of OSC Rule 91-507 for proposed new or amended rules, policies and procedures that are not specific to Ontario-based participants

would not be prejudicial to the public interest;

AND WHEREAS "Ontario-based participant" has the meaning ascribed to it in the Commission's order designating ICE Trade Vault as a trade repository pursuant to section 21.2.2 of the Act;

IT IS THE DECISION of the Director that pursuant to section 42 of Rule 91-507, ICE Trade Vault is exempt from:

- (a) Subsection 4(1) of OSC Rule 91-507,
- (b) Subsection 5(1) of OSC Rule 91-507, and
- (c) subsection 17(5) of OSC Rule 91-507 for proposed new or amended rules, policies and procedures that are not specific to Ontario-based participants;

PROVIDED THAT:

- (a) ICE Trade Vault remains registered as a Swap Data Repository and subject to the regulatory oversight and requirements of the CFTC;
- (b) ICE Trade Vault files with the Commission, concurrently with filing with the CFTC and no later than the 90th day after the end of its financial year:
 - (i) Annual unaudited financial statements of ICE Trade Vault prepared in accordance with U.S. GAAP as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (NI 52-107), and
 - (ii) Annual audited financial statements of its ultimate parent, IntercontinentalExchange, Inc. prepared in accordance with U.S. GAAP as defined in NI 52-107; and
- (c) ICE Trade Vault's proposed new or amended rules, policies and procedures are subject to prior approval by the CFTC.

DATED _____, 2014
