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via email

Re: CSA Consultation Paper 91-301 – Model Provincial Rules – Derivatives Product Determination and Trade Repository and Derivatives Data Reporting (the “Model Rules”)

Dear Sir or Madam,

On behalf of The Depository Trust & Clearing Corporation (“DTCC”), we appreciate the opportunity to comment on the Model Rules. As an organization that is looking to seek designation of one or more of its existing Trade Repositories as foreign Trade Repositories in Canada, we would like to share our thoughts on certain aspects of the Model Rules.

DTCC’s Repository Service

DTCC operates as a registered Swap Data Repository under the Dodd-Frank Act in the United States. DTCC provides trade repository services to entities with mandatory reporting obligations in the United States through a United States company, DTCC Data Repository (U.S.) LLC.

DTCC has also begun the process to be registered as a Japanese trade repository to provide trade repository services to entities with mandatory reporting obligations in Japan through a Japanese company, DTCC Data Repository (Japan) KK. DTCC plans to have fully functioning trade repository ability in Japan prior to the JFSA final compliance date of April 1, 2013. DTCC expects to be provisionally registered in Japan on or prior to the compliance date.

DTCC has begun preparing to submit an application for its European subsidiary, DTCC Derivatives Repository Ltd. to be licensed by ESMA as a European Trade Repository once such application can be submitted, which we anticipate being in March 2013. DTCC expects to be provisionally registered in

Europe on or prior to the compliance date in early Q3 of 2013. DTCC plans to seek licensing for our subsidiary, DTCC Data Repository (Singapore) Pte Ltd, as a trade repository in Singapore within the next few months and anticipates being granted such licensing prior to the implementation of trade reporting obligations in Singapore which is expected in late Q3 2013.

It must be noted that DTCC has built three data centers to serve our Global Trade Repository service in the United States, the Netherlands and Singapore.

Attached are our comments to the Model Rules. We look forward to discussing these comments with the Canadian Securities Administrators OTC Derivatives Committee if it so desires.

Yours sincerely,

A handwritten signature in black ink that reads "Stewart Macbeth". The signature is written in a cursive, slightly slanted style.

Stewart Macbeth

President & CEO

DTCC Deriv/SERV LLC

Registration in Various Provinces

DTCC appreciates the Canadian provincial approach to regulation of its financial markets and understands the potential for each province to require a separate application for designation as a Trade Repository in that province. In the interest of speed and efficiency in establishing a trade reporting infrastructure in Canada, we request the provincial regulators establish a system of reciprocity or recognition to allow for a Trade Repository that is designated in any province to be automatically deemed designated in all provinces.

TR Rules

Section 1(1) “local counterparty” subsection (e) – The definition of local counterparty includes “the party that negotiates . . . writes . . . any part of the transaction”. Practically speaking, this definition may prove to be too broad and too difficult to comply with, monitor and enforce. Firstly, firms do not always record where a negotiation takes place in their recordkeeping systems, rather they will record where the trade is executed, settled or booked. Secondly, how would the terms “negotiate” and “write” be defined? We have seen this approach discussed in Hong Kong and these issues have not yet been resolved there yet.

Trade Repository initial filing of information and designation

General Comment

Separation of Trade Repository and Clearing Business. DTCC believes there should be an explicit recognition that Trade Repository companies and other service providers may not “tie” or “bundle” mandatory services with the Trade Repository function. It is DTCC’s belief that bundling of a mandated service with other mandated or ancillary services will only serve to limit reporting party choice and potentially result in data fragmentation as data is sent to multiple repositories complicating the ability of regulators or the public to get a comprehensive view of the market or a single firm’s exposures in any one place.

Section 2(2)(b) - DTCC believes that a foreign trade repository should be exempted from the requirement to prove compliance with the securities legislation of the relevant province(s). The spirit of the licensing regime for foreign trade repositories envisions exemptions where there is an equivalent regime in the foreign trade repository’s home jurisdiction. That equivalency requirement should take into account any of the relevant provisions of the securities laws of Canada.

Section 2 (3) - The requirement that the applicable local securities regulator have access to the Trade Repository’s books and records should be limited in the case of foreign Trade Repositories. Local regulators should have access with respect to matters that directly fall within the regulatory ambit of the local regulator such as trade information under such regulator’s internationally agreed entitlements and matters that go to the stability of the foreign Trade Repository.

Section 23 - The requirement for Trade Repositories to confirm with each counterparty to a transaction the correctness of the data submitted should be clarified to allow for the Trade Repository to rely upon

third party vendors, such as confirmation services, who have already performed that function. Where there is no such independent confirmation, there should be a more detailed description of what is considered correct. DTCC suggests requiring notice to the parties with the ability for them to check the accuracy of the reported data which would be consistent with the requirements of Section 25(4) for a local counterparty to notify the reporting counterparty of any errors and Section 25(5) which places responsibility for accurate reporting on the reporting party.

Sections 26 and 41(4) - DTCC believes that for clarity and simplicity, the obligation to report pre-existing transactions should include all those transactions that are open as of the day that mandatory reporting begins as opposed to when the Model Rules come into effect regardless of whether any such trade expires or terminates within the 365 day back load period post the mandatory compliance date.

Section 25 - DTCC believes this section should be clarified to state that the local counterparty is solely responsible for choosing the trade repository to which its trade is reported.

Section 27 – DTCC believes that all trades, cleared and uncleared, should be reported to the Trade Repository and the responsibility for such reporting should rest with the reporting party to the trade. This guarantees that any counterparty can provide for a full set of data in a single place which eliminates data fragmentation and increases transparency to the regulator and additionally allows for a full audit trail of the trade from execution through clearing.

Section 28 – DTCC would like some guidance or clarification on what “real time” means or what is expected pursuant to this requirement. We note that the outer limit is T+1 which is the standard DTCC has seen suggested in other jurisdictions outside of the United States.

Sections 34– Canadian regulators should consider flexibility in submission methods, lifecycle and snapshot, to allow firms to accommodate reporting of trades not processed through an electronic confirmation provider. While a large segment of trades covered in Canada’s first phase of Interest Rate and Credit derivatives reporting are electronically confirmed, somewhat standardized and have distinct life-cycle events, enabling lifecycle event reporting, there may be certain transactions where due to counterparty or non-defaulted values the trade is not captured electronically. In those instances, a snapshot approach would be favored where the transaction reported would be updated on a periodic basis (*e.g.*, end of day) and would incorporate the latest state of the record taking into account all events processed on the trade. For the other asset classes being reported in later phases, the fact that they are not yet as standardized and the events that impact those transactions not as clearly defined would preclude the use of life cycle reporting at this time on the full population of those asset classes also.

Section-35 – DTCC believes this rule needs to be clarified to require that all valuation data must be reported to the same Trade Repository where the transaction was originally reported. The current language requires reporting to “the designated trade repository” instead of “the Trade Repository to which the transaction has been reported pursuant to Section 33”.

Section 39(3) – DTCC would like to point out concerns that have been previously raised by reporting parties concerned about their identity being discerned from public reporting in certain circumstances. While transaction level reporting may be acceptable in jurisdictions where volume is high like the United States and Europe, firms have expressed the concern that in a less voluminous market trading firms’ identities could be discerned from transaction level detail which is not in the best interest of the market.

Section 40 – In paragraph 6 of the Request for Comments, there is reference to the exemption under Section 40 of the Model Rules from certain requirements of the Model Rules if a foreign based trade repository is subject to equivalent regulatory and oversight regime. DTCC would like clarification as to the extent of those exemptions and what would be necessary for a foreign trade repository to prove it was subject to such a regime.