From: Trabue Bland <Trabue.Bland@theice.com>
Sent: Friday, October 8, 2010 4:30 PM
To: secretary <secretary@CFTC.gov>; SwapDataRepositories <SwapDataRepositories@CFTC.gov>; Nathan, Susan W. <snathan@CFTC.gov>
Cc: Bruce Tupper <Bruce.Tupper@theice.com>
Subject: ICE SDR Response
Attach: SDR Response.pdf

Attached is ICE's Comments on Swaps Data Repositories.

Thank you for your attention.

Trabue

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October 10, 2010

Mr. David Stawick
Secretary
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Re: XVI. Swap Data Repositories Registration Standards and Core Principle Rulemaking, Interpretation & Guidance

Dear Mr. Stawick:

IntercontinentalExchange, Inc. ("ICE") welcomes the opportunity to comment on the Commodity Futures Trading Commission's ("Commission") proposed rulemaking on swap data repositories ("SDR") registration standards and core principle rule making. As background, ICE was established in 2000 as an over-the-counter ("OTC") marketplace with the goal of providing transparency and a level playing field for the previously opaque, fragmented energy market. Since that time, ICE has grown significantly through organic growth fostered by product, technology and clearing innovation, and by acquisition of futures exchanges that have broadened its product offerings and risk management services. Today, ICE operates a leading global marketplace for futures and OTC derivatives across a variety of product classes, including agricultural and energy commodities, foreign exchange and equity indexes. Commercial market participants rely on our products to hedge and manage risk and investors in these markets provide necessary liquidity.

ICE also operates an internet-based electronic trade confirmation service, ICE eConfirm®. This service works by matching a participant's trade data to its counterparties' and/or brokers' data to identify discrepancies and execute legal trade confirmations. Users of ICE eConfirm electronically confirm their trades online regardless of execution method - whether completed through voice brokers, online platforms, or directly between counterparties. The service provides an efficient, electronic alternative to the historically manual process for confirming trades.

Introduction

The Commission's goal is to establish the rules and standards in order to guide the establishment of SDRs. The Dodd-Frank Wall Street Reform and Consumer Protection Act's ("Dodd-Frank Act") language states "the Commission shall prescribe standards that specify the data elements for each swap that shall be collected and maintained by each registered swap data repository." The duties of the SDR include, "confirm with both counterparties to the swap the accuracy of the data that was submitted … maintain the data… provide direct electronic access to the Commission…establish automated systems for monitoring, screening, and analyzing swap data."

Via the ICE eConfirm Service, ICE has been successfully offering a trade confirmation system to its energy and commodities customers for over eight years. Today, more than 200 global trading firms submit their trade data to ICE eConfirm to accomplish legally binding electronic trade confirmation matching. As a result, the

database contains over 5.1 million trades. According to the December 2009 Commodities Major Dealers ("CMD") commitment letter to the New York Federal Reserve Board, the dealers stated that over 80% of their bilateral derivatives trades were matched online. Non-dealer Participants regularly provide similar statistics. As a result, ICE is the logical and ideal choice for a commodities and energy SDR. Since the launch of the system on April 29, 2002, some of the milestone achievements include:

- 1,000+ deal types used for confirmation of forwards, swaps, & options
- 25,000+ electronic, brokered, & direct trades confirmed online each week
- 5,100,000+ total trades matched & stored in the data warehouse
- Over 7 trillion USD in notional value
- Expanding market coverage to meet industry needs, including:
    - Financial Crude Oil & Refined Products Swaps and Options (Global Markets)
    - Financial & Physical Natural Gas Swaps and Options (US, Canadian, UK, & Continental Markets)
    - Financial & Physical Electricity Swaps and Options (US, Canadian, UK, & Continental Markets)
    - Financial Natural Gas Liquids Swaps (Global Markets)
    - Physical Crude Oil & Refined Products (US & Canadian Pipelines)
    - Financial Coal & Agricultures (Global Markets)
    - Precious & Base Metals (Global Markets)

ICE is committed to delivering a SDR solution for the energy and commodities asset class. ICE proposes to leverage the existing ICE eConfirm infrastructure and our knowledge of the commodities industry to deliver an energy and commodity SDR ("Trade Vault™"). This solution will be designed to cater to large and small market participants as well as relevant global regulatory bodies. Trade Vault will serve as a neutral and unbiased service provider.

ICE is developing Trade Vault as a central database to house the necessary trade records and post trade events in order to accurately generate the reports requested by regulators. The trade types and data values accepted will match those standards that currently exist in ICE eConfirm. A suite of web-based functionality specifically tailored to the regulators' needs for reports and aggregate data views will be offered by the service.

Trade Date Verification and Reporting Structure

The diverse nature of the various asset classes demand distinctive treatment in reporting structures. Commodity and energy derivatives are comprised of distinct market segments, which can be traded on exchange or through the OTC markets. These trades are settled financially or through physical delivery of the underlying commodity.

The SDR service should offer an application program interface ("API") schema and file upload format in compliance with industry standards for commodities. Most large market participants will expect direct connectivity from the SDR system to their trade capture systems. Connectivity with third party trade capture vendors is needed since many energy trading firms purchase vendor solutions versus building in-house

trade capture systems. These vendors develop out of the box plug-ins to central services for their customers. The SDR service also needs to meet the needs of smaller trading firms and end-users. For example, a swaps dealer may submit a trade with an end user who does not have the trade volume or IT resources to electronically submit to the SDR. Rather, the SDR service should provide functionality for the end user to view the trade details and, if the end user agrees, the ability to "Click & Confirm" the trade. A data entry screen to key in deal details is needed, as well as the ability to upload files for batch processing.

Established working relationships with standards bodies (e.g., ISDA, EEI and LEAP) and industry participants are essential to deliver standardized commodity terms, definitions, and reporting structures. Since this is a diverse asset class, membership on multiple standards bodies is required to support the underlying markets (e.g., oil/refined products, natural gas and power). Today the majority of OTC commodity trades are electronically confirmed[1]. This is due in part to participants mapping or translating their data to a set of standardized values. This mapping and subsequent data translation to an industry standard enables the electronic matching process of trade confirmations. An effective SDR service should provide data mapping and translation functionality. Commodity trading is continually evolving and meeting the needs of the market requires a system that can timely respond to these demands. An SDR system will need a flexible architecture to punctually add new data values (e.g., delivery locations and indices) and trade types with minimal IT configuration for participants.

Commodity and energy markets are a global asset class and participants trade with a number of counterparties in different jurisdictions. For example, for a given trade, multiple global regulators may have a legitimate interest due to the counterparties or commodities/delivery points involved. As such, an SDR provider should offer a global solution in order to best serve the needs of regulators and participants. A global SDR service should have a legal structure for operating in different jurisdictions and regulatory experience with reporting to various regulators.

Trades versus Positions

SDRs provide regulators with comprehensive access to raw trade data. Examination of this trade data is helpful in assessing the volume and diversity of liquidity in a given market over a given period of time. It is also helpful in identifying to what extent an individual participant contributes to that liquidity and therefore presumably influences prices. Regulators may examine this data to identify and potentially investigate unusual trading patterns over time.

However, in order for an SDR to be of maximum benefit to regulators, it must be proficient in converting trade data to position data. After all, for futures markets, regulators have typically relied upon position data, more so than trade volumes, to monitor risk and identify potential undue influence on price by an individual or group of

[1] The share of electronically eligible energy trades confirmed electronically has increased on average from 67% in September 2008 to 83% in October 2009. *The Commodities Major Dealers (CMD), to OTC Derivatives Supervisors Group, Attention: Theodore Lubke, Federal Reserve Bank of New York, 7 December 2009.*

participants. It is also the net positions between counterparties, not gross transaction volumes, which reveal the true exposures and associated risk in bilateral markets.

Trade Lifecycle Events

In order to calculate accurate positions and open interest for regulatory reports, participants should notify the SDR service of events that occur post trade date (e.g., novations, name changes, close-outs and trades given-up to a clearinghouse). These events are otherwise known as Lifecycle Events. To date in the commodity and energies markets, there has not been demand for central processing of Lifecycle Events. ICE recommends:

- Participants and the SDR service provider define post trade events. Post trade events shall be associated with a standard list of data values (e.g., Closed-Out, Novation and Clearing Give-Up).
- If a trade is given up to a clearinghouse that is not an SDR, then the originating SDR will continue to track the trade and include it in the participant's position, but with a cleared designation. If the clearinghouse is an SDR, then the clearinghouse would be responsible for tracking the trade and reporting the position from that point forward.
- SDR submission facilities (e.g. data entry screen, file upload and API) should support the processing of Lifecycle Events. Standards bodies will be notified of data values to encourage industry adoption.
- Requirement of an audit trail for all changes to trade records will ensure historical updates are recorded. The SDR system shall offer an audit log facility of these updates.

The SDR service could provide industry participants with a legal structure to process Lifecycle Events in a binding manner; thus eliminating the need to exchange paper notifications. In other words, the legal agreements could provision for the SDR provider to serve as agent for Lifecycle Events among participants. These events should include record storage, processing of novations, managing name changes, reclassifying trades given up to clearing, closing out positions, portfolio compression, and settlement processing (e.g., calculating payments, netting out positions, and processing payments among parties).

Clearinghouses as SDRs

The Dodd-Frank Act identifies clearinghouses specifically as natural SDRs for cleared transactions. Clearinghouses will likely receive the overwhelming majority of OTC transactions due to the clearing mandate. Therefore, clearinghouses can efficiently and simultaneously fulfill the SDR reporting obligations for the counterparties. Clearinghouses inherently convert transactions to positions and are experienced in the recordkeeping and regulatory reporting of both.

Reporting

Language in the Dodd-Frank Act states "Each swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010…shall be reported to a registered swap data repository or the Commission." This true-up event or initial upload of trade records by participants is needed to establish the SDR service. The initial upload of open positions' Lifecycle Events will construct the SDR database. ICE proposes:

- Commission establishes a date by which Participants shall populate the SDR service with all current trade data;
- Participants update their confirmed trade records with related Lifecycle Events;
- Participants submit trade records to the SDR service.

Once the initial true-up event is completed, participants shall maintain their records on a daily basis.

The SDR service should offer a suite of reports to meet the needs of regulators. This application will need to offer ad hoc reporting capabilities as well as standardized reports that can be exported out of the system or auto-generated (e.g., Open Interest and Commitments of Traders Reports). With the collection of matched trade data and Lifecycle Events, the SDR service should be able to provide bilateral position and trade reports to both the participants and the regulators on a near real-time basis.

Governance

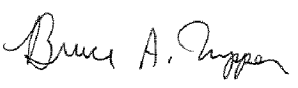
Pursuant with legislative guidelines, ICE believes that the governance of an SDR should be independent. Given that many Derivatives Clearing Organizations (DCOs) will apply to be SDRs, the governance rules promulgated by the Commission should mirror those for DCOs. In addition, ICE believes that SDRs benefit from the expertise of the participants using the system; therefore, ICE will create an advisory council of participants to seek guidance on operating the SDR.

Conclusion

Over the past twenty years, technology has become one of the most important factors in the growth of the exchange traded derivatives markets. ICE commends the Commission for undertaking the registration and rulemaking for swap data repositories.

ICE has a successful track record of working with its customers to develop innovative trading and risk management services (e.g., ICE Clear Europe, ICE Trust and ICE eConfirm). ICE looks forward to working with the Commission on implementing an SDR and I thank the Commission for the opportunity to comment on the proposed SDR rule making.

Sincerely,



Bruce A. Tupper
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