

# **IMPORTANT NOTICE**

**DTCC Derivatives Repository Ltd**



**#:** DS#929  
**Date:** November 29, 2011  
**To:** Distribution  
**From:** Legal Department  
**Subject:** Revisions to the DTCC Derivatives Repository Ltd Operating Procedures –  
Derivatives Repository Appendix

At close of business (NY) on Wednesday, November 30, 2011, DTCC Derivatives Repository Ltd (“DDRL”) will implement enhancements related to regulatory reporting of Interest Rate Swaps. See the related Product Management Important Notice “DTCC Derivatives Repository Ltd. (DDRL) launch of Interest Rates Swaps (IRS) Reporting in Production” for detailed information. This notice refers to updates specific to the DDRL Operating Procedures (the “Operating Procedures”).

In response to industry commitments, DDRL has worked together with its Users to establish voluntary reporting by certain customers to their supervisors. The attached redline of the Derivatives Repository Appendix indicates changes to accommodate the reporting of Interest Rate Derivatives.

The enhancements referred to above are reflected on the attached documents and are effective upon implementation of the Service (scheduled for November 30, 2011). By submitting affected transactions to the System, the User agrees to waive any applicable notice requirements relating to the changes.

Any questions or comments regarding this Important Notice or Derivatives Repository in general should be directed to your account manager or to:

Robert Green            1 813 470-2800            [Rgreen@DTCC.com](mailto:Rgreen@DTCC.com))

or to DTCC’s Global Trade Repository customer support area ([GTROperations@DTCC.com](mailto:GTROperations@DTCC.com)).

Non-Confidential

DTCC is now offering enhanced access to all important notices via a new, Web-based subscription service. The new notification system leverages RSS Newsfeeds, providing significant benefits including real-time updates and customizable delivery. To learn more and to set up your own DTCC RSS alerts, visit [http://www.dtcc.com/subscription\\_form.php](http://www.dtcc.com/subscription_form.php).

Derivatives Repository Appendix to the  
DTCC Derivatives Repository Ltd  
Operating Procedures

**DERIVATIVES REPOSITORY**

**I. INTRODUCTION**

The DTCC Derivatives Repository Ltd Derivatives Repository (the “Derivatives Repository”) is implemented and maintained by the Company as a central repository for records submitted by or on behalf of Users from time to time (“Repository Records”) with respect to one or more categories or types of derivatives transactions (“Derivatives Transactions”) or the status thereof or events with respect thereto, in each case as may be specified by the Company, and as a source for generation of reports (“Reports”) relating to such transactions to Users and applicable regulatory or supervisory authorities as specified herein. All Repository Records for ~~Derivatives Transactions~~ included or to be included in the Derivatives Repository from time to time and the related Reports shall be subject to the provisions set forth in this Appendix and the Company’s Applicable Publications, each as may be amended from time to time. The Derivatives Repository will be deemed a Service for purposes of the DTCC Derivatives Repository Ltd Operating Procedures (the “Operating Procedures”); provided that in the event of any conflict between this Appendix and any other provision of the Operating Procedures (or the appendices thereto) in connection with a Derivatives Transaction (and related records) included or to be included in the Derivatives Repository, this Appendix shall govern. As used in this Appendix, a “User” means a User of the Derivatives Repository.

The Company and the Users will agree through appropriate User working groups as to the form and content of Repository Records and related Reports, the applicable Reporting Period and Submission Deadlines (and amendments or modifications to the foregoing) for particular types of Derivative Transactions, to facilitate compliance by Users with the applicable legal and regulatory requirements and industry commitments applicable to Users.

Formatted: Default, Left, Indent: First line: 0.5", Line spacing: single

**II. DERIVATIVES TRANSACTIONS**

Derivatives Transactions will include equity ~~options, equity swaps, dividend swaps, variance swaps, equity accumulators, equity portfolio swaps, equity contracts for difference (“CFD”)~~ derivatives (“Equity Derivatives”), interest rate derivatives (“Interest Rate Derivatives”), credit default swaps (“CDS”) and other derivative transactions, in each case of a type specified by the Company from time to time through Applicable Publications or by Important Notice.

**III. SUBMISSION OF REPOSITORY RECORDS**

The Company shall specify in these Operating Procedures or by Important Notice or Applicable Publications the information required or permitted to be included in Repository Records for transactions of a particular type and the manner in which Repository Records may be submitted. The Company may establish different types of Repository Records for different types

of Derivatives Transactions and related statuses or events.

Without limiting the foregoing, Repository Records ~~will~~may be submitted by, or on behalf of a User, with respect to a particular periodic reporting period (the “Reporting Period”). The Reporting Period for Equity Derivatives will initially be the calendar month, commencing with a month designated by the Company by Important Notice. Interest Rate Derivatives will initially be reported on a daily basis. The Company may change the Reporting Period by Important Notice or Applicable Publications, and may select a different Reporting Period for different types of Derivative Transactions, as determined by the appropriate User working group.

Repository Records for a Reporting Period may be submitted on either a “full upload” or “incremental upload” basis, as follows:

- In a full upload, a User will submit a record of all eligible Derivative Transactions as of the last business day of the Reporting Period, thereby deleting all existing positions from the prior Reporting Period.
- In an incremental upload, a User may submit new Repository Records, modifications of existing Repository Records or deletions of existing Repository Records on a record-by-record basis.

Data contained in Repository Records will be subject to validation in accordance with the validation rules specified by the Company from time to time through Applicable Publication or Important Notice, which may vary by type of Derivative Transaction, provided that (i) validation will be promptly done by the Company, (ii) the submitting User will be informed promptly of the results of any such validation, and (iii) the Company will not share the results of any validation with any person or entity (including any Designated Regulator) other than the relevant User. The Company may also specify rules from time to time through Applicable Publication or Important Notice, if not specified herein, to address conflicting Repository Records related to the same Derivative Transaction, including conflicts between Repository Records submitted by a Service Provider (as defined below) and a User in respect of the same Derivative Transaction, provided that Company (i) will promptly notify the relevant User of any such conflict in reasonable detail and (ii) will not share such information with any person or entity other than the relevant User and its Service Provider, provided that conflicts involving Interest Rate Derivatives Repository Records submitted by MarkitSERV Limited (as a User’s Service Provider) are addressed in the following paragraph.

Repository Records will only be accepted by the Company if they are in the required format and contain the required data elements and the Company will inform the submitting User promptly if the Repository Record is not accepted. In the event that the Company receives Repository Records for Interest Rate Derivatives submitted (i) on behalf of a User by MarkitSERV Limited (as a Service Provider as defined below) and (ii) by the same User in respect of the same Derivative Transaction, the Company will use the record submitted by MarkitSERV Limited, and disregard that the Repository Record submitted by that User, for all purposes (other than confidentiality) hereunder and the Company will promptly inform the relevant User of such conflict.

The Company ~~will~~ may establish ~~a~~ from time to time through Applicable Publications or Important Notice a reasonable submission deadline (the "~~Validation~~Submission Deadline") for each Reporting Period by which Repository Records must be submitted and, if applicable, res-submitted or validated, ~~and will not accept~~ (and may establish different Submission Deadlines for different types of Derivative Transactions). Repository Records ~~for that period after such date.~~ Submitted records that are not submitted and, if applicable, re-submitted or validated by the ~~Validation~~Submission Deadline, if any, will not be included in the generation of Reports. ~~The Validation Deadline will initially be the 10<sup>th</sup> weekday following the last business day of the Reporting Period, and may be modified by the Company by Important Notice or Applicable Publications for that Reporting Period.~~

Notwithstanding anything to the contrary herein, with respect to Derivative Transactions that are CDS for which records are maintained in ~~the~~The Warehouse Trust Company Trade Information Warehouse (the "Warehouse"), Repository Records will be submitted by DTCC Deriv/SERV LLC or ~~the~~The Warehouse Trust Company on behalf of the relevant Users based on the information contained in the Warehouse.

The Company may establish procedures, including by Applicable Publications, pursuant to which one or more third party service providers ("Service Providers") may be authorized to submit Repository Records on behalf of a User (in each case as agreed in writing by such User). The Company will establish authorization and/or authentication procedures in connection therewith.

Each User hereby agrees and consents that other Users (and Service Providers acting on their behalf) may use identifiers provided by the Company as agreed with each User for the purpose of identifying such User and its role in Derivative Transactions in Repository Records submitted by or on behalf of such other Users to the Company and used in generating Reports (as described below). For purposes of Interest Rate Derivatives the identifier shall be as agreed with the appropriate User working group. The Company may from time to time make available to Users a list of other Users for purposes of submission of Repository Records. The Company will provide a functionality pursuant to which a User (or Service Provider acting on its behalf) submitting a Repository Record for a Derivative Transaction with a counterparty that is not a User may mask or exclude the identity of such counterparty in the Repository Record.

#### IV. REPORTS

The Company will prepare Reports based on Repository Records on a periodic basis with respect to each Reporting Period. Reports may be prepared (i) on an aggregate basis for all Users ("Aggregate Users Reports") and/or (ii) on a submitting User basis ~~and reflecting data from Repository Records submitted by or on behalf of such User (a "User Report").~~ Aggregate Users Reports and User Reports may have subcategories for product type, counterparty and other relevant categories.

Each User will have access to its User Reports ~~with respect to reflecting~~ Repository Records submitted by ~~it~~ or on ~~its~~ behalf, ~~and Reports prepared on an aggregate basis for all Users of such User as well as the Aggregate Users Reports.~~

Each User will designate, in a manner to be specified by the Company, ~~the~~ (and which

designation may be modified by the User from time to time by written notice to the Company), certain regulator(s) or ~~regulators~~ supervisory authority(ies) (“Designated Regulators”) that are to have access to ~~Reports with respect to its Repository Records on a submitting-its User basis~~ Reports. The Company will provide a facility ~~for each pursuant to which~~ Designated Regulator ~~for a particular User to(s) will~~ have secure electronic access to ~~such Reports with respect to such User’s Repository Records,~~ the User Reports of those Users for which it is a Designated Regulator as well as Aggregate Users Reports prepared on an aggregate basis for all Users.

The Company will not:

- (i) make available, disclose or give access to Repository Records submitted by a User to another User; and
- (ii) notwithstanding (i), make available, disclose or give access to Repository Records submitted by a Service Provider for the benefit of two Users to any User other than those Users who are parties to that transaction; and
- (iii) without limiting the provisions of these Operating Procedures (including but not limited to Section 7 of the Important Legal Information section of the Operating Procedures), make available, disclose or give access to User Reports to another User or to regulators or supervisory authorities other than the User’s Designated Regulator.

Formatted: Indent: First line: 0.5"

The Company further agrees that, except as provided herein, access to the System, Repository Records and User Reports in providing the Service is limited to those Company employees (and those of its affiliates, which shall include MarkitSERV, LLC) who have a need to know. Except as otherwise provided in or contemplated by these Operating Procedures, the Company shall be bound by the confidentiality obligations set forth in the Operating Procedures with respect to Repository Records and Reports.

Notwithstanding the provisions of this Appendix, with respect to Interest Rate Derivatives, the Company shall announce (after agreement with the appropriate User working group) by Important Notice the date on which reporting to regulators pursuant to these provisions shall begin.

## V. CERTAIN LEGAL MATTERS

The Company shall not be responsible for a User’s or a Service Provider’s failure to properly and accurately report in a timely fashion ~~its~~ positions in Derivatives Transactions in the Repository Record submitted to the Derivatives Repository in accordance with this Appendix and the Operating Procedures, or for any consequences thereof (regulatory or otherwise). The Company will not be responsible for confirming or verifying any such information (except to the extent of any validation procedures adopted by the Company hereunder), and will base Reports solely on the information provided by or on behalf of Users in Repository Records.

Without limiting any other provision of the Operating Procedures, each User consents to the preparation and disclosure of Reports with respect to its Repository Records as which have been based on its Repository Records pursuant to and subject to the limitations set forth in this Appendix. Each User agrees that the Company shall not be responsible for any use (or non-use) of

a Report by a Designated Regulator (or any person to which a Designated Regulator may disclose such Report), or any consequences thereof.

Repository Records are not intended to constitute confirmations or other legal documentation and accordingly will not affect the legal status (if any) in any respect of a transaction described (or purported to be described) therein. The Company will not perform matching, post-trade processing or any calculations or determinations with respect to Repository Records (except for the preparation of Reports) nor will it provide any investment advice to Users. The ~~Derivatives Repository~~Company does not advise on the suitability or merits of any Derivatives Transactions. The Company will not deal in any investments, whether as agent or principal, in relation to Derivatives Transactions and is solely engaged in the maintenance of Records relating to Derivatives Transactions between third parties.

~~Without limiting any other provisions of the Operating Procedures:~~

~~(i) To the extent that a User is located within the United States, or is otherwise subject to the jurisdiction of the United States, User certifies the following in connection with Repository Records submitted by it:~~

~~User is a U.S. person as defined by applicable regulations administered and enforced by OFAC. User agrees that it is thereby subject to, and has implemented a program reasonably designed to comply with, such regulations. As part of its OFAC compliance program, User also certifies that it has screened and will continue to periodically screen against the most recent version of OFAC's List of Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Global Terrorists, Foreign Terrorist Organizations and Specially Designated Narcotics Traffickers (collectively referred to as the "SDN List") the name and address of any counterparty to a transaction for which it submits a Repository Record;~~

~~(ii) To the extent that a User is not located in the United States, or is not otherwise subject to the jurisdiction of the United States, User agrees not utilize the Services or Systems in a manner that would violate the Derivatives Repository's obligations to not engage in transactions that violate regulations administered and enforced by OFAC.~~