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December 8, 2014

Department of Finance Canada

VIA E-MAIL to commentonlegislation@ccmr-ocrmc.ca

Dear Mesdames/Sirs:

The Depository Trust & Clearing Corporation (DTCC) welcomes this opportunity to submit comments to the governments of Canada, British Columbia, Ontario, Saskatchewan and New Brunswick on the consultation drafts of the proposed federal Capital Markets Stability Act (the CMSA) and uniform Provincial Capital Markets Act (the PCMA).

DTCC commends the efforts of the federal and cooperating provincial governments to jointly establish the Capital Markets Regulatory Authority (CMRA) and to implement a cooperative capital markets regulatory system in Canada. We believe these efforts will enhance Canadian regulators' capacity to identify and manage related systemic risk on a national basis.

About DTCC

DTCC through its subsidiaries operates companies that provide derivatives trade reporting in many jurisdictions globally. These companies and the countries in which they are incorporated and the jurisdictions they serve are listed below:

	Location/Country of Formation	Jurisdictions where recognized, designated or licensed as a trade repository
DTCC Data Repository (U.S.) LLC ("DDR")	United States	United States, Manitoba, Ontario and Quebec
DTCC Derivatives Repository Ltd.	United Kingdom	EU
DTCC Data Repository (Japan) KK	Japan	Japan
DTCC Data Repository (Singapore) Pte Ltd.	Singapore	Singapore and Australia



DDR is currently designated as a trade repository by the Ontario and Manitoba Securities Commissions under the Securities Acts and Rule 91-507 and is currently recognized as a trade repository by the Quebec Autorité des marchés financiers under the Quebec Derivatives Act and Regulation 91-507.

By collecting and maintaining derivatives transactions data, trade repositories such as DDR, play a key role in the identification and monitoring of activities which may pose systemic risk.

The importance of trade repositories is recognized in both the CMSA and the PCMA. Section 11(1) of the CMSA provides for the designation of trade repositories and section 11(3) of the CMSA provides for the promulgation of regulations prescribing requirements, prohibitions and restrictions for designated trade repositories. These may include regulations pertaining to the collection, retention, use and disclosure of information, including requirements in respect of information systems, internal controls and risk management, access to their services and reporting to the Chief Regulator (as defined in CMSA).

In turn, Section 17(1)(a) of the PCMA preserves the powers currently found in, for example, Section 21.2.2 of the Ontario Securities Act, to designate trade repositories in respect of particular cooperating provinces, and to promulgate regulations or rules governing their activities.

While DDR welcomes the introduction of provisions in the CMSA to designate trade repositories on a national basis and under the PCMA in the cooperating provinces, it has several concerns:

Designation as a Trade Repository

1. In fulfilling its mandate, the CMRA is directed, to the extent practicable, to avoid imposing any undue regulatory burdens. The obligation to comply with a plethora of jurisdictional derivative trade reporting rules that may differ even slightly can be particularly burdensome and result in increased operational expense to the trade repository and market participants, especially if they pertain to markets with only limited activity. Consistency across Canadian derivative trade reporting rules and regulations facilitates compliance, reduces costs and will result in less challenges with respect to data aggregation. We therefore respectfully submit that the rules and regulations governing the activities of designated trade repositories, whether under the CMSA or PCMA, should not differ in any material respect from those already promulgated in Ontario, Quebec and Manitoba and to which DDR is subject at present.
2. It is hoped that existing designations as a trade repository will be "grandfathered" on identical terms for purposes of the CMSA and under the PCMA in respect of all cooperating provinces, including Ontario. Given that the function of the OSC will be rolled into the CMRA as a central feature of the cooperative process, it is respectfully submitted that little purpose would be served by requiring DDR to repeat the designation process with the successor regulator to the OSC in respect of Ontario. Having been designated as a trade repository in Ontario, designation in the other co-operating provinces should be automatic.
3. DDR requests clarification of what its status and obligations as a designated trade repository under the CMRA will be in non-cooperating provinces. For example, DDR is already designated or recognized trade repository in Manitoba and Quebec. Is it intended that designation under the CMSA will displace its designation or recognition under provincial law in these provinces? This overlap and uncertainty highlights the need for harmonized pan Canadian rules and regulations in this area.

Confidentiality of Information

DDR has two comments relating to confidentiality provisions in the CMSA and PCMA:

1. Under Section 12 of the CMSA, various market participants, including trade repositories, "may" disclose "personal" information to the CMRA if the purpose of the disclosure is for the administration of the CMSA or assisting in the administration of capital markets or financial legislation elsewhere.



Section 106(2) provides immunity from damages claims for any act done as a result of compliance with the CMSA.

We are concerned that market participants such as DDR will not necessarily know whether their disclosures to the CMRA serve the purposes referred to in Section 12 and, accordingly, are protected. Clarification of how these provisions are intended to work would be helpful.

2. Unlike Section 38(3) and (4) of OSC Rule 91-507, there is no provision that expressly absolves a person from its legal obligations to maintain confidentiality so as to allow disclosure of information to a trade repository or the CMRA. We note that language of this kind does appear in Section 189(3) of the PCMA. Again, clarification of how these provisions are to operate would be welcome.

We wish to thank you again for this opportunity to comment on the consultation drafts of the CMSA and PCMA. We can discuss our comments with you in more detail if you so desired.

Yours truly,



Marisol Collazo
Chief Executive Officer
DTCC Data Repository (U.S.) LLC

DTCC Non-Confidential

