

## ALBERTA SECURITIES COMMISSION

### EXEMPTION ORDER: EXCHANGE RECOGNITION

Citation: Re ICE Swap Trade, LLC, 2016 ABASC 208

Date: 20160722

#### ICE Swap Trade, LLC

#### Background

1. ICE Swap Trade, LLC (the **Applicant**) is the subject of an Alberta Securities Commission (the **Commission**) order (*Re ICE Swap Trade, LLC*, 2013 ABASC 449, as varied and extended by further order cited as *Re ICE Swap Trade, LLC*, 2014 ABASC 384, and as so varied and extended referred to herein as the **Interim Exemption Order**) exempting the Applicant from the exchange recognition requirement under section 62 of the *Securities Act* (Alberta) (the **Act**).
2. The Applicant having obtained permanent registration with the United States (US) Commodity Futures Trading Commission (the **CFTC**) to operate a swap execution facility (an **SEF**), the Interim Exemption Order will by its terms expire on 22 July 2016.

#### Interpretation

3. Terms defined in the Act or in National Instrument 14-101 *Definitions* have the same meaning in this order unless otherwise defined herein.

#### Representations

4. The Applicant represents as follows:
  - (a) The Applicant is a limited liability company organized under the laws of Delaware and is a wholly-owned subsidiary of Intercontinental Exchange, Inc., a company with securities listed on the New York Stock Exchange.
  - (b) The Applicant provides an electronic platform for trading in credit default swaps and financially settled commodity swaps.
  - (c) The Applicant has retained ICE Futures U.S., Inc. as its regulatory services provider (the **RSP**).
  - (d) The Applicant offers direct access to its trading facilities to participants located in Alberta that are "eligible contract participants" as defined in the US *Commodity Exchange Act* (**Alberta Participants**). By offering such access to Alberta Participants, the Applicant carries on business as an exchange in Alberta.
  - (e) The Applicant has no physical presence in Alberta and will not carry on business in Alberta except as described in this order.

## **Undertakings**

5. The Applicant undertakes:

- (a) to maintain its CFTC registration as an SEF and to comply with all requirements applicable to CFTC-registered SEFs;
- (b) to notify the Commission promptly:
  - (i) if the Applicant's registration as an SEF with the CFTC is revoked, suspended or amended by the CFTC, or if there is a significant change from the basis on which it obtained such CFTC registration; and
  - (ii) of any investigation of the Applicant of which the Applicant has knowledge, or any disciplinary action against the Applicant, by the CFTC or any other regulatory authority to which the Applicant is subject;
- (c) not to provide direct access to an Alberta Participant unless the participant is a registrant in Alberta or exempt from registration under Alberta securities laws;
- (d) to file with the Commission, within 30 days after the end of each calendar quarter, a statement setting out:
  - (i) total volumes of derivatives traded in the quarter through the facilities of the Applicant worldwide, and the portion thereof traded through direct access in Alberta;
  - (ii) the names and principal addresses of all Alberta Participants and their trading volumes in the quarter, computed by separating buy-sides and sell-sides for each contract available to be traded through the facilities of the Applicant;
  - (iii) a list of all Alberta Participants against whom disciplinary action has been taken in the last quarter by the Applicant or the RSP acting on its behalf;
  - (iv) a list of all investigations by the Applicant or its RSP acting on its behalf relating to Alberta Participants and active during the quarter; and
  - (v) a list of all persons or companies located in Alberta that had sought, but during the quarter were denied, access to trade on the Applicant's platform, together with the reasons for each such denial;
- (e) to file a document evidencing the Applicant's submission to the non-exclusive jurisdiction of the courts and administrative tribunals of Alberta in any proceeding arising out of, related to, concerning, or in any other manner connected with, the Applicant carrying on business as an exchange in Alberta;
- (f) to maintain a valid and binding appointment of an agent for service in Alberta upon whom may be served a notice, pleading, subpoena, summons or other

process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, relating to, concerning, or in any other manner connected with, the Applicant carrying on business as an exchange in Alberta; and

- (g) promptly to provide, and to cause its RSP promptly to provide, to the Commission any information that a Commission representative may request.

**Decision**

6. Based on the representations above, the Commission orders:

- (a) under section 213 of the Act, that the Applicant is exempt from section 62 of the Act for so long as the Applicant satisfies the undertakings herein; and
- (b) under section 214(1) of the Act, that the Interim Exemption Order is revoked.

**For the Commission:**

*“original signed by”*  
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Tom Cotter  
Vice-Chair

*“original signed by”*  
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Stephen Murison  
Vice-Chair