

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100638; File No. SBSDR-2023-01)

August 2, 2024

Security-Based Swap Data Repositories; KOR Reporting, Inc.; Notice of Filing of Application for Registration as a Security-Based Swap Data Repository

I. Introduction

On January 26, 2023, KOR Reporting, Inc. (“KOR”) filed with the Securities and Exchange Commission (“Commission”) an application on Form SDR to register as a security-based swap data repository (“SDR”) pursuant to section 13(n)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) and 17 CFR 240.13n-1 (“Rule 13n-1”) thereunder,¹ and as a securities information processor (“SIP”) under section 11A(b) of the Exchange Act.² KOR intends to operate as a registered SDR for security-based swap (“SBS”) transactions in the equity, credit, and interest rate derivatives asset classes. KOR subsequently filed amendments to its application on the following dates: August 11, 2023, and February 23, 2024.³ The Commission is publishing this notice to solicit comments from interested persons regarding KOR’s application,⁴ and the Commission will consider any comments it receives in making its determination whether to approve KOR’s application for registration as an SDR and as a SIP.

¹ 15 U.S.C. 78m(n)(1); 17 CFR 240.13n-1. A copy of KOR’s application on Form SDR and non-confidential exhibits thereto are available for public viewing on the Commission’s website.

² 15 U.S.C. 78k-1(b).

³ The amendments to KOR’s application were filed to update certain exhibits, including those addressing the disclosure document, financial statements, and fee schedule.

⁴ The descriptions set forth in this notice regarding the structure and operations of KOR have been derived, excerpted, or summarized from KOR’s application on Form SDR.

II. Background

A. SDR Registration, Duties, and Core Principles

Section 13(n) of the Exchange Act makes it unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of an SDR.⁵ To be registered and maintain registration, an SDR must comply with certain requirements and core principles described in section 13(n), as well as any requirements that the Commission may impose by rule or regulation.⁶ In 2015, the Commission adopted 17 CFR 240.13n-1 to 13n-12 under the Exchange Act to establish Form SDR, the procedures for registration as an SDR, and the duties and core principles applicable to an SDR (“SDR Rules”).⁷ The Commission provided a temporary exemption from compliance with the SDR Rules and also extended exemptions from the provisions of the Dodd-Frank Act set forth in a Commission order providing temporary exemptions and other temporary relief from compliance with certain provisions of the Exchange Act concerning security-based swaps, and these temporary exemptions expired in 2017.⁸

The Commission also has adopted 17 CFR 242.900 to 909 under the Exchange Act (collectively, “Regulation SBSR”), which governs regulatory reporting and public dissemination of security-based swap transactions.⁹ Among other things, Regulation SBSR requires each

⁵ 15 U.S.C. 78m(n).

⁶ See id.

⁷ See Release No. 34-74246 (Feb. 11, 2015), 80 FR 14438, 14438 (Mar. 19, 2015) (“SDR Adopting Release”). In 2016, the Commission subsequently amended 17 CFR 240.13n-4 to address third-party regulatory access to SBS data obtained by an SDR. See Release No. 34-78716 (Aug. 29, 2016), 81 FR 60585 (Sept. 2, 2016).

⁸ See Release No. 34-80359 (Mar. 31, 2017), 82 FR 16867 (Apr. 6, 2017).

⁹ Release No. 34-74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015); Release No. 34-78321 (July 14, 2016), 81 FR 53546 (Aug. 12, 2016). Regulation SBSR and the SDR Rules are referred to collectively as the “SBS Reporting Rules.”

registered SDR to register with the Commission as a SIP,¹⁰ and the Form SDR constitutes an application for registration as a SIP, as well as an SDR.¹¹

In 2019, the Commission stated that implementation of the SBS Reporting Rules can and should be done in a manner that carries out the fundamental policy goals of the SBS Reporting Rules while minimizing burdens as much as practicable.¹² Noting ongoing concerns among market participants about incurring unnecessary burdens and the Commission's efforts to promote harmonization between the SBS Reporting Rules and swap reporting rules, the Commission took the position that, for four years following Regulation SBSR's Compliance Date 1 in each asset class,¹³ certain actions with respect to the SBS Reporting Rules would not provide a basis for a Commission enforcement action.¹⁴ The no-action statement's relevance to KOR's application for registration as an SDR and SIP is discussed further below.

B. Standard for Registration

As noted above, to be registered with the Commission as an SDR and maintain such registration, an SDR is required to comply with the requirements and core principles described in section 13(n) of the Exchange Act, as well as with any requirement that the Commission may impose by rule or regulation.¹⁵ In addition, Rule 13n-1(c)(3) under the Exchange Act provides

¹⁰ See 17 CFR 242.909.

¹¹ See Form SDR, Instruction 2.

¹² Release No. 34-87780 (Dec. 18, 2019), 85 FR 6270, 6347 (Feb. 4, 2020) ("ANE Adopting Release").

¹³ See id. Under Regulation SBSR, the first compliance date ("Compliance Date 1") for affected persons with respect to an SBS asset class is the first Monday that is the later of: (i) six months after the date on which the first SDR that can accept transaction reports in that asset class registers with the Commission; or (ii) one month after the compliance date for registration of SBS dealers and major SBS participants ("SBS entities"). Id. at 6346. The compliance date for registration of SBS entities is Oct. 6, 2021. See id. at 6270, 6345.

¹⁴ See id. The specific rule provisions of the SBS Reporting Rules affected by the no-action statement are discussed in Part II.B.

¹⁵ See 15 U.S.C. 78m(n)(3).

that the Commission shall grant the registration of an SDR if it finds that the SDR is so organized, and has the capacity, to be able to: (i) assure the prompt, accurate, and reliable performance of its functions as an SDR; (ii) comply with any applicable provisions of the securities laws and the rules and regulations thereunder; and (iii) carry out its functions in a manner consistent with the purposes of section 13(n) of the Exchange Act and the rules and regulations thereunder.¹⁶ The Commission shall deny the registration of an SDR if it does not make any such finding.¹⁷ Similarly, to be registered with the Commission as a SIP, the Commission must find that such applicant is so organized, and has the capacity, to be able to assure the prompt, accurate, and reliable performance of its functions as a SIP, comply with the provisions of the Exchange Act and the rules and regulations thereunder, carry out its functions in a manner consistent with the purposes of the Exchange Act, and, insofar as it is acting as an exclusive processor, operate fairly and efficiently.¹⁸

In determining whether an applicant meets the criteria set forth in Rule 13n-1(c), the Commission will consider the information reflected by the applicant on its Form SDR, as well as any additional information obtained from the applicant. For example, Form SDR requires an applicant to provide a list of the asset classes for which the applicant is collecting and maintaining data or for which it proposes to collect and maintain data, a description of the functions that it performs or proposes to perform, general information regarding its business organization, and contact information.¹⁹ Obtaining this information and other information reflected on Form SDR and the exhibits thereto—including the applicant’s overall business

¹⁶ 17 CFR 240.13n-1(c)(3).

¹⁷ See id.

¹⁸ See 15 U.S.C. 78k-1(b)(3).

¹⁹ See SDR Adopting Release, supra note 7, at 14459.

structure, financial condition, track record in providing access to its services and data, technological reliability, and policies and procedures to comply with its statutory and regulatory obligations—will enable the Commission to determine whether to grant or deny an application for registration.²⁰ Furthermore, the information requested in Form SDR will enable the Commission to assess whether the applicant is so organized and has the capacity to comply and carry out its functions in a manner consistent with the Federal securities laws and the rules and regulations thereunder, including the SBS Reporting Rules.²¹

Consistent with the Commission’s no-action statement in the ANE Adopting Release,²² an entity wishing to register with the Commission as an SDR must still submit an application on Form SDR but can address the rule provisions included in the no-action statement by discussing how the SDR complies with comparable Commodity Futures Trading Commission (“CFTC”) requirements.²³ Accordingly, in such instances the Commission will not assess an SDR application for consistency or compliance with the rule provisions included in the Commission’s no-action statement. Specifically, the Commission identified the following provisions as not providing a basis for an enforcement action against a registered SDR for the duration of the relief provided in the Commission statement: under Regulation SBSR, aspects of 17 CFR 242.901(a), 901(c)(2) through (7), 901(d), 901(e), 902, 903(b), 906(a) and (b), and 907(a)(1), (a)(3), and (a)(4) through (6); under the SDR Rules, aspects of section 13(n)(5)(B) of the Exchange Act and 17 CFR 240.13n-4(b)(3) thereunder, and aspects of 17 CFR 240.13n-5(b)(1)(iii); and under

²⁰ See id. at 14458.

²¹ See id. at 14458–59.

²² See supra notes 12–14 and accompanying text.

²³ See supra note 14.

section 11A(b) of the Exchange Act, any provision pertaining to SIPs.²⁴ Thus, an SDR applicant will not need to include materials in its application explaining how it would comply with the provisions noted above, and could instead rely on its discussion about how it complies with comparable CFTC requirements.²⁵ The applicant may instead represent in its application that it: (i) is registered with the CFTC as a swap data repository; (ii) is in compliance with applicable requirements under the swap reporting rules; (iii) satisfies the standard for Commission registration of an SDR under Rule 13n-1(c); and (iv) intends to rely on the no-action statement included in the ANE Adopting Release for the period set forth in the ANE Adopting Release with respect to any SBS asset class or classes for which it intends to accept transaction reports.²⁶

III. Summary of KOR's Application on Form SDR

As noted above, KOR intends to operate as a registered SDR for the equity, credit, and interest rate derivatives asset classes.²⁷ In its application, KOR represents that it is provisionally registered with the CFTC as a swap data repository,²⁸ is in compliance with applicable requirements under the CFTC reporting rules applicable to a registered swap data repository, and intends to rely on the Commission's position outlined in the ANE Adopting Release for

²⁴ The ANE Adopting Release provides additional discussion of the particular aspects of the affected rules that would not provide a basis for an enforcement action. See ANE Adopting Release, supra note 12, at 6347-48.

²⁵ See id. at 6348.

²⁶ See id. For example, an applicant need not describe in Exhibit S its functions as a SIP.

²⁷ See Rulebook, Ex. HH, sec. 0.1; see also Form SDR.

²⁸ See 17 CFR 49.3(b) (providing that the CFTC may grant provisional registration of a swap data repository if such applicant is in substantial compliance with the standards set forth in 17 CFR 49.3(a)(4) and is able to demonstrate operational capability, real-time processing, multiple redundancy and robust security controls); 17 CFR 49.3(a)(4) (setting forth the standard for approval for granting registration to a swap data repository).

applicable reporting rules and SDR duties for the period set forth therein.²⁹ Below is an overview of the representations made in the application materials regarding the KOR security-based swap data repository (“KOR SBSDR”).

A. Organization and Governance

KOR is a Delaware corporation and along with its affiliate, KOR Financial Inc. (“KOR Financial”), is a wholly owned subsidiary of KOR US Holdings, Inc. (“KOR Holdings”).³⁰ KOR is governed by a board of directors (“KOR Board”).³¹ The KOR Board is comprised of at least three Directors with a majority being independent Directors and at least one director being a “Public Director” as defined in applicable CFTC regulations.³² According to the KOR Rulebook, KOR board members should have the characteristics essential for effectiveness as a member of the Board, including but not limited to: (a) integrity, objectivity, sound judgment and leadership; (b) the relevant expertise and experience required to offer advice and guidance to the Chief Executive Officer and other members of senior management; (c) the ability to make independent analytical inquiries; (d) the ability to collaborate effectively and contribute productively to the Board’s discussions and deliberations; (e) an understanding of the company’s business, strategy and challenges; (f) the willingness and ability to devote adequate time and effort to Board responsibilities and to serve on Committees at the request of the Board; and (g) not being a disqualified person.³³ The KOR Board is composed of individuals selected from the following

²⁹ See Form SDR, cover letter from Tara Collier Manuel, Chief Compliance Officer and Head of Regulatory Products, KOR Reporting, Inc.

³⁰ See Rulebook, Ex. HH, sec 0.1; see also Form SDR; KOR Reporting Inc Certificate of Incorporation, Ex. E-1, sec. 1.0.

³¹ See KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 9.0.

³² See Rulebook, Ex. HH, sec. 3.2.2; see also Bylaws for KOR Reporting, Inc., Ex. E-2, sec. 1.6.

³³ See Rulebook, Ex. HH, sec. 3.2.3; see also Governance Principles, Ex. D-1, sec. 3.4.1; KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 9.1.2.3.

groups: employees of KOR, clients with derivatives industry experience, independents, and members of senior management.³⁴ The KOR Board will review annually the relationships that each Director has with KOR (either directly or as a partner, equity holder or officer of an organization that has a relationship with KOR).³⁵ According to KOR, following such annual review, only those Directors who the KOR Board affirmatively determines have no material relationship with KOR (either directly or as a partner, equity holder or officer of an organization that has a relationship with KOR) will be considered Independent Directors, subject to additional qualifications prescribed by applicable law.³⁶

According to KOR, the KOR Board's principal oversight functions are to: (a) review, approve, and monitor KOR's major strategic financial business activities and opportunities, including declarations of dividends and major transactions; (b) review, approve and monitor the KOR's annual budget; (c) review, monitor and take reasonable actions with respect to KOR's financial performance; (d) review, assess, and provide oversight of KOR's risk management practices, the integrity and adequacy of its enterprise risk management program, which is designed to identify, manage, and plan for its Security-based Swap Data Repository, compliance, financial, operational, reputational, and strategic and commercial risks; (e) select, evaluate and compensate the Chief Compliance Officer and, if necessary, appoint a replacement; and (f)

³⁴ See Rulebook, Ex. HH, sec. 3.2.2; see also Governance Principles, Ex. D-1, sec. 3.2.

³⁵ See Rulebook, Ex. HH, sec. 3.2.4; see also Governance Principles, Ex. D-1, sec. 3.5; KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 9.1.2.4.

³⁶ See Rulebook, Ex. HH, sec. 3.2.4; see also Governance Principles, Ex. D-1, sec. 3.5; Narrative explaining fitness standards of the Board, Ex. D-3, sec. 3.0; KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 9.1.2.4.

review and monitor plans for the succession of the Chief Executive Officer and other members of senior management.³⁷

In addition, the application provides that the KOR Board is responsible for the appointment and removal of the chief compliance officer (“CCO”) and approval of CCO compensation, which is at the discretion of the Board and effected by a majority vote.³⁸ The CCO is responsible for overseeing the KOR SBSDR Compliance Department and ensuring compliance with the applicable rules.³⁹ The CCO consults with the CEO on the adequacy of resources and makes recommendations where needed.⁴⁰ The CCO has supervisory authority to inspect books and records and interview KOR SBSDR employees. Upon identification of a potential violation of any regulatory requirement or internal policy or procedure, the CCO is responsible for taking steps to investigate and remediate any such matter.⁴¹

According to KOR, the KOR Board has adopted a Conflict of Interest Policy that incorporates various provisions of applicable corporate law and other standards adopted by KOR to ensure that KOR Board and committee decisions are not impacted by conflicts of interests.⁴² With regard to director conflicts of interest, the application provides that a director conflict is present whenever the interests of KOR compete with the interests of a director or any party associated with a director and interfere with the director’s ability to impartially vote on the

³⁷ See Rulebook, Ex. HH, sec. 3.1.1; see also Governance Principles, Ex. D-1, sec. 2.0; KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 9.1.1.1.

³⁸ See Rulebook, Ex. HH, sec. 12.1; see also Governance Principles, Ex. D-1, sec. 14.2.

³⁹ See Rulebook, Ex. HH, sec. 12.2; see also Personnel Qualification, Ex. P, sec. 2.2.

⁴⁰ See Rulebook, Ex. HH, sec. 12.2.

⁴¹ See Rulebook, Ex. HH, sec. 12.2.

⁴² See Rulebook, Ex. HH, sec 3.2.5; see also Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 1.0; Governance Principles, Ex. D-1, sec. 4.0; KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 9.1.2.5.

matter pending before the KOR Board.⁴³ A director’s interest may be direct or indirect through business investment or on “immediate family member” (defined as a person’s spouse, domestic partner, parents, stepparents, children, stepchildren, siblings, mothers and fathers-in-law, sons and daughter-in-law and brothers and sisters-in-law and anyone residing in such person’s home (other than a tenant or employee)).⁴⁴ The application also provides that any director who believes he or she may have a conflict of interest relating to a matter pending before the KOR Board or any Committee must provide written notification to the CCO, General Counsel, the Board Chairman, and the CEO prior to consideration of the matter by the KOR Board or Committee.⁴⁵ The notice should include all relevant material facts to enable the KOR Board or Board Committee, in consultation with the CCO, General Counsel and outside legal counsel, if necessary, to determine whether a conflict of interest exists.⁴⁶

The application further provides that in the event the KOR Board or Committee determines the director has a conflict of interest or the appearance of a conflict of interest, the KOR Board or Committee, after consultation with the General Counsel and outside legal counsel, if necessary, shall determine the appropriate action to be taken.⁴⁷ As a general matter, KOR believes it is appropriate for a director to abstain from voting on a matter in which he or she has an actual conflict of interest or the appearance of a conflict of interest.⁴⁸ The recusal from voting shall be mandatory when it is deemed appropriate.⁴⁹ In the event a director abstains

⁴³ See Rulebook, Ex. HH, sec. 11.2; see also Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 2.0.

⁴⁴ See Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 3.0.

⁴⁵ See Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 3.0.

⁴⁶ See Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 3.0.

⁴⁷ See Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 3.0.

⁴⁸ See Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 3.0.

⁴⁹ See Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 3.0.

because of a conflict of interest, the abstention shall be noted in the minutes of the meeting.⁵⁰ In addition to this policy, directors who serve on any committee established under KOR's rules must also follow the procedure set forth in the applicable Rulebook.⁵¹

B. Access and Information Security

According to KOR, access to and usage of its SDR service will be available to all market participants on a fair, open, and equal basis.⁵² The application provides that KOR does not and will not bundle or tie the offering of mandated regulatory services with ancillary services offered by KOR or a KOR affiliate.⁵³ Further, KOR imposes the following qualification on clients of its services: (i) a valid Legal Entity Identifier ("LEI"), (ii) execution of membership documents, such as the KOR Universal Services Agreement ("KOR SA")⁵⁴ and applicable Addendums, (iii) compliance with the KOR SBSDR Rulebook and KOR Technical Specifications as published by KOR, and (iv) successful passing of KOR Know Your Customer (KYC) procedures, which include compliance with Applicable Law, specifically those related to sanctions administered and enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC").⁵⁵

To be granted access to the KOR system, receive trade information, confirm or verify transactions, submit messages, or receive reports, a market participant must be an onboarded

⁵⁰ See Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 3.0.

⁵¹ See Board of Directors Conflicts of Interest Policy, Ex. J-2, sec. 3.0.

⁵² See Rulebook, Ex. HH, sec. 4.1; see also Access Limiting Criteria, Ex. V, sec. 1.0; Client Access Requirements, Ex. W, sec. 2.1; Client Onboarding and Access Guide, Ex. X, sec. 1.0.

⁵³ See Rulebook, Ex. HH, sec. 4.1; see also Access Limiting Criteria, Ex. V, sec. 1.0; Client Access Requirements, Ex. W, sec. 2.1; Client Onboarding and Access Guide, Ex. X, sec. 1.0.

⁵⁴ See KOR Universal Services Agreement, Ex. I-2.

⁵⁵ See Rulebook, Ex. HH, sec. 4.1; see also Access Limiting Criteria, Ex. V, sec. 1.0; Client Access Requirements, Ex. W, sec. 2.1; Client Onboarding and Access Guide, Ex. X, sec. 1.0; KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 1.1.

user.⁵⁶ Users are required to maintain at least two Administrative Users on the KOR System; Administrative Users are responsible for creating, managing, and removing access to their company's Users and to other Clients who are eligible to access the KOR System on behalf of the Client including firms that have Third-party Client access.⁵⁷

To participate in the SDR services offered by KOR, each client will be required to enter into a KOR SA; by entering into the KOR SA each client agrees to be bound by the terms of the KOR SA, the KOR Rulebook, and any published policies and guides.⁵⁸ In addition, the KOR Rulebook provides that where a client has authorized (i) a Delegated Reporter (a Third-Party Reporter or Related Entity Client under the same Parent) to submit on its behalf and access its data or (ii) a Third-Party Client to access its data, but not submit on its behalf, KOR will provide access to the Delegated Reporter or Third-Party Client so long as it has executed the appropriate KOR SA and applicable addendums and the client has granted permission through the Client Portal.⁵⁹ Any market participant that has executed a Client Agreement may access SBSDR Data to which they are a party or for which they have been granted access on behalf of a client.⁶⁰ Access to the KOR System is strictly limited to active Users with valid permissions created by their Client's Administrative User.⁶¹ Once set up, Users will be provided logins and the ability to access data in the KOR System.⁶² Access is driven off the Client's LEIs for which the User has

⁵⁶ See Rulebook, Ex. HH, sec. 4.0; see also Client Onboarding and Access Guide, Ex. X, sec. 2.0.

⁵⁷ See Rulebook, Ex. HH, sec. 4.5.1; see also Client Onboarding and Access Guide, Ex. X, sec. 3.1; KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 1.5.1.

⁵⁸ See Rulebook, Ex. HH, sec. 4.2; see also Client Access Requirements, Ex. W, sec. 2.2; Client Onboarding and Access Guide, Ex. X, sec. 3.0.

⁵⁹ See Rulebook, Ex. HH, sec. 4.3, 4.4; see also Client Access Requirements, Ex. W, sec. 2.3, 2.4.

⁶⁰ See Rulebook, Ex. HH, sec. 4.5.2; see also Access Limiting Criteria, Ex. V, sec. 1.0.

⁶¹ See Rulebook, Ex. HH, sec. 4.5.2; see also Access Limiting Criteria, Ex. V, sec. 1.0.

⁶² See Rulebook, Ex. HH, sec. 4.5.2; see also Access Limiting Criteria, Ex. V, sec. 1.0.

been associated.⁶³ Users may be granted access to multiple LEIs under the same Parent as related entities.⁶⁴ Client's designated Administrative Users are expected to maintain correct User access at all times.⁶⁵ In addition, following the end of each calendar quarter, all Clients will have access to a report on current User access levels and a list of all Clients to which they have granted access to their data.⁶⁶ At least one of the designated Administrative Users assigned to each Client must review the listing of Users and other party access and confirm whether access should be maintained, removed or changed and make the appropriate updates.⁶⁷ The KOR Rulebook also states that records of all User access are maintained and available for review by the Client and KOR Compliance at all time.⁶⁸

With respect to prohibiting or limiting a person's access to SDR services, the KOR Rulebook outlines the process required for KOR to decline, revoke, or suspend a user of SDR services.⁶⁹ For example, KOR's CCO may deny a client's access to the KOR system if required pursuant to applicable law (e.g., OFAC or the direction of a regulator), violation of KOR SBSDR Rules, or improper use of the system.⁷⁰ The KOR Rulebook provides that KOR will notify the applicable regulator of such action.⁷¹ In addition, any such clients would receive written notice

⁶³ See Rulebook, Ex. HH, sec. 4.5.2; see also Access Limiting Criteria, Ex. V, sec. 1.0.

⁶⁴ See Rulebook, Ex. HH, sec. 4.5.2; see also Access Limiting Criteria, Ex. V, sec. 1.0.

⁶⁵ See Rulebook, Ex. HH, sec. 4.5.4; see also Client Onboarding and Access Guide, Ex. X, sec. 3.1.

⁶⁶ See Rulebook, Ex. HH, sec. 4.5.4.

⁶⁷ See Rulebook, Ex. HH, sec. 4.5.4.

⁶⁸ See Rulebook, Ex. HH, sec. 4.5.4.

⁶⁹ See Rulebook, Ex. HH, sec. 14.2; see also Denial, Revocation, or Suspension of Client Access Policy, Ex. Y, sec. 2.2.

⁷⁰ See Rulebook, Ex. HH, sec. 14.2; see also Denial, Revocation, or Suspension of Client Access Policy, Ex. Y, sec. 2.2.

⁷¹ See Rulebook, Ex. HH, sec. 14.2; see also Denial, Revocation, or Suspension of Client Access Policy, Ex. Y, sec. 2.2.

containing the grounds for determination and an opportunity to appeal the decision to the CCO and KOR Board by written request.⁷² KOR may restore access to a Client following approval from the CCO and/or KOR Board.⁷³ The CCO will consider the applicable law, regulatory requirements, and the Market Participant's response to the cause of denial, revocation, or suspension.⁷⁴ In addition, all decisions will be documented when determining whether to restore Client's access.⁷⁵

The KOR Rulebook provides that KOR SBSDR will conduct regular, periodic, objective testing and review of its automated systems to ensure that they are reliable, secure, and have adequate scalable capacity.⁷⁶ It also provides that KOR will conduct regular, periodic testing and review of its business continuity-disaster recovery capabilities.⁷⁷ It also provides that KOR will, to the extent practicable: (a) coordinate with Clients and service providers to participate in synchronized testing in a manner adequate to enable effective resumption of KOR SBSDR's fulfillment of its duties and obligations following a disruption causing activation of KOR SBSDR's Business Continuity and Disaster Recovery (BCDR) plan; (b) participate in periodic, synchronized testing of its BCDR Plan and the BCDR plans of its Clients, and the BCDR plans required, as applicable, by each appropriate prudential regulator, the Financial Stability Oversight Council, the Securities and Exchange Commission, the Department of Justice or any other

⁷² See Rulebook, Ex. HH, sec. 14.2; see also Denial, Revocation, or Suspension of Client Access Policy, Ex. Y, sec. 2.2.

⁷³ See Denial, Revocation, or Suspension of Client Access Policy, Ex. Y, sec. 2.3.

⁷⁴ See Denial, Revocation, or Suspension of Client Access Policy, Ex. Y, sec. 2.3.

⁷⁵ See Denial, Revocation, or Suspension of Client Access Policy, Ex. Y, sec. 2.3.

⁷⁶ See Rulebook, Ex. HH, sec. 13.3.1.

⁷⁷ See Rulebook, Ex. HH, sec. 13.3.1.

person deemed appropriate by the SEC; and (c) ensure that its BCDR plan take into account the BCDR plans of its telecommunications, power, water, and other essential service providers.⁷⁸

C. Acceptance and Use of SBS Data

According to KOR, data accepted and maintained by the SBSDR may not be used for commercial or business purposes by the SBSDR or any of its affiliated entities.⁷⁹ KOR SBSDR has implemented adequate “firewalls” or controls to protect the reported SBSDR data required to be maintained under SEC regulations from any improper commercial use.⁸⁰ The application provides that a Client that submits SBSDR data maintained by the SBSDR may permit the commercial use by providing express written consent. Such consent will not be a requirement to report to the SBSDR.⁸¹ If such Client consent is given, KOR may not make such consented data available for commercial use prior to its public dissemination.⁸² KOR states that, in accordance with Exchange Act Rule 13n-5(b)(5), it has established systems and User access restrictions reasonably designed to prevent any provision in a valid swap from being invalidated or modified through its verification or recording process.⁸³

KOR SBSDR uses the LEI and the Unique Trade Identifier (“UTI”).⁸⁴ Pursuant to KOR’s rulebook, individuals not eligible for an LEI should be reported using a Natural Person Identifier.⁸⁵ KOR states that if a security-based swap counterparty is not eligible to receive an

⁷⁸ See Rulebook, Ex. HH, sec. 13.3.2.

⁷⁹ See KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 5.0.

⁸⁰ See KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 5.0.

⁸¹ See KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 5.0.

⁸² See KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 5.0.

⁸³ See Rulebook, Ex. HH, sec. 9.2; see also Data Invalidation Policy, Ex. EE, sec. 1.0.

⁸⁴ See Rulebook, Ex. HH, sec. 5.1.1, 5.1.2.

⁸⁵ See Rulebook, Ex. HH, sec. 5.1.1.

LEI as determined by the Global Legal Entity Identifier System, such counterparty will be identified in all recordkeeping and all Security-Based Swap Data reporting with a Natural Person Identifier.⁸⁶ KOR further provides that it is the duty of the Reporting Side to always submit a unique and consistent Natural Person Identifier.⁸⁷ Pursuant to KOR's rulebook, to ensure that the Reporting Side consistently submits a unique value for the identifier, the Reporting Side must combine the LEI of the Reporting Side with the natural person's email address associated with the National Person Identifier.⁸⁸ Each Client must maintain and renew its legal identity identifier in accordance with the standards set by the Global Legal Entity Identifier System.⁸⁹

The application provides that each swap will be identified in all recordkeeping and all Security-Based Swap Data reporting by the use of a UTI, which will be created, transmitted, and used for each swap.⁹⁰ Each registered entity and swap counterparty will include the UTI for a swap in all of its records and all of its Security-Based Swap Data reporting concerning that swap, from the time it creates or receives the UTI throughout the existence of the security-based swap and for as long as any records are required by applicable law or regulation.⁹¹ Every submission to KOR SBSDR must contain the appropriate UTI, otherwise the submission will be rejected. KOR SBSDR will validate the format and uniqueness of every UTI.⁹² If a party submits the incorrect UTI, pursuant to KOR's rulebook, they must "error" that UTI and resubmit the swap as

⁸⁶ See Rulebook, Ex. HH, sec. 5.3.1.

⁸⁷ See Rulebook, Ex. HH, sec. 5.3.1.

⁸⁸ See Rulebook, Ex. HH, sec. 5.3.1.

⁸⁹ See Rulebook, Ex. HH, sec. 5.3.1.

⁹⁰ See Rulebook, Ex. HH, sec. 5.2.

⁹¹ See Rulebook, Ex. HH, sec. 5.2.

⁹² See Rulebook, Ex. HH, sec. 5.2.

a new message with the correct UTI.⁹³ When the correct UTI is submitted it will be considered a new trade and, if it is submitted after the required reporting timelines, it will be classified as a late report.⁹⁴

The application provides that KOR has established procedures and provides facilities for effectively resolving disputes over the accuracy of the SBSDR Transaction Data and positions that are recorded in the KOR SBSDR.⁹⁵ When the Reporting Side does not agree with the accuracy of the reporting of a swap in KOR Trade Repository, but is prevented from amending the swap to what they believe to be accurate, the Client must (a) enter a ticket with KOR SBSDR support with the details of the issue and (b) submit an allowed value per the KOR Technical Specifications for the KOR SBSDR field that reflects the dispute.⁹⁶

D. Fees

The application includes KOR's fee schedules.⁹⁷ According to KOR, fees are assessed in a consistent, non-preferential manner and are not permitted to be used as a barrier to entry.⁹⁸ KOR offers a subscription model fee schedule which treats all submissions equally regardless of reporting counterparty, asset class, clearing status or execution.⁹⁹ The application provides that KOR will not offer preferential pricing arrangements to any Client on any basis, including volume discounts or reductions unless such discounts or reductions apply to all Clients uniformly

⁹³ See Rulebook, Ex. HH, sec. 5.2.

⁹⁴ See Rulebook, Ex. HH, sec. 5.2.

⁹⁵ See Rulebook, Ex. HH, sec. 11.0; see also Dispute Policy, Ex. CC, sec. 2.0.

⁹⁶ See Rulebook, Ex. HH, sec. 11.0; see also Dispute Policy, Ex. CC, sec. 2.0.

⁹⁷ See KOR SEC SBSDR Fee Schedule, Ex. M-1. Additionally, KOR provides a fee schedule for KOR Users on its website at <https://www.korfinancial.com/pricing>.

⁹⁸ See Rulebook, Ex. HH, sec. 13.4; see also KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 8.0.

⁹⁹ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 1.0; see also Fee Schedule Rational and Differentiation, Ex. M-2, sec. 1.3.

and are not otherwise established in a manner that would effectively limit the application of such discount or reduction to a select number of Clients.¹⁰⁰ In addition, KOR represents in its rulebook that it ensures any dues, fees, or other charges imposed by, and any discounts or rebates offered by, its SBSDR are fair and reasonable and not unreasonably discriminatory.¹⁰¹ KOR states that such dues, fees, other charges, discounts, or rebates will be applied consistently across all similarly-situated users of such SBSDR services, including, but not limited to, market participants, market infrastructures (including central counterparties), venues from which data can be submitted to the SBSDR (including exchanges, security-based swap execution facilities, electronic trading venues, and matching and confirmation platforms), and third party service providers.¹⁰² All fees are fully disclosed and available on the KOR SBSDR website.¹⁰³ The fee schedule applies until such time as the KOR Board determines otherwise and provides clients at least one (1) month's notice for significant changes to existing pricing or policy.¹⁰⁴

In the application, KOR states that, as a real-time messaging-based service, KOR assesses fees on a per message basis to align SBSDR services and the expense to offer.¹⁰⁵ All Reporting Clients are assessed the same fee structure regardless of their pathway to KOR SBSDR to ensure a competitive and level playing field.¹⁰⁶ A "Reporting Client" means the reporting counterparty that has in place a fully executed agreement and is liable for the fees

¹⁰⁰ See Rulebook, Ex. HH, sec. 13.4; see also KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 8.0.

¹⁰¹ See Rulebook, Ex. HH, sec. 13.4; see also KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 8.0.

¹⁰² See Rulebook, Ex. HH, sec. 13.4.

¹⁰³ See Rulebook, Ex. HH, sec. 13.4; see also KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 8.0.

¹⁰⁴ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 1.0.

¹⁰⁵ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 1.0.

¹⁰⁶ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 1.0.

incurred for the use of KOR Services.¹⁰⁷ The Reporting Client may delegate billing and payments to another Client by authorizing either a Related Entity or their Third-Party Reporter.¹⁰⁸ The “Related Entity” refers to other clients of KOR (i.e., KOR Counterparty Clients) within the same corporate structure as the Reporting Client, creating a Client Group.¹⁰⁹ KOR will aggregate the fee liable activity for Related Entities under a Client Group and provide a single invoice.¹¹⁰ A “Third-Party Reporter” refers to an entity that has a fully executed Agreement with KOR and is facilitating reporting for a KOR Counterparty Client.¹¹¹ A Third-Party Reporter is not charged fees for the activity of their customers, who are also KOR Counterparty Clients, but may be assigned billing (receipt of invoices and payment responsibilities) by KOR Counterparty Clients.¹¹² When a Counterparty Client makes a billing assignment to a Third-Party Reporter it is for all billable activity related to use of KOR Services of that Counterparty Client (including activity beyond what is associated to the Third-Party Reporter) and Counterparty Clients may only assign billing to a single Third-Party Reporter.¹¹³ The application provides that reporting by Platforms which are Security-Based Swap Execution Facilities or National Securities Exchanges are treated as messages under a Third-Party Reporter whereby the Reporting Counterparty is assessed KOR reporting fees and the Platform, by default, is not.¹¹⁴ A Platform may elect to assume direct billing responsibility for any Reporting

¹⁰⁷ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.1.

¹⁰⁸ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.1, 2.2.

¹⁰⁹ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.1, 2.2.

¹¹⁰ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.1, 2.2.

¹¹¹ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.3.

¹¹² See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.3.

¹¹³ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.3.

¹¹⁴ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.4.

Counterparty that is a KOR Counterparty Client.¹¹⁵ If the Reporting Counterparty on a Platform reported transaction is not a KOR Counterparty Client, the Platform reporter will be billed for the message activity which will be aggregated with all other Platform billable message activity.¹¹⁶

KOR SBSDR offers simplified subscription plans where each tier plan limits the maximum number of messages a Reporting Client may report per month.¹¹⁷ To calculate the calendar monthly fee, KOR totals all eligible messages submitted in the prior month for each Counterparty Client or Client Group. KOR provides a 10% monthly overage allowance across all tiers for any given month per Counterparty Client or Client Group.¹¹⁸ KOR's subscription plan is organized into ten (10) tiers. Tier 1 allows for 100 monthly messages produced with a monthly fee of \$100; Tier 2 allows for 1,000 monthly messages produced with a monthly fee of \$500; Tier 3 allows for 10,000 monthly messages produced with a monthly fee of \$2,000; Tier 4 allows for 100,000 monthly messages produced with a monthly fee of \$6,000; Tier 5 allows for 1,000,000 monthly messages produced with a monthly fee of \$15,000; Tier 6 allows for 4,000,000 monthly messages produced with a monthly fee of \$36,000; Tier 7 allows for 9,000,000 monthly messages produced with a monthly fee of \$60,000; Tier 8 allows for 14,000,000 monthly messages produced with a monthly fee of \$95,000; Tier 9 allows for 19,000,000 monthly messages produced with a monthly fee of \$150,000; and Tier 10 allows for 24,000,000 monthly messages produced with a monthly fee of \$220,000.¹¹⁹

¹¹⁵ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.4.

¹¹⁶ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 2.4.

¹¹⁷ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 3.0.

¹¹⁸ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 3.0.

¹¹⁹ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 3.0.

KOR SBSDR is a 100% cloud service leveraging the performance and scale available through the cloud infrastructure.¹²⁰ KOR incurs costs through the accessing of its Clients' data hosted and used to generate trade reports requested by Clients.¹²¹ The application states that the KOR SBSDR Fee Schedule is designed for simplicity and flexibility, modeling an expected mix of scheduled access to standard reports in addition to reasonable use of ad-hoc reporting.¹²² KOR will monitor the generation of reports across each Client and KOR will provide advice when it observes use that exceeds standard fair allowances.¹²³ KOR states that should a Client need continued reports at a sustained activity level higher than expected, a move to a higher fee tier may be deemed appropriate.¹²⁴ KOR will generate invoices by the fifth (5th) day of every calendar month for the prior month's activity.¹²⁵ The billing currency is USD (\$) and invoices must be paid in USD.¹²⁶ Invoices are payable within 45 days upon receipt.¹²⁷ Accounts not paid within terms are subject to a 1.5% monthly finance charge.¹²⁸ KOR SBSDR will accept and process billing adjustments up to 45 days after the invoice date.¹²⁹ Adjustment requests received after the 45-day period will not be accepted by KOR SBSDR.¹³⁰ Approved adjustments will be applied as credits and appear on the next billing cycle as a separate line item.¹³¹

¹²⁰ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 3.2.

¹²¹ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 3.2.

¹²² See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 3.2.

¹²³ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 3.2.

¹²⁴ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 3.2.

¹²⁵ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 5.0.

¹²⁶ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 5.0.

¹²⁷ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 5.0.

¹²⁸ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 5.0.

¹²⁹ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 5.0.

¹³⁰ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 5.0.

¹³¹ See KOR SEC SBSDR Fee Schedule, Ex. M-1, sec. 5.0.

E. Recordkeeping

The KOR Rulebook provides that KOR will maintain transaction data and related identifying information for not less than five years after the applicable security-based swap expires and historical positions for not less than five years: (a) in a place and format that is readily accessible and usable to the Commission and other persons with authority to access or view such information, and (b) in an electronic format that is non-rewriteable and non-erasable.¹³²

F. Disclosure

KOR publishes a disclosure document to provide a summary of information regarding its service offerings and the SBS data it maintains.¹³³ Specifically, the disclosure document sets forth a description of the following: (i) criteria for providing access to KOR SBSBR; (ii) criteria for market participants seeking to connect to the SBSDR; (iii) policies and procedures regarding the SBSDR's safeguarding of SBSDR data and operational reliability to protect the confidentiality and security of SBSDR data; (iv) policies and procedures to protect the privacy of SBSDR data; (v) policies and procedures regarding the SBSDR's non-commercial and/or commercial use of SBSDR data; (vi) dispute resolution procedures; (vii) description of SBSDR services; (viii) the SBSDR fee schedule; and (ix) the SBSDR's governance arrangements.¹³⁴

G. Regulatory Reporting and Public Dissemination

As a registered SDR, KOR would carry out an important role in the regulatory reporting and public dissemination of SBS transactions. As noted above, KOR has stated that it intends to

¹³² See Rulebook, Ex. HH, sec. 9.4; see also KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2, sec. 7.4.4.

¹³³ See KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2.

¹³⁴ See KOR SEC SBSDR Disclosure Document v1.2, Ex. GG-2.

rely on the no-action statement included in the ANE Adopting Release for the period set forth in the ANE Adopting Release with respect to any SBS asset class or classes for which it intends to accept transaction reports.¹³⁵ Therefore, KOR does not need to include materials in its application explaining how it would comply with the provisions of the SBS Reporting Rules described in the no-action statement.¹³⁶ Instead, KOR may rely on its discussion about how it complies with comparable CFTC requirements pertaining to regulatory reporting and public dissemination of swap transactions.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning KOR's Form SDR, including whether KOR has satisfied the requirements for registration as an SDR and as a SIP. Commenters are requested, to the extent possible, to provide empirical data and other factual support for their views. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's internet comment form (<https://www.sec.gov/rules-regulations/how-submit-comment>); or
- Send an email to rule-comments@sec.gov. Please include File Number SBSDR-2023-01 on the subject line.

Paper comments:

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street

¹³⁵ See *supra* notes 28–29 and accompanying text.

¹³⁶ However, the KOR application includes provisions explaining how KOR would require users to identify SBS, as required by Rule 901(c)(1) of Regulation SBSR. See Rulebook, Ex. HH, sec. 5.4 (regarding Unique Product Identifiers). The KOR application also includes provisions explaining how KOR would comply with the conditions to the no-action statement included in the ANE Adopting Release.

NE, Washington, DC 20549-1090.

All submissions should refer to File Number SBSDR-2023-01. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/other.shtml>).

Copies of the Form SDR, all subsequent amendments, all written statements with respect to the Form SDR that are filed with the Commission, and all written communications relating to the Form SDR between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SBSDR-2023-01 and should be submitted on or before [INSERT DATE 21 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

By the Commission.

Sherry R. Haywood

Assistant Secretary.