SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66862; File No. SR-ICEEU-2012-04)

April 26, 2012

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change to Provide for a T+1 Settlement of the Initial Payment Related to the CDS Contracts Cleared by ICE Clear Europe Limited

I. Introduction

On March 6, 2012, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-ICEEU-2012-04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule change was published for comment in the Federal Register on March 19, 2012.[2] The Commission received no comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

ICE Clear Europe proposed rule amendments that were intended to modify the terms of each of the various CDS Contracts cleared by ICE Clear Europe (iTraxx Contracts, Standard European Corporate, and Sovereign Contracts) to make the Initial Payment[3] date the first business day immediately following the trade date, provided that with respect to CDS Contracts

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1 15 U.S.C. 78s(b)(1).

2 Securities Exchange Act Release No. 34-66581 (March 13, 2012), 77 FR 16105 (March 19, 2012).

3 Initial Payment means, in relation to a CDS Contract, the payment, if any, specified as the "Initial Payment Amount" (or, in relation to certain CDS Contracts relating to indices, as the "Additional Amount") under the Contract Terms for such CDS Contract and, in relation to a Bilateral CDS Transaction, the payment, usually described therein as the "Initial Payment Amount" or "Additional Amount," payable by one party thereto to the other on the third business day after the trade date of such Bilateral CDS Transaction. See ICE Clear Europe Clearing Rules, Section 1, Rule 101.

that are accepted for clearing after the trade date, the Initial Payment date will be the date that is the first business day following the date when the CDS Contract is accepted for clearing. The Initial Payment under a CDS Contract is established at the time the contract is executed and may be payable from either the protection buyer to the protection seller or vice versa. Under the current ICE Clear Europe Rules (by way of the incorporated ISDA Credit Derivatives Definitions), and consistent with practice in the market for uncleared credit default swaps, the Initial Payment is required to be made on the third business day following the trade date. ICE Clear Europe proposed to amend the definition of Initial Payment in its Clearing Rules to provide instead that the Initial Payment is to be made on the first business day following the trade date (or, if the transaction is accepted for clearing after the trade date, the Initial Payment is to be made on the first business day following the date of acceptance for clearing). ICE Clear Europe believes that this change from T+3 settlement to T+1 settlement will reduce settlement risk for the clearinghouse and clearing members and improve margin efficiency (as margin requirements will no longer need to take into account the additional risk from a T+3 as opposed to a T+1 settlement rule). ICE Clear Europe's CDS Risk Committee approved the proposed rule changes.

The other proposed changes in the ICE Clear Europe Rules reflect updates to cross-references and defined terms and similar drafting clarifications, and do not affect the substance of the ICE Clear Europe Rules or cleared products.

III. Discussion

Section 19(b)(2)(B) of the Act[4] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[5] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.

By accelerating the Initial Payment date, the proposed rule change will reduce settlement risk for the clearinghouse and clearing members and improve margin efficiency (as margin requirements will no longer need to take into account the additional risk from a T+3 as opposed to a T+1 settlement rule), thereby promoting the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions, and assuring the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe. As a result, the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder.

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4 15 U.S.C. 78s(b)(2)(B).

5 15 U.S.C. 78q-1(b)(3)(F).

6 15 U.S.C. 78q-1.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR-ICEEU-2012-04) be, and hereby is, approved.[8]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin O'Neill
Deputy Secretary

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7 15 U.S.C. 78s(b)(2).

8 In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

9 17 CFR 200.30-3(a)(12).